

HEARING SET FOR FRIDAY

THE SOUTHERN FILES ANSWER

Independent Denies That Its Application for an Injunction Was Intended to See Aside the Power of the Corporation. Commission's Answer to Injunction Argument by Counsel on Both Sides—Selma Prisoner Taken to Raleigh—Teachers Arriving—Governor Glenn III—News Notes of the State Capital.

court sought to have the case decided by that court in advance of the commission. He declared he had no idea that under section 720 U. S. Reviser Statutes that court would take up the matter which was before a court of competent jurisdiction. He added that the rail went with the side. Mr. Busbee then cited the Greenwell vs. Coal Co. case which he said involved the very same question. Mr. Winston went on to say that Judge Purnell was of opinion that he had jurisdiction. He raised the serious question whether the commission has anything to do with the matter at all. It may be that the commission, out of comity for the Southern Railway, may permit Judge Purnell may first pass upon the matter. But the commission is not a moot court, it is a regular court, looked up to by the people of North Carolina to regulate and decide questions regarding the railway, and that the public should bow its head to the decisions of the commission as to any matter which it knows gentlemen who took off their hats and bowed when they passed their ballot. Order is more sacred than the order of a court.

This question is a very serious matter, being an attempt to anticipate the action of the commission. The answer to the commission is voluminous, but in a general way is covered by the application for an injunction, which was filed yesterday with Judge Purnell of the Federal Court, and a summary of which has been published. The complainants were represented to-day by R. W. Winston, of Durham, and Duncan E. McIver, of Charlotte, while the Southern is represented by its division counsel, W. B. Rodman, Charlotte, F. H. Busbee and J. H. Poul, of Raleigh, and Alex. B. Andrews, of the filing of the answers there was a very interesting discussion by the attorneys whose views varied widely. On the part of the Southern it was denied that the proceedings before Judge Purnell yesterday, in the matter of the application for a permanent injunction, were in the least intended to deny or set aside the power of the corporation after a hearing upon the complaints filed. The Southern Railway's attorneys also took the view that the recent decision of the Supreme Court in the Greenboro case was absolutely decisive in the case now at issue, and that it completely covers the latter. The Southern further contends that the corporation is not a judicial court, but merely an administrative board.

AUXILIARY FOR A HEARING. After Mr. Busbee had declared that the proceedings were intended to take the case from the hands of the commission Judge Winston declared that the situation now existing was the most anomalous in all jurisprudence. He said that Mr. McIver and himself represented all the petitioners and Mr. McIver said this was true as far as he knew. Col. Rodman asked the commission to fix some time for the hearing or if it was now ready to do so, to fix some time tomorrow at which it would set the time. He said the Southern was ready and desired to lose no time. Mr. Winston said his side desired further time to read the papers which it had not had time to do. He declared he did not know why all this trouble was brought about by the railroad and he did not know why the order of the commission was not carried out. His side desired to get in shape to say what it would do. He said no necessary for any great haste. Mr. Poul said the only thing was that if the Southern were found to be subject to the heavy penalty, that is, if Judge Purnell's order should be decided to be invalid and that of the commission valid, that every day would be piling up a big penalty at the rate of \$500 a day. Mr. Winston said the Southern had brought about the condition themselves. Mr. Poul in reply stated that there were certain other penalties which would accrue if the railroad company would not carry out the schedule it had announced it would operate. That it was carrying on this new train from eastern North Carolina and that there would be a penalty for failure to deliver any package of this. Mr. McIver asked if these conditions had not existed for the past 25 years. Mr. Rodman stated that the changes in the state revenue law had been necessary. It had been advertised for some time and every person who started from the East for the West on the train and who was delayed by the act of the railway was entitled to claim and would certainly be given a penalty as was done in the Williams case in Craven county.

BETWEEN TWO FIRES. He declared that the Southern had to observe the order made either to obey an order made at 9:15 last Saturday night and take the risk for all sorts of penalties, etc., at the hands of persons, or to disobey the commission's order and run the risk. If the commission's order was valid then the commission was entitled to the penalty, but the order has been made by it without a motion, without affidavit or a bond, and with no plaintiff so far as was known and there was no bond to protect the railway. If the order had been based on the complaints on which the railway would have had redress and could have recouped itself. Mr. McIver said that the matter was before the commission and he was not ready to say what course it would pursue and asked for time until Friday, to consult and see where the petitioners were. He had read the answer to the answer of the papers in the Federal court. He begged that his side be given until Friday morning, say at 11 o'clock.

Mr. Rodman said the Southern desired a speedy hearing and was willing to lay aside everything else and go into the matter. He thought the other side should be ready to go tomorrow. Mr. Busbee said that he did not think that the situation was any different from what it was last Saturday or any other day and remarked that the petition which had been circulated all came from the same source and were of a uniform kind. He said that the answer covered them all. He then said that the action taken in the proceedings before Judge Purnell was not designed to interfere with the action of the commission or upon its order made upon a regular hearing. He said he felt sure it was not the purpose of the commission to impose penalties upon parties asking for a speedy hearing in the Southern court now doing that and he was entirely willing to go anywhere for the convenience of the complainants or economy in the hearing.

ACCUSED SOUTHERN. Mr. Winston said that since the petitions had been filed with the commission extraordinary things had transpired, more extraordinary than in any other court where the people are pretended to be governed by law and order; that the Southern Railway, advised by counsel or of its own head, had deliberately and willfully violated an express order of the commission, which he declared was duly constituted court. He said that if ever before an order made by a judge or a court in North Carolina had been disobeyed willfully, deliberately and he did not know of it and that never before had an order of the North Carolina court been so flagrantly and so publicly violated in the presence of the public.

TEACHERS ARRIVING. Teachers by hundreds poured into Raleigh to-day to attend the great annual session of the teachers' assembly. Very complete arrangements have been made for the event. There is a committee which takes charge of all the details and they are working promptly, the information bureau being well managed.

Governor and Mrs. Glenn both continue sick. The Governor's condition being unchanged. The reception which is to be given to the teachers at the Executive Mansion will not be postponed or any way affected by the illness of Governor and Mrs. Glenn. Though they will not be able to be present, it will be held at the Mansion.

The second annual meeting of the North Carolina Dairyman's Association will be held here July 11 and 12, at which time the farmers' State convention will be in session, these two events being held at the Agricultural and Mechanical College.

Theodore W. Dobbin was today elected president of the Raleigh Merchants' Association.

NEGRO MAIL CARRIER'S APPOINTMENT REVOKED. The appointment of Thomas L. McKay, of Monroe, as a rural free delivery mail carrier for Raleigh, is revoked. No reason is given for the action but, of course, it is due to the protests by a number of people along the route. McKay never served. N. E. Lawrence is continued as temporary carrier.

Invitations were received here today for the marriage at Trinity chapel near Washington, N. C., June 27th, of Mrs. Mary Grimes Smith, sister of Secretary of State Grimes, to Mr. Gordon H. Hiett, of Wilkesboro.

President J. D. McNeill, of the North Carolina Firemen's Association, is here and says that this year, in the tournament at Asheville, companies from Salisbury, Morganton, Lenoir, Lexington and Oxford, which have not before contested, will be represented.

Young Woman Criminally Assaulted in Virginia. Richmond, Va., June 12.—Miss Beale Branch, carrier for Raleigh, Beale Branch, who resides near Dory, Southampton county, was assaulted by an unknown negro yesterday afternoon, and is now being prosecuted at the home of her mother. The assailant escaped, but a posse of armed men is scouring the countryside for a trace of him. "Hurrigan" Branch, of Suffolk, with his bloodhounds, has been hurried to the scene.

Confagration in Baltimore Harbor. Baltimore, June 13.—At 2 o'clock this (Wednesday) morning fire broke out on the north side of the harbor and several vessels are ablaze in the stream. An extensive fire is indicated.

Dr. G. W. Long Seriously Ill. Special to The Observer. Dr. G. W. Long, of Salisbury, is seriously ill. Dr. Stokes, of Salisbury, are attending Dr. George W. Long, who is seriously ill from appendicitis. He will be taken to Salisbury to-morrow morning for an operation. Dr. Long has been in bed for some months past.

RESTORED TO POSITION AND HAPPINESS.

The Keeley Institute, Greensboro, N. C. Five years ago I was almost a wreck, without money, and without friends, caused by habitual drinking. My employers prevailed on me to go to Greensboro and take the Keeley treatment, and after a course of four weeks I was entirely cured of this terrible habit, and I firmly believe it is a permanent cure. Since my graduation I have held a nice position all the time and have been a very happy man, to say nothing of the happiness of my family. I will always be under lasting obligations to the Keeley Institute for my pleasure always to advise and urge all those addicted to strong drink to take this treatment.

L. HAPPER. Winston, N. C., Dec. 1, 1934.

If you have a friend who might be benefited, please send names to the Keeley Institute, Greensboro, N. C.

NEW PAPER FOR ELKIN.

The Elkin Enterprise to be Established by Mr. T. J. Robertson—Many New Papers in the Mountain Country.

Special to The Observer. Mr. T. J. Robertson, of Elkin, June 12.—Mr. T. J. Robertson, of North Wilkesboro, will move here next week and, as soon as his outfit arrives, will begin the publication of a new paper at this place to be known as the Elkin Enterprise. This will make two weekly newspapers for Elkin. The Times having been established here ten years ago. It is still being published by Mr. T. M. George. The rate at which new papers are being established in this mountain country is astonishing. There are now two papers in Wilkesboro and a new one is soon to be established at North Wilkesboro, making two there. A new paper has just been launched at Cherry Lane, Alleghany county, which is not much more than a village in the road. A second paper, it is said, will soon be started at Sparta.

Rev. William Black, of Davidson, stopped here last night and held services at the Baptist church. Mr. Black has just closed a very successful meeting at Sparta. He was accompanied by his sisters, Miss Blue, and Messrs. Pool and Byrd.

Messrs. Fry and Son have invented and patented a new rural mail box, also a canner. They are turning out large lots of both these articles and are behind with their orders.

Messrs. J. L. Harrison and J. F. Henderson, of the Holy Land, will be associated with his father in the newspaper business at Elkin.

Deputy Sheriff A. M. Sanders arrived here this morning from Smithfield, bringing with him Jim McIver, a young negro who stands charged by the confession of Bud Richardson, another negro, with an attempted felonious assault upon Miss Pearl Jones, the telephone operator at Selma. Deputy Sheriff Sanders intended to place Merritt in jail, but could not do so as he had no commitment papers, so the prisoner was lodged in the state reformatory until 10 o'clock, when Governor Glenn directed that he be taken to the jail for safe keeping until his trial comes off. The negro, who had the whole story of the shooting of Richardson by Miss Jones Saturday night at Selma, of his confession, and of the capture of Merritt, who was at once taken to Smithfield and taken to jail. Deputy Sheriff Sanders says that he had heard rumors that people from Selma were coming over to lynch Merritt and acting on his own judgment decided to bring the man here. Merritt denied that he was guilty of anything whatever.

THE WEATHER.

Forecast for Wednesday and Thursday: Rain Wednesday; break to high east wind; Thursday rain and warmer.

LOCAL OFFICE OF THE WEATHER BUREAU.

Charlotte, June 12, 1 p. m.—Sunset 5:05 a. m.; sunset 7:15 p. m. (Standard time).

LOCAL WEATHER REPORT.

Highest temperature... 65
Lowest temperature... 45
Mean temperature... 55
Deficiency for the day... .05
Accumulated excess for the month... .40
Accumulated excess for the year... .30
Precipitation for 24 hours ending 8 p. m. (inches)... .15
Total precipitation for the month... 1.25
Accumulated deficiency for the year... .50
Accumulated deficiency for the year 8 1/2
Prevailing wind direction... N. E.
W. J. BENNETT, Observer.

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W. J. BENNETT, Observer.

F. D. A. Valuable Frame Buildings For Sale

SEALED BIDS SOLICITED. 1st: Known as the Joe Ashbury property, located E. 6th and A Sts. A large frame dwelling, all outbuildings, fences, etc. 2nd: Known as the Zeke Johnston home, located E. 6th and A Sts. S. W. corner. A large frame dwelling, metal roof; all outbuildings, both brick and frame, with fence. 3rd: N. W. corner 6th and A Sts. known as W. R. Burwell property; an 18-room frame dwelling, fences, etc. 4th: A small dwelling, faces A St. and immediately in rear of No. 3, above described. Inspect the above properties, take your choice and name your price. All in fair to good condition. Bids to include everything above ground in each respective house, no underground pipes to be disturbed. Premises to be cleared within 30 days from date of sale. Here's the chance to improve your vacant property with good material at little cost. Don't wait. Inspect and report to-day. Highest bid in each case gets the house. BIDS OPENED JULY 1ST. Real Estate Dealer, 202 S. Tryon St. F. D. ALEXANDER INSURANCE. P. 430. 202 S. Tryon. atp.Hv. 'x-x 1

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Special Notices

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FOR SALE: MANUFACTURING SITE, close to 1601st, fronting on both railroad tracks, corner Blue and 16th streets. Will build to suit if terms of lease can be agreed upon. Also some nice modern houses until 10 o'clock. J. ARTHUR HENDERSON & BRO.

IF YOU HAVE THE HEADACHE TO-DAY, phone Woodall & Sheppard for a bottle of Atlas's Headache Remedy. It will relieve you. Price 25 cents.

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FOR SALE: \$4,500—Modern 7-room, N. Graham St. \$2,300—Modern 3-room, W. Eighth St. \$2,600—Modern 7-room, W. Fifth St. \$2,000—7-room, E. Ninth St.

FOR RENT: Modern 3-room house, W. 11th St., near car line; \$16.00.

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