Are States to Be Stripped of All Power?

The railroads won a great victory in a decision rendered by the United States supreme court March 23. The story told in a Washington dispatch to the New York American follows:

States' rights received a staggering blow today from the supreme court of the United States. That tribunal decided the laws of Minnesota and North Carolina seeking to regulate rates on intra-state freight and passenger traffic were unconstitutional, by upholding the jurisdiction of the federal courts to inquire into the confiscatory nature of state rate laws.

The supreme court gave the railroads their first big victory since the days when the federal government and the states began their crusade against them.

The Minnesota freight rate law, passed last year, was declared unconstitutional in that it imposed such large fines and such long imprisonments—$5,000 and five years—on railroads and officials that the courts were practically closed to them.

Justice Harlan, in a 12,000-word opinion, dissents on the ground that the proceeding in the Minnesota case is a suit against the state and, therefore, not permissible under the constitution. He says:

"Neither the words nor the policy of the eleventh amendment will, under our former decisions, justify any order of a federal court, the necessary effect of which will be to exclude a state from its own courts. Such an order, attended by such results, can not, I submit, be sustained consistently with the powers which the states, according to the uniform declarations of this court, possess under the constitution.

"I am justified, by what this court has heretofore declared, in now saying that the wise men who framed the constitution and who caused the adoption of the eleventh amendment would be startled by the suggestion that a state of the union can be prevented by an order of a subordinate federal court from being represented by its attorney general in a suit brought by the state in one of its own courts; and that such an order would be inconsistent with the dignity of the states as involved in their constitutional immunity from the judicial process of the federal courts (except in the limited cases in which they can constitutionally be made parties in this court), and would be attended by most pernicious results."

In the North Carolina case the action of Justice Pritchard, of the United States circuit court, in dismissing James Wood, an agent of the Southern railroad, from jail, where he has been sent for violating the state railroad law, was sustained. The court said that Justice Pritchard, having assumed jurisdiction in the case questioning the legality of the law, had the right, and it was his duty to see that nothing interfered with the determination of the question in his court. In both the cases Justice Harlan alone dissented.

As a result of the decisions, Attorney General Edward Young, of Minnesota, must pay a fine of $100 for contempt of the federal court of Minnesota, which found him guilty of attempting to enforce the Minnesota freight rate law, after the federal court had enjoined him from so doing. Young invited the contempt proceedings to test the law.

Justice Peckham, in the opinion, said:

"By reason of the enormous penalties provided in the rate laws, by way of fines against the companies, and imprisonment of their agents and employes, the companies were in effect prevented from ever questioning the validity of those laws, as the risk of confiscation of property and imprisonment of agents in case the companies failed in their defense was too much to undertake in order to obtain a judicial decision of the question of such validity.

"Such laws are, therefore, held unconstitutional, as they prevented the companies from resorting to the courts, and, therefore, deprived them of the equal protection of the laws.

"The question of the sufficiency of the rates to enable the company to obtain some return to its stockholders for their investment has for many years been held to be one for the courts to decide, as it would be a violation of the constitution of the United States to fix rates so low as to be confiscatory if enforced.

"The laws providing rates for transportation of passengers and freight in the two cases under consideration have been held by the courts below to be so low as to be substantially confiscatory, and should therefore not be enforced until after further trials. The courts had jurisdiction to make such an order.

"It has also for many years been held that a suit is not one against the state, although it prevents a state officer from bringing suits for the enforcement of a state enactment which fixed rates so low as to be confiscatory, and which act was therefore a violation of the constitution of the United States, and this principle is reiterated and again decided in these cases.

"The jurisdiction of the federal court in such cases is only exercised where the state enactment is alleged to be a violation of the constitution of the United States, and in such case it is proper for those courts to take jurisdiction equally with the state courts, as the constitution of the United States is by its own provisions the supreme law of the land, anything in any state constitution or law to the contrary notwithstanding, and there is no usurpation of jurisdiction in such event.

"The same duties rest upon the state courts, and the party had his choice of forum without any invidious distinction against the state courts and in favor of the federal courts because of his choice of the latter.

"When a federal court has taken jurisdiction of a case before any proceedings in a state court has been commenced the former court has authority to decide the case, and to enjoin any person from proceeding in a state court until the federal court has proceeded to judgment. This is also a well established right of a court of equity, and no new ground is taken in this case."

"ABANDON STATE GOVERNMENT"

Attorney General Young of Minnesota, commenting upon the decision said:

"From the fragmentary report that I have seen of the decision of the majority of the court and the dissenting opinion of Justice Harlan, it would seem that the decision of the majority overturns all former decisions as to the immunity of states from suit, and in effect repeals the eleventh amendment.

"If a state, in exercising its governmental powers, can be controlled by federal injunctions sued out by the railroad companies, the state governments might as well be abandoned and the inferior federal courts be placed in charge of all state affairs. As stated by Justice Harlan in his dissenting opinion, if an injunction can be upheld in this case it can also be used to prevent grand juries from finding indictments against persons who violate any criminal law of the state.

"There seems now to be but one recourse, and that lies in the recommendation made by the convention of attorneys general last fall in St. Louis. A law should be passed by congress taking away from the inferior federal courts jurisdiction in cases where corporations attempt by injunction to prevent the enforcement of legitimate state laws.

"The question of the validity of our rate laws was not before the court in this habeas corpus case. The only question was as to the jurisdiction of the federal court to enjoin the state. As soon as we can get the whole decision we will decide what steps should be taken for the protection of the rights of the people of the state."

Attorney General Hadley of Missouri said:

"While the decision of the supreme court of the United States in these cases is principally based upon the unreasonableness of the penalties prescribed by the Minnesota and North Carolina statutes its effect is unquestionably to sustain the contention of the railroads. Whenever the railroads do not like a state law, they can now have one of their own officials make an affidavit that it would unreasonably reduce their earnings, and thereupon a United States circuit judge can suspend the operation of this law until it can be shown that the law is reasonable.

"If the people of the several states do not want to have the laws that they enact to be subject to the suspensive veto power of the United States circuit courts, they should insist that their senators and representatives in congress enact the law recommended by the recent convention of the attorneys general of eighteen states that no United States circuit court should have the right to enjoin the enforcement of any state statute."

HOW LONG?

The Philadelphia North American, a republican paper, declares that the Aldrich bill "is meant to give J. Pierpont Morgan, John D. Rockefeller and Thomas F. Ryan complete mastery of the money of this country."

The North American also says that "Satan himself never devised a more wicked cheat nor one more pregnant with evil for the future of the people." Concerning this financial measure the North American says: "The actual result would be that Morgan, Rockefeller, Ryan and their allies would be able to raise and lower rates of interest and the prices of property and labor at will. And more than that, they would be our political as well as our commercial overlords, endowed, as they would be, with power to precipitate at any time the worst panic in history as punishment of any disobedience of their mandates. The whole purpose of the Aldrich bill is to make a few men superior to all economic laws and to enable them to turn on and off the national supply of currency as if it ran from a faucet to be gripped by no hand save theirs."

The North American further says: "If there is patriotism among the business men of America; if commercial common sense is not dead or drugged; if there still exists the force of public opinion capable of being aroused to righteous regard for the good of the country and for every honest citizen's self-interest, the Aldrich bill will be killed."

Is it not about time for republicans to wake up?

Washington Letter

Washington, D. C., March 30.—The one reason that the New York World, the New York Sun, and other servitors of plutocracy are antagonizing Bryan is because they believe that he will be elected. What they want is a democratic nominee who can not be elected. They got one in 1904 and are still singing his praises. For these forces in politics the continuance in power of the republican party is entirely satisfactory. Why? Simply because the republican party stands for special privilege, and whoever may be the president elected upon a republican ticket he may be relied upon to take care of the powers of privilege and of protection.

Washington opinion vibrates between Taft and Roosevelt as the probable nominee. Two weeks ago the general opinion would have been that President Roosevelt if he so desired might take away the nomination from Secretary Taft. Today it is believed that Taft's strength has grown so that the president himself could not prevent his nomination. But will Taft's nomination be a strong one? He will inherit, as a senator of his own party faith said to me today, all the weakness of the Roosevelt administration and little of its strength. Secretary Taft will be held quite as responsible for the president's impulsive and unjust action in the Brownsville case as would the president himself. He will be charged, and justly, of being the originator of the doctrine of government by injunction. It will be urged against him that he never has been a candidate for an electoral office before the people, but has always served the country as the beneficiary of some president, senator or governor. The story which I have already told of the enormous sums of money being spent in his behalf will not be forgotten, but will grow. He will appear as a presidential candidate created by a president whom he served, financed by a relative and supported for his nomination by men who were coerced by the power of federal patronage into giving him their adhesion.

The democratic state convention of Rhode Island held last Saturday was addressed by Senator Gore of Oklahoma who has done as much throughout the states of the north to advance the cause of real democracy as any man in public life today. Overcoming or even forgetting the physical disability that comes from his total blindness, Senator Gore has gone into every state where his voice and his brilliant oratory might be of service to the democratic cause, willingly and enthusiastically. He is today a candidate for re-election in his own state. He and Senator Owen were elected at the same time, both being the finest types of democrats and of American public men. It so happened that Senator Gore, in the lottery which Senators elected together must always join in, drew the short term. What the democratic party in Oklahoma may do no one not a resident of that

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