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## JUDGE JONES' STATEMENT

### Says Grave Injustice Has Been Done Him

## BLAMES THE REPORTERS

Felt it imperative to file opinion in view of Boasting of Local Officials—Loves People of Alabama and Their Good Will is Cherished.

(By Leased Wire to The Times.)

Montgomery, Ala., Aug. 27.—Judge Thomas G. Jones, of the federal court, has issued a signed statement to a newspaper, in which he defends his action in the celebrated blanket injunction in the Louisville & Nashville Railroad case. Judge Jones charges newspaper reporters with having done him injustice in their reports of incidents in connection with his injunction.

"A grave injustice has been done me and the court over which I preside by the publication of a story from this city dated August 24. This story is a report of what the attorney general of Alabama said as to a case being improperly prejudged by an opinion published on the granting of the restraining order before the day set for the hearing of the preliminary injunction.

"Whether or not a court of equity had power to enjoin criminal proceedings when the party complaining had no other adequate remedy to protect a property right against impairment or destruction of property by state officers or private individuals, under plea of enforcing statutes, which might, on inquiry, be found to be unconstitutional, and whose execution had not only been explained, but suspended in the very mode provided by the laws of the state, was no longer an open question in this court when it granted the restraining orders. The court had before that twice deliberately decided that it had such power. When it granted the preliminary injunction against the attorney general and all other persons from enforcing the statutes it decided the identical question raised by the sheriffs and solicitors. When they answered, setting up that the amended bill was a suit against the state and that the court had no power to enjoin criminal prosecutions it was an effort to raise the identical question which had been decided before the court in this very case.

"The court not being advised that the power of a court of equity over criminal prosecutions was in any way denied when the preliminary injunctions were granted in an elaborate opinion dealing with the main issues, contented itself with citing a few leading authorities.

"Under these circumstances the court felt it an imperative duty to file an opinion and give it to the press which would tend to remove clamorous impressions which had been excited by boasting of local officials that they would defy the orders of this court, and in this way strengthen respect for the law. I did so, in the opinion complained of, justifying these late orders.

"No man has greater cause than I to love the people of Alabama. My whole life, I hope, proves that I have appreciated and to the best of my ability, repaid their trust. When a youth, I freely shed my blood in its service and at different times for twenty years risked my life at the head of its citizen soldiery.

"The good will of the people of Alabama is my cherished possession."

## A GREAT FIRE IN HAKODATE

(By Leased Wire to The Times.)  
Tokio, Aug. 27.—There was a great fire in Hakodate, island of Yezo, yesterday morning. Nearly seventy percent of the whole city, which has a population of 80,000, was reduced to ashes.

The consulates were all burned except the American.

Elsewhere in Japan there have been great floods within four days of torrential rains. Great damage was done in the Hayoseno mountains. At Tomonawa the Grizer Hotel was carried bodily away. Many bridges have been destroyed and embankments swept down.

The water supply of Yokohama has been cut off, owing to the mains near the sources being carried away. Probably several lives have been lost. The regions most affected are east and north Tokio.

Nelson Morris Dead.

(By Leased Wire to The Times.)

Chicago, August 27.—Nelson Morris, the well known packer of this city, died today after a long illness.

## A SOCIAL STIR AT EXPOSITION

### Prince Wilhelm Brings Jealousies to Head

## TWO FACTIONS AT FAIR

President and Mrs. Tucker on the one side and Governor and Mrs. Swanson on other—Functions ignored by Virginia Executive—Story of the Affair.

(By Leased Wire to The Times.)

Jamestown Exposition, Va., Aug. 27.—A social war involving prominent persons is in progress at the Exposition, and its outcome is yet to be determined.

The coming of Prince Wilhelm hastened it to a climax, and was responsible for the appointment of Charles W. Kohlsaat, by Director General Barr, as social and diplomatic representative of Barr and the fair. The lawn party tendered Prince Wilhelm by the Exposition president, Harry St. George Tucker, and Mrs. Tucker, was not attended by Governor and Mrs. Swanson. The fete champetre was given in the New York state building, when some would naturally suppose that it would be given in the Virginia state building. The Governor and the first lady of the state were at the Virginia building at the time.

Neither did the Barrs attend the function given by President and Mrs. Tucker. They were not invited until the eleventh hour, and then on a personal request for invitations, to be used by the daughter of the director general and a friend, who was visiting her. President Tucker attended the dinner given for the prince by Governor and Mrs. Swanson at the Hotel Chamberlain, but Mrs. Tucker did not. Both were invited.

President Tucker, it has been complained, tried to make the social affairs of the Exposition too personal and exclusive. Director General Barr thought so, too, hence the appointment of Kohlsaat.

Governor Swanson, it is said, agrees with Barr. The governor and the director general were of the opinion that the interests of the Exposition suffered. State commissioners at the Exposition and hostesses at state buildings have also expressed dissatisfaction with the social recognition given them at the Exposition.

Mr. Tucker is in Portland, Me., attending the meeting of the American Bar Association. In defense of his social policy it is stated that \$20,000 of his wife's money has been spent in Exposition entertaining that should have come from the Exposition coffers. The Exposition, it is said, has not spent one cent in entertaining. In addition, Mr. Tucker advanced \$8,000 of his salary for this purpose.

Barr and his friends take the position that President Tucker has no right to use the Exposition for the promotion of his personal social affairs. (Continued on Page Five.)

## RECEIVER MAY BE APPOINTED

(By Leased Wire to The Times.)  
New York, Aug. 27.—It is expected in Wall street that a receiver will be appointed any moment for the traction trust. Third Avenue stock reached 47 this morning, the lowest in its history. It is declared by those in position to know that the treasury of the Third Avenue branch has been looted.

These startling rumors followed quickly upon the threatened dissolution of the trust by Mr. Evans, whose investigation has brought to light some sensational details as to the manner in which the great corporation has conducted its business.

Wall street fears a further slump in the trusts leading stocks.

Olsen to Wrestle in Winston-Salem. Winston-Salem, N. C., Aug. 27.—Charles Olsen, the powerful Swede, and Pearson, the Canadian champion, will meet in the Elks' auditorium for a wrestling match next Tuesday night.

The announcement has caused much interest here and the combat, which will be of the catch-as-catch-can order, will be a great drawing card.

## CAR MEN TO STRIKE AGAIN

### The Louisville Union Votes to Do This

## SAY DISCRIMINATION

Struck Only Six Months Ago, When Much Violence Followed—Strike Will Be Called After Labor Day—Union Has 80 Per Cent of Employees.

(By Leased Wire to The Times.)

Louisville, Ky., Aug. 27.—After a strike only six months ago, members of the local union of street car employees have voted unanimously to strike again, leaving the time for calling the strike in the hands of the executive committee.

The local union comprises about 60 per cent of the employees of the Louisville Railway Company. The ground for this latest action, as alleged by the union, lies in persistent discrimination by the company in favor of non-union men. The union gained an increase in pay and a partial concession of its other demands by the last strike, which lasted ten days, and was accomplished by much violence and disorder. The men say the strike will not be called until after labor day, the executive committee being empowered to negotiate further with the company meanwhile.

## THE SOUTHERN ENTERS PROTEST

### Did Not Want the Record Sent Up Yet

## IN BIG PENALTY SUIT

Attorneys Representing State Requested Clerk to Send Up Papers Immediately After Supreme Court Convened So As Would Be No Delay—Col. Rodman Entered Protest.

The record in the case on appeal in which the Southern Railway was fined \$30,000 for failing to comply with the passenger rate law as enacted by the last legislature and imposed by Judge Long at the July term of Wake superior court, was sent up to the supreme court this morning but under protest by Col. W. B. Rodman, attorney for the Southern Railway. The clerk of the court had been requested to send up the record immediately after the supreme court convened and the request was complied with. Col. Rodman protested on the ground that it was his understanding that it was only to be sent up in regular order—not until the time for cases from this district to be called—and he desired time to look over the record before being sent up. It was the impression of the attorneys representing the state that the record should be sent up as early as possible so as there would be no delay whatever and it was for this purpose that the record was sent up today.

This suit is a very important one as there are several very important points at issue, not to speak of the amount of the penalty.

The course pursued by the Southern in protesting against the record being sent up at this time is said to be very unusual. There appears to have been a complete misunderstanding between the attorneys, but at any rate the famous \$30,000 penalty suit is now with the supreme court of North Carolina.

Ex-Governor Aycock stated today that the Southern Railway penalty suit would be called in the supreme court tomorrow and a date set for the hearing. It is very probable that the hearing will take place either the latter part of this week or the first of next.

Governor Glenn was very much surprised today when informed that a protest had been entered against the record being sent up at this time and said that if the attorneys of the

(Continued on Page Four.)

## THAT PACIFIC FLEET AGAIN

### Sixteen Battleships and Six Torpedo Boats

## NO PLANS FOR RETURN

Vessels Will Reach San Francisco Some Times in April and Their Stay There is Indefinite—Question of Supply of Coal Troubles the Officials.

(By Leased Wire to The Times.)

Washington, D. C., Aug. 27.—Admiral Secretary of the Navy Newberry returned to Washington yesterday after ten days vacation and a conference at Oyster Bay with the president and Rear Admiral Evans and Brewster, regarding the cruise of the battleship fleet to the Pacific. At the conference all of the plans for this important movement of the big fleet were gone over, and practically everything at least required to make arrangements for the fleet to be decided upon.

There will be sixteen battleships, six torpedo boats, nine navy colliers, one repair ship, one water ship, and two supply ships concerned in the movement. Upon reaching San Francisco the fleet will be joined by two other battleships, the Nebraska, recently commissioned, and the Wisconsin.

Whether or not the vessels will go to Puget Sound is a matter which as yet has not been determined definitely. It is a question which will be decided later. According to the schedule arranged the fleet will reach Magdalena Bay some time between March 9 and 19, and it is contemplated to have the ships remain there for about thirty days in target practice. They will then reach San Francisco some time before the middle and last of April.

Their stay there is indefinite and no plan whatever has been made for their return trip. A decision in regard to the matter will not be reached until January. Only about thirty days will be required to make arrangements for the return.

The one important thing in regard to the long cruise is the question of supply of coal, and this matter was one to which much attention has been given. The decision was reached that 100,500 tons of coal in addition to that which the battleships will carry in their bunkers when they start out, will be required. This is in addition to the 13,000 tons which the torpedo boats will burn in making the voyage.

All told, in the neighborhood of 125,000 tons of coal will be consumed. To supply this vast amount of fuel at the required points has been a problem to which much attention has been given. En route to San Francisco the fleet will call five times—first at Trinidad, next at Rio, then at Sandy Point, in the Straits of Magellan, then at Callao, Peru, and last in Magdalena Bay.

## VIRGINIA GOVERNOR COMMUTES SENTENCE

(By Leased Wire to The Times.)  
Richmond, Va., Aug. 27.—Governor Swanson has decided to commute to life imprisonment the sentence of Joseph Thomas, alias John Wright, colored, who, but for executive clemency, would have been hanged in the Alexandria county jail yard next Friday morning for an alleged criminal assault upon Miss Mabel Risley, now Mrs. Forrest Gooding of Washington, D. C.

The case is unique in the criminal annals of the state of Virginia and while the action of the governor will be commended by many it is the opinion of the majority of the residents of this city that the charge against the negro was not clearly proved, and that an opportunity should be given his counsel to clear him and obtain his pardon.

## TRAIN AND CAR IN A SMASH

(By Leased Wire to The Times.)  
La Crosse, Wis., Aug. 27.—A fast passenger train on the Chicago, Milwaukee & St. Paul Railway struck a street car filled with passengers on a street crossing in North La Crosse this morning. A number of persons are reported injured, some fatally. Ambulances and a corps of physicians have been sent to the scene.

## BODY FOUND IN THE WATER

### Young Agnes Maguire Believed Met Fowl Play

## HER FATHER POSITIVE

Body of Pretty Girl Found Today a Half Mile From Spot Where She Was Last Seen—Two Boatmen See Body and Fish It Out of Shallow Water.

(By Leased Wire to The Times.)

New York, August 27.—The body of pretty young Agnes Maguire, whose amazing disappearance started all Lake Hopewong Sunday, was found in the water today.

Refusing to believe that his daughter had ended her own life, the father demanded that the authorities conduct the strictest investigation. A cursory examination failed to reveal how the girl had come to her death, but none of the many campers at the resort doubt for an instant that the school teacher was the victim of floods.

The body was found fully half a mile from the spot where stood the luggie in which the young woman was last seen. James Jenson and (Continued on Page Five.)

## PRES. SMALL IS OPTIMISTIC

### Telegraph Companies are in Worse Shape Today

## BUSINESS SUFFERING

In Spite of Continued Statements by Telegraph Companies, Says Small, Average Citizen Finds Different Situation—A Case in Point.

(By Leased Wire to The Times.)

New York, Aug. 27.—President S. J. Small, of the striking telegraphers, carried on an active campaign yesterday from his headquarters at the Astor House. He was in communication with the local officers at Chicago, Washington, St. Louis, Kansas City, Cleveland, Boston, and other centers, and from not one source was there a discouraging report.

In spite of the continued statements of the Western Union and Postal officials that their business was running nearly as well as usual, the average citizen who tries to use the telegraph finds a decidedly different situation. Complaints are pouring in to the union headquarters from business men, who threaten suits against the company for non delivery of telegrams.

A typical case is that of G. W. Jackson, of Perth Amboy. He last Monday evening at 11 p. m. he paid fifty cents for a ten word telegram to Belvidere, Ohio. When he arrived there on Friday, Mr. Jackson says, the message had not been received.

"Prospects were never brighter for a successful issue of the strike," says President Small. "The companies are in worse shape today than they have been at any time since the men walked out."

Superintendent Belvidere Brooks, of the Western Union, said the companies would never treat with the union. Everything entering in the cost of the telegraph service, he said, had increased in price and the ten per cent increase given the operators this spring was as far as the companies would go.

"By the end of the week, unless a settlement is made, the telegraph systems of the country will positively be out of commission, and I assure you that this is no idle boast."

## NAVY DEPARTMENT INVESTIGATES MINE.

Washington, August 27.—Henry Stenffsted, who arrived at New York from Havre yesterday, has reached Washington in response to an invitation from the navy department. Stenffsted is a submarine mining expert and has invented an improved mine which he has submitted to the navy department for sale. He will demonstrate it under the supervision of naval ordnance officers.

## THE OPINION OF PRITCHARD OUT

### Says Injunction Was Not Against State

## WAS IN HIS RIGHTS

In Long Announcement Federal Judge Sets Forth His Reasons for Restraining Corporation Commission and Attorney General—His Opinion.

(By Leased Wire to The Times.)

Asheville, N. C., Aug. 27.—Judge Pritchard in the United States circuit court, in a long expected opinion, announced today in the rate case of the Southern Railway against the corporation commission and the attorney general of North Carolina, upholds the jurisdiction of this court in the issuance of the recent injunction against officials during the railroad rate controversy and declares that the suit is not one against the state within the meaning of the eleventh amendment to the federal constitution. That amendment holds that the judicial power of the United States shall not extend to any suit against a state by citizens of another state.

The decision says that a state legislature cannot so frame an act as to deprive a citizen of a right vested in him by the federal constitution and it does not possess the power "to deprive this court of its jurisdiction and the same those questions are definitely determined the better it will be for all parties concerned."

The decision holds that the corporation commissioners are charged with making rates, the only limitation upon their power being "that they shall not make a maximum rate in North Carolina in excess of 2 1/2 cents per mile. The corporation commission and the attorney general are 'specially charged' with the duty of securing the enforcement of section 4 of the passenger rate act which provides heavy penalties and fines for a failure of railroads and their officials to comply with that act."

All laws in existence on the passage of that act bearing on supervision and control of railroads, etc., are to be construed in connection with the rate act.

"It is inconceivable," the decision says, "that a circuit court of the United States in the premises of its jurisdiction should be powerless to afford a remedy to one who seeks to assert a right which is granted by the constitution of the United States. This is in no sense a suit against the state nor can it be successfully contended that the state is in any way a party in interest insofar as the merits of the controversy are concerned. It cannot be reasonably insisted that this is a suit to prevent the state from enforcing any right which it possesses, nor can it be said to be a suit to compel the performance of an obligation of the state, nor does it in anywise involve a matter in which the state has a pecuniary interest; the parties in interest being complainant on this side and the traveling public on the other."

"Therefore the questions presented are not such as to warrant the assumption that this court is without jurisdiction, and a careful study of the circumstances attending the adoption of the eleventh amendment, as well as the end to be obtained by the adoption of the same, shows conclusively that those who were responsible for its adoption never dreamed that it could be used as a means of depriving an American citizen of a substantial right conferred upon him by the constitution of the United States."

The eleventh amendment being a part of the constitution must be construed so as to give full force and effect to every provision of the instrument of which it forms a part. Any other construction of this amendment would practically nullify that clause of the constitution which provides that no state shall pass any laws impairing the obligations of contracts, as well as the fourteenth amendment."

The opinion shows that the laws of North Carolina especially provide upon what terms an injunction shall be granted to suspend rates, pending litigation or involving the confiscatory nature of such rates; that the statutes of North Carolina expressly authorize the course pursued by the courts when freight rates are involved, but does not even require a bond for such injunction when passenger fares are in litigation.

## CAPERS WANTS T. ROOSEVELT

### Says Southern Republicans Will Insist

## TAFT NOT A FAVORITE

The Commissioner Who Was Once With Bitternilk Charlie Has Got on the Side of the Third-Termers and is There to Stay—What He Says.

(By Leased Wire to The Times.)

Washington, August 27.—"Southern republicans don't take seriously the candidacy of Secretary Taft for the presidency for the nomination in 1908," said Internal Revenue Commissioner Capers, in reply to an inquiry. "The republicans of the south are for Theodore Roosevelt and will insist on his nomination next year."

"In view of the recent activity of the secretary of war and the known fact of his candidacy for the nomination this statement from a southern republican is interesting. It may be said in passing that politicians generally, who keep an ear to the ground declare that everybody knows Commissioner Capers, who hails from South Carolina, was dabbling in Fairbanks' stock when summoned to Washington and given the position he now occupies. Some say he was given the job solely to divert his attention from the Indianian. However that may be, he is now a third-term, out and out, and not only says that southern men of his party will have nobody but Roosevelt at the head of the next national ticket, but adds that "they propose to do something about it."

Mr. Capers does not say just how he proposes to go about compelling President Roosevelt to accept the nomination next time, but he does say that the people of his and other sections can bring enough influence to bear to persuade the president that they and not Mr. Roosevelt should be permitted to act as judge in this matter. And the internal revenue commissioner also is quoted as saying that the party men of the south will not believe that Mr. Roosevelt cannot finally be prevailed upon to accept the nomination. While he does not say that the people don't want Fairbanks, yet the strong Roosevelt sentiment would seem to indicate that the Indianian is pretty nearly in the class of Mr. Taft, so far as the Sunny South is concerned. If Mr. Roosevelt shall refuse absolutely to under any circumstances head the republican ticket in 1908, certainly some other than Taft will receive the endorsement of the southerners of that persuasion.

London, Aug. 27.—Charged with smuggling, Captain Sycamore, who sailed the yacht Shamrock III in the race for the America's cup, has been fined one hundred pounds at Colchester.

## MUTINY 'BOARD THE RALEIGH?

(By Cable to The Times.)  
Honolulu, August 27.—A mutiny spirit prevails among the officers and men of the cruiser Raleigh, now coaling in this port.

It is said that the captain of the Raleigh has refused to give shore leave to officers and men for two months.

Navy Department Hasn't Heard of It. (By Leased Wire to The Times.)  
Washington, August 27.—The navy department denies any knowledge of mutiny or trouble of any kind on the Raleigh.

## ROANOKO WOMAN WEDS ENGLISHMAN.

(By Leased Wire to The Times.)  
Roanoke, Va., August 27.—Mrs. P. L. Kennedy, organist at the Second Presbyterian church, this city, was married yesterday to James A. Finley, of London, England. The marriage was a surprise.