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# THE NORTH CAROLINA HISTORICAL REVIEW

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## THE CAPE FEAR AND YADKIN VALLEY RAILWAY

BY ROLAND B. EUTSLER

Transportation problems early received attention in North Carolina. Leaders throughout the State advocated the building of roads and the improvement and canalization of internal waterways. Attention was focused on east and west transportation as early as 1762. In that year, the town of Campbellton, now Fayetteville, at the head of navigation on the Cape Fear River was chartered, and roads were constructed westward in an endeavor to gather in the products which had formerly been moving southward to Charleston over the natural water routes provided by the Yadkin, Pee Dee, and Catawba rivers.<sup>1</sup>

The natural situation in the State is unfavorable to commerce—of its six principal rivers, two flow through South Carolina, three empty into shallow sounds, and one only, the Cape Fear, empties directly into the ocean. The result of this situation was that there were few markets of importance within the boundaries of the State, its imports and exports moving by way of Charleston, in South Carolina, and Petersburg and Norfolk, in Virginia.<sup>2</sup>

Constructive work on internal improvements was not begun until 1815,<sup>3</sup> although Governor Alexander made definite recommendations for the undertaking of internal improvement projects as early as 1806.<sup>4</sup> The stimulus and incentive for actual developments came from the unceasing efforts of Archibald D. Murphey. Murphey was appointed chairman of the Committee on Islands and Navigation provided for by legislative enactment in 1815. His grasp of the significance of transportation problems in their relation to the

<sup>1</sup> Connor, R. D. W., *History of North Carolina*, Vol. I., pp. 246-248.

<sup>2</sup> Murphey, A. D., *Memoir on Internal Improvement*, 1819. Found in Hoyt, W. H., *Papers of Archibald D. Murphey*, Vol. II, pp. 105-150.

<sup>3</sup> Dozier, H. D., *A History of the Atlantic Coast Line Railway*; p. 51.

<sup>4</sup> Governor's Message, *House Journal*, Nov. 19, 1806.

economic development of the whole State is clearly brought out in his reports and memorials to the General Assembly. Murphey's plans for internal improvement projects were divided into three parts: "The first respects the improvements of the Roanoke and forming an outlet to the waters of the Albemarle; the second, the connecting of the waters of the Yadkin and Catawba with those of the Cape Fear; and the third, the improvement of the Tar and Neuse rivers, and the inlet at Ocracoke." These three views have as their objects, "first, the directing of the whole trade of North Carolina into three channels, each having an outlet in the State, thereby securing the growth of our commercial towns; and secondly, extending the convenience of inland navigation to every part of the State, thereby increasing the value of lands and encouraging industry and enterprise among all classes in the community."<sup>5</sup>

The significance and importance of these projects, had they been fully carried out, could hardly be over-estimated. The General Assembly, however, granted only \$100,000 up to 1821, and up to 1835, the beginning of the railroad era, the total funds granted amounted to only \$219,576.<sup>6</sup>

Interest in railway development was stimulated by the appearance in 1828 of a series of articles entitled, *The Numbers of Carleton*, written by Dr. Joseph Caldwell, then president of the University of North Carolina. This series of articles set forth the advantages of rail over canal and river transportation and advocated the building of a railway system which would link up the important rivers of the State.

The early railroads in North Carolina naturally followed the course of existing trade routes, supplementing and extending the existing facilities. The State assumed an important role in assisting in the construction and extension of these railroads. It purchased stock, endorsed bonds, and exchanged State bonds for individual railway company bonds in order to help finance construction. These various roads now form important links in the trunk line carriers operating in and through North Carolina. The Raleigh and Gaston Railway Company, chartered in 1835, opened its road to Gaston, on the Roanoke River, in 1844, and completed an extension

<sup>5</sup> *Murphey's Report to the Legislature of North Carolina on Inland Navigation*, December, 1816. Found in Hoyt, W. H., *Papers of A. D. Murphey*, Vol. II, pp. 33-48.

<sup>6</sup> Dozier, H. D., *A History of the Atlantic Coast Line Railway*, p. 51.

to Weldon in 1852. It made northern connection over the reorganized system of the old Portsmouth and Roanoke Company. Both these roads are important links in the Seaboard Air Line System. The Wilmington and Weldon Railroad Company completed connection in 1840 and was at that time the longest railroad in the world. It is now the main North Carolina artery of the Atlantic Coast Line Railway. The North Carolina Railroad, running from Goldsboro to Charlotte, was financed by State ownership of capital stock. The properties of the company are now operated by the Southern Railway under a leasehold. To link up with the North Carolina Railroad, the State assisted in the construction of the Western and North Carolina Railroad from Salisbury to the Tennessee state line by way of Asheville. The properties of this road were sold to W. J. Best and associates in 1880. It is now leased by the Southern and is a part of the Southern's route, over its own rails, into the Ohio River Valley and the Middle West. The Atlantic and North Carolina Railway Company was chartered to give the North Carolina Railroad an outlet to the ocean. It was begun in 1856 and completed to Beaufort in 1859. It is now leased and operated by the Norfolk-Southern Railway Company. The Carolina Central, chartered in 1873, took over the unfinished properties of the bankrupt Wilmington, Charlotte and Rutherford Railroad and completed them into Shelby in 1874. This road is now a part of the Seaboard Air Line.<sup>7</sup>

The trend of the development of these early North Carolina railways clearly indicates two results: first, that the original network covered the important marketing channels within the boundaries of the State; and second, that the era of formation of roads into trunk line systems linked up each of these roads with a predominantly north and south carrier.

The Cape Fear and Yadkin Valley Railway was another distinct effort to effect east and west connection across North Carolina. The plans for this system grew out of the early efforts to connect navigable waters with interior agricultural regions. In 1815 a project to connect the Cape Fear with the Yadkin River by canal was favorably reported to the General Assembly. Actual construction was undertaken but the obstacles encountered proved insurmountable and the

<sup>7</sup> For details of State aid and dates of construction of these several roads, see Eutsler, R. B., *A History of the Cape Fear and Yadkin Valley Railway*, ch. I, on file in the Library of the University of North Carolina.

road had to be abandoned.<sup>8</sup> The idea of the connection was revived in 1832 by the incorporation of the Cape Fear and Yadkin Railroad Company for the purpose of connecting the Cape Fear, Yadkin, and Catawba rivers by rail or by rail and canal.<sup>9</sup> Ground was broken for the building of this project, but it, too, met with difficulties and had to be abandoned.<sup>10</sup> The failure of these several efforts, want of familiarity with railroad work, and the natural skepticism of a sparse population to invest in a doubtful project resulted in the cessation of endeavors to connect the Cape Fear with the Yadkin. It was not until many years later that it was again planned.

The Western Railroad, which later became the Cape Fear and Yadkin Valley, was chartered on February 14, 1852, for the purpose of constructing a railroad from some point on the Cape Fear River, at or near Fayetteville, to the coal regions of Moore and Chatham counties.<sup>11</sup> It was not planned, at first, for this road to form the east and west connection which had been advocated by leaders throughout the State, but rather to provide an outlet for the mineral deposits of the lower Deep River section.

The road early met with obstacles. Stock subscriptions were obtained with difficulty so that it was necessary to appeal to towns and counties along the line of the road in order to finance the early construction.<sup>12</sup> But even this aid, which amounted to \$200,000, subscribed by Cumberland County and by Fayetteville, proved insufficient to complete the road into the coal fields. Of the total distance of forty-three miles, only eleven miles were completed by 1858.<sup>13</sup> The road next turned to the General Assembly for aid,<sup>14</sup> receiving therefrom material aid in the form of an exchange of \$400,000 of State coupon bonds for an equal amount of Western Railway Company bonds.<sup>15</sup> Two years later, in 1861, another exchange of \$600,000 in bonds was authorized. This latter exchange was made for the purpose of assisting an extension to the North Carolina Railroad.<sup>16</sup>

<sup>8</sup> Descriptive Gazette of the Cape Fear and Yadkin Valley Railway, 1889, p. 9.

<sup>9</sup> Chapter 50, Private Laws of North Carolina, Jan. 15, 1832.

<sup>10</sup> Descriptive Gazette of the CF & YV Ry. 1889, p. 9.

<sup>11</sup> Chapter 147, Laws of North Carolina, Feb. 24, 1852.

<sup>12</sup> Under authority of a charter amendment, ch. 71, Laws of North Carolina, Feb. 3, 1857.

<sup>13</sup> Chief Engineer's Report, Minutes of Stock Meeting, 1858.

<sup>14</sup> The General Assembly had been pursuing a policy of assisting in railroad construction. It loaned money to various roads, bought stock from others, and exchanged bonds for the various company bonds.

<sup>15</sup> Ch. 164, Laws of North Carolina, Feb. 7, 1859.

<sup>16</sup> Chapter 137, Private Laws of North Carolina, Feb. 16, 1861.

The rebuilding of railways and the extension and completion of systems was an important part of the reconstruction policy of North Carolina. The Civil War brought out the need of extensive transportation facilities.<sup>17</sup> Steps were taken to better the credit conditions of the several roads within the State. In the case of the Western Railway, this was the cancellation of the mortgage held by the State, effected by an exchange of the bonds held by the State for capital stock in the company.<sup>18</sup>

The "carpet-bag rule," lasting from 1867 to 1875, continued the policy of issuing bonds and buying stock to help the railroads. These issues, however, were accompanied by graft and very little aid was secured by the railroads.<sup>17</sup> The Western Railway actually met with a loss, when, through an exchange, it received \$500,000 in bonds of the Wilmington, Charlotte, and Rutherford Railroad Company which became worthless when that company went into bankruptcy.<sup>19</sup>

Very little additional construction had been made during this period, though the leaders of the project constantly endeavored to push construction through to a connection with the North Carolina Railroad in Greensboro. Efforts, however, were retarded by the litigation over bond issues in which the company was involved. But during this period plans began to be formulated for an extension from Fayetteville to South Carolina and from Greensboro into the valley of the upper Yadkin. These plans took material form when the extensions were authorized by the General Assembly.<sup>20</sup>

A new phase of the State's interest in the Western Railroad was manifested when the General Assembly passed an act permitting and authorizing the working of convicts in the construction of the road.<sup>21</sup> The use of these convicts greatly facilitated future construction.

The next move on the part of the Western Railroad looked toward completing the road into the valley of the upper Yadkin. Negotiations were made with the Mount Airy and Central Railroad Company, which had been chartered to build a railroad from Mount Airy to some point on the North Carolina Railroad.<sup>22</sup> The result of this move was that a consolidation of the two roads was arranged, this

<sup>17</sup> Hamilton, *History of North Carolina*, Vol. III: North Carolina since 1860, p. 119.

<sup>18</sup> Ch. 107, Laws of North Carolina, Dec. 20, 1866.

<sup>19</sup> Secretary's Reports, Min. of Stock, Meet., 1872; 1878-79.

Ch. 95, Laws of North Carolina, Feb. 26, 1867.

Ch. 28, Laws of North Carolina, Feb. 2, 1869.

<sup>20</sup> Ch. 38, Laws of North Carolina, Jan. 10, 1871.

<sup>21</sup> Ch. 127, Laws of North Carolina, Feb. 27, 1877.

<sup>22</sup> Ch. 118, Laws of North Carolina, Feb. 27, 1871.

action being immediately approved by the Board of Directors of the Western Railroad on the grounds that such a consolidation would restore "old lines of trade and social intercourse and rebuild home markets."<sup>23</sup>

On the 25th of February, 1879, the Cape Fear and Yadkin Valley Railway Company came into existence. The legislative enactment which granted the Western Railroad authority to absorb the Mount Airy and Central also gave it authority to change its name.<sup>24</sup>

The outlook for the new company was good. Capital stock was scaled down fifty per cent in value and the floating debt of the company was paid off with funds derived from the sale of \$50,000 worth of bonds; this move clearing the way for a new bond issue. Only forty-five miles, from Fayetteville to Gulf, were completed at this date, but construction was immediately pushed forward. Grading into Greensboro was completed in 1880 and negotiations were under way to start work on the extension northwest of Greensboro and south of Fayetteville.<sup>25</sup>

There were, however, important events before the stockholders convened for their annual meeting in April of 1882. A quotation from President Gray's report adequately explains them and points out their significance:

It will be remembered that in our last annual report, we presented you the flattering prospect of the early completion of your road to Greensboro. Our bonds sold and forwarded to London for delivery. The iron bought and in the course of shipment to the port of Wilmington, and all the preparations for laying the track going rapidly forward. The outlook was altogether satisfactory and cheering, and we felt that we had at last emerged from the clouds of darkness which had so long over-shadowed our cherished enterprise, and that we were surely nearing the consummation of our long deferred hopes—when, without a note of warning or a suggestion of dissatisfaction, or assigning any sufficient reason for their action, and after the delivery of more than half the rails at Wilmington the parties who had contracted for the purchase of our bonds failed to meet their obligations to the iron men and left us to stand helplessly by and see our rails resold to another road.

This unexpected turn in our affairs swept away all possibilities of extending the track beyond its present terminus at Gulf within the year, and carried with it our plans for the simultaneous construction of the Shoe Heel branch. . .

<sup>23</sup> Resolution, Board of Directors of Western Railroad Co., Printed in Minutes of Stockholders' Meeting for 1878.

<sup>24</sup> Ch. 67, Laws of North Carolina, Feb. 25, 1879.

<sup>25</sup> Minutes of Stockholders' Meeting, 1880.

While we were casting about and devising plans to repair the damage sustained by the miscarriage of our contracts in London, a gentleman claiming to represent an association of New York capitalists, and bringing letters from parties well known and of the highest respectability, submitted to Governor Jarvis a proposition for the purchase of the State's stock in the Cape Fear and Yadkin Valley Railway, with a view of making it a part of the great trunk line from Cincinnati to Wilmington. The magnificence of the scheme, the incalculable benefits to accrue to North Carolina in the development of her varied resources, by opening up a great highway for three hundred miles across her territory, from her northwestern boundary to the port of Wilmington, bringing her in direct communication with the great valleys of the Ohio and the Mississippi and giving to our own Atlantic seaports the advantage of one hundred miles in distance over all competitors for the export trade of the vast grain and meat marts of the west, opening up to view the possibility of a grander stride in material progress than we had even dared hope for in the life of the present generation. . . . Every encouragement was given to go forward with the enterprise, and every assurance of the hearty coöperation of our State authorities and of the people of North Carolina. A contract was drawn up between the State Commissioners and the New York and Southern Railroad and Telegraph Construction Company, but the latter failed to pay over the purchase price within the specified time, and so by its own terms, the contract became null and void.<sup>26</sup>

The failure of the English firm to take over the bonds left the company in a precarious financial position.<sup>27</sup> The proposed purchase of the State's stock resulted in disappointment to the renewed hopes of the company. At this juncture, however, overtures were made by J. A. Gray, then president of the road, and a group of associates, looking to the purchase of the State's stock in order that the road might be financed by a syndicate of interested individuals. These negotiations culminated in an act of the General Assembly authorizing the sale of the State's stock in the Cape Fear and Yadkin Valley. The terms of the sale provided that the North State Improvement Company<sup>28</sup> should make a cash payment of \$55,000 for the stock owned by the State and the purchase, at par value plus accrued interest, of the \$30,000 in bonds held by the State.<sup>29</sup> This act further provided for bond issues by the Cape Fear and Yadkin Valley; the State agreeing to accept bonds in payment for the convict labor furnished to the road, with the condition that the bonds so paid would

<sup>26</sup> President's Report, Min. of Stockholders' Meeting, 1882.

<sup>27</sup> Minutes of Stockholders' Meeting, 1882.

<sup>28</sup> J. A. Gray and associates became the incorporators of a company by this name (Plan of incorporation of the North State Improvement Company, June 27, 1883.)

<sup>29</sup> Ch. 190, Laws of North Carolina, Feb. 27, 1883.

be returned to the company if certain portions of the line were completed by specified dates. Authority was also granted to construct a line of road into Wilmington.

The State held 5,500 shares of stock of the Cape Fear and Yadkin Valley Railway which was carried on the books of the company at \$550,000. The sale of this stock at \$10 per share to a group of individuals closely connected with and interested in the Cape Fear and Yadkin Valley was due in part to a desire to have the project completed and in part to the State's policy of liquidating its investments in railroad stocks and bonds.<sup>30</sup>

The North State Improvement Company immediately started work on the construction of the road. It contracted to complete the road into Greensboro and from Fayetteville to the South Carolina line within a year. The Cape Fear and Yadkin Valley gave as consideration for this construction all forfeited capital stock, first mortgage bonds to the amount of \$10,000 per mile of road, including all road already constructed as well as that to be constructed, second mortgage bonds to the amount of \$5,000 per mile of road, and fifty shares of capital stock per mile of road constructed except that lying between Greensboro and the South Carolina line.<sup>31</sup>

When the North State Improvement Company came into possession of the Cape Fear and Yadkin Valley in 1883, there were only forty-six and a half miles of road in operation, and this in poor condition and in need of extensive repairs.<sup>32</sup> The equipment of the company inventoried at three old and one new locomotive, four passenger coaches, two baggage, mail, and express cars, twelve flat cars, six box cars, and a little construction equipment.<sup>33</sup>

Construction was rapidly pushed forward: Greensboro was reached early in 1884 and train service to that point started on March 16th of the same year.<sup>34</sup> Bennettsville, S. C., was reached late in 1884, the Cape Fear and Yadkin Valley chartering a subsidiary company, known as the South Carolina Pacific Railway, under the laws of South Carolina, to build that portion of the road lying in

<sup>30</sup> Governor Jarvis had inaugurated such a policy on the grounds that the energies of the State could be best directed to the extension and improvement of educational facilities and the development of natural resources. (See Connor, H. G., *George Davis*, pp. 34-36).

<sup>31</sup> Contract between CF & YV Ry. and the North State Improvement Co., June 27, 1883; Min. of Stock. Meet., 1884.

<sup>32</sup> Stockholders' Meeting of the North State Improvement Company, 1885.

<sup>33</sup> Chief Engineer's Report, Minutes of Stockholders' Meeting, 1883.

<sup>34</sup> Chief Engineer's Report, Min. of Stock. Meet., 1884.

South Carolina.<sup>35</sup> Construction northwest of Greensboro was being pushed forward. Grading to Mount Airy was completed in 1888 and track had been laid as far as Walnut Cove.<sup>36</sup>

Meanwhile, plans for the extension from Fayetteville to Wilmington had been materializing.<sup>37</sup> Wilmington subscribed to 1,500 shares of stock on March 1, 1888. Following this, the Cape Fear and Yadkin Valley entered into another contract with the North State Improvement Company for the construction of the road to that point.<sup>36</sup>

Plans for an extension to and connection with roads running into the middle west had also been in the process of formulation. This extension was mentioned as one of the plans of the company in a Memorial which it presented to the General Assembly in 1877. In 1888, President Gray stated:

Our Atlantic terminus now being fixed, it still remains to perfect our northwestern connections and our long cherished dreams of a grand trunk line from our own seaport at Wilmington, running diagonally across the State from southeast to northwest, to the great valley of the Mississippi will be realized.<sup>38</sup>

The Norfolk and Western Railway, with which the Cape Fear and Yadkin Valley planned to connect in order to effect this communication into the middle west, considered the proposed connection as important and was anxious for its early completion.<sup>39</sup>

Rails were laid into Mount Airy on May 16, 1889. Regular train service to that point was instituted on June eleventh.<sup>40</sup>

The advent of the opening of the Cape Fear and Yadkin Valley into Wilmington on the seventeenth day of February, 1890, was heralded as an event of great importance. An excursion to Fayetteville was given to the business men of Wilmington. The *Wilmington Messenger* published a special Cape Fear and Yadkin Valley edition in commemoration of the event. This issue carried news and feature articles about the whole territory served by the Cape Fear and Yadkin Valley and copies were distributed along the entire route.<sup>41</sup>

<sup>35</sup> Laws of South Carolina, act ratified Feb. 9, 1882.

President's Report, Minutes of Stockholders' Meet., 1884.

<sup>36</sup> Minutes of Stockholders' Meeting, 1888.

<sup>37</sup> Minutes of Stockholders' Meeting, 1886.

<sup>38</sup> Minutes of Stockholders' Meeting, 1888.

<sup>39</sup> Report of the president of the Norfolk and Western Railway, 1888, quoted by President of the CF & YV Ry. in his annual report for 1889.

<sup>40</sup> Minutes of Stockholders' Meeting, 1889.

<sup>41</sup> *Wilmington Messenger*, March 22, 1889.

With the completion of the "Granite Branch" in July of 1890, the Cape Fear and Yadkin Valley operated the following properties:

Main Line, Wilmington to Mt. Airy.....	248.26 mi.
Bennettsville Branch, Fayetteville to Bennettsville, S. C.....	57.28 mi.
Factory Branch, Climax to Ramseur.....	18.74 mi.
Madison Branch, Stokesdale to Madison.....	11.39 mi.
Granite Branch, Mt. Airy to Flat Rock.....	2.02 mi.
Furnace Branch, Greensboro to Proximity Mills.....	1.00 mi.
<hr/>	
Main track .....	338.68 mi.
Side track .....	26.17 mi.
<hr/>	
Total .....	364.85 mi.

The Cape Fear and Yadkin Valley Railway was the shortest line of railroad to the head of navigation for large portions of the middle and Piedmont sections of the State, extending into the State's largest port; traversing from the coast to the mountains; crossing a great variety and diversity of soils; opening up mineral deposits from the marls of the east, through the iron and copper of the middle section, to the gypsum, salt, coal, and limestone of the west; connecting with three great drainage systems, the Cape Fear, the Yadkin, and the Dan, and making them tributaries of its current traffic; and crossing, at right angles, three great north and south railroad lines.<sup>42</sup>

The company, operating the complete system, returned a net income for 1891. Losses were sustained in 1892 and 1893. As a direct result of the panic of 1893, the interest on its bonded indebtedness was defaulted and the company was placed in the hands of a receiver on May 2, 1894.<sup>43</sup>

Foreclosure proceedings were instituted in the United States Circuit Court for the Eastern District of North Carolina by the Farmers Loan and Trust Company, of Baltimore, trustee under the first mortgage bonds of the company. John Gill of Baltimore was appointed receiver. The North State Improvement Company, which owned \$1,608,000 worth of the capital stock and \$1,848,000 in bonds of the Cape Fear and Yadkin Valley, was also named in the charges made. These foreclosure proceedings were consolidated and heard together.<sup>44</sup>

<sup>42</sup> Descriptive Gazette of the CF & YV, 1889.

<sup>43</sup> Board of Railroad Commissioners' Report, 1891-1894.

<sup>44</sup> 87 Federal Reporter 392; the bonds held by the North State Improvement Company were all second mortgage bonds.

Two bond committees were organized. The "New York Committee" held a majority of the Series "A" bonds which were covered by a lien on the road from Bennettsville to Fayetteville and thence to Greensboro, 144 miles. The "Baltimore Committee" represented the holders of the series "B" bonds, covered by a lien from Greensboro to Mount Airy, 71 miles, and the series "C" bonds, covered by a lien from Fayetteville to Wilmington, 81 miles.<sup>45</sup>

The total amount of first mortgage bonds outstanding was \$3,054,000.<sup>46</sup> The amount of consolidated mortgage bonds, a second mortgage income bond, outstanding was \$1,848,000; this entire issue being held by the North State Improvement Company.<sup>47</sup>

George W. Baker, representing the New York Committee, and J. W. Middendorf, of the Baltimore Committee, presented to the court the question as to whether the road should be dismembered and sold by divisions or whether it should be sold and maintained as an entire system. The New York Committee favored the sale by division.<sup>44</sup>

In two separate decisions, Judge Simonton, speaking for the court, stated that the properties should be sold, if possible, in their entirety.<sup>48</sup> The New York Committee appealed from the decisions of Judge Simonton. The United States Circuit Court of Appeals, speaking through Judge Goff, reaffirmed the decisions of the lower court and stated:

. . . A connected railroad, one of the length, character, and importance of the Cape Fear and Yadkin Valley involving, as it does, large sums of money to its bondholders and to its stockholders, and in which the people of the State to which it owes its existence are so deeply interested, should, if at all practicable, be kept together as one system and sold as an entirety. The onus is on those who insist that it should be disrupted and sold in parcels to show the necessity for it and to make it clear to a court of equity that good conscience and fair dealing demand it. Have the appellants succeeded in doing this? Giving due consideration to the facts they have marshaled, and to the arguments submitted in support thereof, we are forced to answer the question propounded in the negative. In proceedings of this character, courts will, if at all practicable, regard the railroad as an entirety, will decree it to be sold as such, and will prevent its severance into parcels, even though it may be subject to partial mortgages.<sup>49</sup>

<sup>45</sup> 87 Federal Reporter 241.

<sup>46</sup> Board of Railway Commissioners Report, 1894.

<sup>47</sup> 87 Federal Reporter, 394; the Board of Railroad Commissioners' Report for 1894 gives the amount of the Consolidated Mortgage outstanding as \$1,868,700.

<sup>48</sup> 82 Federal Reporter 344.

<sup>49</sup> 87 Federal Reporter 392.

Pursuant to the decree of the United States Court, the Master Commissioners sold, on December 29, 1898, at Fayetteville, N. C., the Cape Fear and Yadkin Valley Railway properties as an entirety. Harry Walters, B. F. Newcomer, Michael Jenkins, and Warren G. Elliott, who were all officers of the Wilmington and Weldon Railroad, later the Atlantic Coast Line Railroad, became the purchasers and joint tenants for the sum of \$3,110,000.<sup>50</sup>

The complete properties were deeded to the Atlantic and Yadkin Railway Company which had been incorporated for the purpose of taking over the properties of the old Cape Fear and Yadkin Valley Railway.<sup>51</sup>

Negotiations between the Wilmington and Weldon Railroad and the Southern Railway culminated in a transfer of the stock of the Atlantic and Yadkin to the Southern Railway. Following this, on May 13, 1899, the Southern sold back and conveyed to the Wilmington and Weldon, whose name had been changed to the Atlantic Coast Line, that portion of the Atlantic and Yadkin lying east of Sanford, including the leasehold of the South Carolina Pacific Railway Company.<sup>52</sup> The Atlantic Coast Line immediately delivered \$1,700,000 worth of its own "purchase-money" bonds to the Atlantic and Yadkin for that portion of the road resold to it. The Atlantic and Yadkin then issued, on May 15, 1899, \$1,500,000 worth of bonds. These two issues, amounting to \$3,200,000, were then delivered to the original incorporators of the Atlantic and Yadkin and were used by them to make the payments due to the court for the original purchase.<sup>53</sup>

The Southern owns all the stock of the Atlantic and Yadkin except the directors' qualifying shares. The officers and directors of the Atlantic and Yadkin, except for several local representatives, have been identical with those of the Southern. To all intents and purposes, the Atlantic and Yadkin is not, except in name, separated from the Southern system. The Southern operated this property until March, 1924, when it again went into the hands of receivers.

<sup>50</sup> Investigation by the N. C. Corporation Commission, 1913.

<sup>51</sup> Ch. 98, Laws of North Carolina, Feb. 23, 1899.

<sup>52</sup> Investigation by the N. C. Corporation Commission, 1913.

<sup>53</sup> *Ibid.*

A part of this time, from 1908 through 1916, the Atlantic and Yadkin was operated by the Southern under a lease. During the other intervening years, the company has nominally operated itself.<sup>54</sup>

The details of the sale and division of the Cape Fear and Yadkin Valley were investigated by the North Carolina Corporation Commission under authority of a joint resolution passed by the General Assembly on March 11, 1913.<sup>55</sup> The essential facts brought out by this investigation were: The Wilmington and Weldon wanted to secure the Bennettsville Branch of the Cape Fear and Yadkin Valley since that branch was in the Wilmington and Weldon's traffic territory. Difficulty was experienced, however, in obtaining the "A" series bonds whose lien covered this branch. It was subsequently discovered that the Southern already had control of a majority of these bonds, but was willing to join in with the Wilmington and Weldon. This move took place and it was agreed that the Wilmington and Weldon should buy it for joint account.<sup>56</sup>

Mr. Walters, an officer of the Wilmington and Weldon, attended the sale expecting to buy the road for \$3,000,000 or less. The Baltimore Committee raised the bid over this amount. Mr. Walters hesitated and then Mr. Spencer, president of the Southern, put in a bid which was quickly followed by a bid from Mr. Walters. A second bid by Mr. Spencer was followed by another bid on the part of Mr. Walters. Mr. Spencer then moved over and said, "For Joint Account." Bidding ceased and the road was knocked down on Mr. Walters's bid of \$3,110,000.<sup>56</sup>

It was soon discovered that the mortgage issued by the Wilmington and Weldon had a clause stipulating that all property later acquired would be covered by the mortgage. This made it necessary to charter a new company to take over the properties of the old Cape Fear and Yadkin Valley. This will explain why the Atlantic and Yadkin was brought into existence. The idea of changing the name of the Wilmington and Weldon to the Atlantic Coast Line Railway of North Carolina and absorbing several connecting lines to formulate the whole into a trunk line, as had been done in Virginia, had been in the minds of the officers of the Wilmington and Weldon for some time. In the fall of 1898, the bill was prepared. It was submitted

<sup>54</sup> Corporation Commission Reports 1900 ff.

<sup>55</sup> Joint Resolution No. 48, Session 1912-1913.

<sup>56</sup> Investigation by the N. C. Corporation Commission, 1913.

to the General Assembly and ratified February 24, 1899.<sup>57</sup> The Atlantic and Yadkin was not in the minds of the framers of this bill but it was seen that the Atlantic Coast Line, the new name of the Wilmington and Weldon, had authority to purchase it in whole or in part. Accordingly, an agreement was made with the Southern to divide the road physically at Sanford.<sup>58</sup>

The Corporation Commission did not draw any conclusions from this investigation; their annual report merely stated the findings of fact. This investigation, together with the findings of fact and the matters of law, were, however, reported to the Governor and to the Attorney-General of the State. For some reason, suit was not instituted at this time.

The State was not content, however, to let the matter go longer unquestioned. A joint resolution was passed during the 1922-23 session of the General Assembly authorizing and directing the Attorney-General to institute proceedings to dissolve the alleged illegal dismemberment of the Cape Fear and Yadkin Valley Railway in order that it might be restored as an east and west line.<sup>59</sup>

Complaint was instituted in the Wake Superior Court by James S. Manning, as Attorney-General of the State of North Carolina. The Atlantic Coast Line demurred to the allegations contained in the complaint. Judge H. A. Grady, presiding over the Court, sustained the demurrer on February 8, 1924, on the grounds that the charter provisions of both the Atlantic Coast Line and the Atlantic and Yadkin gave express authority to make such purchases. The case was carried to the Supreme Court of North Carolina which sustained the demurrer, rendering a decision on December 3, 1924, declaring that the sale and subsequent dismemberment of the Cape Fear and Yadkin Valley was legal.<sup>60</sup>

The effect of the Cape Fear and Yadkin Valley, as an independent east and west railroad on the transportation situation in North Carolina, is entirely problematical. Indications are, however, that if the proposed connections with the Norfolk and Western had been made, "Virginia Cities Gateway" rates from the middle west would have been instituted at certain North Carolina points. This, in

<sup>57</sup> Ch. 105, Private Laws of North Carolina, Feb. 24, 1899.

<sup>58</sup> Investigation by the N. C. Corporation Commission, 1913.

<sup>59</sup> Joint Resolution No. 47, March 6, 1923.

<sup>60</sup> 188 N. C. 648.

fact, was proposed in 1892 when the Norfolk and Western bought the Roanoke and Southern, which runs from Roanoke to Winston-Salem and crosses the line of the Cape Fear and Yadkin Valley at Walnut Cove and at Madison. As the Richmond and Danville, now the Southern, would have been materially affected by the installation of these rates, it succeeded in having them canceled by giving to the Norfolk and Western favorable traffic concessions.<sup>61</sup>

The value and need of direct connections into the middle west are apparent. The State Ship and Water Transportation Commission recommended, in 1924, the purchase of the old Cape Fear and Yadkin Valley, or the procurement of some other direct trunk line connections into the middle west. The special session of the General Assembly in August, 1924, which was convened for the purpose of considering the State's transportation problems, provided for a commission to go into the feasibility and advisability of purchasing this road. As far as can be ascertained at this date, the Commission has been waiting on the recent decision of the Supreme Court and has done nothing since that opinion was rendered.

The Cape Fear and Yadkin Valley, conceived of as a single system, was an important carrier. It was one of the largest independent carriers in the State and carried large volumes of freight in competition with the Coast Line and the Southern. It crosses, at right angles, three large north and south systems and has direct communication with the north and west. It serves an important section of North Carolina and should be an important transportation agency.

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<sup>61</sup> Investigation by N. C. Corporation Commission, 1913.