CONGRESS BALKS AT RAILROAD BILL

No Legislation to Pass at This Session, Despite Wilson's Urging

SUPREME COURT ARGUMENT BEGINS

Chairman of Counsel for Roads Opens Attack on Adamson Act

[From The Tribune Bureau]

Washington, Jan. 8.—If it were not for international affairs, which threaten to retain their upstage position for a long time to come, and such supplementary and resulting excitements as leak investigations, the railroad situation would command a large part of first page space. The problem which now confronts the operators and the brotherhoods, with the Administration and the public as very interested third parties, is of the greatest domestic importance.

The argument in behalf of the railroads in the Supreme Court to-day, directed against the constitutionality of the recently enacted Adamson law; the hearings which are now being held by the Senate Committee on Interstate Commerce on the legislative programme favored by the President; the effort in the House to put an end to the investigations looking toward Federal incorporation of interstate transportation companies; the complication arising because of the introduction, with the approval of Mr. Wilson, of a new eight-hour and compulsory arbitration bill; the apparent and undisguised opposition of labor interests generally to anything further in the way of compulsory arbitration and eight-hour legislation—all these things present an interesting spectacle.

No Legislation This Session

The two following statements are based on information which has come to The Tribune from the men most concerned:

No railroad legislation, especially none involving compulsory arbitration, will be passed at this session of Congress.

The life of the Newlands committee, which will require at least a year more in which to gather information on which may be based a recommendation or disapproval of Federal incorporation, will be continued by joint resolution of the Senate and House of Representatives.

Congressional opposition to any of the railroad legislation which was recommended by the President in his special message of December 1 is now expressing itself in the Senate Interstate Commerce Committee, which, it is reported, has refused twice in executive session to report the bills wanted by Mr. Wilson—compulsory arbitration, etc.

In one of the recent visits Mr. Wilson made to the Capitol he learned to his own satisfaction that the Senate was inclined to be slow in reporting the bills which he holds are necessary to complete the programme started by the passage of the Adamson act. He wanted to know what was blocking the legislation. He found out. Within a few days Mr. Adamson introduced in the House the highly remarkable bill making anything more than an eight-hour day illegal on railroads, thus disposing of overtime and making practically the same provisions for compulsory arbitration as now are in the bill before the Senate committee.

Plight of Brotherhoods

The situation as it is seen to exist to-day and the crisis which stirred the country to the depths last August present a laughable contrast. Labor men and the representatives of the brotherhoods who secured governmental interference then to gain an increase in wages under the name of an eight-hour law now find themselves in a cul-de-sac. If they take the eight-hour law the inevitable corollary is some form of compulsory arbitration.

If, following the arguments which were begun to-day, the Supreme Court finds the Adamson law unconstitutional the situation on March 4 will be exactly the same as existed last August. The slate will be clean, for there is to be no additional legislation this session.

If the Adamson law is held constitutional the railroads will have to pay the huge increases in wages called for and the railroad companies will look to the President to make good his implied promise of an authorized increase of freight rates. But unless the Interstate Commerce Commission can be increased, as the President asks, giving him opportunity to appoint two men who believe increased freight rates justified, that implied promise must be forgotten as other implied promises have been forgotten.

Supreme Court Argument

The argument before the Supreme Court was made by Walker D. Hines, general counsel for the Atchison, Topeka & Santa Fe, who is acting chairman of the committee of counsel for the railroads. He contended that the Adamson act is solely a regulation of wages and is not a limitation of the hours of service. If the Adamson act is a limitation upon the hours of service, then by implication it repeals or amends the sixteen-hour law of 1907.

An actual limitation of the hours of service to eight could be accomplished only by a relocation of railroad terminals, he said, or a speeding up of trains. Increasing the speed of freight trains would necessitate a reduction in the trainload. Low freight rates have been effected very largely by heavy train loading. This economy would largely be destroyed if trainloads had to be lightened so that they might be moved at a higher speed.

The chief attack on the constitutionality of the law is directed at the third section, which attempts to increase the wages of a portion of the railroad employes for a period of from seven to eleven months. The railroads argue that this is a violation of the Fifth Amendment to the Constitution because it is an extreme interference with the liberty of contract, an appropriation of property without compensation and legislation for the direct benefit of one class of the community at the direct expense of another class of the community.

MOVIE MAN KILLED BY CAR

Was on Way to Answer Children's Society Charge

Charles Schwarzkopf, sixty-seven years old, of 307 East Fifty-sixth Street, was run over and killed yesterday afternoon by a Second Avenue car in front of his moving picture theatre, at 1034 Second Avenue. He was on his way to court at the time, to answer a charge of admitting minors to the playhouse.

Schwarzkopf was dragged twenty-five feet and pinned beneath the car. Dr. Lambe, summoned from Flower Hospital, crawled under the car to treat Schwarzkopf, but found him dead.

Peter Kozas, of 367 Park Place, Astoria, motorman, arrested, charged with homicide, was arraigned before Coroner Hellenstein and held in $3,000 bail pending an inquest. He was paroled in custody of his counsel until to-day.

A patrolman informed Magistrate Cobb of Schwarzkopf's death, and the charge made against him by agents of the Children's Society was dismissed.

G. L. RIVES QUITS COLUMBIA BOARD

Trustees Vote Him Degree—A. Barton Hepburn to Succeed Him

Columbia's board of trustees announced yesterday the resignation of George L. Rives, chairman of the board since 1903. He has served as a trustee since 1882. On the recommendation of the committee on honors the trustees suspended the rules and the honorary degree of Doctor of Laws was conferred upon Mr. Rives, in recognition of his service.

A. Barton Hepburn, chairman of the board of the Chase National Bank, was chosen to succeed Mr. Rives. He will take his place on the board at once.

Within a few months the construction of the new School of Business will be begun, it was announced yesterday. It was stated by the trustees that high prices for building materials were keeping back the work.

Gifts of $102,830.65 were announced. Of this amount, Mrs. William Douglas Sloane gave $75,000, to be added to the endowment of the Sloane Hospital for Women. The other gifts were:

$15,000 from Mrs. George G. De Witt, to establish the George G. De Witt scholarship in the Law School, in memory of the late George G. De Witt, of the class of 1867.

$6,000 from the estate of the late Alexander Saunders, to establish a scholarship in Columbia College.

$3,000 from the American Road and Machinery Company, for instruction in highway engineering.

$1,450, anonymous, for salaries in the Department of Philosophy.

$1,500 for instruction in practical penal problems from: Adolph Lewisohn, $500; Henry D. Sharpe, $500; George W. Perkins, $250; Mrs. Eldridge M. Fowler, $200, and Herbert Parsons, $50.

$500, anonymous, through the Poetry Society of America, for the best book of poetry, the work of a citizen of the United States, published in 1917.

The trustees appointed Professor Edwin R. A. Seligman, McVickar professor of political economy, acting dean of the graduate faculties during the absence on leave in the spring session of Dean Woodbridge. Miss Anna Woods Ballard was named assistant professor of French in the faculty of practical arts.

SMALL IS GUILTY IN FIRST DEGREE

Continued from page 1

sel for the defence threw out hints that Mrs. Small committed suicide, but at the end, if we have done nothing more than to construct a complete circumstantial case, we have made at least this progress along another line. They no longer denied that murder was committed.

"And if you have watched closely the drama of the trial you have noticed the obvious shrinking of his own counsel from the respondent, have noticed that when he came with a whispered suggestion Mr. Mathews threw him off with a shudder, as if it had been a serpent that touched him."

The Attorney General launched early into a chronological review of the crime. He recalled to the jury that Mrs. Small had last been seen alive at 11:30 o'clock on the morning of September 28, when a tradesman delivered an order; that Small had left the bungalow at 2:30 o'clock the same afternoon, and that Kennett, the liveryman who called to take him to the Boston train, had neither seen Mrs. Small at the window in which her husband asserted she was standing, nor had heard her call a farewell.

"You have seen," he continued, "the poker with which Mrs. Small's skull was crushed, the automatic pistol with which she was shot, and the rope which finally was knotted around her throat. Small's poker, the pistol which he bought two days before the murder, a rope like that with which his motor boat was fitted, the square, practical sailor's knot that Small was in the habit of tying.

"You have heard it admitted for the first time, here to-day, that the kerosene which Small bought the morning of the murder was for use in the house; you have heard of that sinister threat which the respondent coupled with his admission of a former attack on his wife: 'Yes, I hit her on the head with a bootjack. I ought to have killed her, and I will yet.'

"You have heard of an occasion when, after the woman had run their rowboat aground, he raised an oar and would have struck her down save for the interference of the boy, Phil Davis; of another occasion when he kicked her and cried: 'Get into the house. We'll settle that later.'"

Theory of Defence Assailed

Of the "red line" through which the defence sought to prove that Mrs. Small had been alive or only a short time dead when her body fell into the cellar pool, hours after the departure of her husband, Tuttle disposed with savage facetiousness. Against the testimony of the three country practitioners who were the respondent's medical experts he confidently set up the contradiction sworn to by Dr. George B. Magrath, of Boston, one of the leading medico-legal pathologists of the country.

Reporter Casey's story of the front door lock found in the ruins of the bungalow was treated in similar fashion.

The defence in closing had practically abandoned both "red line" and lock as bespeaking Small's innocence. The one seemed already to have been crushed by the weight of Dr. Magrath's testimony and the state had succeeded in establishing that the side door through which the respondent passed from his home for the last time was equipped with a spring lock, which snapped behind him as he left.

"It occurs to me," Tuttle went on, "that Providence directed the search of the ruins to the clews which are in evidence as exhibits and afterward continued to guide the state's investigation of the crime.

"Small had taken every possible precaution to cover himself. He had his reason for asking Kennett to bring the mail down from the postoffice with him, for otherwise it might have been delivered after his departure, and before the fire was timed to start, leading to a discovery of the body.

"And there was his scheming to get Ed Conners away. There were two reasons for that. Conners was the only neighbor left on the deserted shore of Lake Ossipee who would have been likely to call at the house that afternoon. Conners on his way to Boston would be sure to do nothing of the sort, and Mrs. Conners would not have visited Mrs. Small without him as escort.

"Now, Conners was the insurance agent through whom the respondent had taken out the joint insurance policy a short time before. It was he who must certify to the facts which would enable Small to collect $20,000 from the John Hancock Life Insurance Company. Would he not, in more ways than one, be a valuable witness to the alibi?

"You recall that the respondent took to Boston in his grip a complete inventory of his house furnishings. He says he intended to put it in a safe deposit vault in the city; that he had compiled it, not immediately before the fire, but the last fall. In substantiation it is pointed out that it was a $15 stove which figured in the list, whereas Small had replaced it months ago with one that cost him $26. But do you not credit this diabolical mind with the foresight thus to stamp a fictitious date into his inventory?"

Points Made by Defence

William S. Matthews, closing for the defence, had laid great stress on the fact that Small had shopped around before taking out the joint life insurance policy, and that he might have saved $210 on the first year's premium had he taken insurance offering as large a death benefit but lesser ultimate advantages. This, he argued, was proof that the respondent had not contemplated profiting by murder when insuring himself and his wife.

Probably no feature of the defence's summing up was brought out with such emphasis. The other points made by Mr. Matthews were that his client had not had sufficient motive, aside from profit, for the murder, and that his actions after news reached him of his wife's death were those of a man innocent of crime.

"The question of the premium was not an important matter," the Attorney General replied to this argument. "It was a question more than one of $210, of which agent he could 'work' more readily. That agent was Conners.

"Also, when he took out the policy Small had only $5,000 in the bank and no regular income, yet the payment of the first premium took a quarter of his entire capital. I suggest the inference is strong he didn't intend to make many payments."

Mr. Tuttle also asked the jury to consider what other person could have had any interest in the complete destruction of the body, remarking on the fact that a man of the respondent's mechanical bent could have arranged for a timed fire with an apparatus that would not fail once in a hundred trials.

"Shall we say, when we hear that Small wept during all the motor trip over the mountains from Boston, after he had been informed by telephone that his bungalow had burned and his wife was missing, that he was not a man who could have acted a part?" the Attorney General demanded of the jurors.

"Then let us consider the postal card he mailed to his wife from Young's Hotel in the city, dated with the day, hour and even the minute of posting.

"Let us consider that, a broken man supposedly helpless in the hands of friends, he argued with the chauffeur who carried him from the city to Mountain View, and then struck him. Would friends be able to keep an innocent man from going at once that night to search the ruins, a man who did not know positively that his wife had perished? When Small stayed away that night from the lake shore he confessed his knowledge that his wife had been murdered, and with that confession went the admission that he was the murderer.

"He was cunning enough to say that there had been $6,000 worth of diamonds in the bungalow, thus setting up a robbery motive if it were discovered Mrs. Small had been slain, and encouraging treasure seekers to go exploring in the ruins, wiping out in their passage whatever clews might have survived the fire.

Defendant Becomes Nervous

"As to the fire—there is a commercial product which produces a heat about like that of the fiery furnace where the real devils are. Do you suppose this half human offshoot of the infernal family would hesitate to invoke the aid of hell flame?"

Through the first half of the Attorney General's three-hour address to the jury Small had been apparently unmoved. Then nervousness seized him. He rose several times from his chair and went whippity-hopping on his good left foot and his crippled right foot, of which only the toe touches the ground, to whisper suggestions to counsel.

A chill shook him and he drew his overcoat over his shoulders. Finally, unable longer to face the assault unflinchingly, he buried his face in his hands in ostrich-like evasion of the verbal storm.

SOLDIER-FIANCE KILLED, GIRL DIES

Stenographer, 17, Shoots Herself—Youth Was Slain in France

Marion Lewis, seventeen years old, who had brooded since Christmas over the death of a young man on a French battlefield, shot and killed herself last night in her home, at 526 West 158th Street. The young woman's family would not divulge the name of the man for whom she grieved, nor did they explain how she obtained a revolver.

Until eight months ago the couple had seen much of each other, their friends noticed, at dances and outings. The young man was a frequent caller at her home. In the spring he began to talk of the lure of the combat across the Atlantic, and eight months ago he sailed for England, where he enlisted in the British army.

Word came that he had been wounded and his letters stopped. Christmas Day brought news of his death. Blood poisoning had set in. The brief message told little more.

It was a shock that seemed to numb the girl's sensibilities. She went about her duties mechanically, and the news which she announced a few days ago that she had obtained a position with a typewriter concern was delivered with little of the enthusiasm it would have aroused a month before.

She was to begin work as a stenographer yesterday and left her home early in the morning. Her family saw her depart with relief, for they hoped that interest in her new task would dispel her grief.

It was nearly 8 o'clock when she returned to her apartment on the fourth floor of the house. Her brother Julius and her sister Ida were the only members of the family at home. Marion took off her coat and hat and hung them in the hall, and without a word of greeting went to the bathroom.

The door slammed and like an echo came the report of a revolver. Her brother and sister rushed to her side. The bullet had penetrated her right temple. The revolver lay beside her.

SOCIAL REBELLION SHAKES PRINCETON

Continued from page 1

the sophomores classed as "desirable" early in March, but the newly elected men do not become active in the organizations they join until the beginning of their junior year.

Try Where Wilson Failed

It is this powerful system that young Cleveland and his associates have set out to destroy. Woodrow Wilson, when he was president of Princeton, set himself the same task. How well he succeeded may be judged by the fact that all of the clubs which existed in his day still exist, and several more besides. It may be that the son of a former President of the United States can accomplish what the present Chief Executive was unable to accomplish.

Young Cleveland and his associates wasted no words in stating their case to the student body this morning.

"'Making a club' is usually considered the most important event in college life," they say, after announcing they have pledged themselves not to join any clubs. "Not to 'make a club' is considered failure, and a man's success is measured by the prestige of the club to which he belongs.

"There are always some men who are not elected to any club whatsoever. Such men feel that seventeen clubs have carefully searched their class and found them 'undesirable.' The result is a loss of self-respect. Membership in clubs necessitates a much greater per capita expense. As a result, some parents, to gratify the wishes of their sons, make a much greater outlay than they can well afford."

The remedy proposed is that the clubs shall gradually pass out of existence by the under class men's refusal to join them, and that all Princeton undergraduates shall centre their social life about a University Hall.

The revolutionary movement of the sophomores met a quick response from the upper class men. Ten of these, all of them clubmen, will publish to-morrow an open letter to the sophomores admitting that the criticism of the club system is wholly just and offering to coöperate with the under class men in the task they have set out to perform. Among the men who have signed the letter are George W. Perkins, jr., chairman of the Senior Council; A. L. McKaig, editorial chairman of "The Daily Princetonian," and J. S. Nicholas, editor in chief of "The Princetonian."

"I commend the movement heartily," was all President Hibben would say tonight.

CHALONER INSANE, SUPREME COURT OF U. S. DECIDES

Highest Tribunal Refuses to Discharge New York State Guardian of His Property

Washington, Jan. 8.—John Armstrong Chaloner, of Merry Mills, Virginia, by a Supreme Court decision to-day, lost his suit to annul New York proceedings, in which he was declared insane, and which was designed to secure possession, from his lunacy trustee, of property estimated at nearly $3,000,000. The court declined to disturb the insanity proceedings, leaving Chaloner's property in the trustee's hands.

John Armstrong Chaloner is, in his own words, a "geographical lunatic." He has been declared legally insane in New York and legally sane in Virginia and North Carolina. He is a brother of ex-Lieutenant Governor Lewis Stuyvesant Chanler and Sheriff Robert W. Chanler, the former husband of Princess Amelie Rives Troubetzkoy, and great grandson of the first John Jacob Astor. He is best known, perhaps, for his phrase "Who's loony now?" which he asked when his brother Bob and Lina Cavalieri were married.

Chaloner lost control of his big estate when he was committed to the Bloomingdale Asylum by an order of the New York Supreme Court, in 1899. He escaped the next year and went to Virginia, where the courts adjudged him sane. Since that time he has fought a long and unsuccessful battle in the courts to have Thomas T. Sherman discharged as the committee of his person and property in New York State.

The decision of the State Supreme Court was upheld in 1912 by the United States District Court. Chaloner then made an appeal from this decision in the United States Supreme Court. Its decision, handed down to-day, disposes finally of the question.

Ticket Speculator Sentenced

Felix Viccaro, twenty-eight years old, of 137 West 142d Street, was sentenced to five days after a hearing in the West Side court yesterday on a charge of ticket speculating. Detective Cummings testified that he arrested Viccaro in front of the Hippodrome Sunday after Viccaro had offered to sell him tickets.

SOTHERN RESTING QUIETLY; GREATLY REGRETS ILLNESS

"No Shirker," Says Actor—Took Only a Short Walk

E. H. Sothern, ordered home from Chicago, where he was playing for the benefit of the British Red Cross Fund, and commanded to give up the footlights forever, both by Chicago doctors and by Dr. Joseph Bissell, his New York physician, yesterday declared that no mere shirking of duty had led him to give up his work.

"I deeply regret that my illness has forced me to abandon the enterprise and that the members of my company have been left in such a strait in the middle of the season," Mr. Sothern said. "I underwent a serious operation in Chicago, which incapacitated me from playing, and my Chicago doctors advised that I should close the tour. Dr. Bissell has pronounced that I must on no account act again.

"Unfortunately, the newspaper accounts have caused a good deal of misapprehension. Dr. Bissell has been quoted as saying that I was no more ill than I have been at any time during the last twenty years. What Dr. Bissell undoubtedly said was that Mr. Sothern at any time during the last twenty years was liable to the attack that has now overtaken him. It has taken about twenty years to form the stones that now exist in the kidneys."

Mr. Sothern said that he had "crawled a few blocks in the park" upon being ordered to do so by his physician, but had taken no protracted walk. He is resting quietly and being prepared for the operation that there is still a possibility he may have to undergo.

Many of the members of his company, which was playing in Chicago in "If I Were King" when his illness forced the tour to close, were back on Broadway yesterday. Their first anxiety was all for him, and their regrets at the abrupt termination of the play are chiefly occasioned by their sympathy for him. Few actors have ever been so closely in touch with the members of their casts and so much loved by them as Mr. Sothern.

Four Warships Leave New York

The battleships New York and Texas, the cruiser Panther and the tender Yankton left the New York Navy Yard yesterday for Hampton Roads preparatory to Southern manœuvres. They will be joined at Hampton Roads to-morrow by the Pennsylvania and the Wyoming and numerous destroyers and submarines.

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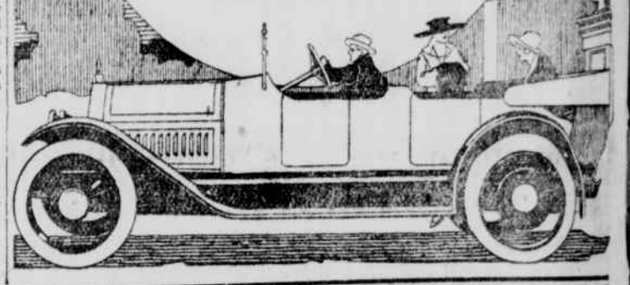

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