

## RAILROAD BOARD CAN'T FIX RATES

### Federal Court Decides Joint Wheat Case.

### LIMITS COMMISSION POWER

### State Constitution Gives Rate-Making to Legislature.

### MAY CALL EXTRA SESSION

### Governor Mead Has Matter Under Adversive—Judge Hanford's Decision Regarded as Victory for Portland Commercially.

OLYMPIA, Wash., Feb. 14.—(Special.)—Washington State Railroad Commission has no authority to fix maximum rates is the gist of a decision handed down by Judge Hanford in the Federal Court in this city today in a decision in the joint wheat rate case.

Judge Hanford holds that under section 18, of article XII, of the state constitution, the power to establish and fix maximum freight and passenger rates is reserved to the Legislature and cannot be delegated to a commission. An order promulgated by a commission, created by the Legislature is not a law and cannot be enforced as a law without overriding the clearly expressed declaration of the Constitution.

The principle announced by Judge Hanford does not come to the student of this question as a startling surprise, even though he may not agree with the conclusion reached by him. "The decision is very far-reaching, declaring in effect that the Legislature cannot authorize a commission to regulate or establish a freight or passenger rates as under our Constitution this can only be done by regularly enacted law.

### Victory for Portland.

The decision is a victory for the O. R. & N. and the commercial interests of Portland as opposed to the efforts of the Northern Pacific and the Great Northern to divert Eastern Washington wheat traffic from Portland to Puget Sound seaports.

The case will immediately be carried to the Supreme Court of the United States. If the ruling is upheld in the higher court the State Railroad Commission will have power only to take testimony and rather data relative to rates and forward this to the Legislature with recommendations for fixing rates.

### Clash With Interstate Rights.

I am convinced that these three transcontinental railroads cannot be compelled to pool their interests in the wheat traffic without imposing on them burdens which will cripple them as carriers of interstate commerce and that enforcement of the order made by the State Railroad Commission, requiring them to carry wheat originating on the line of the complainant over the line of the Northern Pacific and Great Northern Railway, to the seaport cities of Puget Sound at a joint rate, will have a direct effect to injure interstate commerce by diverting the transportation of wheat destined to foreign countries from Portland to the ports of Puget Sound. However laudable the purpose may be from the standpoint of Washington grain merchants and millers, such a handicap upon competition in foreign trade by state authorities trenches upon the powers of Congress to regulate interstate commerce and settles the carriers in favoring the power of a Federal court to relieve them from obligations to obey the order.

### Commission Without Power.

I hold also that in assuming to prescribe a joint rate, varying from the maximum rate established by a law enacted by the Legislature, the Railroad Commission exercises the powers which could be conferred upon it by a law, not repugnant to the constitution of the state. This is so for the reason that by the 18th section of Article XII of the constitution, the Legislature is specifically required to pass laws establishing reasonable maximum rates to be charged for the transportation of passengers and freight. By this the constitution requires that rates shall be established, that is to say, fixed by competent authority for all shippers so that there shall be no discrimination; that the rates are to be established and by necessary implication discretion must be exercised in the determination of what is reasonable; the power to establish rates and exercise discretion is given to the Legislature and the manner of establishing rates is to be by passing laws.

### The Unexpected Happens

Reduced to Poverty, California Man Suddenly Finds Himself Rich.

SANTA CRUZ, Cal., Feb. 14.—C. C. Curtis, a cook who this morning found the family exchequer reduced to 50 cents, was rendered speechless with surprise when the postman presented him with a letter apprising him of the fact that a cousin in the East had died and bequeathed him an estate valued at \$16,000.

### KILLS HIS BRIDE IN RAGE

Bartender Shoots Wife and Then Turns Gun on Himself.

SAN FRANCISCO, Feb. 14.—Percy Ingalls, a bartender, shot and killed his bride of a few months in their home late this afternoon, and then turning a 35-caliber revolver upon himself, blew out his own brains.

### Governor Mead Comments.

In an interview tonight, Governor Mead said: "I have just read the decision of Hon. C. H. Hanford overruling the demurrer in the so-called joint wheat rate case. The crucial portion of the decision is found in the latter portion thereof, wherein the court holds that under Section 18 of Article XII of the Constitution of this state, the power

to establish and fix maximum freight and passenger rates is reserved to the Legislature and cannot be delegated to a commission. An order promulgated by a commission, created by the Legislature is not a law and cannot be enforced as a law without overriding the clearly expressed declaration of the Constitution.

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### May Call Extra Session.

"Two courses are open to secure rate regulation under this decision, one is through legislative enactment, the other is by an amendment to the state Constitution cutting out the limitation and empowering a commission to regulate railroad rates or, as in some states, to regulate all corporations. From my study of this question I favor the regulation through a commission always in session, and ready to meet all emergencies as they arise.

"I have had no time to consider the full effect of this decision nor to determine what action I should take. I shall give the question of calling a special session of the Legislature to consider the advisability of submitting at the next general election a proposed amendment to the Constitution along these lines my earnest immediate attention. I will announce my conclusions in the very near future."

### ACTON OF STATE COURT FINAL

### Attorney-General Sees No Alarm in Judge Hanford's Decision.

OLYMPIA, Wash., Feb. 14.—(Special.)—Attorney-General John D. Atkinson looks upon the decision of Judge Hanford in the joint rate case as not a matter of creating alarm concerning the effectiveness of the railroad commission law. In an interview tonight he declared talk of an extra session of the Legislature to be unwarranted.

"The point upon which Judge Hanford holds the law invalid must ultimately be determined by our state courts. The learned judge, however, on our state court point, on the point, has a right to construe the state law with reference to the state constitution, but when the state courts pass upon this point, they take precedence over any ruling by the Federal courts.

"The construction of the state constitution in this instance does not involve a Federal question or the construction of any Federal law or portion of the Federal constitution. That is why the decision of the State Supreme Court will take precedence over any ruling by the Federal courts.

"The same point has been decided favorably to the state by Judge Chadwick, and I entertain a very confident belief that the Supreme Court of this state will hold that the Legislature can under our constitution authorize the Railroad Commission to fix rates.

### Portland Deeply Concerned

### Hanford's Joint Rate Decision Is Pleasing to Commercial Interests.

Portland's shipping interests rejoice with the O. R. & N. over the decision of Judge Hanford, which is considered to have effected the attempt of the Washington Railway Commission to establish and enforce a joint wheat rate that was discriminatory against this port and its commerce interests. As had been expected, Judge Hanford held that a state railroad commission cannot fix rates that will in any way interfere with interstate commerce and that the state has no power to authorize a commission to do so.

The real purpose of the joint wheat rate was to divert from Portland to Puget Sound points much of the wheat shipments of Eastern Washington. The Washington Railway Commission sought to compel the O. R. & N., which carries one of the richest wheat districts of that state, to make the short haul of this product to junction points and there turn its load over to the Northern Pacific. This plan was resisted by the O. R. & N., which contended that it would prevent the use of the same cars in its interstate business and would necessitate making provision for additional cars. This contention of the O. R. & N. was sustained by Judge Hanford, who, in discussing this phase of the controversy, says in his opinion:

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## CHILEANS CHEER AMERICAN FLEET

### Great Enthusiasm at Valparaiso.

### REVIEW BY PRESIDENT MONTE

### Splendid Spectacle as White Ships Enter Bay.

### THOUSANDS LINE HILLS

### Chilean Navy Thunders Salute and Republic's Chief Port Keeps Holiday—Roosevelt and Evans Are Toasted at Banquet.

VALPARAISO, Feb. 14.—The great American fleet of 16 battleships, under the command of Rear-Admiral Evans, passed Valparaiso this afternoon and continued on its voyage northward for Callao, Peru, the next stopping place. All Valparaiso and thousands of persons from every city in Chile witnessed the passing of the fleet.

President Montt and the other high officials of the republic came out from shore to greet the battleships, and almost the entire Chilean Navy exchanged salutes with them as they swung around Curauilla Point and into Valparaiso Bay in single file, headed by the Chilean cruiser Chacabuco and five Chilean torpedoed destroyers. Turning sharp around Curauilla Point at 19 minutes after 1 o'clock, the Chacabuco and five Chilean destroyers led the Connecticut and her 15 sister ships into the view of the thousands who had awaited their appearance since dawn. The day was perfect, and the spectacle of the fleet, stretched in a great semi-circle, as seen from the high hills around the bay, was magnificent.

### Montt Reviews the Fleet.

President Montt and other Chilean officials embarked on the training ship General Baquedano and took a position well out in the harbor. Around the Baquedano the fleet swung at a speed of four knots, firing the Presidential salute as they passed in review. It was one hour from the time the head of the fleet entered the bay until the last vessel had passed the President's ship and turned toward the open sea. Then the Baquedano lifted anchor and escorted the fleet well out of the bay and on its way to the north. It was a review such as has never before been seen in Valparaiso Bay, and one that will long be remembered by the people of Chile, who came miles to see it.

Shipping in the harbor and the principal buildings in the city were dressed for the occasion, as the day was observed as a holiday in honor of the fleet. From the picturesque sloping hills dotted with houses a profusion of bunting and the waving of flags were describable from the bay. Thousands of persons from Santiago and other places in the republic had come into Valparaiso for the occasion, and the roofs of the Bolso Commercial, with its two huge towers, the custom-house and the large warehouse

embrations of every kind are in progress, and everywhere may be heard words of praise for Admiral Evans for having honored Valparaiso with a visit.

The passage of the fleet from Punta Arenas, on the Strait of Magellan, whence it sailed at 11 o'clock on the night of February 7, was made to this point without danger or incident.

### Harbor Full of Sightseers.

The head of the American fleet arrived abreast of the southern entrance to the harbor at 2:15 o'clock and the first salute was fired. Fort Valdivia, on the south side of the bay, and Fort Vergara, on the north side, replied. Hundreds of steamboats, tug, yachts and other craft, all dressed in honor of the fleet, carried thousands of passengers out of shore.

A striking piece of landscape decoration was the forming in gigantic letters of the word "Welcome" by several thousand sailors dressed in white and lying on the hillside. The beach was bright with the color of the moving thousands, the wharves were crowded, and even the boats in the bay had their venturesome occupants. Never

and other buildings along the circular road skirting the bay front were black with spectators.

### Enthusiasm Is Unbounded.

The enthusiasm of the Chileans was almost boundless, and they cheered lustily as the battleship fleet swung around the reviewing ship, their sides lined with jacks in immaculate white and the bands playing patriotic airs. The noise of the cheering was loud, however, in that of the saluting guns from the fort and the fleet. Altogether 1200 shots were fired.

After the fleet had passed to the northward, a banquet was served on board the General Baquedano by President Montt in honor of the diplomatic corps and his other guests. Toasts were drunk to President Roosevelt and Admiral Evans and his officers, crews and ships, and the universal wish was expressed that the Americans may have fair weather and a safe passage to their destination.

In the city of Valparaiso tonight cele-

### SHAH OF PERSIA REPORTED ASSASSINATED.

VIENNA, Feb. 14.—A report is in circulation here that the Shah of Persia has been assassinated. No confirmation of the report is obtainable here.

Persia has been in a state of revolution for several years. Parliament has been established after much turmoil, but the Shah refused to recognize the principle that his cabinet should retire when not supported by a majority in Parliament, as in other constitutional monarchies. The result has been repeated rioting and the building of barricades in Teheran, the capital.

The Republican Senators who stand out against the great movement that is going on throughout the country to perpetuate the Roosevelt policies, with Taft in the White House, are for the most part Senators who have close and friendly relations with large corporations—such men as Foraker of Ohio, Eklins of West Virginia, Kean of New Jersey, Crane of Massachusetts and others of less prominence.

### Antis Gather Around Hughes.

As time passes and the political situation gradually develops, it becomes more and more apparent that the Hughes candidacy is drifting into an anti-administration movement. As the case now stands, if there should be any serious opposition to the administration at Chicago, it must cluster around the Hughes standard. The present indications are that in the end the struggle at Chicago will come squarely between the two forces within the party—the Roosevelt people for Taft, the reactionaries of all sorts for Hughes.

### Roosevelt Saw Line of Cleavage.

President Roosevelt has long believed that such would be the outcome. He has believed that one by one the so-called favorite sons would be forced to step aside and that in the event of more than one ballot the culminating battle must be on this line of cleavage: The friends of the administration on one side for Taft, the opponents of the administration on the other side for Hughes. In this instance, as in many others, the President's political intuition and judgment have been vindicated by subsequent events.

### The Small Group of Republican Senators Who are Trying to Defeat the Pres-

ident and Taft do not admit they are for Hughes. They claim not to be for any one as yet.

### WISCONSIN IS FOR BRYAN

Adopts Resolutions Instructing Its Delegates for Commoner.

MILWAUKEE, Feb. 14.—When the Democratic State Convention to elect delegates at large to the National Convention at Denver resumed today, Bryan Evans, of Baraboo, was made permanent chairman. Mr. Evans made a lengthy speech touching on various National issues and sharply criticized the Republican party throughout. He concluded by paying a glowing tribute to William J. Bryan, of whom he said: "You see Democracy personified, see Democracy at her best."

At the conclusion of Mr. Evans' speech the committee on resolutions presented its unanimous report as follows: "The Democratic party of the State of Wisconsin reaffirms its allegiance to the time-honored principles of Jeffersonian Democracy and declares its undying hostility to the sham and hypocrisy of Republican National Administrations.

"It charges that the appalling abuses disclosed in recent messages of the President are the direct results of a long-continued reign of the Republican party in National affairs. The people can no longer doubt the inherent perjury of the system of government fostered and maintained by the Republican party, since the Republican President himself has furnished the evidence against it. Its malefactors, convicted and unconvicted, are but shameless products of a system of public plunder and debauchery too long endured by a patient and suffering people.

"We regard with just pride and admiration that typical American, that matchless leader who has blazed the way to wholesome public opinion and who ably championed the cause of the people. His real and undying energy; his wise and far-seeing statesmanship; his high and the greatest living American statesman and endear him to all those who believe in equal rights to all and special privileges to none.

"We, therefore, declare that we are unanimously in favor of that great Commoner—William Jennings Bryan—as the next Democratic candidate for President of the United States, and we hereby instruct our delegates to the National Democratic Convention at Denver to vote for William J. Bryan as the Democratic nominee for President, first, last and all the time."

The report of the committee on resolutions was unanimously adopted by a rising vote of the convention then proceeded to place in nomination candidates for delegates at large.

Charles H. Weisse, of the Sixth Congressional District; Herbert H. Manson, of Waunakee; J. A. Aalward, of Madison, and W. H. A. Hoyt, of Milwaukee. The convention then adjourned sine die.

### FAIR SONGSTER DEPORTED

Immigration Officials Won't Reveal Findings Against Woman.

NEW YORK, Feb. 14.—Miss J. Trabelini, a singer from the La Scala Grand Opera House in Milan, Italy, who has come to this country hoping to secure an engagement at the Metropolitan or the Manhattan Opera-House, will be deported tomorrow. This action was decided upon by the immigration authorities tonight, although the detailed findings were not made public. The only information available was that the presence of the singer in this country was considered undesirable.

### CONTENTS TODAY'S PAPER

The Weather.

YESTERDAY'S—Maximum temperature, 51 degrees; minimum, 40.

TODAY'S—Occasional light rain; southerly winds.

Foreign.

Reported assassination of Shah of Persia. Page 1.

Quarrel about Macedonia arrays European powers in hostile camps. Page 2.

Southern leaders tomorrow captain of labor-recruiting vessel. Page 3.

National.

Senate committee favors suit to forfeit railroad lands. Page 4.

Hard shots at Aldrich currency bill in Senate. Page 4.

Fulton asks for estimate of buying William Jewell. Page 5.

American fleet reviewed at Valparaiso and given great reception by Chileans. Page 1.

Politics.

Republicans rallying around Taft and Hughes as leading candidates. Page 1.

Wisconsin Democrats declare for Bryan. Page 1.

Domestic.

Morgan syndicate bids on New York City bonds. Page 5.

Tornadoes wreck three towns in Mississippi and one in Texas, taking many lives. Page 2.

Sport.

Racing automobiles stuck in snowdrifts. Page 7.

Thompson Coits win five-men bowling championship. Page 7.

Fuel Cost.

Rust and his family present affidavits in support of immunity plea. Page 5.

California warned to prepare for new plague outbreak. Page 5.

Inland Empire excursion at Los Angeles. Page 4.

Marine Engineers threaten strike which would tie up coast steamers. Page 4.

Ship Emily Reed wrecked off Nehalem River; 10 lives lost. Page 1.

Federal Court decision in joint rate wheat case. Page 1.

Defaulting Williamette school clerk prefers jail to bail. Page 6.

Salmon poise confound McNary will be named District Attorney. Page 6.

Commercial and Marine.

Hop Union promoters still at work. Page 15.

Eastern wheat markets decline but close steady. Page 15.

Advancing tendency in stock market. Page 1.

Springs trade opens, but not equal to last year. Page 15.

Portland and Vicinity.

Defense in Anderson murder trial refuses to introduce testimony; rests on state's evidence. Page 10.

Order of B'nai B'rith meets in convention here tomorrow. Page 11.

Hotel robbed of value with contents valued at \$500. Page 9.

Demurrer in Title Bank case argued. Page 10.

E. D. Langille denounces high taxation of timber lands. Page 11.

Oregon hop crop for 1907 140,000 bales. Page 14.

Statement No. 1 has few friends among Oregon politicians. Page 7.

C. F. Lord explains his arrest in Seattle. Page 7.

Society turns out for the Assembly hall. Page 10.

Five thousand rose bushes pledged for public planting day. Page 10.

## MASSING FORCES AROUND TWO MEN

### Taft and Hughes Leaders in the Race.

### ANTIS ARE BACKING HUGHES

### Strong Among Senators and Cannon's Friends.

### THEY HIDE THEIR HANDS

### Opponents of Taft and Roosevelt Policies Are Corporation Senators—Square Issue to Be Fought Out at Chicago.

(Walter Wellman to Chicago Record-Herald.)

WASHINGTON, Feb. 14.—(Special.)—Returning from the Central West, where public opinion is so largely pro-Roosevelt and pro-Taft, one is surprised to find here so much opposition to the administration and the Presidential candidate who represents the administration. This opposition in the National capital has two centers—one in the influence and ambitions of Speaker Cannon in the House of Representatives, the other in a small group of Republican Senators at the other end of the Capitol.

The Republican Senators who stand out against the great movement that is going on throughout the country to perpetuate the Roosevelt policies, with Taft in the White House, are for the most part Senators who have close and friendly relations with large corporations—such men as Foraker of Ohio, Eklins of West Virginia, Kean of New Jersey, Crane of Massachusetts and others of less prominence.

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## IN OREGON'S POLITICAL BARNYARD



## EMILY REED GOES ASHORE ON ROCKS

### Vessel and Coal Cargo Total Loss.

### STRIKES NEAR NEHALEM RIVER

### Chronometers Are Wrong and Ship Gets Too Close In.

### TEN OF THE CREW LOST

### Captain Sights but One Vessel on Straggle From Newcastle—Struggles Against Storms—25 Per Cent Reinsurance Offered.

(Special.)

BAY CITY, Or., Feb. 14.—(Special.)—The American wooden ship Emily Reed, 103 days out from Newcastle, N. S. W., with a cargo of coal for Portland, went ashore half a mile South of the Nehalem River, on the Oregon Coast, at 1:30 o'clock this morning. The vessel immediately broke in two and ten members of the crew were drowned. Captain Kessel, his wife, Second Mate Charles Thompson and three members of the crew were saved.

The survivors were brought to Bay City yesterday morning and are now quarantined at private residences. The ship has broken up and will be a total loss, as will also the cargo of 2110 tons of coal. The vessel was consigned to the Pacific Coast Company at Portland. Owing to the long passage of the ship, 25 per cent reinsurance has been offered on her.

### Heavy Weather Prevailing.

During the past few days heavy weather has been prevailing off the Oregon and California Coast. The chronometers of the Emily Reed were off and the master worked her too close in to shore before he discovered his error. Captain Kessel was endeavoring to make Tillamook Rock. He was correct in his latitude, but too far to the eastward. When he discovered his position it was too late to wear ship and she struck on one of the most dangerous places on the Oregon beach.

### Strikes at High Tide.

The Captain struck to the poop and forced his wife to remain below. The second mate and three men in his watch were stationed on the main deck. When the forward portion of the ship listed they succeeded in making their way aft. By clinging to that portion of the ship until daylight they made their way ashore. It was then dead low water. It was fortunate that the vessel struck on the top of the high tide, or none of the officers or crew would have ever reached the shore to tell the tale of horror and suspense.

### Tale of Hard Luck.

Captain Kessel, who is now with J. O. Bonarth at Bay City, said this evening in speaking of the wreck: "My chronometers went wrong and I missed my latitude. I had endeavored to make Tillamook Rock and was correct in latitude but too far to the eastward. I had hard luck all the way from Newcastle and that same did not desert me. When six days out from the Australian port I was spoken. That was in 32 S. 173 W. Since that time I have seen no one. For weeks I bucked head winds and heavy weather. One storm after another was encountered. This morning I was called shortly after the hour of 12 and discovered that we were too close in. I endeavored to haul out, but was too close in. The heavy breakers and the flood tide carried me well up on the

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