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THE LEGAL STATUS OF RAILROAD EMPLOYES.

A very novel and important action, important, at least, as bringing a much discussed question into the area of judicial action, was taken on Saturday, March 18, in the United States court at Toledo. The engineers on the Toledo, Ann Arbor & North Michigan Railroad had struck. Their places were filled as far as possible with outside men. The Brotherhood of Locomotive Engineers, by their chief, P. M. Arthur, had ordered Brotherhood engineers to refuse to handle cars of non-union and boycotted roads. This amounted to a refusal to handle freight from the Ann Arbor road.

Of course, such action on the part of the sympathizing engineers caused utter derangement of business. The railroad authorities resolved to invoke the Federal powers. They obtained first an injunction from Judge Taft, restraining members of the Brotherhood of Locomotive Engineers from boycotting Ann Arbor freight. A suit for \$30,000 damages was also filed against Chiefs Arthur and Sargent for ordering the engineers to strike. Next, the Lake Shore road dispatched a special train to Cleveland and brought United States District Judge Ricks to Toledo, and obtained from him an attachment for three of their fire men and four of their engineers, who had refused to handle the boycotted freight. The men were required to show cause why they should not be prosecuted for contempt of court in face of Judge Taft's previous order.

Locomotive engineers and railroad employes generally occupy quasi-public positions. The public is dependent on them for the carrying out of its business. Under the common law the conspiring to raise the price of labor or of other commodity is held to be unlawful. In England the quasi-public status of certain employments is definitely recognized. As a fully public employment, the soldier's or policeman's position may be cited. In joining the ranks of either of these bodies, a man surrenders a measure of his personal freedom. He voluntarily and knowingly puts himself under obligations which are more binding and involve severer penalties than those attached to ordinary contracts. Death cannot be the penalty for violation of a civil contract. Desertion from the ranks of the army may incur it.

The action of the United States courts in the railroad cases seems to recognize the status of railroad employes as assimilated to that of soldiers. To such operatives the affairs of the community are committed. A detention of cars does not mean injury to one person, or to a corporation, but it means injury to an indeterminate number of the public. Injury to the public is not the subject of private suit—it is a matter for indictment and government prosecution.

The railroads of the United States form an interstate system. This brings them under Federal jurisdiction. The striking engineers and firemen have been shown very clearly that they will not have State authorities only to deal with. They have to face the more rigorous administration of justice as meted out by the United States courts. They are being placed in the position of soldiers of the public. To attempt a boycott of freight, or to conspire in effecting a strike, is by these actions of the courts declared a species of desertion—like the desertion of his colors by a soldier in face of the enemy. The great army of peace, which railroad employes really constitute, is always in face of its enemy—the overcoming of time and space in the interests of the public.

The court's action cuts in two ways. The representatives of labor are inclined to see in it an interference with their personal rights. Many protest strongly against it. If their privileges of sympathetic striking and boycotting are interfered with by the courts, the new state is pronounced slavery by the more rabid labor advocates. This view is of course totally false. The soldier held down to the severest penalties, subject even to corporal indignities, and in some armies to flogging, is not held to be disgraced by enlistment. When a man chooses the railroad as the scene of his life's work, he virtually enlists, and should feel himself subject to peculiar responsibilities and penalties.

The other view of the action of Judges Taft and Ricks involves the recognition by the state of railroads and the Federal regulation of their affairs. One school of socialists welcomes the interference by the courts as the first step in nationalizing the railroad service. This has long been clamored for. The interstate commerce act is the first step. The new injunction motions appear as a further movement in the same direction. The old time private letter expresses have been supplanted by the post office. The parallel course for the railroads of the country is advocated by many.

The court proceedings have for their immediate object the purging of contempt of the employes and the defense of the Brotherhood's officers. Hence every technical point is availed of by the attorneys for the defense. This unfortunately prevents a full determination of the constitutionality of the injunction. But this must sooner or later be adjudicated. The equities of the case are, from the point of view of the public at least, on the side of the railroad. The passengers on a

railroad do not relish the idea of the engine crew deserting their engine miles from any settlement and perhaps in weather which may involve sickness and death from exposure to the passengers. The shipper of freight must resent the loss of a market or perhaps the destruction by delay of perishable goods because of the blocking of a railroad by organized action on the part of its striking employes. Such action in the army or at sea would be mutiny. The events we are discussing may make it virtually mutiny on railroads as well.

British Law as to Locomotive Sparks and Fire Raising.

The House of Lords, sitting as an Appeal Court recently, defined the law as to the liability of railway companies for fires caused by sparks from their locomotives. The case was raised, says Engineering, by a Port Glasgow Sailcloth Company against the Caledonian Railway Company, the Court of Session having decided in favor of the railway company. The issue was really between fire insurance corporations and railway companies. It was agreed that the fire which consumed the Sailcloth Company's flax store, and involved £12,000 damages, was caused by a spark emitted from Locomotive No. 85 while passing along the Caledonian line contiguous to the stores; but the Lord Chancellor, in giving judgment for the railway company, laid it down that the railway company, having statutory power to run along the line with locomotive engines, which in the course of their running are apt to discharge sparks, it was necessary to prove that the power given was not reasonably and properly exercised, and this the Sailcloth Company had failed to do. The mere fact that the destruction by fire was caused by the spark did not involve liability; the point really was whether the railway company had, as was their bounden duty, used the best practicable means, according to the then state of knowledge, to avoid the emission of sparks. The Sailcloth Company failed to prove to the contrary. The offending locomotive, No. 85, belongs to a type adopted in 1888. Prior to 1882 the engines of the Caledonian Company were fitted with a spark arrester—a grid in the uptake or funnel to prevent embers escaping with the exhaust steam. The new type, on the other hand, has the vortex blast and not a spark arrester. It was contended in evidence in support of the greater efficiency of the new arrangement, that in the old arrangement the lower tubes got blocked up and required a greater draught in the upper tubes to maintain the steam-raising power of the boiler. Consequently the spark arrester was required, owing to the enormous increase of draught. With the vortex blast arrangement, on the other hand, the draught is more equally diffused. The consequence is that, as the lower tubes do not get blocked, combustion is more complete, and it is alleged fewer embers are likely to leave the fire box. It was, therefore, held by their lordships that the modern engine, even without the spark arrester, was more efficient than the earlier type with the spark arrester. As to the contention that an extra precaution might have been taken by adding the spark arrester, even in the vortex blast engine, there was conflict of testimony as to whether this would not militate against the other advantages mentioned, while the necessity was not clearly established. The Lord Chancellor also admitted that negligence or carelessness on the part of the engine driver would involve the liability of the railway company; but the fact that sparks issued from the funnel did not indicate negligence or carelessness. On the other hand, the engine driver was proved to be an experienced man, and there was no suggestion why he should have departed on this occasion from the ordinary mode of working the engine. The five lords sitting on appeal all agreed in the decision in favor of the railway company, with costs.

Placing a Big Street Car Cable in its Trench.

Over two miles of 1½ inch steel cable of the Broadway Railroad Company was recently placed in the trench beneath the street pavement, where it is to be used in hauling the cars. The end of the cable was attached to a car hauled by twenty-four horses, which was started from the power house at Seventh Avenue and Fifty-first Street, proceeding thence north to Fifty-ninth Street, back to Thirty-sixth Street, and from there to the power house again, where workmen commenced splicing the two ends. At the north and south ends of the space covered, where the cable changes its direction, it runs around wheels twelve feet in diameter.

An Underground Stream.

A dispatch from Augusta, Ill., says that four miles northwest of that place, a few days ago, William Allen bored a well on his farm, going to a depth of 77 feet. At that depth suddenly the entire bottom fell out, carrying all but about 5 feet of the walls with it. At the bottom of the deep hole thus formed could be seen a swift rushing stream. All efforts to fill up this hole have proved futile, the rushing current carrying away everything thrown into it.