

# THE RALEIGH EVENING TIMES.

VOLUME 27.

RALEIGH, N. C., TUESDAY, JUNE 12, 1906.

PRICE 5c.

## SOUTHERN RAILWAY ANSWERS COMPLAINT BEFORE COMMISSION

### Change of Schedule of No. 111 a Boon to the Public

### RESTRAINING ORDER BY JUDGE PURNELL

Corporation Commissioners and Scott, Ferguson and Lawrence Cannot Sue Railway to Collect Penalty for Violation of the Commission's Order—Order Illegal Say Attorneys—Sole Object to Delay No. 111, to Detriment of Passengers and Transportation of Mail and Freight, to Favor One Corporation.

The Southern Railway this morning filed with the North Carolina Corporation Commission a full answer to the complaint against the change in the schedule of No. 111, which runs from Goldsboro to Greensboro.

This is the latest move in the noted case which began Saturday, June 2d, when the Corporation Commission served on Col. A. B. Andrews, first vice-president of the Southern, a complaint made by sundry citizens against breaking the connection between No. 111 and the Seaboard Air Line's No. 88—a connection which, by the way, has been made only six times since April 1st last. The railway had ten days in which to make answer to this complaint. Before this time, allowed by law, expired the new schedule was advertised to go into effect.

The answer of the railway to the commission is a statement of the reasons for the change in the schedule, the advantage it will be to the traveler, and it further declares "The real purpose of the order, as appears by many of the petitions, is to delay train No. 111 for the purpose of receiving the belated mail offered by one corporation, and that the commission has no right to delay the transportation of mail, passengers and freight for the sole purpose of conferring a favor upon a single user of the United States mail."

Last Saturday the Corporation Commission served a second order on Col. Andrews, as first vice-president of the railway, enjoining the company from putting the new schedule into effect until the matter had been heard and determined by the Corporation Commission. The new schedule had been advertised, important connections were to be made at Salisbury, the Commission in the opinion of lawyers had no authority whatever to issue injunctions so No. 111 passed through Raleigh Sunday night at 11:55, the new schedule time, instead of waiting here until 1:40 a. m.

This is in violation of the so-called injunction of the Corporation Commission. Yesterday, however, one of the Corporation Commissioners stated that the action of the Southern in running the train in defiance of the Commission's latest order was not regarded as an affront to that body since the law allowed the railroad ten days to appeal.

However, there is a penalty of \$500 a day for each day a railroad violates the order of the Commission; hence, last evening the attorneys of the Southern Railway applied to Judge Thomas R. Purnell of the federal court for an injunction restraining the Corporation Commissioners, and Maj. J. W. Scott of Sanford, mayor K. M. Ferguson of Southern Pines and Robert C. Lawrence of Lumberton (these being the persons upon whose complaint against breaking the connection between the Southern and Seaboard the commission acted), from bringing suit against the Southern to collect the \$500-a-day penalty.

The injunction was issued and will be heard before Judge Purnell here on Thursday, July 21st. The Southern gives a \$2,500 injunction bond. The injunction was served shortly after six o'clock last evening on Commissioners McNeill, Rogers and Beddingfield and was served today upon Maj. Scott, Mayor Ferguson and Mr. Lawrence. The restraining order rests on the grounds that the commission's order interferes with interstate commerce and the transmission of United States mail, and is in reality an injunction issued by a state organization claiming both judicial and legislative powers.

The only action taken by the Corporation Commission today was to decide to meet next Friday at 11 o'clock and then set a time when the matter will be fully heard before the commission. This step was taken by the commission after a conference with attorneys, Judge R. W. Winston of Dur-

ham and Mr. D. E. McIver of Sanford, for the petitioners. The attorneys for the Southern Railway today filed a separate petition with the Corporation Commission to move the entire question at issue to the federal court since interstate commerce is involved. The Corporation Commission has no jurisdiction, the petition set forth. The commission took no action in this matter.

**The Railroad's Complaint.**  
The complaint filed before Judge Purnell was signed by W. B. Rodman, F. H. Busbee, Pou & Fuller and A. B. Andrews, Jr., as attorneys for the railway.

The complaint, after beginning in the usual form, recites that the company operates train No. 29 between Washington and Atlanta, passing Greensboro, Salisbury and other points. Further the complaint says:

**Additional Train Put On.**  
"That owing to the increased business of the complainant upon the lines of its railway formerly known as the Western North Carolina Railroad, in order to afford proper accommodations to its passenger travel, and in order to relieve its trains engaged in interstate commerce, especially train No. 111, running from Salisbury to Knoxville and beyond, from the congestion of travel and the delays of local stops, it became necessary, and is now necessary, to place upon the said railroad from Salisbury to Asheville an additional train for the transportation of passengers, stopping at all local stations, and that this train was indisputably necessary for the proper conduct of its business and to afford necessary accommodations, not only for the people living along its lines, but for all people living in eastern North Carolina who desire to reach Asheville at an early hour and who desire to reach local points along the line of the railroad between Salisbury and Asheville, at which points the through trains do not stop.

"That in order to accommodate people from points east of Greensboro along the line of your complainant's railroad and along the line of other railroads connecting therewith, who desire to reach local stations between the cities of Charlotte and Atlanta, as which the other trains do not stop, and also in order to connect with its train above-mentioned on the railroad between Salisbury and Asheville, it became necessary for your complainant to make connection with the interstate train No. 39 above-mentioned, which leaves the city of Greensboro under its regular schedule at twelve minutes after four o'clock in the morning of each day.

**Connection From East.**  
"That for some years your complainant has operated a train known as No. 111, leaving Goldsboro at 9:40 p. m. and reaching Greensboro at 5:35 a. m. and that this train has been accustomed to remain in the city of Raleigh, North Carolina, from 11:45 p. m. until 1:40 a. m., the new train from Salisbury to Asheville not having been in operation prior to Sunday, June 10.

"That very much the larger part of the travel upon the trains of your complainant in the night as well as in the day is transported upon the ordinary passenger cars, and that in order to confer the greatest good upon the greatest number your complainant has determined to operate, and has put in operation, a through coach or passenger car running from the town of Goldsboro through Raleigh, Greensboro, Salisbury and all intermediate stations to the city of Asheville, thereby saving the traveling public the inconvenience of making a change of cars in the night time as heretofore they have been obliged to do. This coach forms a part of train No. 29, engaged in interstate commerce.

"That many complaints have been made to your complainant of the detention of the train in Raleigh whereby passengers from Goldsboro and intermediate points to Durham and other points west of Raleigh have been compelled to remain in the station at Raleigh for nearly two hours, thereby greatly delaying them in reaching their respective destinations.

**The S. A. L. Connection.**  
"Your complainant further says that the Seaboard Air Line Railway is a railroad engaged in interstate commerce operating trains from Jacksonville, Florida, and beyond, and from Birmingham, Ala., passing through the city of Raleigh on their way to the cities of Richmond and Norfolk, in the state of Virginia.

"That trains from Jacksonville and Birmingham are consolidated at Hamlet, in North Carolina, and are transported as a single train, known as train No. 84, through the state of North Carolina to the town of Norfolk, in the state of Virginia, and there separating into trains for Richmond and Norfolk, Virginia.

"That owing to the fact that this consolidated train is composed of two interstate trains from divergent points, and any delay to either one of them causes a delay of the train, and owing to the great weight of this train, it has been found that this train, which is due in Raleigh at five minutes after one o'clock in the morning is very rarely upon its schedule, and it seldom reached Raleigh before the former hour of departure of complainant's train at 1:40 a. m.; that this apparent connection with the Seaboard Air Line was made only six times during the months of April and May last passed.

"That there has never been any appreciable travel or interchange of passengers between this Seaboard Air Line train No. 84 and train No. 111 of your complainant, and that there is no demand by the traveling public for any connection between Seaboard Air Line No. 84 and complainant's train No. 111, and your complainant, which earnestly and honestly desires to serve the interest of the traveling public, believes and knows that it will better subserve the interest of all persons to make connection with the interstate train No. 39, and thereby make connection with the local train between Salisbury and Asheville and with the train making local stops between Charlotte and Atlanta than to attempt to maintain the alleged connection, which does not exist in fact, with the Seaboard Air Line train No. 84, for which no demand has ever been made upon your complainant.

## TO HEAR HEARS OF RAILROADS

### Commerce Commission Extends Investigation

## TESTIMONY OPTIONAL

### You Can Not Condemn a Man Without a Hearing, Said Commissioner Cockrell—So Presidents of Coal Carrying Roads Are Asked to Testify—Witnesses Today.

(By the Associated Press.)  
Philadelphia, Pa., June 12.—The presidents of the big coal-carrying railroads will be given an opportunity to appear before the interstate commerce commission and make any statement they may desire. Commissioner Cockrell said today that invitations would be extended to the presidents of the Pennsylvania, Baltimore & Ohio, the Norfolk & Western, the Chesapeake & Ohio and the New York Central railroads to appear before the commission. No subpoenas would be issued for the heads of these roads and their appearance will be entirely optional with the officials.

"You cannot condemn a man without a hearing," said Commissioner Cockrell. "It has been the purpose of the commission to permit the presidents of the coal roads to make any statements they may desire, but we are not yet ready. We want all the information we can get from the subordinates and then the case in its entirety will be before the commission and the railroad presidents."

Commissioner Cockrell said the official notification that the commission was ready to hear the presidents would probably be sent to them tomorrow, but he did not believe that they would be heard before June 21.

The commission returned its inquiry today into the relation of the railroads to the coal and all interests. The first witness was Robert L. Franklin, assistant freight clerk agent of the Pennsylvania Railroad, who detailed the method of investigating claims made by coal companies for coal lost in transit.

## THOUSANDS OF LIVES Lost in Floods from Overflowing Rivers

### Spring Floods in China Have Caused the Sacrifice of Tens of Thousands of Human Lives—Missionaries Heavy Losers.

(By the Associated Press.)  
Victoria, B. C., June 12.—Mail advices from Hankow, China, show that the great floods of this spring in Hunan caused an appalling loss of life, amounting to tens of thousands. The rivers were higher than in any previous year, and swept over the dykes, submerged houses and covered an immense area. In fact the whole valley of the Siang was flooded. Siantan, a prosperous city, was flooded with water to the second stories of the riverside buildings. The river was thick with wreckage and villagers on floating roofs. The foreign missionaries in Siantan were heavy losers though all escaped in boats.

## A NEW SENATOR FROM DELAWARE

### (By the Associated Press.) Dover, Del., June 12.—Colonel H. A. Dupont was elected United States senator by the Delaware legislature which met in joint session at noon today.

## CHOLERA DEATHS IN PHILIPPINES.

(By the Associated Press.)  
Washington, June 12.—An official summary of cholera in the Philippine islands during the present epidemic, from the outbreak last August and up to April 21st last, shows a grand total of 4,993 cases and 3,114 deaths. During that period there were 3,810 cases and 2,562 deaths from that cause in the provinces and 233 cases and 222 deaths in the city of Manila.

## HONEY-COMBED WITH SEDITION

### Unhappy Conditions Prevail in Guatemala

## TO LEVY FORCED LOANS

### The People Favorable to the Revolution State That the Purpose Is to Abolish Graft and Oppressive Taxation—Foreign Immigration Will Be Welcomed.

(By the Associated Press.)  
Mexico City, June 12.—Several Americans and Germans arrived yesterday from Guatemala via Salina Cruz and the Tehuantepec Railway. They left San Jose de Guatemala June 4 and were not in possession of the late news from the scene of the revolutionary operations, but are able to throw light on the conditions in that country.

Leopoldo Fitenner, a German planter in Guatemala, says President Cabrera is a good ruler and should be successful in suppressing the present revolution, would become wise and generous in his policy of opening up the country to settlement by foreigners, but for the present he is unable to do so, as he is surrounded by enemies for the country is honeycombed by sedition.

Q. A. Weirholt of New York, who has been operating in Guatemala, says that the government when he left was handling the war in a fairly energetic manner and troops were daily being sent to the scene of action.

The government may have to levy forced loans to carry on the war. The papers in Guatemala were not publishing war news and only bulletins were issued chiefly thanking the people for their loyalty to the government. The country is filled with spies and nobody dares discuss politics.

The people favorable to the revolution and familiar with the ultimate prospects of its leaders assert that the purpose of the movement is to do away with graft and oppressive taxation and introduce new methods. Foreigners and foreign capital will be asked to come to Guatemala and do for it what has been accomplished in Mexico.

## PACKING HOUSE STINK A College Professor to Help Investigate

### Manufacturers Select Prof. James As First Member of the Contemplated 'Expert Commission'—Others to Be Chosen.

(By the Associated Press.)  
Chicago, June 12.—President Edmund J. James, of the University of Illinois, yesterday accepted a position on the expert commission which is to aid the Illinois manufacturers' association and probably the Chicago commercial association in the investigation of the Chicago packing houses in the light of Neill-Reynolds report. He is the first man to be secured. Secretary Glenn said last night that the manufacturers' association hoped to be able to announce today the make-up of its commission though considerable difficulty was expected in getting suitable men.

## GALVESTON CUT OFF FROM WORLD

### (By the Associated Press.) Houston, Tex., June 12.—About 1,000 feet of the bridge over a mile long which connects Galveston Island with the mainland burned this morning, completely isolating Galveston from all connection with the outside world except by boat.

Galveston is built on an island in the Gulf of Mexico and a long stretch of shoal water separates the city from the mainland. This water is spanned by the single, long bridge which burned.

## The Westernland All Right Again.

Philadelphia, Pa., June 12.—The American Line steamship Westernland, which went aground yesterday at the entrance to the Delaware Bay and was floated at midnight, reached here today. The vessel is in good condition, having sustained no damage by running on the shoals.

## TO PREVENT A LYNCHING BEE

### The Riot Call is Sounded at Norfolk

## MILITARY CALLED OUT

### And Two Hundred Soldiers Hurried to Eastville to Protect Gorilla Negro Who Criminally Assaulted Two White Women—Caused Great Excitement at Norfolk.

(By the Associated Press.)  
Norfolk, Va., June 12.—A riot call was sounded here this afternoon for the quick assembling of 200 militiamen of the Seventy-first Virginia regiment of infantry to proceed at once to Eastville, Va., to protect William Lee, a negro now in jail at that place charged with criminal assault on Mrs. Robert Barnes and her cousin, Miss Powell, near Kingston, in Somerset county, on the eastern shore of Maryland. The crime occurred on Sunday last while the women were en route to their home with the infant of Mrs. Barnes in a baby carriage. Miss Powell is reported to be in a serious condition.

The assailant of the women escaped, and Lee was later arrested at Cape Charles, Va., and threats of lynchings resulted in Governor S. Mason this afternoon ordering the Norfolk and Portsmouth companies of the Virginia national guard to proceed to the scene. The militia is being summoned in great haste, and the first detachment of fifty men heavily armed will leave on a special tug of the New York, Philadelphia & Norfolk Railroad for Cape Charles at 3 o'clock. The men under command of Major Solomonsky of Norfolk will, upon their arrival at Cape Charles, proceed at once by special train to Eastville, the county seat, some few miles north. All the other Norfolk and Portsmouth companies will leave for the scene via the New York, Philadelphia & Norfolk Railroad Company's steamer Philadelphia at 6 p. m. today. It takes three hours and a half to cross Chesapeake Bay to Cape Charles and about half an hour to reach Eastville from Cape Charles.

The riot call for the assembling of the militia has caused the greatest possible excitement here.

## JUBILEE MATINEE OF ELLEN TERRY.

### (By the Associated Press.) London, June 12.—The all night vigil of the admirers of Miss Ellen Terry who were anxious to get into Drury Lane theatre and witness her jubilee matinee performance this afternoon ended in the disappointment of hundreds who after leaving a twenty-four hours wait outside the pit and gallery doors failed to obtain admittance. When the overture of the remarkable program, containing the name of practically every stage star in London, was started Drury Lane was packed from floor to ceiling. Probably such a galaxy of star talent was never before seen in combination as for hours occupied the boards of Drury Lane in honor of Ellen Terry. Signora Duse, Mme. Relane and the two Coquelins came over from France and Mme. Melba and Signor Caruso were down for songs, while the feature of the many sided program was the cast of the first act of "Much Ado About Nothing" in which twenty-three members of the Terry family, headed by Ellen Terry herself appeared.

## MRS. COREY SUES FOR A DIVORCE.

(By the Associated Press.)  
Reno, Nev., June 12.—Mrs. William Ellis Corey, wife of the president of the United States Steel Corporation, filed a petition today in the second district court of Nevada at this place for an absolute decree of divorce.

The petition of Mrs. Corey is brief, reciting that she was married to Corey on December 15, 1883, and that he abandoned her on May 1, 1905. She asks for a decree upon the ground of desertion and also requests that the custody of their minor son be given to her.

## THE TILMAN CAMPAIGN CONTRIBUTIONS BILL.

(By the Associated Press.)  
Washington, June 12.—The Tillman bill prohibiting corporations from making campaign contributions under penalty of a fine, which the senate passed, has been received by the house and referred to the committee on election of president, vice president and members of congress.

## VERDICT WAS REACHED TODAY

### In Rebate Cases Against the Meat Packers

## UNUSUALLY IMPORTANT

### Affects Export Rates as Applied to Interstate Commerce Act.—Defendants Include Four of the Largest Packing Houses in West.—Question of Jurisdiction.

(By the Associated Press.)  
Kansas City, June 12.—The cases of the four meat packing companies, charged with accepting rebates was today given to the jury in the United States district court here. A verdict is expected today.

The cases are those of Armour & Company, Swift & Company, Cudahy & Company and the Nelson Morris Packing Company. They were charged in indictments returned here last December with accepting from the Burlington Railway concessions on shipments from Kansas City plants to New York for export. The cases were consolidated for trial purposes. The specific case considered, which is practically identical with the others, is that charging Cudahy & Company with accepting a rate of 23 cents a hundred pounds on a shipment of lard to New York for export to Germany when the legal tariff then on file with the interstate commerce commission was 35 cents. The trial began last week and after lengthy argument was continued until this morning when Judge Smith McPherson of Red Oak, Ia., the presiding judge, instructed the jury.

The present case bears unusual importance in the list of rebate trials to come up in this court, for it is the first time that any concern has been brought to trial before a jury on a charge affecting export rates as applied to the interstate commerce act.

Counsel for the defendants in this trial contended that the court lacked jurisdiction which was overruled by Judge McPherson, and then that when they signed a contract covering the 23-cent rate it was legal, and that the Burlington later raised its tariff to 35 cents. Judge McPherson's instructions to the jury covered the points fully.

## Verdict of Guilty Rendered.

Kansas City, June 12.—Armour & Company, Swift & Company, Cudahy & Company and the Nelson Morris Packing Company were found guilty in the United States district court here this afternoon of accepting concessions from the Chicago, Burlington & Quincy Railroad on export shipments on packing house products.

The case was given to the jury at 10:40. The verdict was returned at 11:40.

Judge Smith McPherson, of Red Oak, Iowa, the presiding judge, stated that sentence would not be assessed until the case against the Burlington Railway, which is charged with granting the concession to the packers, is concluded. The law in the present cases provides for a fine only, and not a jail sentence.

The government and the attorneys for the defendant have practically agreed upon a statement of facts in the case of the Chicago, Burlington & Quincy Railway. This case will go to the jury without hearing of witnesses.

## MUTUAL RESERVE OFFICERS ON TRIAL.

(By the Associated Press.)  
New York, June 12.—Frederick A. Burnham, former president of the Mutual Reserve Life Insurance Company, and Geo. Burnham and Geo. D. Eldridge, formerly vice presidents of that company, were arraigned before Judge Cowing today on five indictments returned by the grand jury against each of them charging forgery and grand larceny. Through their counsel they pleaded not guilty. The date of the trials has not been fixed.

## BUILDING TRADES STRIKE IN ST. LOUIS.

(By the Associated Press.)  
St. Louis, Mo., June 12.—More than 5,000 union men affiliated with the building trades council are out as a result of the strike which began yesterday. Building operations are confined to structures where the stone and brick work has been completed to frame houses, where it is not necessary to employ stone masons or bricklayers.

The strike was caused by strained relations between the bricklayers union and another union composed of both stone masons and bricklayers. The question of wages does not enter into the complication.