

CURRENT TOPICS

THE NEW YORK World prints an authorized statement of President Roosevelt's position in regard to the sending of the battleship fleet to the Pacific, which is generally approved. It is represented that the object of the proposed cruise is to ascertain the defects of the fleet, if any; that no order has been issued by the president or by the general board; that the plan was made before the recent war flurry, and that the fleet may go to the Pacific.

REFERRING TO this statement the New York Evening Post says: "So far, so good. We sincerely hope that before long the 'may' will become 'will not;' but it is reassuring, indeed, to know that nothing is definitely settled as yet. Of course, this does not explain the contradictions of the presidential statements of two weeks ago. Moreover, it puts Secretary Metcalf, with his promise of the greatest naval spectacle the Pacific coast has ever seen, in a most delightful pickle. He must either pose as a braggart who can not substantiate his boasts, or as an ignoramus in regard to happenings in his own department. There is only one way out; let him put the blame on the much-enduring Loeb."

A CURIOUS "DUEL" is reported by the Columbus, Ind., correspondent for the Chicago Record-Herald in this way: "Two drivers of automobiles fought a duel here today, with their machines as weapons. They are Joe Medlam of this city and Eugene E. Reyer of Kokomo, each an agent for his particular type of car. An accidental collision started the row. Both men became angry and, putting on full speed, charged each other. Time and again they crashed together, each trying to put the other out of action. They would back away, then charge, until the fenders of Medlam's machine were so bent it wouldn't run. Medlam then leaped into the other car to pummel Reyer, but the police put an end to the fight."

CLARENCE DARROW spoke for two days in the Haywood trial at Boise, pleading for his client. All correspondents agree that Darrow's speech was one of the most eloquent and dramatic ever heard in the court room. The dispatches report him as saying: "You men of the prosecution, you men of the mine owners' association, you men who are seeking the life of Haywood, not because he is Haywood, but because he represents a class, don't be so short sighted, so foolish as to believe that you strangle the Western Federation of Miners when you tie a rope around Bill Haywood's neck; don't be so blind as to believe that when you make three fresh new graves here in Idaho that you have killed the labor movement in this world. When Bill Haywood is gone millions of other willing hands will carry on his work to victory in the end." The jury retired Saturday, July 27, and Sunday morning returned a verdict of not guilty. The verdict was received with manifestations of great joy by Haywood's friends. Prominent socialists say they will make Haywood their candidate for president.

GOVERNOR FOLK, of Missouri, has made an interesting statement concerning an address recently delivered by Justice Brewer of the United States supreme court in which address Justice Brewer criticised the railroad rate laws of Missouri. Governor Folk said: "The distinguished justice, Judge Brewer of the United States supreme court, takes me to task for objecting to the practice of the federal courts of arbitrarily suspending state statutes until their validity can be passed upon." He says: "But suppose, through such railroad laws as Missouri passed, the railroads actually lose money in carrying passengers and freight, will the state make the loss good to them?" I answer that suppose the federal court, after many years of litigation, finds the rates reasonable and the laws valid, will the railroads make the loss good to the people of Missouri? To say that each shipper would have a right to bring suit against the railroads is virtually no remedy at all, owing to the fact that, in the

majority of instances, the expenses of litigation would be greater than the amount involved. While any law regulating railroad rates must afford the railroads a reasonable return, the question involved in this discussion is far graver than whether the rates fixed by those Missouri laws are reasonable. It concerns the right of the people of a state to self-government. The people of Missouri are not prejudiced against railroads, and if the rates fixed in these statutes are found to be unreasonable the same sentiment of justice that caused their enactment will acquiesce in their nullification. But are statutes of a state presumed to be bad until found good? Is a state statute not a law until the federal court passes upon it? Laws have heretofore been presumed to be valid until found to be invalid. We are considering the question whether a federal court can declare a state statute unconstitutional. If it does that, its right to do so has been firmly established, and its ruling will meet with respect and obedience. But I question the right of a federal court to enjoin the state from enforcing its criminal statutes until the courts decide them good. I insist that a state has the right to enforce its laws until the court says that those laws are bad. The officials elected by the people of the states take an oath to enforce the laws of the state; yet in some states these officials are enjoined by the federal courts from doing that which they have sworn to do. In 1905 the legislature of Missouri enacted a maximum freight rate law. The state officials were promptly enjoined by the federal court from enforcing this statute until they could adjudicate concerning its constitutionality. One of the attorneys representing the railroads stated that he could delay the hearing of the case for many years. That he knew something whereof he spoke is shown by the fact that two years have come and gone; another legislature has been elected; has been in session; has adjourned, and the state officials are still enjoined from enforcing this law, and the case is still pending and undetermined. Sometime in the years to come, the court will probably find the act valid, but the necessity for it then will have passed with the changing conditions. This suspension of statutes by temporary injunction, with the delays that any good lawyer can bring about, virtually gives to special interests the right to veto state legislation that they do not like, and deprives the people of a state of the benefit of the laws that are both just and constitutional. Until a court can say that a statute of a state is constitutional or unconstitutional, it should not attempt to tie the hands of the state by enjoining the state officials from enforcing that law."

FEDERAL JUDGE PRITCHARD issued an injunction against North Carolina's state railroad law and declared unconstitutional the criminal clause of the state law providing two and one-fourth cents as the legal passenger rate. Two ticket agents were arrested, charged with the violation of this law. They were discharged by Judge Pritchard. The case has been appealed to the United States supreme court. Referring to the Pritchard ruling Governor Glenn of North Carolina says: "It is my purpose to continue the enforcement of law and prosecution of Southern Railway cases by the use of all the means in my power to enforce this law until it is declared to be invalid by a competent tribunal after a full investigation of its merits. Upon the hearing of this writ it was manifest that the chief question before the court was whether the injunction granted by Judge Pritchard operated not only upon the parties to that suit, but had the effect to suspend the rate law and to stop the entire machinery of the criminal courts of the state. Evidently the circuit judge was unwilling to give such wide effect to the order of injunction and felt that some stronger foundations were necessary. And while in his opinion he dwelt upon the unusual and extraordinary course pursued by the courts of the state in interfering with his order, he went to the extent of deciding that the portion of the law declaring the violation of the rate a misdemeanor was unconstitutional and therefore void. In the opinion of counsel who represent the state of North Carolina this ruling is abso-

lutely groundless unless the court at the same time should hold that the rate also as fixed by the statute was unconstitutional. Judge Pritchard when he granted the injunction expressly stated that part of the statute was not void on its face, and referred the question to a master in chancery to take evidence to sustain the allegations of the bill that the act was unconstitutional in respect of the rate fixed, upon the ground that it would deprive the railroad company of its property without due process of law and deprive it also of the equal protection of law. It was argued by counsel for the state that it would be absurd to hold that the legislature had the power to fix the rate but did not have the power to provide such action as would insure obedience to the law. Counsel for the state also urged upon the judge that he had already decided that the rate law, so far as the fixing of the rate was concerned, was not unconstitutional upon its face; that it required evidence to show that it was unconstitutional and that if he now decided that the action provided in the law, which alone gave it any effect, was unconstitutional such a decision would be to prejudice the case which he had referred to the standing master, and the counsel insisted further, that any decision that the judge might make in the habeas corpus proceedings discharging the prisoners would be to hold that a mere interlocutory injunction against the North Carolina railroad corporation commission and the attorney general had the effect to suspend the whole law throughout the state and operated as an injunction against all the people and all the courts of the state."

THE SOUTHERN Railway was found guilty of violating the North Carolina law forbidding, under \$500 penalty, tickets to be sold for more than two and a quarter cents a mile, was fined \$30,000, and two of its officials were sent to prison. Federal Judge Pritchard immediately released the officials on habeas corpus, granted an injunction restraining the state from collecting its fine and inveighed against the law as "confiscatory" on the ground that the Southern might have to pay as much as \$2,500,000 in fines. A clash between the state and the federal government is threatened. In a telegram to the New York World Governor Glenn says: "I regret this controversy between federal and state courts. The contention is over the constitutionality of our rate law. The railroads contend it is unconstitutional in that it confiscates their property, and seek to enforce this through the federal court. The federal court seeks to enjoin our state courts from any jurisdiction, even to indictments, and, by restraining orders in civil suits and habeas corpus proceedings in criminal indictments, attempts to ignore state courts. We think the orderly way, our court having jurisdiction, is, in case railroads are aggrieved, for them to appeal through the state courts to the supreme court of the United States."

JUDGE PRITCHARD was elected to the United States senate in a fusion between the republicans and populists, Marion Butler being chosen for the populists. He was appointed to the bench by President Roosevelt. It is admitted in Washington that Mr. Roosevelt is greatly embarrassed by Judge Pritchard's action. A Washington dispatch to the New York World says: "Federal officials who regret Judge Pritchard's action say that the road had ample remedy, that it could have obtained a stay of execution and taken an appeal to the common pleas court. From that tribunal an appeal could have been taken to the United States supreme court. These officials say that the action of Judge Pritchard is the first case of record in which federal courts have interfered in a purely state matter. They refer to the recent course pursued by a federal judge in Nebraska, when a similar action was brought before him, who refused to assume jurisdiction and said it was a question for appeal to the various state courts. They expected Judge Pritchard to follow the same course. When the situation became acute in North Carolina the president requested Attor-