

JUDGE UPHOLDS WRIT

North Carolina Federal Jurist Delivers an Opinion Long Expected.

ELEVENTH AMENDMENT'S INTENT

Federal Court Refrains From Persons in Defense of Rights.

SUIT NOT AGAINST THE STATE

Officers of State Subject to Power of Federal Authority.

LAWYERS TALK INSURANCE

In Arriving at His Decision Judge Upholds Cites North Carolina Statute in Litigation Against Railroad.

ASHEVILLE, N. C., Aug. 27.—The federal court in the United States at Asheville today, in a long expected opinion, announced in the rate case of the Southern Railway against the corporation and the attorney general of North Carolina, upholds the jurisdiction of the court in the issuance of the writ against officers during the rate controversy, and declares that the suit is not one against the state within the meaning of the eleventh amendment to the federal constitution. That amendment holds the judicial power of the United States shall not extend to any suit against a state by citizens of another state. The decision says that a state legislature can not so frame an act as to deprive a citizen of a right vouchsafed him by the federal constitution. It does not possess the power to deprive this court of its jurisdiction, and the sooner those questions are definitely determined the better it will be for all parties concerned.

The decision holds that the corporation commissioners are still charged with making rates, the only limitation upon their power being "that they shall not make a maximum rate in North Carolina in excess of 2 1/2 cents per mile. The corporation commission and the attorney general are "specially charged" with the duty of enforcing the enforcement of section 4 of the passenger rate act, which provides heavy penalties and fines for a failure of railroads and their officials to comply with that act. All laws in existence on supervision and control of railroads, etc., are to be construed in connection with the rate act.

FEDERAL COURT A REFUGER

"It is inconceivable," the decision says, "that a circuit court of the United States in the exercise of its jurisdiction should be powerless to afford a remedy to one who suspends an act which is guaranteed by the constitution of the United States. This is in no sense a suit against the state, nor can it be successfully contended that the state is in any wise a party in interest in so far as the merits of the controversy are concerned. It cannot be reasonably maintained that a suit to prevent the state from enforcing any right which it possesses, nor can it be said to be a suit to compel the performance of an obligation of the state, nor does it in any wise involve a matter in which the state has a pecuniary interest, the parties in interest being completely on one side and the traveling public on the other.

"Therefore, the questions presented are not such as to warrant the assumption that this court is without jurisdiction, and a careful study of the circumstances attending the adoption of the eleventh amendment, as well as the end to be obtained by the adoption of the same, show conclusively that those who were responsible for its adoption never dreamed that it could be used as a means of depriving an American citizen of a substantial right conferred upon him by the constitution of the United States. The eleventh amendment, being a part of the constitution, must be construed so as to give full force and effect to every provision of the instrument of which it forms a part. Any other construction of this amendment would practically nullify the amendment and the constitution which provides that no state shall pass any laws impairing the obligations of contracts as well as the fourteenth amendment.

WAR MADE ON BLACK HAND

Eastern Secret Service Officials Have Much to Say Concerning Organizational Efforts.

HARRISBURG, Pa., Aug. 27.—Effective war, it is announced, is being waged against the Black Hand throughout Pennsylvania by the state constabulary and the indications are that the troops will soon rid the commonwealth of its murderous organizations. The state police authorities are in possession of information that Black Hand operations are directed from central headquarters in New York and that the agents actually engaged in the work of intimidation are not all foreigners, some Americans being implicated. For several months the state police department has been directing its attention largely to these operations and today it is said to be in possession of a mass of information which will lead to the arrest and conviction of the ringleaders. More than fifty arrests have been made in connection with Black Hand operations, nearly all have been fined or imprisoned.

ALLOTMENT OF NEW JUDGES

United States Willing to Have Four Appointed for Countries on This Side of Water.

THE HAGUE, Aug. 27.—Joseph H. Choate and James Brown Scott for the American delegation to the peace conference have brought up a new proposition with respect to the allotment of judges for the international high court of justice. In this proposition the United States announces the willingness of all countries of the American continent, including the United States, to have four judges appointed for the twenty-one countries of the continent, on the understanding that this will reduce the number of judges to fifteen.

ROADS CRYING FOR QUARTER

Take Steps to Stop Enforcement of Law for the Posting of All Tolls.

CHICAGO, Aug. 27.—The Alton and other western railroads have just instructed all their agents to try to secure the signatures of all their patrons to a petition to the Interstate Commerce commission not to enforce strictly that section of the law which requires the railroads to post in every station, depot or other place where passengers or freight are received two copies of every tariff issued by the railroad and of every tariff of other roads in which it concurs.

While section 6 of the act to regulate commerce contains this requirement, it is doubtful if any railroad in the country has complied with it. The general practice has been to keep a file of all tariffs at the headquarters of the company and to post at each station only the rates applying to or from that station. If the law is strictly enforced the railroads will be obliged to spend at least five times as much as they do now for the printing of tariffs and a much larger amount for additional clerks to post and index the tariffs.

SUMMARY OF THE BEE

Wednesday, August 28, 1907.

1907	AUGUST	1907				
SUN	MON	TUE	WED	THU	FRI	SAT
	1	2	3			
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

DOMESTIC.

Attorney Grattan of the Kansas Railroad commission comes to Omaha Thursday to take testimony regarding the 2-cent passenger fare rate. Page 1
New York financiers will buy the first train carrying the Secretary of War Taft wrecked at Spring Hill, Kan. No one is injured. Page 1
Interstate Commerce commission hears complaint of Black Hills of discrimination in freight rates. Page 1
Officials at Chicago say that the sum of \$100,000 was lost in the robbery at Denver on only \$250. Page 1
Railroads are seeking to secure non-enforcement of the law that compels them to post all tariffs. Page 1
United States and Mexico have brought about peace in Central America. Page 1
New York makes state insurance commissioner's political prizes to be distributed as without regard to business or knowledge of the insurance business. Page 1
That all companies created under the laws of the United States should make their reports at least in one of the states before writing business anywhere. Page 1
The repeal of the valued policy laws. Page 1
The creation in each state of the office of a federal insurance commissioner. Page 1
The enactment of a federal statute forbidding the use of the mails to persons, organizations, companies or corporations conducting any kind of insurance business in the United States, who are not licensed to do so in any state. Page 1
That the state wherein such persons, associations, partnerships or corporations are organized, or where any such corporations are created. Page 1
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A negro at Easton, Pa., narrowly escapes with his life from angry mob after having killed an officer. Page 2
Nelson Morris, the Chicago packer, died after several weeks' illness. Page 2
Many technical points in naval procedure will be settled by the trip of the battleship fleet to the Pacific waters. Page 1
Secret service officers are making successful work upon the Black Hand in the eastern states. Page 1
Four persons are burned to death in Oklahoma City fire. Page 1
R. W. Breckenridge of Omaha presents the report of the committee on insurance to the National Bar association at Portland, Me., which causes a warm debate. Page 1
The body of Miss Agnes Maguire, a Brooklyn school teacher, was found in Lake Hopatcong, N. J. Page 2
Arrest of Gustave Lang in Philadelphia will be big aid to crusade of postal authorities to prevent mailing of objectionable postal cards. Page 1
French and Moors have sharp fight near camp of French commander and Moors are driven to the hills. Page 1
Irish nationalist member of Parliament arrested and held for trial in London on charges of inciting a riot. Authorities take special steps to police certain districts of Ireland. Page 1
Transatlantic lines are busily engaged cutting steamship rates. Page 2
Mexico objects to the international court of arbitration and to the arbitration of all matters between the United States and Mexico. Page 1
French newspapers regard the recent meeting of diplomatic representatives of France and Germany as full of portent. Page 1

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NEBRASKA.

Testimony before the Nebraska Railway commission reveals that the Standard Oil company can handle oil in wagons more cheaply than competitor can send it by freight under rates charged. Page 3
Attorney general asked to take action to compel major and county attorney at Lincoln to deliver the proceeds of the St. Louis mail. Regents of university consent to file vouchers with state auditor. Page 3

BLACK HILLS GETS HEARING

Commission Investigating Charges of Discrimination in Freight Rates.

LEAD, S. D., Aug. 27.—(Special.)—Telegram.—Special Agent John H. Marble of the Interstate Commerce commission is in Lead today hearing the complaints of the Lead and Commercial clubs charging the Burlington and the Northwestern railroad companies with discriminating against Lead and other Black Hills points in the matter of freight rates from and beyond the Missouri river. H. Holden, solicitor for the Burlington, and H. Crosby, traffic commissioner representing the road at the hearing, while the Northwestern is represented by H. T. White, general solicitor; F. W. Waters, general manager of the lines west of the Missouri river; S. F. Miller, general manager for the lines east of the Missouri river, and S. M. Braden, general superintendent of the lines west of the Missouri river.

Traffic Manager Crosby of the Burlington was on the stand the greater part of the day, and his testimony tended to show that the complaint was not warranted by the facts. He was followed by H. B. Clark, one of the complainants, who cites numerous cases of apparent discriminations against Hills points in favor of Denver and other places along the lines of the roads mentioned. The hearing is attracting much attention and there are attendant upon it many business men from the various towns of the Hills.

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R. W. Breckenridge Presents Report to Bar Association.

FEDERAL CONTROL IN NEW FORM

Paragraph in the Report Relating to "Wildcat" Companies Draws Out a Very Warm Debate.

PORTLAND, Me., Aug. 27.—The program for the meetings today of the American Bar association was devoted exclusively to the reading of reports of standing and special committees. The most important of these was the report on insurance law which was prepared by special order of the last annual convention and which already has been published and widely commented upon throughout the country. About forty European delegates have arrived to attend the convention of the international law association, which opens Thursday.

PARIS, Aug. 27.—The French newspapers are energetically occupied discussing the recent interview between the French ambassador to Germany, Jules Cambon and Prince von Buelow, the imperial ambassador at Norderkirk, which is now deemed to have been of the greatest importance to Germany and France. Extensive speculations are made regarding the scope of the interview and its probable effect on the relations between the two countries. The majority of the papers express the opinion that there was something more specific behind the meeting than an exchange of amicable sentiments, as alleged in the official note on the subject, and it is intimated that an understanding was reached between the two statesmen on the subject of Morocco.

Dispatches received here from Madrid today say that the Spanish cabinet has taken action on the subject of Morocco, but that the step taken is of such a "delicate character" as to render it unable to publish details.

SPECIAL TRIAL FOR FARRELL

Irish Nationalist Member of Parliament Held on Charge of Inciting Riot.

LONDON, Ireland, Aug. 27.—James P. Farrell, Irish nationalist member of Parliament for North Longford, and other Irish nationalists, were this morning arrested and are now being held by a special court, convened for the purpose, on the charge of taking part in an "unlawful assembly likely to cause a riot." Mr. Farrell had been holding meetings throughout his constituency at which exciting scenes occurred between nationalists and members of the Royal Ulster Constabulary. In addition many cattle have been driven from the grazing lands of the district, which the prosecution alleges was encouraged by Mr. Farrell and other speakers. Large forces of police are being dispatched here, trouble being anticipated.

AMERICAN MARKET THE BEST

British War Office Can Buy Horses Cheaper Here Than in Europe.

LONDON, Aug. 27.—The British war secretary, Mr. Haldane, answering a question in the House of Commons this evening, announced that he proposed purchasing army horses in America when he can get them there as cheaply as or better than elsewhere, at more satisfactory prices, and of a higher quality than the local protectionists, who insist that British farms should be given the preference, irrespective of price or quality. The matter was brought up by Sir Howard Vincent, conservative and free trader, who asked for explanation of why the war office ordered 100,000 pairs of horses from the United States for use of the British cavalry, instead of supporting British industries and workmen.

NEW YORK WILL BUY BONDS

Leading Financiers Behind Syndicate to Purchase New Issue of Securities.

NEW YORK, Aug. 27.—The announcement that the city of New York had decided to ask for bids on September 10 for the biggest bond offering ever made by the city created a stir in the financial district. The bond issue amounts to \$40,000,000 and an interest rate of 4 1/2 per cent is offered to investors. The financial district did not at first take kindly to the prospect of such a heavy demand upon its resources but reports quickly spread that many of the leading financial houses had joined in the organization of a syndicate to bid for the entire issue. This restored a feeling of confidence and the various attractive features of the issue received more consideration. No definite statement could be obtained that the leading bankers had formed a syndicate to bid for the issue, but it was reported on apparently good authority, that J. P. Morgan & Co. and other financial houses were identified with the plan. It was pointed out that banking interests realized that a failure of this bond sale after the interest rate had been advanced to 4 1/2 per cent would be a disaster. For that reason it was confidently asserted in many quarters in the financial district that the city loan would be a success because leading financiers realized that it had to be a success.

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Says in Speech that Condition is Due to Heaven and Swords of Troops.

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Efforts of United States and Mexico Have Proved Successful.

MEETING PORTENTOUS ONE

French Newspapers Wondering What Agreement Has Been Reached With Germany.

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PULLMAN COMPANY IS CITED

Sunflower State Commissioners Object to Cars Running Empty When Other Cars on Train Are Crowded.

TOPEKA, Kan., Aug. 27.—The State Board of Railroad commissioners today ordered the twelve railroad companies doing business in Kansas to answer to the 2-cent fare complaint recently filed by Attorney Grattan, on or before Tuesday, September 3. G. F. Grattan, attorney for the board, and E. C. Shiner, secretary, leave Thursday for Omaha, where they will take the testimony of the railroad officials and officers of the Nebraska board concerning the conditions existing in Nebraska. The purpose of the Pullman company arrangements is similar to those in Kansas, and that the railroads of this state can as well afford to establish a 2-cent rate in Kansas as in Nebraska.

Notice was sent to the Pullman Car company today by the State Board of Railroad commissioners that it is the wish of the Nebraska board that conditions in Nebraska be similar to those in Kansas, and that the railroads of this state can as well afford to establish a 2-cent rate in Kansas as in Nebraska.

TRANSATLANTIC COMPANIES LIKELY SOON TO GIVE BARGAIN TICKETS TO TRAVELERS

NEW YORK, Aug. 27.—Shipping men are watching with interest the trans-Atlantic steamship war, which continues to grow. Every day has its developments now as one line after another cuts the rate. If the conflict keeps up much longer bargain hunters will get a chance to go to Europe on shopping expeditions at cheap rates.

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AIM OF NEW TRAFFIC LEAGUE

Its Members Will Endeavor to Correct Abuses Practiced by the Railroads.

CHICAGO, Aug. 27.—The National Industrial Traffic league, which was organized here August 2, will hold its second meeting at the Great Northern hotel at 10 o'clock Thursday morning. Its members will represent the leading shippers and receivers of freight in the largest transportation centers of the United States. "The need of the present time in the industrial and transportation world is a well defined movement toward education in the business methods that will lead, in a mutual benefit, toward that co-operation which will constantly widen the field of possible success," said J. J. Lincoln, president of the new league and traffic manager of the St. Louis Merchants' exchange. "While believing that by friendly conference with the railroads much good for both them and the shippers may be accomplished, the National Industrial Traffic league proposes to present to the Interstate Commerce commission the practices of railroads which the shippers believe are unfair and which the railroads refuse to change. The league also proposes to secure amendments to the Interstate Commerce law in cases where, in its opinion, it is unable to obtain the desired results. It has the commission amend or rescind some of its rulings which the league believes imposes on shippers obligations which should be assumed by the railroads. Special committees of the league will meet tomorrow to prepare reports to be presented to the league in general session Thursday, or the next day, to be presented to the Interstate Commerce commission."

"The coat of arms of the National Industrial Traffic league does not consist of a shield as some folks have imagined, of a bed sheet held on high by a Hercules typifying the united shipping interest standing for a local member of the league.

"Our act is to unite the shippers in demanding what is fair from the railroads and to secure it by friendly conference, not by using a club. Disputes which we are unable to settle with the roads we propose to carry to the Interstate Commerce commission."

TACTICAL POINTS IN ISSUE

Navy Makes Pacific Trip by Hardest Route in Order to Solve Problem.

NEW YORK, Aug. 27.—Congressman Ernest W. Roberts of Massachusetts, a member of the house committee on naval affairs, who is here with fellow members of the committee, investigating the needs of the fleet for tactical reasons alone. "We have all read with interest the discussion of the two routes," said Representative Roberts, "now there is not one of us who does not believe that the Suez route is both easier and cheaper, but the navy wishes now to work out some tactical problems while we are at peace, problems that might become strategic ones in time of war.

"It is best that they should go by the longer route, if we wish to designate it. Not only will the ships be tried out on the long run, but the voyage will determine some of our needs in the Pacific, particularly in the way of coaling stations on the mainland. I have not the slightest doubt that \$1,000,000 will be used up in the Pacific route, but we will save, if it is necessary to maintain a large fleet in the Pacific, now is the time."

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