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## COURT DECIDES MILITIA MUST SERVE

### Refusal to Take Federal Oath Does not Relieve Guardsmen from U. S. Duty

RULING AFFECTS 40,000 MEN IN N.G.

The United States Circuit Court of Appeals at Boston has ruled that members of the State Militia were still in service for Federal military purposes, notwithstanding their failure to take the oath under the National Defense Act of last June. This decision reverses a recent order of the Federal District Court. The case was considered a test of the application of the new law, on which disposition of similar cases in the other States will depend.

The Court's opinion, from which Judge Putnam dissented, vacated a decree under which Alexander M. Emerson and Alfred P. Lowell, cavalrymen, were released from military custody. These two men with three other militia men obtained their release from the Massachusetts state mobilization camp last August through habeas corpus proceedings in the District Court. Directions were given in each instance that the trooper be returned to the military authorities from whom he was taken. The cases of Emerson, who refused to take the new oath, and of Lowell, who asserted that he had subscribed to it under duress and threat, were considered by the court as one, the same finding being returned in each.

The general question involved, according to the opinion, is whether the National Defense act repeals provisions of the Dick law, authorizing the President to use the organized State militia to repel invasion and suppress insurrections, whether it is left altogether at the option of the members of the State militia to sign a new enlistment contract, and whether, in the event of a refusal to sign, the militia men are mustered out.

"The act of 1916, being one of national defense," the opinion said, "and one for more effectual provisions to that end, the Congress, upon its passage, being under the weight of well-known existing conditions of foreign menace, and in the presence of a recent invasion by an organized military body of armed men from a foreign country, the view is an impossible one that Congress intended to make it optional with the whole or any substantial part of the organized military force of the States to march or not, at will, in furtherance of the duty which they had previously assumed."

The court's interpretation of the statute was "that it keeps out of the National Guard, as distinctively standardized, such members of the militia as do not voluntarily engage for the higher obligations."

Approximately 40,000 National Guardsmen on the border, or nearly one-half of the total force of the State Troops now in the Federal service, are concerned in the ruling of the United States Court of Appeals in the Massachusetts case. Had the lower court been sustained, army legal officers say, it would have been necessary to discharge that number of guardsmen from the service immediately.

### MACHINE GUNS OF 7TH MAKE RECORD AT HARLINGEN

The Machine Gun Company of the 7th N. Y. Inf. have lately returned from their two weeks of practice at Harlingen, Texas. The results of their target work there surpassed their most optimistic expectations, and the work of Captain Gardner's men received high praise and commendation from the regular army officers stationed at the range.

The company was absent from camp for eighteen days, four of which were consumed in hiking to Harlingen and back. On the first night out, the company encamped at Mercedes and reached the range at Harlingen about noon on the second day.

The officers and men in the detachment thoroughly enjoyed the target work and spent the entire two weeks in a profitable fashion.

There were 42 targets on the range. In the firing 23 of these were hit, not once but many times. Some of the targets were completely riddled by the bullets from the machine guns. In the time of firing the boys from the 7th clipped a few seconds off the best time of the regulars whom they opposed on the range and equalled their number of hits.

Private Raprecht, in an unofficial contest, succeeded in completely assembling a machine gun while blindfolded in the remarkable time of 11 minutes, 2 seconds. The next best time made in this competition was 19 minutes, 25 seconds.

If the powers that be elect that they shall continue their sojourn in Texas, the M. G. Company hope that they will return to Harlingen and add further wreaths to their already ample collection of laurels.

### CONCERNING FORGETFULNESS OF CIRCULATION MANAGERS

Will the gentleman who donated 25c to the coffers of The Rattler, expecting to have four copies sent to somebody back home, please make himself known? The money and the address were given to a member of our circulation department at the canteen one evening last week. Our Circulation man lost the address while drinking another bottle of Welch's Grape Juice. (Adv.) He didn't lose the quarter. Communicate with The Rattler Circulation Dept., Mission, Texas.

American shipping engaged in foreign trade has doubled in the last two years, increasing from 2,405 vessels of 1,076,152 gross tons on June 30, 1914, to 3,135 vessels of 2,194,470 gross tons on June 30, 1916. Nearly half of this tonnage is from the port of New York.

### CONCERNING THE STATUS OF THE N. G. U. S.

General McCoskry Butt Declares State Support of Guard Illegal

Brigadier General McCoskry Butt, on the reserve list of the New York National Guard expresses himself in no uncertain terms on the legal status and control of the N.G.U.S. and also prophesies for it a dismal future if the present system of enlistment and federal management continue.

In giving space in this paper to Gen. Butt's views The Rattler wishes it understood that its columns are open to both sides of the question. We feel sure that our readers will be greatly interested in what Gen. Butt has to say whether or not they may agree with him. General Butt says:

"The entire National Guard is now under Federal law. It is ruled from Washington. All men enlisting in it must take the Federal oath and sign the Federal enlistment contract, as prescribed in Sections 70 and 71 of the Defense Act. Officers of the Guard before they can now be commissioned must pass such examination as to moral, physical and professional fitness as the President of the United States shall prescribe. This is laid down in section 75 of the act. Section 61 of the act prescribes that no other troops may be maintained in the state in time of peace except those authorized in the act and these must be of the same organization as that prescribed for the Regular Army. The President under the act may draft the National Guard and send it to any part of the world for an indefinite period.

"That the Federal Government will no longer recognize any strictly state National Guard even in time of need was strictly evidenced by the fact that when the state of New York applied to the War Department for arms and supplies for the depot units this present summer the War Department promptly refused to issue any equipment except to the United States National Guard. If the men of the depot units would enlist for service under the new act and take the Federal oath the War Department would recognize the units, Governor Whitman was told by the War Department. The attempt, therefore, to organize depot units was a failure, and the state was without its armed forces demanded by the constitution of the state.

"The new enlistment term is three years with the colors and three years in the reserve, and it will be practically impossible to find men who will bind themselves for six years in time of peace, especially after the border experience of this year.

"The state of New York has been spending approximately \$3,000,000 per year on its National Guard as a State force, and has \$20,000,000 worth of armories. The city of New York spends annually about \$550,000 on the National Guard within its boundary. Now that the Guard is a Federal force, and its officers and men in time of peace are paid by the Federal Government will the state and city expend this much on the United States National Guard? Will it be legal for them to do so under the state laws and constitution? Will it be legal for the state to pay salaries to certain National Guard officers now that the United States Government is paying them regularly?

"Bear in mind that these are United States courts, but would it be right or legal for states to pay for their support? There are state and city courts, for which the state and cities pay. The state and city can therefore make appropriations for a strictly state military force, but they cannot pay for a United States National Guard; the National Government must foot all the bills for the latter.

"If all the troops in the state were called out for Federal service the state of New York would have no troops to protect it from riot. The Mayor of New York city under the present military law has been shorn of all power to order out troops in the city in case of riot, despite the many thousands of dollars the city annually spends for support of the National Guard. The Governor is now the only state official who can order out the National Guard for any state service.

"Is it any more legal for the United States National Guard to occupy the state and city armories than it would be for the United States courts to occupy state and city buildings and not foot the bills?

"It has already been decided in the Emmons case in the Massachusetts National Guard that there is no longer any state National Guard. In view of this fact it might also be asked how can members of the National Guard in New York be relieved in the future from jury duty when they do not belong to a strictly state National Guard?

"The National Defense Act has been very loosely drawn, and many complications are bound to ensue. Some of its provisions it will be impossible to carry out, and it will not create a dependable force made up of citizens, to be like a Regular Army, as Congressmen for the most part believed.

"The Hay bill has buncoed enough men and killed the state National Guard. No man will enlist in the National Guard of the United States, the only one now recognized by that law, to be liable during three years with the colors and three years with the reserve to be sent beyond the limits of the United States. Patriotism won't keep a starving family! Besides, all this possible misery on his part is in exchange for what? A few misfit clothes and heightened pay for more or less valuable officers. What we require is universal military training with Regular Army officers promoted by elimination. Then every man stands on a democratic footing of universal patriotic loyalty to the land of his birth."

An anxious mother wrote to the chaplain of one of the McAllen regiments to make inquiries about her boy, from whom she had not heard for many months. The Chaplain found the boy in the guardhouse, and then he wrote a letter to the mother, saying: "Do not worry about your boy. He is staying home every night, and is not drinking. His conduct is beyond reproach."

### PERSHING'S CAVALRYMEN RECEIVE VALUABLE TRAINING

No Grass Allowed to Grow Under Horses' Feet While Waiting for Villa.

From Field Headquarters of the American Punitive Expedition to Mexico a correspondent writes to the Boston Transcript that "far from being a period of stagnation for the expeditionary troops, the hiatus during the last few months in the pursuit of Villa has been of almost incalculable benefit to them, particularly to the mounted arm. It has given commanding officers opportunities to handle larger bodies of men under conditions more nearly akin to those of war than have obtained at any time in the last fifty years.

"The maneuvers, which are varied, progressive and in accordance with well defined plans, include such simple exercises as horse training and ascend to solving the warfare problems that involve the handling of brigades. Fire control drills, which in a month's time have increased the effectiveness of Cavalry regiment's fire one hundred per cent., are important factors in the field maneuvers. Pamphlets issued by the School of Musketry Fire at Fort Sill, Okla., have been furnished commanding officers and problems they contain in skeleton form are amplified and worked out. Suggestions for improvement, resulting from actual practice, are being noted. Recommendations by regimental officers are being studied by General J. J. Pershing and his chief of staff, Col. De R. C. Cabell, and those considered worth while are being incorporated in tentative manuals. Realizing that under modern conditions of warfare cavalry does most of its fighting on foot, commanders of that arm of service are giving their troops a great deal of dismounted work, paying particular attention to attack. Every maneuver is made by signal. Save for tramp of hoofs and the leather-softened rattle of equipment troop movements are made silently, not a voice being raised in command.

"Full advantage is being taken of the fact that there are four regiments of Cavalry at headquarters camp, a circumstance without parallel in Army annals for years. All the regiments being used, it is also observed, are being maneuvered at full war strength, as provided under the new Army Reorganization bill. This affords the first opportunity American commanders have had of handling troops of this size in maneuvers. Drilled from six to eight hours a day and performing duties which if not carried out might turn a healthy camp into a dangerous one, the expedition thus far has not stagnated."

Your canteen has the new Rattlers on sale every Wednesday before nine a. m. Send a copy to the folks back home.

## To Business

### Men

Just as a convenience draw a hundred dollars or more from your New York account and open an account here. Talk with Mr. Horn today.

### First State Bank of McAllen

R. E. HORN, Cashier.  
C. R. ZACHRY, Asst. Cashier.  
J. R. GLASSCOCK, Asst. Cash.

## OPALS

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We have papers to prove it's genuine.

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Turkey and everything that goes with it. WHERE? At

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Opposite Hotel and Wells Fargo  
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