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Commissioner's Sale.

AS commissioner, appointed by a decree of the Superior Court of Burke county, rendered at the Spring Term, 1898, in an action entitled L. A. Bristol, receiver, and others against Wm. H. Pearson and others, I will, on

Monday, February 6th, 1899, expose to sale a certain lot on West Union street, in the town of Morganton, with the residence, out-buildings and improvements thereon, described and bounded as follows, to-wit: Beginning on an oak (now down), corner of Union and Anderson streets, and runs with Union street north 58 degrees east 6 poles to a stake, corner of the B. S. Gaither lot; then north 83 degrees west 347 feet with the Gaither line to a stake; then south 58 degrees west six poles to a stake on Anderson street, and runs with Anderson street north 54 feet to the beginning. Being the lot on which the said W. H. Pearson now resides, and being the tract conveyed by S. T. Pearson and wife to W. H. Pearson by deed of date the 1st day of February, 1898, recorded in Book U, page 152, in the office of the Register of Deeds of Burke county. Terms of sale cash. Sale made subject to a mortgage of \$540 and interest due the Southern Guaranty and Investment Company, of Greensboro, N. C.

This 3d day of January, 1899. W. C. ERVIN, Commissioner.

Execution Sale.

BY virtue of two several executions issued by the Superior Court of Burke county and directed to me in two several civil actions, entitled the Atlantic National Bank against the Herald Publishing Company and the National Park Bank against the Herald Publishing Company, I will, on

Monday, February 6th, 1899, expose to sale, for cash, to the highest bidder, at the court house door in the town of Morganton, a certain lot of property of the defendant, lying on Green street in the town of Morganton, beginning at a stake in Green street, J. L. Laxton's corner, and runs with J. L. Laxton's line north 40 degrees 10 east 140 feet to a stake; thence south 49 degrees 15 east 22 feet to a stake; thence south 40 degrees 45 west 140 feet to a stake in the line of Green street; thence with Green street north 49 degrees 15 west 22 feet to the beginning, excepting therefrom the chimney attached to the Herald building, and the land on which the foundations of said chimney are built. This January 4th, 1899. C. M. McDOWELL, Sheriff.

Commissioner's Sale.

AS commissioners appointed by a decree of the Superior Court of Burke county, rendered at the Spring Term, 1898, in a civil action entitled the National Park Bank against the South Mountain Club and others, we will, on

Monday, February 6th, 1899, expose to sale, to the highest bidder, at the court house door in the town of Morganton, all that certain property known as the "Burkmont property," consisting of certain tracts of land on Burkmont conveyed by R. A. Deaton, commissioner, and J. H. Pearson and wife to W. C. Ervin and J. H. Pearson. Sale will be made first in lots and then as a whole, the sale to be reported at the highest price obtained. Terms of sale: 20 per cent in cash on day of sale, 40 per cent in six months and 40 per cent in twelve months. Nothing bearing 6 per cent interest to be given for deferred payments and title to be retained until purchase money is fully paid. Plat can be seen in office of F. B. Davis after January 15th. This 3d day of January, 1899. F. B. DAVIS, F. H. BUSBEE, Commissioners.

Sale of Valuable Hotel and Gold Mine.

BY virtue of a deed of trust duly executed to me by E. S. Walton in the office of Burke county, I will offer for sale at the court house door in Morganton, N. C., on

Monday, February 6th, 1899, the following described real estate in Burke county, to-wit: The town of Morganton and State of North Carolina, adjoining the lands of J. C. Mills and others and bounded as follows, to-wit: FIRST TRACT.—Being the undivided one-half interest of E. S. Walton in the Glen Alpine Springs tract, with a three-story hotel building, cottages, barns and other improvements, containing 800 acres, more or less, as particularly described in a deed of date the 13th day of June, 1896, by E. S. Walton to E. S. Walton and others, recorded in Book C No. 2, page 435, in the office of the Register of Deeds of Burke county, N. C. SECOND TRACT.—Known as the Satterwhite Gold Mine tract, with the mining machinery and appliances and improvements thereon, as particularly described in a deed from Thos. G. Walton to said E. S. Walton of date the 13th day of June, 1896, as recorded in Book C No. 2, page 433, in the office of the Register of Deeds of Burke county, N. C. Terms of sale cash. This January 5th, 1899. E. B. CLAYWELL, Trustee.

Administrator's Notice.

HAVING qualified as administrator of the estate of J. P. Hall, deceased, all persons indebted to said estate are requested to come forward at once and make settlement. All persons having claims against the said estate are hereby notified to present them within twelve months from date hereof or this notice will be plead in bar of their recovery. This 17th day of December, 1898. W. S. HALL, Administrator dec22-61-pd.

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WHY THE WILSONS WERE REMOVED.

Governor's Message to the Legislature Calling Attention to Act of 1891 Affecting Railroad Commissioners.

GIVES EVIDENCE OF VIOLATION

Charges Wilsons With Being Personally Interested in the Round Knob Hotel, and Having an Understanding With Railroad Company—Proof, Extracts from Letters the Names of Whose Writers Will be Furnished to Any Committee Appointed by the Legislature.

Raleigh News. To the Senate and House of Representatives:

By the Railroad Commission Act of 1891, it is provided that it shall be the duty of the Governor to suspend from office any Railroad Commissioner who shall become the holder of any stock or bond of any railroad company, or who shall have any interest in any way in such company. It is further directed by said act, that the Governor shall suspend any commissioner in case he shall become "disqualified to act." The scope, intent and policy of this act manifestly are to secure on the part of these Railroad Commissioners, absolute independence of the railroad corporations over which they are entrusted with such important powers.

These commissioners were to pass judgment upon complaints against railroads, to fix rates upon their traffic, to assess their great properties for taxation, and thus exercise powers vitally important to these corporations. And so the law said in substance, that a commissioner should not hold a share of stock in any railroad company. Its words are broad enough, although perhaps not so intended, to prohibit him from holding a worthless share of stock in an insolvent railroad in a foreign country. Then the law goes further and prohibits him from acquiring any interest in any way in such a company. Then it provides that if he does any of these things, he shall be suspended. Then it goes further, and directs that if he shall become disqualified to act, he shall be suspended. This last provision I construe to mean that he shall be suspended if, in the opinion of the Governor, he becomes for any reason disqualified to act.

Says the law, after enumerating various prohibited interests, such as stocks and bonds, "he shall not have any interest in any railroad company in any way." This I understand to mean that he shall not enter into contracts with them that he shall not make money out of them, or seek to make it; that he shall not make transactions with them for his pecuniary benefit or advantage. Indeed it amounts to a prohibition against his having any dealings with them except those which are open to the general public, such as buying tickets, or sending freights at regular rates. He cannot enter into a contract to furnish iron or cross ties, or other supplies. He cannot make a contract with the company whereby the company is to furnish him anything of value at an agreed price; such as an agreement to run a side track to his mill or mine, or to sell to him land or iron, or goods of any sort. In a word, he must have no pecuniary transactions with these corporations, except such as he is entitled to as a member of the general public. This is my understanding and construction of the statute. If it is not correct, then we have this reduction and absurdum: that the Legislature undertake to require that Railroad commissioners shall be free from all interests in railroad companies; that they shall be disinterested and independent, and for this purpose goes to the extent of saying that they shall not own even one share of worthless stock in any railroad no matter where it may be, and notwithstanding all this caution it permits them to enter into transactions with these railroads for their own benefit or for their pecuniary advantage and

to place their own fortunes in the power of these corporations.

Applying these principles to the case in hand, and obtaining such information as was available, not having the power to send for persons or papers, or to examine witnesses, or to take depositions, or to obtain evidence by any judicial or quasi judicial method, but acting upon the best information obtainable. I reached the conclusion that Mr. S. Otho Wilson should be suspended upon facts which seem to be substantially as follows:

1st. He leased for three years the Round Knob Hotel from Col. A. B. Andrews and Major James W. Wilson. He said that he leased the property for his mother. The information, circumstantial and positive, convinced me that while he may have nominally leased it in her name, he was the only real party in interest; that the lease was for his benefit and that the profits were to go to him; that he used the property as his own, and that, while his mother's name may have been mentioned in the matter, he was the real and only genuine lessee.

2nd. That the lease of the hotel was with the understanding that the railroad company should abandon its eating houses at Hickory and Asheville, and to give the benefit of its patronage to the Round Knob, and but for this contract with the railroad company, Mr. Otho Wilson would not have rented the hotel.

3rd. It appeared from the information before me, that favors of a very substantial character, were extended by the railroad company for the benefit of Mr. Wilson's hotel.

In regard to J. W. Wilson, the facts seem to be:

1st. He was a member of the Railroad Commission.

2nd. He was mortgaged to Col. Andrews in a large sum, to-wit: about \$6,000, which, it was alleged, he was unable to pay.

3rd. Colonel Andrews was manager of the Southern Railway in the State of North Carolina, and the first vice president of the corporation.

4th. He, J. W. Wilson, was also part owner of the Round Knob hotel, which was located on the line of the Southern Railway, in North Carolina, and was valueless as a hotel property, unless it was patronized by the Railroad Company as an eating house.

5th. The Round Knob hotel had been discontinued as an eating house for a number of years, prior to the leasing of the same to S. Otho Wilson, also a member of the Railroad Commission. When the said Round Knob hotel was closed as an eating house, railroad eating houses were established, one at Hickory, on the east, another at Asheville, on the west of Round Knob. Contemporaneous with the re-opening of the Round Knob hotel as an eating house, during the year 1896, the eating houses at Asheville and Hickory were discontinued.

The lease of the Round Knob hotel was, ostensibly, made to Mrs. Wilson, the mother of S. Otho Wilson, but the evidence herewith sent discloses the fact that S. Otho Wilson was the real owner thereof.

The word "interest" in the statute, is one of the widest significance, and as here used, is broadened and enlarged in its scope by the expression "in any way." Legislative ingenuity exhausted its power of expression in the use of this language.

The common experience of life teaches us all that the relation of mortgagor and mortgagee is one of subordination on the part of the mortgagor, and domination on the part of the mortgagee, the mortgagee generally having the power to distress, and even crush the mortgagor. Was the interest of J. W. Wilson such an interest that it could operate to influence his acts in dealing with the corporations that Col. Andrews managed? Would he be a competent juror in a case for or against the Southern Railroad Company?

And again, J. W. Wilson was part owner of a hotel property that was only valuable when used by the railroad company as an eating house, it was in the power of the

railroad at any time to confiscate, as it were, this property. It was also in their power, and their power alone, to give it value. Under the statute, broad and sweeping in its intention, could a man be qualified to act as Commissioner who has this pecuniary interest at stake, and is at the mercy of the road he is set to look after, and watch and control. The law does not declare any man dishonest because he has an interest in a railroad, or has dealt with its officials. It only declares that such interest or dealings disqualifies the commissioner. The Legislature had the power to prescribe any and every disqualification. The duty of the Executive is to execute the law. There is no discretion here. The words of the statute are, "shall suspend."

After Mr. J. W. Wilson was called to show cause why he should not be suspended, he made a conveyance of his interest in the hotel property. To quote his own language, "this was done agreeable to Section 1, of the Act, to avoid criticism by even the captious, as to his conduct as Railroad Commissioner."

If by these transactions he had become disqualified, the purpose of the law could not be defeated by his conveying away his interest in the property.

In performing the duties imposed by this law as to suspending this class of officers, the Governor can only act upon such information as comes to him, none of which is evidence in the strict and technical sense of that word. He has no power to obtain evidence, he cannot summon witnesses, he cannot issue a subpoena, he cannot take testimony, he cannot compel anybody to testify, he cannot take depositions. If he could procure affidavits, they would be only voluntary and would not be evidence because they would be ex parte.

In the nature of the case therefore, he is compelled to act upon such information as may be voluntarily given to him either orally or in writing. Some of the letters and other papers which were sent to the Executive Office in these cases, were signed by parties who have not consented to their publication. Fearing that these persons might regard it as a breach of confidence for their communications to be published, I include herein extracts from their written statements, without giving the names of the authors.

But the names of the witnesses, who according to my best information will establish these allegations, will be given to any investigating committees of your honorable body at any time at your pleasure.

The following extracts from papers and letters exhibit some of the evidence which I am informed can be procured by such process as your honorable bodies may choose to provide for purposes of investigation.

"On or about the 24th of July, 1897, Hon. Otho Wilson, Railroad Commissioner, and myself met in the Glen Rock Hotel, Asheville, N. C. He thought that I was the proprietor at first and said in substance, that he would like to sell the lease to the Round Knob Hotel, as that would be the best way to have Asheville made a meal station, by closing the hotel at Round Knob. He proposed to sell to me for five hundred dollars, the lease for five years, the first year was to cost nothing, but the remaining years \$250 each year. He also stated that I would have free use of the telegraph line, and all supplies of any kind would be delivered free of freight charges at the hotel. To my inquiry as to how this would be done, he said that the supplies would be dead headed by either the conductor of the trains, or the baggage masters of the same. I am not certain which he also stated that I would get free transportation (passes) over the Southern Railroad, stating that his family already had them. I asked him what assurance he could give me that the Round Knob Hotel would remain an eating station if operated by me, and he said that he could give me assurance as long as it was owned by the railroad folks, either naming Col. Andrews,

or J. W. Wilson, or to the best of my recollection, both, and if I leased it and the hotel closed, the trains would stop at Asheville for meals."

"In regard to S. O. Wilson's connection with the hotel at Round Knob, that he claimed to have rented it for himself is easily proven. He told me so the first time I ever met him. He also told everybody in this section the same. He also urged me to buy him out, he did not say buy his mother out, but himself, and said he would transfer the lease. As I told you, his son who is now running the place told me, that the old man always took away all the money, leaving him scarcely enough to make change. When he took his family back to Raleigh, he took nearly everything in it, did not leave a change for the beds, took almost all the furniture he bought for his poor mother. The old lady Wilson has complained time and again to others, not to me, that she never got a cent. Now if you want any more proof that he leased the hotel, write or send to any one at Old Fort that is engaged in business. * * * Yes, Major Wilson asked Mrs. C. and me to accompany their party out on the Murphy branch. I have been told by different members of the family, that they did not pay to ride on the trains."

"For any further information in the Wilson case, have the telegraph operator at Round Knob interviewed. Sometime prior (more than 30 days) to the change of the eating, I was informed by Conductor W. M. Barber, that Major Wilson offered to lease the Round Knob to Mr. Christie, who keeps the eating house at Balsam, N. C., guaranteeing 2 dinner trains a day."

"Major George D. Miles and Mrs. Cunningham, who are now at Round Knob Hotel, will say that Otho's mother told them that she was to get a salary for running the house, and that she had never received a cent; that Otho would pocket all as fast as it came in; that all the freight coming to the hotel was D. H.; that all the guests of the house would get on the train without tickets or pass (or as many as wished to go) and go to Old Fort and attend dances and return without any questions, all that was necessary was for Otho or his boy to be on the train."

"That the lady operator was to be fed by Wilson, and the Railroad Company was to give her \$12 per month, simply to take orders for meals. J. J. Lange here, will say that Otho offered to sell out his lease to him. Yes, and the parties first mentioned will say that Otho came from Raleigh a night or so ago to get an affidavit from his mother that she was the lessee."

"General Miles says that Otho offered to take him to Murphy and see that his railroad fare should be nothing; that all he had to say was 'pass that man.' At the time of getting the mother's affidavit, the operator at the hotel received orders to report the leaving of trains. Day before yesterday, the dispatcher here told the conductor on a fast freight to stop at Round Knob hotel and let off S. Otho's boy. On this train no passengers are allowed to ride."

"Mr. S. Otho Wilson asked for and secured half rate of freight on his goods to Round Knob. You have only to consult the railroad books to prove this assertion."

"About 6 or 8 weeks ago, one J. N. Morgan and myself were standing in front of the Farmer's warehouse in Asheville, N. C., and Mr. S. Otho Wilson came down on the opposite side of the street and crossed over to us and spoke to Mr. Morgan. Mr. Morgan then introduced him to me. I remarked that I knew him; that he was the man who gave us those good dinners at the Round Knob hotel. He said 'yes, I give them one dollar's worth of grub for seventy five cents, but it costs me two hundred dollars per month to live at home, but it is better for my family's health, I think, to spend the summer in the mountains, and this saves me money after all.'"

"In regard to the Round Knob hotel, Major George D. Miles, a boarder there during the past two

months or more, told me in a conversation that frequently Otho Wilson's son and others went to Old Fort and Marion to parties, or on business, and the conductor never collected fare, and no tickets or passes were asked for—passed on sight. That Mrs. Wilson complained of her son Otho not paying her the salary agreed on for running the hotel; that she was working for a salary and never received a cent of it.

"Otho Wilson's son told Major Wilson recently, that if Russell fired his father, he had yet four years of his time, official term as commissioner, and he would take the matter to the courts, where it would require about four years to determine the suit. On the occasion of his father's visit to get the published statement of his grandmother, Otho's mother, that she was the lessee of the hotel, he took all the money on hand away with him the next morning."

"E. R. Porter, cigar manufacturer, told me he had been selling cigars to Otho Wilson at Round Knob, and since your investigation his son came to Asheville and requested Porter not to charge any more cigars to his father, but to him, and he would pay the bill charged already to Otho Wilson, in the next ten days."

"The operator, a young lady at the hotel, has been employed by the railroad at \$12 per month, to report the arrivals at the meal station, and Wilson boarded her, but since investigation by you, she is now required to report train on arrival and departure."

"I saw Otho Wilson buying articles in the market, especially chickens, and I understand that he had them shipped to Round Knob hotel D. H., over the Southern railroad."

"He also sent D. H. messages over the railroad line to Biltmore, and then Biltmore would telephone the message to the market house dealers, and they who received the message would send what he ordered."

Sometime during the early summer, after the lease or occupancy of the Round Knob hotel by S. Otho Wilson, I traveled from Asheville to Greensboro in company with a Pullman car conductor, who, I think, resides at Greensboro, and in course of conversation with him we discussed freely the attitude of Mr. Wilson in relation to the Round Knob hotel, and I received from him direct information or strongly implied, that Mr. Wilson had admitted to me that he was the owner of the lease, by reason of which the Southern Railroad Company had contracted or agreed with him to deadhead his supplies over the railroad for the hotel."

"I have seen Mr. Wilson in the Asheville market buying supplies, and heard him say that he was purchasing supplies for the Round Knob hotel."

"The general impression here is, among those with whom I have talked about the matter, that Mr. Wilson owns the lease."

"Mr. Wilson has been buying meats here from Zimmerman & Co. The butchers would deliver it, not at our city depot, but at Biltmore, early each morning and place it on the outgoing freight, D. H., and the conductor would put it off at the hotel. He never paid any freight on it."

"The Round Knob hotel gets freights free, both railroad and express. When freights are paid to Old Fort the goods are taken on the freight trains up four miles to the hotel and stopped at the door, where there is no depot or agency, free for the hotel, but for no others. Freight trains stop there daily for the hotel accommodations only, and not for people living on the mountain near by, who have to haul freight from Old Fort. The hotel is even a flag station for the night vestibule, when large villages on the road are denied the privilege."

"Freight by express has been put off at Old Fort (there being no billing office at Round Knob) marked to Wilson 'deadhead' on account of Railroad Commissioner, and shipped up by freight on the next train without cost. Several good people living near there desire the privilege, but are denied. Wilson's son rides on all trains to Old Fort and Marion every day foraging for chickens and other supplies free, or without buying tickets as other people have to do. They have telegraph privileges also."

This message is transmitted to your honorable bodies in obedience to the requirements of the Railroad Commission Law of 1891. (Signed) DANIEL L. RUSSELL, Governor.

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Notice to Creditors.

HAVING qualified as administrator of A. W. Wilson, deceased, notice is hereby given to all persons having claims against the estate of said intestate to present them to the undersigned for payment on or before the 29th day of December, A. D., 1899, or this notice will be pleaded in bar of their recovery; and all persons indebted to said estate are hereby notified to come forward and settle at once and thereby save costs. This 29th day of December, A. D. 1898. A. H. WILSON, Adm. of A. W. Wilson.



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