

RAILROAD MAN HAS RIGHTS

Like Any Other Individual He Can Belong to Labor Organizations.

LETTER OF ATTORNEY GENERAL OLNEY

Addresses Judge Dallas in Regard to the Location of the Receiver of the Reading Railroad on the Trainmen's Brotherhood.

PHILADELPHIA, Nov. 8.—The controversy between the receivers of the Reading Railroad company and such employees as are members of the Brotherhood of Railroad Trainmen has prompted an expression of opinion by Attorney General Olney in the form of a letter to Judge Dallas of the United States circuit court, before whom the case is pending. The difficulty between the two organizations reached a crisis on August 15 last, when General Superintendent Swigard summoned before him eleven employees and notified them they should abandon the brotherhood as a condition of retaining their places with the railroad company. Vigorous protests were made against this alternative and the brotherhood urged the receivers to withdraw it, but in answer the receivers, on September 27, wrote: "The policy of this company is well known to be that it will not contract with persons in its service which owe allegiance to other organizations which may make claims upon them which are incompatible with their duties to their employers. This position was taken advisedly, and we have no intention of departing from it."

Attorney General Olney's letter is an exhaustive discussion of the questions presented, and he reviews the various problems and the consistent solutions to be applied in every aspect. In substance he holds that labor organizations are practically powerless; that in combinations such as this lies the only safeguard of the workman in his dealings with organized capital; and that his right to belong to such a union—beneficial in intent and purpose—is a legal right which he cannot be deprived of. The letter is as follows:

OLNEY SAYS NO. "The pendency of this petition having been incidentally brought to my attention, the issues raised impressed me as of great gravity and importance, not only as between the parties immediately concerned, but as regards the country at large. In that view—wherein I could not doubt that the court would share—it seemed to me that the court would not object to a brief discussion of the case from a public point merely and uninfluenced by the wishes and interests of the particular litigants before you.

"Upon this suggestion being made to the court it was at once cordially assented to. The considerations following, therefore, are submitted by me as a matter of course merely, and by express leave of the court.

"The material facts may be briefly stated. The petitioners are members of the Brotherhood of Railroad Trainmen, and they have been members for seven or eight years—have each year paid annual dues and assessments, which now amount to considerable sums of money—and by continuing their membership will, in case of death or permanent disability, become entitled by themselves or their representatives to large pecuniary payments from the funds of the brotherhood. And, by ceasing to be members, they lose all benefit from the assessments and dues already paid and forfeit all claims upon the brotherhood. The constitution and rules of the brotherhood and of the subordinate lodges are before the court, a part of the petition. No controversy or antagonism has ever arisen or existed between the Reading Railroad and the brotherhood and any of its lodges, or the Reading road and any members as such members.

"As it is claimed the Reading Railroad has for some years adopted the rule that it would not have in its service any member of a labor organization, it is a rule which has not been uniformly or invariably acted upon, since there has been a Philadelphia lodge of the brotherhood of railroad trainmen, and nearly eight years, and its existence cannot have been unknown to the Reading officials. What has now happened and what has led to the present petition is this: The Reading officers have notified the members of the brotherhood on its lines that unless they came to such members they will be discharged from their present employment on or before October 8. The receivers make no complaint of the manner in which the brotherhood employees discharge their respective duties. The notice has been given simply because of such employees membership of the brotherhood, as is conclusively shown by the following telegram received by Grand Master Wilkinson in reply to his remonstrance against the course proposed to be taken:

SUIT ONE OR THE OTHER. "The policy of this company is well known to be that it will not contract with persons in its service which owe allegiance to other organizations which may make claims upon them which are incompatible with their duties to their employers. This position was taken advisedly, and we have no intention of departing from it.

"President and Receiver. "Thus, if the receivers are right and their rule is to prevail, membership of the brotherhood by and of itself incapacitates for services on the road. It is respectfully submitted that the receivers are wrong, and that the action proposed by them ought not to be sustained by the court.

which the most capacious critic can object, except the provisions made for strikes. It is well to note that even these provisions are of an eminently conservative character—that great care is taken to guard against the abuse of a weapon which is a two-edged sword and generally proves as damaging to those who use it as to those against whom it is used.

PROVISIONS FOR STRIKING. "Thus, by the brotherhood constitution and rules, a strike does not take effect till approved, first, by the local grievance committee; second, by the general grievance committee; third, by a board of adjustment; and fourth, by the grand master, with the consent of two-thirds of the members involved, while strikers are not to strike except in accordance with the above rules. It is punished by expulsion from the brotherhood.

"Nevertheless, among the means of accomplishing the ends of the brotherhood is the bringing about of a strike. As to what a 'strike' consists of is not defined by the brotherhood constitution and rules; its precise nature must be determined by the court. And as the brotherhood is entitled to the ordinary presumption of lawfulness for its methods, as well as its objects until the contrary is shown, the court will hold the thing termed 'strike' in the brotherhood constitution and rules to be something lawful, unless there cannot be such a thing as a lawful 'strike.'

"But whatever may be the customary or probable incidents or accompaniments of a strike, it cannot be ruled that there is no such thing as a legal strike, that every strike must be unlawful. The necessary elements of a strike are only three: (1), the quitting of work by two or more; (2), simultaneously—and in and of themselves they involve no taint of illegality.

"A strike becomes illegal when to these necessary features are added others, such as a malicious intent followed by actual injury, intimidation, violence, the creation of a public nuisance or a breach of the peace of any sort.

STRIKE NOT NECESSARILY ILLEGAL. "But it is unnecessary to elaborate the proposition that a strike is not necessarily illegal, for it is emphatically sustained by the recent decision of the court of appeals in the Farmers Loan and Trust company versus the Northern Pacific Railway company, in which the court held that it is hardly necessary to point out that the attending circumstances which often make strikes unlawful are none of them provided for by the brotherhood constitution and rules and cannot therefore be assumed to be necessary incidents of any strike occurring pursuant to them.

"If a rule that a brotherhood of the trainmen shall not work on the Reading railroad cannot be justified because of anything inherently unlawful in the constitution and rules of the brotherhood, the only remaining ground on which it can be defended is that of business expediency. It is conceivable, though the spectacle would be a curious one, that a court of the United States may on business grounds refuse employment to persons for no other reason than their membership in an association whose purposes the laws of the United States expressly sanction. But it is safe to say the consideration of business policy impelling the court suggested should be of the clearest and most cogent character and that the question presented is one which the court will recognize as of the greatest interest and importance.

UNORGANIZED LABOR MAY STRIKE. "It should be remembered, in the first place, the risks of a strike are not obtained by excluding the members of the brotherhood from the receivers' service. Men, deeming themselves aggrieved and seeking relief or redress, though not associated in any formal way or for any general purpose, may easily unite for the single purpose of a strike. In that view the brotherhood constitution and rules are the clearest and most cogent character and that the question presented is one which the court will recognize as of the greatest interest and importance.

COURT CAN HARDLY RESTRICT. "The rejection of the proposed rule may reasonably be expected to be attended with such substantial advantages that the court can hardly hesitate as to the course which should be pursued. It is not necessary to point out the advantages of the proposed rule, as it is an arbitrator naturally and inevitably. It is an arbitrator whose wisdom and impartiality are, certainly, to be assumed to be beyond suspicion.

VALUABLE OF THE RULE. "The rule is of doubtful value as a preventive of strikes, because it leaves the parties to act upon impulse and from passion and freed from the restraints of the brotherhood regulations.

"In short, the question being whether business policy requires the court to approve the rule that a member of the Brotherhood of Railroad Trainmen is ipso facto ineligible as an employee of the receivers of the Reading Railroad, the answer is that, on all conclusive considerations may be summed up as follows:

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Sample of Deliberative Methods of Woodbury County Justice.

LIBRING ON A MOST EXTENSIVE SCALE

Verdict Was Bought by Walter Strange in a Suit for Thirty Thousand Dollars Brought by Arthur Rhys Two Years Ago.

SIoux CITY, Ia., Nov. 8.—(Special Telegram.)—A startling sensation came to light in the district court here. About two years ago a young Englishman named Arthur Rhys sued Walter A. Strange for \$30,000. He claimed to have advanced for use in building the Central stock yards and which he claimed was misappropriated by Strange. The jury returned a verdict for Strange. Now Rhys asks for a new trial on the ground that Strange bribed the jury.

Michael Dolan, another juror, testified that during the trial Strange offered to get him a customer for a piece of land if he would vote for a verdict for him in the jury room. He said he did not get the customer for the land, but that Strange bought his interest in the land for \$100. The juror went on to say that he was paid \$50 to visit relatives in Boston. The attorneys for Rhys claim they will prove other jurors were bribed, too. No arrests have been made yet, but they are expected at any moment.

SAVED FROM A MOB. Iowa Fodder Bunder Over at Hopkinton for Assaulting a Woman. CEDAR RAPIDS, Ia., Nov. 8.—(Special Telegram.)—Joseph Musselsh, the Italian peddler who assaulted Mrs. Minnie Duford near Hopkinton because she refused to buy his goods, and who narrowly escaped lynching, has been held to the grand jury in the sum of \$1,000, and will be tried at the next term of court at Manchester. The woman's injuries are quite serious.

Violated the Pension Laws. DES MOINES, Nov. 8.—(Special Telegram.)—In the federal court today A. L. Wright and S. C. Dunkle were fined \$1,500 each and A. S. Gockley \$1,000 for violation of the pension laws. They are all physicians from Carroll county, and previous to a year ago were members of the pension examining board of the district in which Carroll county is located. They were indicted on five counts and in pleading guilty made the statement that they violated the law without fraudulent or evil intent. In the hurry of professional work they permitted one member to do the work and all drew fees therefor, and without the usual form. John sister certified that all were present at the fact examinations. In this way about 1,200 illegal fees were received, in addition to the fines.

Commercial Congress Delegates. DES MOINES, Nov. 8.—(Special Telegram.)—Governor Jackson today appointed the following delegates to the transmississippi commercial congress, to be held at St. Louis November 25, lasting four days: Thomas Arthur Logan; S. F. Smith, Davenport; Wm. W. Waverly, Des Moines; Wm. H. Bowman, Waverly; Albert Head, Des Moines; Belle C. Hutton, Dubuque; H. C. Hull, Boone; A. W. Ewing, Sioux City; William Greenough, Council Bluffs; Charles L. Goff, Des Moines; Carl F. Kuehler, Davenport; Ira J. Alder, Iowa City; Calvin Madsen, Ottumwa. Other delegates may be

GERMANS ARE SHREWDS

Dr. Billings Has Already Committed Himself on the Texas Fever Question.

WASHINGTON, Nov. 8.—Agricultural department officials who are watching the progress of negotiations between Germany and the United States over the question of excluding American cattle from the belief that by her latest move the European power has prepared for a clever stroke of diplomacy. The announcement from semi-official sources that the German government had agreed to leave the crucial point of dispute—whether or not Texas fever could be communicated to other cattle by the importation of American stock—to the preparation of expert opinion seemed on its face a material concession to the United States. It might have been accepted as such, but for the qualifying statement that their chief authority would be Frank Billings of Nebraska. The work of Dr. Billings is well known at the department. He was formerly connected with the state agricultural experiment station of Nebraska, and other labors which he conducted and which brought his name before the public were experiments upon swine in furtherance of an inoculation theory that the scientific men of the department smiled at. Mr. Billings is a democrat, and at the beginning of the trial of the German candidate, but an unsuccessful one, for the position held by Dr. D. E. Salmon, chief of the bureau of animal industry.

EXTRA MARKS ILLEGAL. Any Peculiarity of Marking Renders the Australian Ballot Illegal. LANSING, Mich., Nov. 8.—The supreme court today handed down the most important decision affecting the present method of voting that has ever been made. On the question of what constituted a "discussing mark" on a ballot, which mark is prohibited by law, the court unanimously holds that any mark whatever other than the single one appropriate to designate the intention of the voter is a discussing mark. The case was brought in the contest of the election for the office of two local candidates at Bay City, who were ousted by a party selected at a spring election a year and a half ago. The decision of the court will be far-reaching.

Movements in the Navy. WASHINGTON, Nov. 8.—The Detroit has arrived at Port Adelaide, Azores, enroute to Newport to take aboard her torpedo boat. The Dolphin and Niva have arrived at New London to take part in the trial of the Ericsson today.

TALMAGE WILL NOT REBUILD. Hard Times Taken Into Consideration—His Future Doubtful. BROOKLYN, Nov. 8.—Leonard Moody, president of the Brooklyn Tabernacle board of trustees, called on Dr. Talmage and discussed with him the future of the Tabernacle congregation and of Dr. Talmage's pastorate. To a reporter Mr. Moody said: "I strongly advised Dr. Talmage against rebuilding the Tabernacle. I told him that in the face of the present hard times it would be difficult if not impossible to raise the necessary money and he agreed with me."

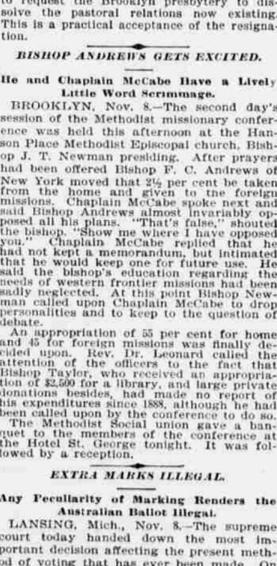
Attempt to Burn a Town. WHEELING, W. Va., Nov. 8.—A disastrous attempt was made last night by some unknown parties to destroy Addison, the county seat of Webster county, by fire. The town was set on fire in several places, and first extinguished the opera house, D. M. Miller Co. store and the postoffice building. Heavy rain, however, prevented the fire from being consumed, the loss being very small.

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