DOLLIVER-HEPBURN RAILWAY RATE BILL

Sharp Division Between Its Supposed Friends on Suspending of Rates by Courts.

MISUNDERSTANDING IS GRAVE

Interesting Debate as to Powers of Congress Over Matters Under Discussion.

Washington, March 7.—That there is still a sharp difference of opinion between the supposed friends of the Dolliver-Hepburn railroad rate bill was made decidedly manifest today in the senate chamber. The division is over the question whether a rate made by the interstate commerce commission shall be suspended by the courts pending final adjudication, and was brought to the surface in a brief debate which followed a set speech by Mr. Clapp in support of the bill. In reply to a question by Mr. Tillman, Mr. Clapp expressed doubt as to the power so to legislate as to enforce penalties proposed by the bill pending a review of any given finding by the courts.

When Mr. Clapp concluded his regular address he was questioned by Mr. Tillman as to his construction of the 20-day provision in the rate bill, and the brief colloquy that ensued caused a great deal of interest.

Mr. Tillman asked Mr. Clapp if he interpreted the bill to mean that any circuit judge or district judge upon complaint could suspend the order of the commission until the litigation was completed, and Mr. Clapp replied:

"No, not in a thousand years." He added that what he had said was that "where the court suspended this order pendente lite, it only operates as the expression of the purpose of the court, but in view of the language of the provision 'unless the same shall be suspended,' also operated as the purpose and will of the legislature as to its not being in fact yet suspended, and, consequently, the carrier obtaining this temporary restraining order would not be liable for the penalty of $5,000 a day in the meantime if the restraining order was finally vacated."

This statement of the Minnesota senator's position had the effect of eliciting the following from the South Carolinian:

"If," he said, "the penalty of $5,000 a day is suspended by an order of the court pending the litigation, where is your punishment to compel the carrier ever to obey an order? Is not the whole case given away if the senator's contention as to the interpretation of these words is right. Are we not face to face with an absolute surrender of the relief to the shipper?"

Mr. Clapp responded:

"I think we are face to face with the statement from which I read, and I cannot place it any better than it was placed by the senator from Pennsylvania (Mr. Knox), when he said: 'Of course I do not mean that in an independent proceeding begun in court the court could not, in the exercise of its discretionary powers, when satisfied that the rate fixed by the commission was unlawful, enjoin its operation until a final hearing. That is a power that inheres in the court that need not be conferred by statute and probably cannot be taken away by a staute.'"

Continuing, Mr. Clapp said:

"We are face to face with the proposition that if Congress fixed a rate below what the law recognizes as a reasonable rate, then clearly you are invading the property rights of the carrier."

In response to an inquiry from Mr. Bailey as to whether he would not join in an effort to secure an amendment to the bill which would retain in effect rates fixed by the commission until finally determined by the courts, Mr. Clapp said he could not, on the ground that such a provision would affect the very life of the proposed law.

Mr. Bailey did not accept the doctrine that Congress had not the power to forbid a suspension of rates, but said that if such was the case the Spooner impound amendment should be accepted. He did not believe in closing the doors of the courts to any one, but insisted that until the courts should conclude their investigations and reach a final verdict the rate of the commission should continue in effect.

Mr. Nelson asked Mr. Bailey if he held that Congress had any more power to prohibit a court from issuing a temporary injunction than from issuing a final injunction, and the Texas senator replied that he had no doubt that Congress had power to provide against an interlocutory order for, he said, if Congress had power to establish a rate it was not unreasonable to ask that it should remain in effect until the question at issue was finally determined. He did not believe that any judge who might be brought into a case should have the power to suspend the order of the commission.

"Taken as a whole," he said, "federal judges are upright men, but I will be amazed if the railroads are not able to make out a case if they can get the rate suspended while the suit is finding its way to final adjudication—and unless we can secure such legislation as will hold a rate established by the commission we are storing up a disappointment for the people of the United States."

Mr. Tillman evidently had been very nervous while the debate was proceeding, and he secured the floor as soon as he could conveniently do so. He spoke for only a moment and said:

"The interpretation given by the senator from Minnesota is absolutely contrary to my understanding. This is a most important difference; to my mind it is the spinal cord of this whole question. If Congress is to hedge about by judicial decrees we shall have to reform the supreme court, for the people are determined to have relief."

The announcement of this sentiment elicited scattering applause in the galleries.

The statehood bill was then taken up, and Mr. Perkins spoke in opposition to the union of Arizona and New Mexico. He expressed his conviction that Arizona was prepared for single statehood.

Mr. Foraker announced his purpose to offer an amendment confining the operation of the bill to Oklahoma and Indian Territory.

The senate went into executive session at 5:05, and at 5:15 p. m. adjourned until 11 o'clock tomorrow.

A HARMLESS SHOOTING.

One California Editor Tries to Kill Another But Misses Every Time.

Eureka, Cal., March 7.—As the culmination of the attack on the Herald in the Californian of last Saturday, M. M. Vaughn, editor of the latter paper, this afternoon shot three times at Niles G. Hyatt, manager of the Herald, neither bullet, however, doing any injury.

Vaughn, who is paralyzed in the lower limbs and unable to walk, drove up in front of the Herald office about 2 o'clock and called for some one to come to the door. Miss May Goddard, an attache, went to the sidewalk and Vaughn asked her if Frank Parker, editor of the Herald, was in. Miss Goddard was not sure and went in to inquire. Finding Mr. Parker was out, she returned to the carriage and so informed Mr. Vaughn.

He then inquired for the manager, Mr. Hyatt, and the latter went to the door. He was not acquainted with Mr. Vaughn and innocently approached the carriage. As he did so Vaughn sang out, "Arm yourself."

Before Hyatt could have armed himself, even had he so desired, three shots rang out. When Hyatt saw what was coming he immediately sought refuge behind a telephone pole and Vaughn was restrained from further shooting.

Vaughn was arrested and released on bail.

BERTHE CLAICHE PAID CASH FOR POLICE PROTECTION.

New York, March 7.—Berthe Claiche, the young French woman who yesterday pleaded guilty to the murder of Emil Gerdron, her allaged master, today was taken from the Tombs prison to the district attorney's office. She had a talk with Asst. Dist. Atty. Ely.

Although no official statement was made public, it was reported that the young woman gave Mr. Ely the names of four policemen to whom she said she paid $2 a week for protection while leading the life of a woman of the street.

She also gave the names of about 50 other policemen, the report stated, who were receiving like amounts from other women in the district where she lived.

WOMAN CRANK ASKS POLICE PROTECTION.

New York, March 7.—Declaring that her life will be taken unless she assassinates President Roosevelt, a woman who gave her name as Mrs. W. B. Lewalter of Philadelphia, applied at police headquarters for protection today.

She spoke rationally on all general subjects, but it was decided to detain her for an examination.

She said she fell in with a party of Socialists in Philadelphia and that she was taken to a room there and made to take an oth against the president, being told that she would be destroyed if it was not executed.

She said she fled to Houston, Tex., but the men followed her there and that she had then come to New Orleans.

HEAVY GALE OFF HONOLULU.

Honolulu, March 7.—A heavy gale is prevailing tonight, and a number of Japanese fishing boats, unable to make shore, are in danger. One has been seen out in the ocean turned bottom side up, and two others are missing. The steamship Miowera from Australia to Victoria, B. C., which is due today, has not yet been sighted.

FRENCH POLICE PROPOSITION.

Force to be Composed of Moorish Mussulmans. Commanded By French and Spanish.

CONSISTS OF 2,500 MEMBERS.

Germans Show no Signs of Concessions, and French Opposed to Further Ones.

Algeciras, Spain, March 7.—The French police proposition was distributed late this evening among the delegates to the conference on Moroccan reform. The proposition, which will be presented to the conference tomorrow, consists of five paragraphs, the substance of which is as follows:

The Moroccan police to be constituted for three years, composed of Moorish Mussulmans commanded by 16 French and Spanish officers and 32 non-commissioned officers. The force to consist of 2,000 to 2,500 men distributed among the eight ports in bodies of from 200 to 500. The state bank to advance funds for the administration for the payment of the force.

The result of tomorrow's sitting of the conference is awaited with the most intense interest. Reports relative to the probability of an agreement are circulated on all sides. Conciliation certainly is in the air, and continued efforts in that direction are going on, but a tangible basis for a possible arrangement cannot be learned.

The German delegates do not display any outward sign of making concessions, while France's latest utterance is indisputably opposed to further concessions.

The neutral delegates are quite optimistic relative to an arrangement of differences at the last moment. Impartial delegates are looking rather to Berlin or Paris for signs of a compromise.

Should the conference proceed to a vote on the rival schemes, it is understood the American delegates will abstain, not even offering an opinion. This would leave the delegates in the position to continue their efforts to bring about an understanding.

Most of the delegates are cognizant of America's attitude, and some, including the French and British delegates, approve her abstention, considering that any open expression of partisanship would destroy her influence as a mediator. Others are inclined to the belief that America's taking sides would influence a successful issue of the conference.

The Duke of Almodover states that efforts for a successful outcome are being continued. Count von Tattenbach, the junior German delegate, says a settlement is certain. The fall of the Rouvier cabinet has caused a painful impression here and it is thought it will retard a settlement.

FRANKING PRIVILEGE ABUSES.

Washington, March 7.—John R. McLean, owner of the Washington Post, testified today before the house committee on postoffices and post roads concerning an editorial which appeared in his paper regarding alleged violations of the franking privilege by members of Congress.

He said he had no evidence as to the truth of the statement in the editorial; that it was not written in a serious vein and not intended to be taken seriously.

WON'T CALL HAMILTON.

Albany, N. Y., March 7.—Senator Armstrong, chairman of the insurance investigation committee, today expressed the opinion that the committee would make no attempt to call Andrew Hamilton, the life insurance legislative agent, before it. He said he saw no reason to suppose that the calling of Hamilton or any one else to testify now would assist in perfecting the legislation requested by the committee and now pending.

FOR VIOLATING ANTI TRUST LAW.

Government Brings Suit in San Francisco Against Thirty-One Elevator Concerns.

COMBINE TO ENHANCE PRICES

Operations Carried on Mainly in California and States West of the Rocky Mountains.

Washington, March 7.—On advices that federal suit was filed in San Francisco today against 31 elevator concerns, including the Otis Elevator company, on the charge of violating the anti-trust law, Atty.-Gen. Moody made the following statement tonight:

"The United States attorney for the Northern district of California, under instructions from the attorney-general filed in the United States circuit court for the Ninth circuit, a bill of complaint against the Otis Elevator company and 27 other companies and three individuals engaged in the elevator business, charging them with violation of the Sherman anti-trust law. The companies named as defendants comprise the principal elevator companies of the United States, but the operations specifically complained of have been carried on mainly in California and the states and territories west of the Rocky mountains.

"It is charged that these companies make and sell at least 80 per cent of all of the elevators used in that territory, and that they have entered into a combination among themselves to control and enhance the prices at which elevators are sold; that in order to make the combination effective the Otis Elevator company has acquired the whole or a majority interest in the business of all the other defendants, although said defendants are said to be operating as apparently separate and independent concerns; that when an inquriy is received from a customer by any of the defendants it is immediately referred to the Otis Elevator company, and, if there is no outside competition, that company designates the concern which is to get the business, fixes an excessive and exorbitant price to be charged and directs the other companies to submit bids, apparently in good faith, but higher than the bid of the company which has been designated to receive the contract; if outside competition does appear, one of these subsidiary companies is directed to take the contract at a loss, in order to freeze out the competitors. The bill also alleges that there are only three elevator companies not in the combination, carrying on business west of the Rocky mountains, and in order to drive these companies out of business and secure an absolute monopoly the Otis Elevator company has instituted suits against them for alleged infringement of its patents which suits are brought solely to harrass and injure them, and when one of these independent companies secures a contract, the Otis Elevator company notifies the customer that it has brought suit against the independent for infringement and if the customer allows the independent company to carry out the contract, he (the customer), will thereby become liable for damages for said infringement.

"The bill prays that the defendants be perpetually enjoined from carrying out their illegal combination and from further agreeing and combining together to control the trade and commerce in elevators and to deprive the people of the several states in the United States of the benefit in rates and prices derived from free and unrestrained competition in said business.

"The facts in this case have been for many months under investigation by the department of justice. They were originally brought to the attention of the department by complaints made to the president and to the attorney-general."

The United States of America is named in the suit as complainant, and the following are named as defendants: Otis Elevator company, a corporation; Electrical Engineering company, a corporation; Fraser Electric Elevator company, a corporation; Cahill & Hall Elevator company, a corporation; A. J. McNicholl Elevator company, a corporation; Crane Elevator company, a corporation; Standard Elevator & Manufacturing company, a corporation; Eaton & Prince Elevator company, a corporation; Smith-Hill Elevator company, a corporation; Whittier Machine company, a corporation; Stokes & Parish Elevator company, a corporation; Morse, Williams & Company, a corporation; McAdams & Cartwright Elevator company, a corporation; Graves Elevator company, a corporation; Plunger Elevator company, a corporation; Sprague Elevator company, a corporation; Bloomsburg Elevator & Machine company, a corporation; Sulzer-Vogt Machine company, a corporation; Central Iron works, a corporation; Moon Elevator company, a corporation; Warner Elevator company, a corporation; M. J. O'Donnell & Company, a corporation; Gardiner Elevator company, a corporation; Houghton Elevator company, a corporation; Geiger, Fiske & Koop, a corporation; National Electric Elevator company, a corporation; Burdette & Roundtree Manufacturing company, a corporation; Moline Elevator company, a corporation; Samuel Burger, W. D. Baldwin, C. G. Comstock, John Doe, Richard Doe, Thomas Doe, William Doe, Henry Doe George Doe Charles Doe, Adam Doe, Hugh Doe and Edward Doe.

TROUBLE AMONG FOREIGN MINERS AT BERLIN, NEV.

Tonopah, Nev., March 7.—Sheriff Logan has just returned from Berlin, Nev., where there has been trouble with the miners, all of whom are foreigners. The company has been hiring Basques to replace Portuguese, who threatened the newcomers. The Portuguese are armed.

The foreman was badly beaten and the superintendent fled. The local justice of the peace wired for the sheriff and deputies, who arrived in time to avert a race war.

Twenty-seven men were arrested and tried before the justice and fined. Those who could not pay were driven from the camp and the rest held in custody.

INTERNATIONAL HORSE SHOW.

New York, March 8.—Officials of the National Horse Show Association of America, and the English Hackney Horse society are co-operating to establish in London an international horse show. The project was first broached during the last horse show at Madison Square Garden in November, when English and American horsemen talked of holding an exhibition in London next May. Owing to the lack of sufficient time for preparation this plan was found to be impracticable, but James T. Hyde, the "father of the National," and Henry F. Euren, secretary of the English Hackney Horse society, are now working together to carry out the enterprise in the spring of 1907.

Mr. Hyde said yesterday that while nothing definite has yet been arranged matters have progressed far enough to warrant him in stating that an international show now seemed assured.