

WATCH THIS SPACE FOR SOMETHING NEW.

S. MARCUS.

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PERMANENT RECEIVERS ARE NOW APPOINTED

TO TAKE CHARGE OF DEFUNCT DISPENSARY FUNDS—A SERIOUS Muddle THE RESULT.

ASHEVILLE, N. C., March 8.—The attack made on Judge Pritchard by Attorney General Lyon at Augusta, Ga., last night, and published by the morning papers today, wherein the Attorney General severely criticised the action of Judge Pritchard in appointing permanent receivers for the South Carolina dispensary fund, created a profound sensation in this city, Judge Pritchard's home. It is stated to-night that representatives of some of the suitors will call the attention of the Court to the Attorney General's attack and ask Judge Pritchard to attach him (the Attorney General) for contempt of Court, on the ground that, while reflections on the Judge's personal character are not contempt, the advice of Attorney General Lyon to the commissioners to disregard the orders of the Federal Court directing the deliverance of the dispensary fund of \$800,000 to the receivers does in itself constitute contempt, in that it tends to actually interfere with the administration of the Court and nullify its powers.

Judge Pritchard, who left this afternoon for Richmond, with a stop-over at Washington, declined to make any statement before leaving, saying that it was not his practice to discuss cases in his court. Two local attorneys, who represent distilling companies in the suits against the South Carolina dispensary commission, issued a statement to the press, wherein they handled Attorney General Lyon without gloves, resenting what they termed "a great injustice done to Judge Pritchard."

They also declare that Mr. Lyon's statements are "wide of the truth."

The statement in full follows:

"Our attention has been called to an interview published in the morning papers given out by the Hon. J. Fraser Lyon, Attorney General of the State of South Carolina, in which he is quoted as saying in reference to Judge Pritchard's appointment of temporary receivers in the South Carolina dispensary case: 'I regard the entire proceedings as without precedent and as a most outrageous disregard of the rights of the State of South Carolina. It is founded upon no sound authority. His conduct in appointing receivers on the day before the motion for the appointment of a receiver was to be heard in accordance with the formal order which he passed was a most wilful disregard of the rights of the State, and we were thereby denied our day in court.'

"Our attention has also been called to an interview in the Columbia State with Dr. W. J. Murray, chairman of the State dispensary commission, in which he is quoted as follows: 'Our attorneys are now in Asheville waiting to be heard tomorrow, (Saturday), and it is, indeed, a strange move that this Judge should go to work and appoint receivers before the case is heard and our attorneys had a chance to submit arguments.'

"The statements are so wide of the truth and, in our opinion, do Judge Pritchard so great an injustice, we feel called upon to submit to the public a full statement of just what occurred.

"On Friday our attention was directed to the fact that Governor Ansel had sent a message to the general assembly of South Carolina urging that such action be taken as would put the funds in the hands of the State dispensary commission beyond the jurisdiction of the Federal court and that in consequence of that message there had been introduced in the general assembly an extremely drastic bill designed to accomplish this end by requiring the commission to pay over all the funds in their hands to the State Treasurer, and providing that any creditor of the State dispensary who should seek the collection of his claim through the courts, either by instituting a new action theretofore instituted, should forfeit all claim upon such funds.

"In our opinion that created a situation so perilous to the rights of the complainants that we presented the facts to the court by affidavit and made an application ex parte for the appointment of a temporary receiver. Judge Pritchard declined to hear an ex parte application, and positively stated that he would not pass upon our motion in the absence of council for the commission. Mr. Daniel W. Rountree, one of the attorneys for the commission, was at the time in Asheville, and we notified him of our application for the appointment of a temporary receiver and requested him to appeal before Judge Pritchard at once. Mr. Rountree responded to this request and upon the situation being explained and our assurance that the required notice would be given in Fleischmann suit, if insisted upon, he voluntarily waived notice of the application in the Fleischmann case so that the motions in both cases could be heard together and another trip to Asheville obviated.

"The waiver was written by Mr. Rountree himself on the affidavit of Mr. Geo. B. Lester, upon which affidavit our motion for temporary receivers was made, and is as follows: 'The defendants desire to have the application for the appointment of a receiver in this case and the application for the appointment of receiver in the case of Wilson Distilling Company et al., vs. W. J. Murray et al., heard together, and to that end without waiving any rights the defendants waived notice of an intention to apply for the appointment of a receiver in the former case.'

"This March 6, 1908.

"('Signed) J. Fraser Lyon, Attorney General, Abney & Muller, Aneerson, Felder, Rountree & Miller, attorneys for commissions."

"Thereupon Judge Pritchard, while Mr. Rountree was still present, made an order appointing the five commissioners temporary receivers, the commissioners being selected in pursuance of the policy which Judge Pritchard had theretofore announced to administer this fund as far as possible through the instrumentalities provided by the State of South Carolina.

"On the following day the matter came on to be heard upon the motion in the Wilson Distilling Company case for the appointment of a permanent receiver and the similar motion in the Fleischmann case was heard at the same time. There were present at this hearing, representing the dispensary commission, Mr. W. F. Stevenson, general counsel for the commission, Mr. D. W. Rountree, of the firm of Anderson, Felder, Rountree & Miller, and Mr. J. S. Muller, of the firm of Abney and Muller. Upon consideration of the evidence

introduced upon the hearing of the consolidated motion Judge Pritchard announced that he was of the opinion that permanent receivers ought to be appointed and that such a course was necessary for the preservation and proper administration of the fund, and an order was entered to that effect, naming as permanent receivers Hon. Joseph A. McCullough, one of the most distinguished citizens of South Carolina, and the members of the commission, Messrs. Henderson and Arthur, who had suggested their willingness to serve.

"We have no desire to try these cases in the public press, but these statements by the Attorney General and the chairman of the dispensary commission seem to us to be a deliberate attempt to raise false issues and to persuade the people of South Carolina that some question of State's right is involved and to arouse a public sentiment which will prejudice the rights of the complainants.

"Speaking upon the question as members of the same political party to which the Attorney General belongs, (every one of the attorneys for the complainants being a Southern Democrat except Mr. Lester, who is a member of the regular Democratic organization of New York,) we wish to say that in our opinion no question of State's rights is involved in these suits and there has been no attempt on the part of Judge Pritchard to invade the rights of the State, but on the contrary the efforts of the complainants in these cases are to carry out the evident purpose and intention of the State of South Carolina as expressed by its General Assembly in the Act of 1907 that all just claims against the State dispensary should be fully paid.

"If Judge Pritchard has committed error in taking jurisdiction, issuing injunctions and appointing receivers, the defendants have complete redress by an appeal to the Supreme Court of the United States."

The following statement was made by Judge Pritchard with regard to the appointment of receivers:

"The Court on yesterday on the application of counsel in the cases of the Fleischmann Company vs. W. J. Murray, et al., and the Wilson Distilling Company, et al., vs. W. J. Murray, et al., entered an order appointing the defendants, W. J. Murray, John McSweeney, C. K. Henderson, H. F. Arthur and Avery Patton temporary receivers. These parties were notified of their appointment, and replies from four of them have been received. The defendants, W. J. Murray and John McSweeney, decline to serve, the defendants, B. F. Arthur and C. K. Henderson, accept the appointment and indicate their willingness to serve. No response has been received from the defendant Patton.

"These gentlemen were appointed receivers upon the theory that the Court was anxious to adopt the instrumentality provided by the State in this instance for the administration of the trust fund in their hands, but inasmuch as the majority of the commission have either declined or refused to indicate a purpose to serve the Court has decided to appoint the Hon. Joseph A. McCullough and Messrs. C. K. Henderson and B. F. Arthur permanent receivers for all the funds and property in the hands of the defendants constituting the State dispensary commission.

"The Court regrets exceedingly that any of these defendants should

have declined to accept the appointments, feeling as it does that their acceptance would have been in harmony with the statute under which they were appointed."

The present status of the dispensary case is as follows:

When the dispensary commission created by the South Carolina Legislature to wind up the affairs of the dispensary failed to agree with creditors who sold liquor to the dispensary, as to amounts due, charging swindling by creditors, George B. Lester, New York, attorney for Fleischmann Company, came to Asheville a month ago and filed with Judge Pritchard of the United States Circuit Court a bill in equity asking receivership for the fund of \$800,000 left by the dispensary, and a few days later, Frank Carter of Asheville, and T. Moultrie Mordecai, of Charleston, filed a bill for the Wilson Distilling Company and others, on which Judge Pritchard issued a temporary restraining order forbidding the commission from disposing of the fund or turning it into the State treasury. Three weeks ago both cases were argued, the Judge then declining receivers and taking under advisement the question of jurisdiction of the Court, raised by the commission through Attorney General Lyon and counsel for the commission, on the ground that the suit was against the State itself. On his return from Richmond, Judge Pritchard, one week ago, announced he would take jurisdiction, and a hearing on the application for receivership by the Wilson Company was set for Saturday last. On Friday counsel for the Wilson Company and for the Fleischmann Company presented the affidavit of George B. Lester that the Governor of South Carolina urged the Legislature to action to defeat the jurisdiction of the Court, and that the Legislature would interfere with the Court's powers, whereupon D. W. Rountree, of Atlanta, counsel for the commission, being here, was notified and was present at the hearing, other counsel not having arrived for the next day's hearing. The Court named all of the five members of the commission as temporary receivers, yesterday (Saturday) Judge Pritchard announced the appointment as permanent receivers of Joseph A. McCullough, of Greenville, S. C.; B. F. Arthur, of Union, S. C. and C. K. Henderson, of Aiken, S. C.

This is what Hon. Jake Moore, State Warden of Georgia, says of Kodol for Dyspepsia: "E. C. DeWitt & Co., Chicago, Ill.—Dear Sirs—I have suffered more than twenty years from indigestion. About eighteen months ago I had grown so much worse that I could not digest a crust of corn bread and could not retain anything on my stomach. I lost 25 lbs.; in fact I made up my mind that I could not live but a short time, when a friend of mine recommended Kodol. I consented to try it to please him and I was better in one day. I now weigh more than I ever did in my life and am in better health than for many years. Kodol did it. I keep a bottle constantly, and write this hoping that humanity will be benefited. Yours very truly, Jake C. Moore, Atlanta, August 10, 1904." Sold by W. L. Wallace.

Final Discharge.
Notice is hereby given that the undersigned, B. P. Fulton, executor of the estate of R. W. Fulton, deceased, will apply to P. M. Brockinton, Probate Judge for Williamsburg county, at 12 o'clock Saturday, March 14th 1908, for final discharge as such executor.

2-20-4t B. P. FULTON.

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