AN IMPORTANT RULING

Foreign Railroad Cars Passing Through Utah are Taxable Property.

UNION REFRIGERATOR COMPY MUST PAY

Question of Apportionment Among Different Counties Not Passed on—Shoshone Green Sustained.

Judge Bartch delivered an important decision today, decisive it is, in Chief Justice Zane and Associate Justice Bartch against the Union Refrigerator company in favor of Tooele county, represented by Tooele county's able and learned attorney, Hon. H. Lewis, assisting the plaintiff in the case.

The question decided was assessing of rolling stock based and used in this State. The court holds that the law is lawful and that cars coming into Utah and going out including, although they may be employed in interstate commerce, should be taxed as other property within the jurisdiction of the State.

This Refrigerator company, against which the tax of Kennedy, brought suit against Stockton Treasurer of Tooele county to recover back the tax based upon its cars, under protest, the company contending that the tax was illegal, that the property of the State had not the power to tax its property, that it interfered with interstate commerce and that Utah could not tax property within the jurisdiction of another State.

Judge Cherry dismissed the complaint demurrer and the plaintiff refusing to amend, the case was dismissed, when plaintiff appealed.

Now the question arises, shall the State or Tooele have the tax? Shall the State tax the property of the Union Refrigerator company, or shall Tooele county, the county where the property is located, tax it? The court holds that the State has the power to tax the property, that it interfered with interstate commerce and that Utah could not tax property within the jurisdiction of another State.

The opinion further has not exhausted the question of home and has also drawn a distinction between property which is used in one county or more than one county and that which is used in one county only. But this we do not discuss, as the question of apportionment among counties does not arise in this case.

The Utah Refrigerator Car company is a corporation, and the property in question is used in Utah and therefore subject to taxation within its borders. Judge Cherry holds that the State has the power to tax property within its borders, and that