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ARGUMENT IN SUIT, SOUTH DAKOTA VS. NORTH CAROLINA

The Case now Before the Supreme Court of the United States—A Complete History of This Interesting Case.

Marion Buttler and Daniel Russell in the Fight Against North Carolina's Interests—Miss Darby Putting up a Stiff Fight.

(A. W. Hughes.) Washington, D. C., Jan. 10.—The suit of South Dakota against the State of North Carolina, Charles Salter and Simon Rothschilds, reargument in which is now being heard by the United States Supreme Court, was brought for the purpose of having an accounting and adjudication of the indebtedness upon all the bonds of three millions of dollars on the part of South Dakota, and to foreclose the liens upon the stock of North Carolina in the North Carolina Railroad Company for the purpose of paying South Dakota and all others holding such bonds, secured by liens. The State of North Carolina owns stock in the North Carolina Railroad Company of the par value of three millions of dollars. There are outstanding bonds, known as the first mortgage bonds, with a lien upon said stock, amounting to the par value of about two million seven hundred and twenty-three thousand dollars. The bonds held by the State of South Dakota were of the class issued under and by virtue of an act of the General Assembly of North Carolina, entitled "An act to incorporate the Western North Carolina Railroad Company," ratified the 15th day of February, 1855, and of an act amendatory thereof, ratified the 19th day of December, 1856, entitled "An act to enhance the value of the bonds to be issued for the completion of the Western North Carolina Railroad, and for other purposes," and amounted to about two million five hundred thousand dollars, the terms of which were due on July 1, 1897. At the time these bonds were authorized and issued, no stock certificates had been issued to the State of North Carolina for her stock in the North Carolina Railroad Company, nor have any certificates ever been delivered, or set apart, or marked as mortgaged, or pledged, as required by the Act of 1856. The lien, if any, by which the bonds held by the complainant State is secured is a second mortgage lien upon the stock owned by the State of North Carolina in said railroad company. Charles Salter is the owner of a few of the bonds of the same class as those held by the complainant, and is made defendant as representative of the private bondholders. Simon Rothschilds is the owner of a few of the bonds secured by the first mortgage upon the State's stock in said railroad company, and is made defendant as representative of that class of bondholders who are all, so far as known, private individuals. In 1879, North Carolina, being overwhelmed with debt, and unable to pay the interest on these bonds and the current expenses of the government, passed an act appointing commissioners to adjust and compromise the State debt. This was done to a large extent, and of the two million five hundred thousand dollars of bonded indebtedness similar to that held by the complainant, all but about two hundred and fifty bonds of the par value of two hundred and fifty thousand dollars were compromised and settled. Practically all bonds not compromised were owned, or controlled, by Simon Schafer and his brother Samuel Schafer, composing the partnership and firm of Schafer Bros., brokers, of New York city. Schafer Bros. having tried in vain by petition to the General Assembly of North Carolina and otherwise, to secure better terms in the settlement of their bonds than those upon which the others were settled, Simon Schafer, acting through Congressman Burke, of South Dakota, made a donation of ten out of the two hundred and fifty of the bonds held and controlled by him and his brother to the State of South Dakota. He had no interest, personal or pecuniary, in that State. The assignment or transfer was made on the 21st day of September, 1901, after the maturity of the bonds, and almost immediately thereafter this suit was brought, without any demand upon or notice to the authorities of the State of North Carolina. The counsel for North Carolina, Hon. James Shepherd, Hon. James H. Merrimon, Hon. Robert D. Gilmer and George Rountree, have shown most clearly that the suit is the scheme or contrivance of a firm of New York brokers to enable them to do as the State of South Dakota what they could not do as individuals, that is, to bring suit against a State. Simon Schafer and his brother Samuel Schafer, a firm of brokers in the city of New York, and practically control all of the bonds of the class issued. Indeed, they purchased eight of these bonds after they had been sent to the State of North Carolina for refunding, and had been marked as cancelled. All of the bonds of this class are claimed to be secured by a lien upon the State's stock in the North Carolina Railroad Company, so that a foreclosure must be on behalf of all the creditors. The Schafers declined to accept the offer of the compromise made by the State of North Carolina, and which was accepted by the great majority of the holders of those bonds and which compromise alone enabled the State to resume the payment of the interest on its debt; they employed, directly or indirectly, numerous counsel; they petitioned the General Assembly of North Carolina in March, 1901, to make provision for the payment of these bonds, which was rejected, and soon thereafter, to wit, in the latter part of the month of March, 1901, an act was passed by the Legislature of South Dakota authorizing the acceptance of the State of North Carolina, and empowering the Attorney-General to sue to collect the same, and that Mr. Marion Buttler, at the time Senator from North Carolina, was spoken to in the fall of 1900, and became counsel for the Schafers as early as January, 1901, and induced his friend, Senator Pettigrew, of South Dakota, to use his influence to have this act passed; that the act came from the committee of which Mr. R. W. Stewart, solicitor for complainant, was a member; that Governor D. L. Russell, leading counsel of record for the individual bondholders, says in his testimony that he may have discussed with other lawyers the feasibility of assigning a portion of these bonds to a State in order to enable the State to sue and collect the bonds for the other holders. Governor Russell further testifies that his impression is that Mr. Peckham counsel for South Dakota was employed or consulted with regard to these second mortgage bonds some time in March, 1901, and the bonds were not given to the State of South Dakota until September 21, 1901. It further appears from the testimony of Samuel Schafer that Simon Buttler was the member of the firm who had the active management of these bonds, and that he is dead; that he had no interest whatever in the State of South Dakota, financial or personal, and probably never had visited that State. That Simon Schafer gave ten out of a total of about two hundred and fifty of these bonds to the State of South Dakota, when the latter objected to the gift of those bonds, the gift would probably inure to the benefit of their remaining bonds. It further appears that the bonds were delivered on September 21, 1901, through Congressman Burke. Mr. Burke says that Mr. Pettigrew induced him to use his influence to have the act passed, assuming that the State of South Dakota had some stock in the State of North Carolina and that the State of South Dakota might thereby obtain donations, including some Southern bonds. It is evident that Mr. Pettigrew did not disclose much of the scheme to Mr. Burke, but did say that a suit on the bonds might be necessary. Mr. Burke further says that in a conference between himself, Governor Herrie and Colonel Stewart, before suit was brought, but he thinks after delivery of bonds, although not positive as to that, something was said about the necessity of a suit; that no demand was made by the authorities of South Dakota upon the State of North Carolina for the money, nor any effort made for an adjustment of the claim, but almost immediately after the donation, suit was brought in North Carolina, and the first notice which the State had of the alleged ownership of the bonds was a statement in the newspapers that application had been made to file such a bill in the Supreme Court of the United States.

MANUFACTURERS TO ISSUE PAPER

Company Incorporated in Raleigh Today—Head Office to be in Charlotte—Governor Denies That the State Borrowed \$50,000.

(Special to The News.) Raleigh, Jan. 11.—The American Cotton Manufacturers' Publishing Company of Charlotte was incorporated today. The authorized capital is \$50,000, subscribed \$26,000. The purpose of the company is to publish textile or other magazines, papers, etc. The incorporators are: Geo. B. Hiss, R. M. Miller, Jr., C. B. Bryant, J. P. Wilson and W. C. Heath. Other companies incorporated today were the McDonald-Williams Lumber Company, of Fayetteville, and the Randleman Telephone Company of Randleman. Governor Aycock and Treasurer Lacy deny that the State has borrowed \$50,000. The only foundation for the report is that arrangements have been made whereby the State can have the use of the surplus made by the penitentiary if it sees fit. General Reyes Returns. (By Associated Press.) Washington, Jan. 15.—General Reyes, the Colombian special minister here, held an hour's conference with the Secretary of State at the latter's home today, respecting the Panama situation. He announced at the conclusion of the interview that he would probably leave for New York to-day, not expecting to return. Secretary Hay has not come to any conclusion about sending the correspondence to Congress as requested by Mr. Reyes. He endeavored to show General Reyes the futility of Colombia's effort to retain Panama, but regards the matter as still open to further efforts at peaceful arrangements. Another Secession. (By Associated Press.) Washington, Jan. 11.—A dispatch to the Navy Department from Admiral Coghlan commanding the American naval forces on the Atlantic side of the Isthmus of Panama says that a sailing vessel which has just arrived at Colon reports the arrival of three hundred Colombians at St. Andrew's Island. This island is off the coast of Nicaragua but is a dependency of Colombia. It is believed the troops went to St. Andrews Island to put down a secession movement there. Schooner Ashore. (By Associated Press.) Norfolk, Va., Jan. 11.—An unknown four-masted schooner went ashore today near Peblee Beach Life-Saving Station, on the North Carolina coast.

BY MARCH FIRST COTTON WILL SELL FOR 17 CENTS

This Statement was Made by Daniel J. Sully the Cotton King to a News Man This Morning at the Southern Passenger Station.

Mr. Sully was en route to New Orleans where he will remain for three or four days but will be in New York Saturday. "Cotton will sell for 17 cents by the first day of March." This bold and aggressive statement was made this morning in Charlotte by no less a personage than Daniel J. Sully, who is at the head of the banking and brokerage firm of Daniel J. Sully & Co., of No. 41 Wall street, New York. Mr. Sully was en route to New Orleans where he goes to spend a week with the cotton manipulators of that city. His coming was learned of through a telegram to Mr. L. A. Dodsworth, which was received in Charlotte this morning. On the arrival of the Southern's Limited this morning at 10:30 o'clock, a well-groomed gentleman, stepped down in his overcoat pockets commenced walking up and down the length of the train. In a few moments this same gentleman was conversing pleasantly with Messrs. L. A. Dodsworth and Mr. John Van Landingham. While talking he had in his hand a slip of paper that told in a few words the opening of the New York cotton market. Quick as a flash he withdrew from his pocket some telegraph blanks and commenced to write a message. "Who is that gentleman?" asked a number of people who were interested in the movements of the stranger. "Why," said one, "that is Daniel Sully, one of the 'King Bees' on the New York Cotton Exchange. He can tell, if he will, how to place your money." "If that be true," said one, "let's draw him and get a tip. A tip from Sully is worth a barrel of money if he wants to give it straight." During this talk Mr. Sully continued to talk with the Charlotte gentlemen, who quit their work to go to the train to hear what he thought of the market. About this time The News man walked up and Mr. Van Landingham introduced the Cotton King. "Which way are you traveling?" asked the reporter. "Oh! just going down to New Orleans for a brief stay. I shall remain there three or four days only, as I will be obliged to be in New York Saturday." The reporter thought at once that something would be doing in New York today, and while he would have given almost anything to have asked what would require Mr. Sully's presence in the Metropolis, he desisted and allowed Mr. Sully to remark about the weather. To the pointed question as to what he thought of the cotton market Mr. Sully said he firmly believed that cotton would sell for 17 cents by the first day of March. The above statement coming from a man who knows a great deal more about the cotton market than he tells, will be considered by traders as a tip worth putting in their book. Mr. Sully is one of the largest cotton brokers in the world, a member of the New York, Liverpool and New Orleans exchanges, and, besides this, is now rated as one of the "big guns" in America's greatest city. But no one would consider him a very wealthy man. He is easily approached and has a decidedly pleasant word for all. At the station this morning, he stood out in a drizzling rain, talked business and the weather and then jumped his car as the train pulled out for the South. But Sully has said cotton will go to 17 cents by the first of March and there are many, yes, very many, who will pin their faith to what he says. House Session. (By Associated Press.) Washington, Jan. 11.—In his opening prayer today the chaplain of the House alluded to the death of Mr. Skiles, late member from Ohio, praying for the comfort of the bereaved family. Mr. Jenkins, chairman of the judiciary committee, called up the resolution requesting the Attorney General to furnish information to the House as to what money had been expended under the act for enforcement of the Sherman anti-trust law.

FUNERAL OF GEN. JOHN B. GORDON

The Funeral to be Attended by the South's Most Distinguished Men—The Body to Lie in State in Atlanta--The Funeral Train.

(By Associated Press.) Atlanta, Jan. 11.—The funeral exercises which will be participated in by distinguished men of the South will be held over the remains of General John B. Gordon on next Thursday in this city. The exercises which will be of an eulogistic character and will be conducted in the House of Representatives, in the State House in this city and statesmen as well as veterans, followers of the lamented chieftain, will take part. It was decided late last night by the Gordon family not to leave Miami with the body of General Gordon until Tuesday morning, and the party will reach Atlanta Wednesday morning. For the greatest part of two days the remains of the dead Confederate leader will lie in state in the Marble Corridors of the State Capitol where the men who followed his flag will pay their last tribute. The body afterward will be laid to rest in Oakland Cemetery. Under the escort of Florida troops and in a private car of Henry M. Flagler which has been placed at the disposal of the funeral party, General Gordon's body will leave Miami Tuesday morning. At the State line the Georgia militia will meet the party. A proclamation was issued this morning by Governor Terrell, ordering the day of the funeral to be observed throughout the State. The flag over the State House was placed at half-mast today and flags were lowered on many buildings as a tribute of respect. In his proclamation, Governor Terrell orders that a guard of honor be established around the remains of Gen. Gordon as they lie in state and that the offices of the capitol be closed during the day set apart for the funeral and for the State flags to be displayed at half-mast for ten days. It is stated that schools may close on the day of the funeral and the city council will pass resolutions asking all stores to be closed on the day of the funeral. Lying in State. Miami, Fla., Jan. 11.—The body of General John B. Gordon was received from the residence of his son-in-law at Biscayne, near Miami, this morning, accompanied by a detachment of State troops. On the arrival here the remains were placed in the Presbyterian church where it was guarded by Company L, State Guards. The body is lying in state at the church and is being viewed by hundreds of visitors. The funeral party will leave here tomorrow at 7:55 o'clock and will reach Jacksonville at 7:55 p. m. Immediately upon the arrival of the train, the party will leave for Atlanta arriving

RUSSIA YIELDS IMPORTANT POINT AS TO MANCHURIA

Says That her Policy is to Respect the Rights of Trade of All Nations in China, Including Manchuria, and Korea.

(By Associated Press.) Berlin, Jan. 11.—The Russian Government has informed the Powers that it will respect the rights any nation has in Korea or China. This declaration is without reservation. Russia gives formal expression to this policy now in consequence of the controversy with Japan one of whose persistent contentions has been for a definition of Russia's policy in Manchuria and an acknowledgment of Japan's trade privileges. Russia's reply is as follows: "We cannot discuss Manchuria with you any more than we could Australia or the Philippines. Manchuria belongs neither to us nor to you. It does not lie within the jurisdiction of either of us to dispose of the future of Manchuria, Russia however is willing to observe the treaty rights of all powers in Manchuria and now engages to do so." Russia it is decided thus moves from the negotiations one of the points upon which Japan counted for the moral support of the other powers and where she especially had the sympathy of the United States and Great Britain. Japan has informed Germany that no troops have been landed in Korea and Japan has no intention at present of so doing. The statement published in London on high authority that Germany and the Triple-alliance will remain neutral in the event of war between Russia and Japan is confirmed here. The Elders Meet. Tokyo, Jan. 11.—The Cabinet and elder statesmen met for a joint conference at the official residence of Premier Katsura this afternoon. They discussed the political and strategical situation and will report to the throne tomorrow. Japanese Protectorate. Seoul, Jan. 11.—The Japanese minister has made reiterated demands that Korea without result on the Emperor of Korea that he recognize the Japanese protectorate over Korea. The Korean government is holding itself to the Russo-Japanese agreement concerning Korea. Russia Not Buying Ships. St. Petersburg, Jan. 11.—It is officially announced in regard to the reports that Russia is competing with Japan for the purchase of war and other ships and has not entered into negotiations with anybody with that object in view. Russians Increase Guard. Washington, Jan. 11.—The State Department has been informed that Japan has requisitioned thirty merchant vessels for transports. Advice received here shows the Russians are increasing their guard at Seoul daily and French have made arrangements to establish a guard there. REVOLUTION IN URUGUAY This Time the Rebe's Were Defeated Before President Roosevelt had the Chance to Recognize the Secession Party. (By Associated Press.) New York, Jan. 11.—News is received of the first important battle between Government troops and Revolutionists in Uruguay, said a Herald dispatch from Buenos Ayres. The battle took place January 3. Mayor Gonzalez surprised a party of rebels near Trinidad, defeated them and occupied the town. REVOLUTION CONTINUES. Washington, Jan. 11.—Commander Mertz of Gunboat Newport, cables the Navy Department from Sandomings under date of yesterday as follows: "Revolution continues. Nothing menacing to Americans. Legation guard withdrawn today."

COUNTY BOARD EDUCATION. Meets Today at Court House—Waiting to Apportion Funds.

The regular monthly meeting of the county board of education was held today in the office of the county superintendent of education, all of the members being present. The chief business of the board was the matter of appropriating the school fund among the various county schools. As the county finance committee is still at work auditing the books of the county treasurer it was impossible for the board to make any appropriations until the finance committee has completed its work which may be late this afternoon. Furthermore the board has not yet heard from Raleigh as to the amount of money coming to Mecklenburg from the State educational fund and a telegram was accordingly sent to Raleigh this afternoon to secure the desired information by the board. While the exact figures are not yet known, it is believed that the total fund this year will be equal to if not larger than that which was available last year. The board today also transacted other business of minor importance. THE FUNERAL TRAIN. Henry M. Flagler Puts a Special Train at the Service of the Funeral Party. Miami, Fla., Jan. 11.—The remains of General John B. Gordon who died on Saturday night will not leave here Wednesday morning, Henry M. Flagler will send the body and party through in a special train at his own expense. It is probable that the body of General Gordon will be brought to Miami this morning and lie in state until Tuesday morning in the Presbyterian church. DIVISION OF SCHOOL FUND. A Misguided Georgian Gives Notice of a Constitutional Convention for Doing an Unconstitutional Thing. (By Associated Press.) Augusta, Jan. 11.—State Representative Kelly of Glascock county, today announced to the Herald his intentions of introducing at the next session of the Legislature a bill providing for a State Constitutional Convention for the purpose of dividing the school tax so the white population of the State will provide only for the education of the whites and putting the negro on his own resources as far as education is concerned. The convention would also be requested to revise the pension laws so as to eliminate fraud. DEATH OF JOHN YOUNG BROWN. The Former Governor of Kentucky and Opponent of Beas Butler is Dead. (By Associated Press.) Henderson, Ky., Jan. 11.—Former Governor John Young Brown died here today at an advanced age. In 1875 while the population of the State will provide only for the education of the whites and putting the negro on his own resources as far as education is concerned. The convention would also be requested to revise the pension laws so as to eliminate fraud. Messrs. Hall Bros. Open One at 325 East Trade Street. Messrs. F. N. and S. B. Hall have associated themselves together under the firm name of Hall Bros., and opened a meat market at 325 East Trade street. They are experienced butchers and young men of enterprise and integrity and should win success in their venture. Miss King's Body Here. The body of Miss Marie King, daughter of Mrs. Edward King, a wealthy widow lady of New York, passed through Charlotte last night en route from Aiken, S. C., to New York. The body was aboard a private car which was occupied by Mrs. King and other members of the bereaved family. Miss King went to Aiken, S. C., early in November. She was a victim of consumption and it was hoped the change would benefit her. Death relieved her of her sufferings Saturday. Mr. Garnes Goes to Rock Hill. Mr. Pearl L. Garnes, who has been connected with the advertising department of the Evening Chronicle, has resigned and The News learns that he will go to Rock Hill to engage in newspaper work. An Obstreperous Drunk. This afternoon lying in a cell at the police station is a mutatto man whose name nobody has yet been able to ascertain. The man was found on the streets drunk and had to be knocked down before he would yield to the officers. The arrest was made by the chief and Officer Youngblood. State Weather Forecast. For North Carolina: Fair tonight except clearing in northeast portion; colder in southeast portion; Tuesday fair. Fresh west to northwest winds. For South Carolina: Fair tonight, colder in southern portion; Tuesday fair. Fresh west to northwest winds.

FAST MAIL TRAIN TO BE TAKEN OFF

It is Said This Train is to be Discontinued Because of the Inability to Land it at Terminal Points on Schedule Time.

The statement is made today that No. 97, the Southern's fast mail train between New York and New Orleans, will, at no distant date, be discontinued. It is said by those who are in a position to know that the inability of the Southern to land this train at terminal points on schedule time, is the reason for its discontinuance. The agreement with the government at the time this train was first put in service was to the effect that large forfeits would be demanded in case of the delay of the mails at all terminal points. Owing to the double-tracking of the Washington division of the Southern, it has been a matter of impossibility for the road to get this train through on time. One gentleman stated today that the Southern Railway had forfeited to the government in the last 30 days nearly \$30,000. This, every cent of it, has been due to the fact that the Southern has been unable to make the time the government demanded. The business world, especially all the larger towns and cities along the line of the Southern, will learn with regret that this train is to be taken off. It is a great institution and is decidedly popular. As it is now business men in Charlotte get their mail from New York at 5:30 o'clock in the afternoon, whereas before No. 97 was put on, this mail did not reach Charlotte until 10 o'clock at night, a difference of nearly five hours. The date for the discontinuance of this train has not been determined.

UNLIMITED FUNDS FOR PROSECUTION

The Victims of the Iroquois Disaster to be Avenged by Their Friends, who Comprise the Iroquois Memorial Association.

(By Associated Press.) Chicago, Jan. 11.—Unlimited funds to aid in prosecuting persons responsible for Iroquois fire have been pledged to the Iroquois Memorial Society composed of relatives of the victims. The committee has also decided to establish a suitable memorial to commemorate the names of the victims of the fire. The second week of the Iroquois theatre fire inquiry began today. For a few days the conover will be forced to put the general public on the stand but when he gets through with it he intends to start one of the closest inquiries into the workings of the building, police, fire and electrical departments of the city that they have ever known. The report of Attorney Faulkerson of the fire department will show there was wilful negligence of safety of the patrons of the house.

THE WEATHER. Fair Tonight and Tuesday.