

ALL RATE CONTROL SEEN IN BALANCE

J. N. Teal Elucidates Cases
Before Highest Court Which
Attack State Rule.

GOVERNORS' FEAR UPHELD

Attorney Who Is to Take Part in
Argument for Commerce Chamber
Says Public Ownership of Rail-
roads May Be Result.

Final decision of rate cases pending before the United States Supreme Court will be vital in determining the right of State Railroad Commissions to regulate rates. Two such cases, one from Oregon and the other from Minnesota, will be argued before the highest court in the land at Washington, D. C., the latter part of this month. J. N. Teal, representing the transportation committee of the Interstate Commerce Commission, left for Washington yesterday and will participate in the arguments in support of the shippers.

Before leaving yesterday, Mr. Teal gave the following statement of the cases awaiting final determination at Washington, and the great importance of the issues to be decided:

"You have requested me to make a statement respecting the issues involved in the various state cases now pending in the Supreme Court of the United States, and arising out of orders made by State Railroad Commissions in which it is contended that the orders, unduly interfering with interstate commerce, and are therefore void. There are a number of cases appealed from different circuits. The one most generally spoken of is the Minnesota rate case. This receives the most publicity because it is the only case wherein the court has held in favor of the railroads. The other case on the docket and the first one to be appealed is an Oregon case, the title being the Oregon Railroad & Navigation Company versus Thomas K. Campbell, and others.

General Impression Wrong.

"It appears from the local and editorial comment in the press, generally, a wrong conception prevails as to the real issues involved in the case. The reason the Governors of the various states at the recent convention held in New Jersey took such a strong position on what is termed 'state control' is the general idea that seems to prevail to the effect that the question involves a conflict between state and Federal control of interstate commerce. This is not the case, and it is because of this misconception the subject is not generally understood. The real question is whether there is to be any restriction on the interstate traffic, and if so, whether it is to be by the Federal Government or by the states. If the states have no control it is certain Congress has not, as the traffic is purely state, and the railroad contentions prevail, as to a very large traffic, there will indeed be a 'twilight zone' in which neither state nor National control can be exercised. It need therefore occasion no surprise that the Governors, as guardians of the rights of the people, have sounded an alarm and are on their guard, as indeed they should be.

Cases Most Important.

"I have no hesitancy in saying that the decisions to be rendered in these cases will mark an epoch in the evolution of the regulation and control of railways in this country. I believe I am safe in saying no more important cases were ever heard by the Supreme Court, and their opinion as to the law in these cases will, in my judgment, determine whether public ownership or regulation will be the future policy of the Nation with respect to the railroads.

"It is of first importance, therefore, that the public should understand the true issues, beyond the decision of which lie such tremendous possibilities. Within the last five years in many states and courts two defenses have been set up against the validity of orders made by State Railroad Commissions in establishing rates within their respective states.

"The first defense is that any rate fixed by a State Commission which in any way affects an interstate rate is an interference with interstate commerce and is void. If successful in this contention, the state's right to regulate as to state traffic, for it will not be at all difficult so to tie rates together, (as I will show by actual examples) that no order can be made that would not to some extent affect an interstate rate, and hence be objectionable.

Federal Control Doubtful.

"Neither can there be any regulation of such rates by Federal control, for that would be clearly unconstitutional. It is absolutely fundamental that as to state commerce, the state is supreme, and as to interstate commerce, Congress is supreme. Therefore, under the proposed construction of the law there could be no regulation of the commerce in question. This fact is recognized by every court that has passed upon the question. It is altogether beside the question to say that it might not be better if all commerce, both state and National, were under Federal control. Necessarily, where two sovereignties operate in the same territory, and affect the same persons and property, they may at times interfere one with the other. This results from the nature of our Government and the limitation of powers imposed by the Constitution.

"The fact remains that under the Constitution the state has control of state traffic and Congress control of interstate traffic, and neither one can unduly interfere with the other.

"Fair Return" Vital Point.

"The second defense interposed is that a railroad is entitled to a fair return upon the reproductive value of its property at the time the order is made. This reproductive value is arrived at by estimating the cost of replacing the property new, just as it stands, at values estimated by engineers, land experts, etc. It is based on purely imaginary and impossible conditions, and the values vary with the imagination of the witness. To illustrate, on one case I participated in, the estimate of the reproductive cost of the same railroad was submitted by the same engineer in two cases at intervals of about 14 or 16 months, and his valuations had increased in that time on the same road about \$125,000. Imagine attempting to estimate what it would cost to reproduce the Pennsylvania or the New York Central systems today. Imagine establishing rates to produce return on such values. In these estimates no allowance is made for gifts, franchises, rights of way, etc. granted, etc. If successful in this defense I have no hesitancy in saying all rate regulation is at an end, for but few roads earn,

or pretend to earn, or could earn what would be considered a fair return on any such basis. In old communities it certainly would be impossible to find any such roads. As time goes on, instead of there being a tendency to reduce rates, advances would be inevitable.

State Upheld Five Times.

"This defense entirely eliminates all question of investment, bond issues, cost of road or anything but the cost of reproduction, ascertained as I have described. It should be apparent to anyone that if this principle is ever accepted as a basis for fixing rates or allowing returns to railroads it would only be a question of time when they could substantially absorb the earnings of the entire country.

"In view of the fact that these two defenses appear in every case of late years, and every court, once it is certainly justified in assuming it is not chance, but the result of a preconceived plan to bring about some conclusion, that condition is the defeat of all control.

"The first question has now been heard in six cases. In five (the first being a decision by Judge Wilverton) the contention of the railroad has been rejected and the rights of the state sustained. In one (the Minnesota case) the railroad has been sustained. To understand the far-reaching nature of the contention of the railroads under the first defense, I cite a few illustrations in this section.

"Rates from California points to points in Oregon are made on a combination of water rate, or thereabouts, in Portland, plus the local rate from Portland. The combination makes the through rate. Therefore, it is urged, if any change is made in the local rate it affects the interstate rate and is void. Hence the state commission is powerless to change local rates, and state shippers are at the mercy, so far as local rates are concerned, of the railroad.

Loss of State Power Seen.

"In other words, by tying the two rates together and using a state rate as a factor, the power of a sovereign state over traffic wholly within its own borders is paralyzed. A gasoline engine pulling a train with the railroad through a state on this business would nullify a state's powers. As Congress has, and under the Constitution can have, no jurisdiction over the state rate, it is plain if this construction is sustained, no power exists anywhere which can exercise any control. It would also have a serious effect upon sea competition by making the water rate to Portland so low as to discourage competition with the local rates, and with power to regulate the local rates eliminated the public would be without protection, and the law requiring reasonable rates within the state a dead letter. The same contention is made as to rates from Eastern points where the terminal rate and the local rate together make the rate to an intermediate point. Here, again, it is urged to reduce the local rates would affect the interstate rates and in consequence the state again can give no relief as to state rates.

Through Rate Involved.

"The wool rates furnish another illustration. In this state, from interior points, the rate to New York or Boston is made on the basis of the local rate to Portland plus the Portland rate to Boston. That is, these two rates added together make the through rate to Boston from the interior point. It is therefore argued that to reduce the local rates on wool would reduce the through rates, and an order would be void. In other words, those who raise wool in Oregon, the shippers of wool and manufacturers and users of wool in garments within this state are to be condemned to pay excessive rates on all local shipments because the local rate is used by the railroad to make the through rate. This condition applies to our canned-fruit industries, packing house products—everything we produce.

"In any case engaged now in cases where the claim goes even further, in which it is asserted that rates from Eastern and Western originating territories to a common point, such as New York or Boston, are to be made on the basis of the local rate to each other, and the change in one rate would produce a change of relationship in the other, and if the state makes the change, this also is an interference with the interstate commerce.

"I could multiply illustrations indefinitely, but certainly the foregoing show how utterly barren would be the power of a state as to control of state rates if the position of the railroads is sustained. That I am not exaggerating as to the effect of a decision supporting this theory is shown by the expression of courts upon this subject.

"In one case the court says:

"The logic of the 'conspiracy' argument would release the local rates from Governmental regulation altogether. United States could not fix the local rates, because they are local, and the state could have changed them, because it would thereby be a direct burden on interstate commerce. The inevitable effect would be to fix the rates at a level which would be a direct burden on interstate commerce. The State Railroad Commission would have no power to fix rates, and state regulation of state rates would become simply historic.

"In the other case the court says:

"The result of such a construction would be to place the states in a position of the most important powers inherent in any government. The adoption of such a construction by the courts would be justifiable only if any other would be in violation of a plain provision of the National Constitution or principles of law so firmly established by previous decisions of the highest court of the land that there is no longer room for construction. In *Addyston Pipe & Steel Company vs. United States*, 175 U. S. 213, 221.

"If neither Congress nor the State Legislature have such power, then we are brought to the somewhat extraordinary position that there is no authority, state or National, which can legislate upon that subject and prohibit such contracts. This cannot be the case."

"It is worse than foolish to delude oneself as to what is being attempted. It is not a question of state or National control. It is a question of no control. Congress, in the act to regulate commerce expressly limits its application to interstate commerce. Under the Constitution it was not necessary to regulate, but Congress evidently wanted it distinctly understood; it did not desire by the act to regulate commerce to interfere in any way with domestic commerce.

Reason Seen for Alarm.

"It is perfectly evident that what is being attempted is to have established as a principle under which the naming of a rate by state authority, or authority that in any way conflicts or interferes with an interstate rate is an unlawful interference with interstate commerce. National or state, must be fixed on a basis that will yield a reasonable net return on the reproductive value of a railroad, based upon reasonable and fanciful conditions.

"Is it any wonder the Governors are speaking out and sounding the alarm? The press can do no greater service than to have the true issues, unobscured by technicalities, legal terms or labored argument, made known to the public. If public ownership of railroads ever becomes an actuality in this country, it will not be because of anything the public does, but it will be directly attributable to those who, while professing the greatest opposition, are creating the conditions that will bring it about—that is, the railroads themselves."

League to Discuss Vaccine Order.

An adjourned open meeting of the Health Defense League will assemble this evening in the Commonwealth building to hear reports of the committee on the situation in relation to the vaccination order, issued against the carmen and in consider what further action is advisable.

RAID BAN ASKED

Chinese Plan Appeal to Federal Court.

UNFAIR DEAL IS CHARGED

Attorney to Sue Chief Slover and
Police for \$10,000 Dam-
ages for Forcing Entry to
Suspects' Premises.

Charging insincerity against the city police in the light they are conducting against Chinese gambling, and asking judgment for \$10,000 damages, every policeman from Chief Slover down, who participated in the attack on the alleged gambling palace at 285 Everett street, Attorney Powers has filed an application for an injunction to restrain the police from proceeding further against his clients.

At the same time the Chinese are raising a fund with which to attack in the state courts the validity of the new strong-door ordinance as it is enforced by the police. Their representatives argue that forcible entry cannot be made under any circumstances to arrest for a misdemeanor and they assert that the police are themselves worse violators of the law every time they break into a place where no felony is being committed.

The Federal suit about to be filed had its beginning when the first raid was made at 285 Everett street, several months ago, and men were rounded up in the place, but in the adjoining premises. It is alleged that the police scooped up men from both sides. Later, a defense fund, a plea of guilty was entered without their knowledge and a fine of \$150 was imposed on each of 80-odd prisoners. Then came the second raid, when, Attorney Powers says, the police entered the premises of his clients and broke through the wall. Since that time, he asserts, the policemen on the beat have made a dozen or more visits daily to the place, prying into corners and turning over goods in a purported search for gambling paraphernalia or opium, until the proprietor's business has been ruined.

The pleadings are based on the amendment to the Federal Constitution, which guarantees equal rights to all, without regard to race or creed. Among the defendants cited are Chief of Police Slover, Captain Bailey, Sergeants Kienlen and Roberts and all the patrolmen who took part in the last raid. The pleadings ask for damages against each of them and for a restraining order forbidding them to attack the place again.

EAST SIDE CLUBS JOIN

Two Delegates Asked From Each
Body—M. O. Collins President.

The United Improvement Clubs Association is the name of the new club federation which was organized last night in the rooms of the East Side Business Men's Club, Grand avenue and East Alder street. A constitution and by-laws were adopted and officers elected. The object of the club is for a free discussion and participation in all matters that may be of the foregoing the good of that portion of Portland living east of the Willamette River. Religion and politics are barred, but by a two-thirds vote of those present at any regular or special meeting of the club.

A LITTLE SAGE AND SULPHUR MAKES THE GRAY HAIR VANISH

A Harmless Way to Darken
Hair; Simple Remedy for
All Hair Troubles

Who does not know the value of sage and sulphur for keeping the hair dark, soft, glossy and in good condition? As a matter of fact, sulphur is a natural element of hair, and a deficiency of it in the hair is held by many scalp specialists to be connected with loss of color and vitality of the hair. Unquestionably, there is no better remedy for hair and scalp troubles, especially

premature grayness, than sage and sulphur, if properly prepared. The Weth Chemical Company of New York put up an ideal remedy of this kind, called Weth's Sage and Sulphur Hair Remedy, and authorize druggists to sell it under guarantee that the money will be refunded if it fails to do exactly as represented.

If you have dandruff, or if your hair is thin or turning gray, get a bottle of this remedy from your druggist today, and see what it will do for you. This preparation is offered to the public at fifty cents a bottle, and is recommended and sold by all druggists. Special agent, Owl Drug Co.

**DESKS
AND
CHAIRS**

THAT WILL INTEREST YOU

BUSHONG & CO.
89-91 PARK STREET
PORTLAND, OREGON

New Color Comics Fables in Slang and Sherlock Holmes in The Sunday Oregonian

Several new characters of the comic supplement realm will make their first appearance in next Sunday's Oregonian. The list includes Mr. Boss, the barnyard bully; Hairbreadth Harry, the man of harrowing adventures and marvelous escapes; Mrs. Time Killer, the woman who hasn't anything much to do, and Slim Jim, the circus acrobat, who has the police on his trail.

In addition, there will be two clever and entertaining "cut-out" features, in four colors, for the children—Anna Belle, the little girl with the pretty clothes, and new "cut-out" toys and games.

George Ade's 1911 fable of how Albert first endured, then pitied and then set in, is another of the famous humorist's best in his new series.

The Adventure of the Reigate Puzzle is the mystery case taken up and solved by Sherlock Holmes.

City Men Who Have Made Farming Pay is a page record of the achievements of men who have gone from city to country and made good.

China's New Army is described in an illustrated article which tells of a military organization that is great on dress parade but poor in the field.

The Marionettes—An O. Henry short story dealing with a burglar and a spendthrift.

Nothing Bothers Me, song hit of the inimitable Eva Tanguay.

Old King Sport—An interesting article on sporting activities in England.

MANY OTHER FEATURES

ficial acts or record of any candidate for public office may be advertised or published.

The membership will be composed of two regularly accredited delegates from the push clubs and the monthly dues are fixed at \$1 for each club. The association will hold a regular meeting the first Wednesday of each month.

M. O. Collins was elected president for the ensuing year and L. H. Wells secretary-treasurer. The new president was authorized to appoint two members of the executive committee before the next meeting. Dan Kellaher and Frank Motter were elected delegates to the Civic Council and the secretary was instructed to invite the West Side clubs to send delegates to the association. J. H. Hank, president of the Civic Council, was present and said that he considered it unwise to form another federation, but assurances were given him that the new federation is not to interfere with the work of the Civic Council.

To the ancient honey-moon was a luxurious beverage prepared with the syrupy secretion of the bee. It was the custom to drink of this diluted honey for 20 days, or a month's age, after a wedding feast. Hence arose the term honey-moon, which is of Teutonic origin.

Laurelhurst

THE ADDITION WITH CHARACTER

Will celebrate its second anniversary next Sunday, October 15, by extending an invitation to the people of Portland to spend a portion of that day inspecting the magnificent municipal improvements, just completed, and viewing the scores of handsome new residences built in the tract during the past year.

We extend an especial invitation to Portland's automobile owners to motor through the addition next Sunday, where they will find 26 miles of continuous asphalt streets. Laurelhurst may be reached from the center of the city over the Burnside bridge and East Burnside street, which is hard-surfaced to and through the addition.

WE WILL FINANCE THE BUILDING OF YOUR HOME IN

Laurelhurst

PLAN	
You buy a \$1400 lot.....	\$1400
Discount for building, 15 per cent.....	210
Net cost of lot.....	\$1190
Cost of building.....	3000
Total investment.....	\$4190
First mortgage for building.....	2500
Second mortgage to Laurelhurst Co., \$1190, less first payment of 10 per cent, \$119.....	1071

Total amount put in house by you..... \$ 619
Second mortgage paid at the rate of 2 per cent per month, or \$23.80, which is less than house rent.

You choose your own architect and contractor. We procure you a building loan, and you pay for the lot as you would pay house rent.

BUILD YOUR HOME WHERE THE IMPROVEMENTS ARE ALL IN—NOT PROMISED

Lots \$850 and up. Terms 10 per cent cash, 2 per cent a month. Laurelhurst has 3 carlines—Laurelhurst car, Montavilla and Rose City Park. Only 15 minutes out. If you want a home and have but little ready money, come and talk to us. We can help you out.

Mead & Murphy, Sales Agents

Phones: Main 1503, A 1515. 522-526 Corbett Bldg.
Office on the Property. Phone East 989. Ask for Salesman.

W. H. McBRAYER'S "Cedar Brook"

TO use W. H. McBrayer's Cedar Brook is to enjoy that smooth, mellow, delicious flavor that has made Cedar Brook the accepted whiskey of critical drinkers for three generations.

It has Stood the Test of Time

because its high standard of quality has always been maintained.

W. H. McBrayer's Cedar Brook is not a name here today and gone tomorrow—it is the whiskey without a rival.

Try Cedar Brook Today

and you will never return to your whiskey of yesterday. It will win your approval on its merits.

(8 YEARS OLD) BOTTLED IN BOND

ROTHCHILD BROS., Distributors, Portland, Oregon.