

## FLOODS OF 1928 AND 1929 BRING LAWSUITS

Much has been written about the devastating Great Flood of 1916 that swept away every bridge over the Catawba River and left people stranded on one side of the river or the other for weeks. Part of the cause of the Great Flood was the debris of heavy timber cutting that clogged the stream bed whenever rain was excessive. That damage came from private contractors who were hired to clear trees in order for more dams to be built. The trees were left where they fell and the force of the waters carried them downstream.

Although 1916 saw the worse freshet it was not the last to do extensive damage. Alexander Candlish Sutton was a Fort Mill farmer who lost his river bottom crops due to flooding in 1928 and 1929. He blamed Duke Power, saying that before the building of the India Hook dam and five more in North Carolina along the river, he and other farmers had not had near as much damage.

The Sutton vs. Duke Power case dragged through the court system for over five years. Six lawyers were involved. Sutton was not alone as other farmers in both North and South Carolina joined his suit.

Judge Rice was quoted by the Yorkville Enquirer as saying, "There's no legal duty on them [Duke Power] to protect the people down below [the dams], but they are required not to negligently cause any damage."

There was a great mass of evidence presented by Duke Power to show how they manipulated the flood gates at their six dams. Judge Rice ruled that Duke Power had the right to use all the water the dam could hold, "with due care in its operation and use." He added that Duke Power "was not bound to damage itself to protect Mr. Sutton's property; they did not have . . . to protect his crop."

One of the witnesses for Duke Power was R. H. Sullivan, retired S. C. head of the weather bureau since 1913. He testified that no two floods are alike. He thought that the India Hook dam made the floods greater on the farm land below the dam but also stated that he believed that since the building of the dams the freshets had "rather less in destructiveness, and the manner of operating the gates under the conditions, had no effect on this."

On the first ballot of the jury, 10 voted in favor of Duke Power, with the other two jurors saying that they felt a need for more discussion of the evidence. On the second ballot all 12 of the jury decided in favor of Duke Power. Farmers who planted their crops near the river banks got the message that it was futile to sue the power company if they lost their crops in freshets.

Robert F. Durden's history of Duke Power, "Electrifying the Piedmont Carolinas, The Duke Power Company, 1904-1997," has an interesting account of the building of the dam on India Hook shoals. The story began with the work of William Church Whitner of Anderson, S. C., in 1896. Whitner was the first to use the power of waterfalls to transmit electric power over wires.

Whitner hired William States Lee, a native of Lancaster, S. C. whose family had moved to Anderson. The Lee family was poor but the son had managed to get a Citadel scholarship in engineering.

Dr. Gill Wylie, a Chester native then practicing medicine in New York City, got interested in the future of electric power. Whitner, Lee and Wylie were all to

play a major role in the building of the dam at India Hook shoals. They put together the Catawba Power Company with Wylie as president and Whitner as general manager and chief engineer. James B. Duke purchased the Catawba Power Co. and changed its name to Southern Power Co. Lee became its first president.

The first customer for power generated at India Hook dam was the Victoria Cotton Mills in Rock Hill. Joe Roddey, who owned Victoria Mills, was a brother-in-law of William Church Whitner. The second customer was the Fort Mill Manufacturing Co. Several months later, cypress and chestnut poles laid by crews using mules and oxen, would carry electricity on copper wires to Charlotte. A new age had begun.

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