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The Lake Cargo Rate Controversy

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EDITORIALS

THE LAKE CARGO RATE CONTROVERSY.—Since the editorial on the Lake Cargo Case was published in the last Quarterly¹ many important developments have taken place. First, in a decision handed down by two circuit judges and one district judge, the Interstate Commerce Commission was enjoined from suspending reduction of rates to lake cargo ports offered by the southern railroads. Following that the northern railroads on the 21st day of May proposed a corresponding reduction of twenty cents a ton to restore the former relationship in rates as it had been established by the last Lake Cargo Case. On June second, the southern railroads applied for a suspension of these reduced rate schedules on the grounds (1) that they were only temporary and were proposed for the purpose of changing the status of the litigation pending appeal; (2) that they favored certain lake cargo ports against others; (3) that they amounted to a rebate to the favored lake cargo shippers,

¹ 34 W. VA. L. QUAR. 272.

and (4) that they should not be published until it was determined that they were reasonable minimum rates.

Before this issue of the Law Quarterly is published it is likely that the Interstate Commerce Commission will have acted. Therefore we wish only to comment upon numerous editorials which have appeared in Pennsylvania papers to the effect that if the decision enjoining the Interstate Commerce Commission from carrying out their order in the last Lake Cargo Case² is sustained, it will nullify the entire purpose of the Interstate Commerce Commission. If we assume that it is desirable that the Interstate Commerce Commission regulate commerce all over the United States thereby deciding the relative economic position of whole communities, this is true. Such power however, in our view, was never intended to be granted to any commission and cannot be held by any commission without making it the storm center of a fight for political privilege. Under the decision the Commission can still protect shippers on the same line from discrimination. It can still prevent one railroad from ruining another by a rate war; it can still prevent railroads from giving away their stockholders' money by charging less than out of pocket costs. Economic advantages of various communities, however, cannot be determined by the Commission but must be left to competition where we believe it belongs.

If the reduction of rates offered by the Pennsylvania railroads to meet this decision are in reality, permanent minimum rates above out of pocket costs, and not merely designed to catch a temporary summer traffic, to the lake cargo region pending appeal they may well come within the scope of a decision of the district court. Under the circumstances it seems probable that they simply attempt to meet a temporary condition caused by this litigation, and are not offered in good faith as permanent competitive rates.

—T. W. ARNOLD.

² *Anchor Coal Co. v. U. S., et al.*, 25 F. (2d) 462 (1928).