

**A MATTER OF HEALTH**



**A. C. L. Must Make Selma Connection**

Supreme Court Reverses Lower Court—Holds That Order by Corporation Commission Must Be Obeyed—Opinion by Chief Justice, Clark

The supreme court, in an opinion handed down last evening, reverses the lower court in the noted Selma connection case—Corporation Commission vs. Atlantic Coast Line—and orders that judgment be entered in the supreme court for the execution of the orders by the commission, the operation of the order being suspended, however, until February 10, 1905, for the reason, as the court expresses it, that there is a probability that the railroad company has not made the necessary preparations for the change.

To sum up the position of the supreme court in the case in a few lines, it is that under the statute creating the corporation commission the commission has the power to direct two railroad companies to make connection when required by public convenience unless the order is unreasonable and unjust. The conditions out of which the Selma connection case grew are well known to the public, having been fully reported in the trial before Judge Brown in Wake superior court last April, when the rulings were made that the supreme court now reverses. For ten years prior to 1903 the Atlantic Coast Line had made connection at Selma through their train from Richmond with the Southern Railway westbound train from Greensboro to Greensboro, the connection being at 2:25 p. m. Then the Atlantic Coast Line changed their schedule, setting back the arriving time for their train at Selma, so that it could no longer be any connection with the Southern. The reason given for this was that heavier passenger traffic on their through train necessitated the change. The break in the connection was about 25 minutes and was declared to work a great inconvenience upon people east of Selma who traveled to Raleigh, Greensboro and similarly situated points. Soon after this change was made the corporation commission directed the Atlantic Coast Line to move up their schedule 25 minutes and make the connection. But about the same time the Southern, by reason of the necessity of maintaining connection with their main line trains at Greensboro, changed their schedule so that the train would have to leave Selma earlier than formerly. The A. C. L. also urged upon the commission that they were not able to make the connection by reason of the fact that, this being a through

interstate train, the travel was too heavy for them to make the time necessary to arrive at Selma in time and still keep their necessary connections at Richmond. On the other hand, as the court expresses it, the public contended that neither the conditions recited by the A. C. L. or the Southern was sufficient excuse for keeping travelers waiting in Selma six hours by reason of missing connection. In the trial before Judge Brown in the lower court the judge submitted the issues as to whether the connection should be made by extending the run of the Plymouth-Rocky Mount train to Selma or the Springhope-Rocky Mount train to Selma, or by moving up the schedule of the present through train. Still another proposition submitted as an issue, being the operation of an entirely new train between Rocky Mount and Selma.

The jury found that to operate an extra train would cost \$40 per day with an estimated revenue of \$25 per day, and in compliance with instructions from Judge Brown the jury returned a verdict also that neither of the other three propositions was practicable. With these findings by the jury, the judge reversed practically all the orders of the commission in the case.

In passing on these matters the supreme court holds that the submitting of so many issues as to the Springhope train, the Plymouth train, the regular through train and the extra train for the connection was irrelevant and immaterial because the only real inquiry was as to whether the order made by the commission was reasonable and unjust, and further, that Judge Brown erred in directing the jury as to what verdict they should return because the issues should have been submitted to the jury on the evidence if it had been material.

In summing up the case the court holds that the corporation commission has the power to direct two railroads to make connection at any point unless the order is unjust and unreasonable; that the jury in this case found the order reasonable and just and that the evidence submitted to them justified the finding. Thereupon the court affirms the order of the corporation commission, but owing to the possibility that the railroad company has not made preparation for compliance with the order, it is suspended until February 10th.

It is of interest to note that the ruling of the court leaves the A. C. L. the privilege of making the connection with the Southern in either of the four ways proposed; that is, by the extension of the runs of either of the two branch trains, by moving up the schedule of the through train or by operating a new train between Rocky Mount and Selma, the only thing the court insists on being that a connection be made for the convenience of the traveling public.

**Duplin Co. Postmaster Goes to the Penitentiary**

J. L. Cottle Gets Two Years for Perpetrating Pension Fraud—W. D. King of Raleigh Sent to Jail for Postal Fraud

The postmaster of Chiquipin, Duplin county, was sentenced to two years in the penitentiary yesterday in the federal court here for the making of false affidavits as to pensions—the violation of sections 4746 and 5421. The postmaster's name is J. L. Cottle.

The circumstances of the case against Cottle as developed in the trial are that by some means Cottle came in possession of an application for pension decoration for one Mary Ezzell, the theory of the government being that he intercepted a letter in the mails to get it. It was filed out with general outline by attorneys for Mary Ezzell in Washington when it came into the possession of Cottle, who proceeded to perfect it by forging the signature of Mary Ezzell and had the same attested by himself, J. L. Cottle

and one "James Shaw," who investigation has shown was a purely fictitious personage. The fraudulently signed document then purports to have been carried before one N. R. Cole, a justice of the peace in Duplin county, who endorsed the document with the certification that the two forged witnesses appeared before him and certified that Mary Ezzell signed the decoration in their presence. This was an absolute forgery. Then the document appears to have been signed by R. P. Pearsall, clerk of the Duplin county superior court. Both Cole and Pearsall testified that they never signed any such paper.

Another convincing chain in the evidence against the Chiquipin postmaster as introduced by District Attorney Skinner was the testimony of J. W. Hall, special examiner for the pension department of the government, who was introduced with the records of the department bearing on the case and testified that J. L. Cottle on December 30, 1903, admitted to him in writing that he signed Mary Ezzell to the document, and also that of James Shaw, and that he knew of no such man as James Shaw, although he signed the name. Also that Cottle admitted to him that he affixed the signatures of R. N. Cole, justice of the peace, and R. P. Pearsall, clerk of the court.

As a defense the defendant attempted to show that he had been "doping"

for some time and was not therefore responsible for his action. The government on the other hand introduced evidence to show that Cottle was for a number of years a justice of the peace in his county, had been postmaster at Chiquipin for nine years and was a merchant, conducting considerable business in his community. They also proved him a bad character. Soon after the jury returned the verdict Judge Funnell pronounced the sentence of two years in the penitentiary at Atlanta.

**W. D. King Sentenced**

A case of considerable interest was that against W. D. King, the blind man of this city, who was charged with misusing the mails for fraudulent purposes. He submitted to the charge and was sentenced to six months in jail, the judge stating in connection with the pronouncement of the sentence that he was constrained to make it thus light on account of the fact of the defendant being blind, and that he had a blind wife. Readers of the Post are familiar with the charges against King. How he ordered perishable goods of various kinds under assumed names from dealers in various parts of the country, and after they arrived and were left in the express office uncalled for he made it convenient to be on hand and offer sacrifice prices for them, usually getting the goods in this way and then selling them to dealers and consumers here. Fish, oysters, rabbits and all manner of goods were ordered and secured in this way until the fraud became so flagrant and frequent as to occasion an investigation by the government, with the result that King was saddled with the crime.

A number of other cases, none of them of special interest, were disposed of during the day. The negro boy, Paul Farmer, who was convicted some days ago of larceny from the post office at Wilson, was sentenced to one year in the reformatory in Maryland.

J. W. W. Sheehan of Johnston county was convicted of distilling and sentenced to three months in jail and \$100 fine.

Raford Jordan, from Moore county, was convicted of retailing and given a term of sixty days in jail and \$100 fine.

Crump Sykes and Luke Sykes were found not guilty of distilling without license. They were brought from Franklin county.

Jim Capps, a young white man from Johnston county, was convicted of illicit distilling and retailing and was sentenced to three months in jail and \$1,000 fine.

A remarkable case in which the government failed to convict was that against Modest Brown, from Wilson county. He was charged without retailing without license, and the government witness, A. J. Taylor, who testified before the commissioner in the trial below that he bought the whiskey from Modest Brown, went on the stand in the federal court yesterday and swore that the prisoner at the bar was not the Modest Brown from whom he had made the purchase, thereby putting the case out of court.

In one other case, that of K. P. Joyner, for retailing, there was a jury verdict of not guilty.

**OPINIONS BY THE SUPREME COURT**

Twenty-two Cases Disposed of by Opinions or Per Curiam Orders—Arguments

The supreme court handed down opinions yesterday in thirteen cases and disposed of nine others per curiam. Far and away the most important opinions were in the noted Selma Connection case and that of State vs. Van Pelt from Rowan county. In the Selma connection case the court reverses the rulings of the judge below and affirms the order of the corporation commission for the Selma connection between the A. C. L. and the Southern railroads. While in the case from Rowan, involving issues largely important to labor unions and the employers of the state, the finding of the lower court in favor of the labor unions is affirmed. Both of these opinions are fully reported elsewhere in this issue of The Post. The full list of the opinions delivered yesterday follows:

- Deaver vs. Deaver, from Buncombe, new trial.
  - Jones vs. Marble Co., from Buncombe, no error.
  - Harris vs. Quarry Co., from Henderson, reversed.
  - Parker vs. Railroad, from Henderson, affirmed.
  - Hickory vs. Railroad, from Catawba, error.
  - Pinchback vs. Mining Co., from Gaston, new trial.
  - Goodwin vs. Clayton, from Forsyth, reversed.
  - Hall vs. Misenheimer, from Rowan, no error.
  - State vs. VanPelt, from Rowan, affirmed.
  - Walker vs. Railroad, from Alamance, affirmed.
  - Helms vs. Helms, from Union, petition to rehear dismissed.
  - Corporation Comm. vs. A. C. L. Railroad, from Wake, reversed and judgment to be entered in this court.
  - State vs. Bell, from Lenoir, no error.
  - Anna Griffin vs. S. A. L. Railway, from Anson, petition for certiorari denied and judgment below affirmed, per curiam.
  - McLean vs. Bullard, from Scotland, per curiam, affirmed.
  - McGirt vs. Railroad, from Guilford, per curiam, affirmed.
  - Pearsall vs. Wooten, from Burke, per curiam, affirmed.
  - State vs. Dillingham, from Buncombe, per curiam, affirmed.
  - Clark vs. Rankin, from Buncombe, per curiam, affirmed.
  - Cowan vs. Roberts, from Buncombe, per curiam, affirmed.
- Appeals from sixteenth district were argued yesterday as follows:
- State vs. Gentry, argued by attorney

general for state, Den Posep for defendant. Coward vs. Commissioners, argued by Moore for plaintiff, Cowan for defendant. Board of Ed. vs. Commissioners, argued by Johnston for plaintiff, Horn & Mann for defendant. Stalcup vs. Stalcup, argued by Norvell and Posey for plaintiff, Ray for defendant. Trotter vs. Angel, argued by Horn & Mann for plaintiff, J. E. Ray, Robertson & Benlow and Jones & Johnston for defendant. Francis vs. Reeves, by Crawford for plaintiff, Shurtor for defendant. Rollins vs. Ebbs, by Moore & Rollins for plaintiff, Crawford for defendant. Wilson vs. Lewis, by Walter E. Moore for plaintiff, Ray for defendant. Satterthwaite vs. Goodyear, by Shepherd for plaintiff, Ferguson for defendant.

The following state cases were argued at the end of the docket: State vs. Morris, by attorney general for the state. State vs. Sprull, by attorney general for the state. State vs. Huff, by attorney general for state, Beckwith for defendant.

The following cases will be argued today:

State vs. Davis, attorney general for state, McLean & McLean for defendant. State vs. Smith, attorney general for the state.

**WAKE LAND SALES**

Sales of real estate were recorded as follows yesterday in the office of the register of deeds:

- A. W. Goodwin and wife to E. W. Jones, for \$1,750, tract of 80 acres in Swift Creek township on the Avert Ferry road, adjoining lands of the North Carolina Insane Asylum and the heirs of the late William Grimes.
- Andrew J. Blake to Charles W. Mooneyham, for \$190, tract of 15 acres, being interest in land of the late Marena Blake in House Creek township.
- J. H. Fleming and wife to Tabitha Mooneyham, for \$28.89, one-sixth interest in a tract of 110 acres in Barton's Creek township, being land conveyed to Rindy Blake by Joseph Andrews and wife.
- Simon D. Perry and wife to L. Y. Baker, for \$1,000, two tracts, one 71.8-8 acres and the other 24 acres, in Little River township, adjoining lands of W. B. Ferrall and J. C. Scarborough.
- W. F. Joyner and wife to Remas Weatherspoon, for \$800, three tracts containing 40 acres, 25 1-4 acres and 41-2 acres in Swift Creek township, adjoining land of R. S. Stephens.
- Kittle L. Richardson (widow) to C. J. Hunter of Wake and J. R. Hunter of Richmond, Va., for \$50, 7 lots in Oberlin.
- L. P. Sorrell and wife to Thomas S. Smith, for \$1,300, tract of 135 acres in House Creek township, adjoining lands of W. Y. Chappell, W. M. Jackson, S. H. Smith and Angelina Warren.
- J. Carson Ricks and wife to W. T. Reaves and wife, for \$375, lot in Raleigh on east side of North Harrington street, 50 by 105 feet.
- R. N. Wynne and wife to E. A. Johnson, for \$2,250, tract of 91-1-2 acres in Fannin Creek township, on the Smithfield road, adjoining lands of T. L. Lemay.

Darnell & Thomas' Store will be open of nights until after Xmas. Drop in and select a fine Miller, Muhlin, Shoninger or a Howard Piano for an Xmas gift, and at the same time hear some gavel music played on the Angelus.

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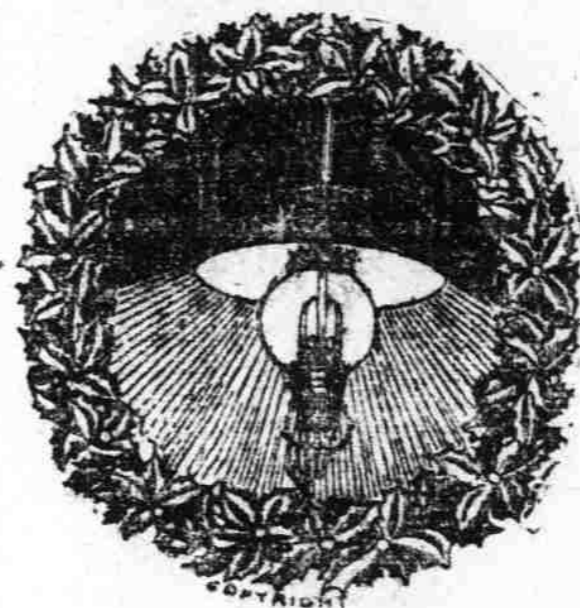
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