

"As a matter of course, all laws, ordinances, and regulations in conflict with the political character, institutions, and constitution of the new government are at once displaced."

When, therefore, the political jurisdiction over the reservation in question was ceded by the state to the United States, the reservation became subject to the laws and regulations of the United States then in force relative to military reservations, as well as to the laws and regulations since enacted or adopted for the government of the posts, forts, and military reservations belonging to the United States; and all laws of the state, civil in nature, must yield, if in conflict with the laws or regulations of the United States. Under the laws of the United States, provision is made for keeping and selling beer and wine, under certain restrictions, at the post exchange kept upon the military reservation at Ft. Robinson. The law of the state imposing a license fee upon persons engaged in the sale of liquors, and providing for the punishment of those who carry on the business without a permit, cannot be held to be in force within the reservation, because it is in conflict with the laws and regulations of the United States, and because it is penal in its nature, and is not, therefore, applicable to a place or territory without the jurisdiction of the state. Unless these conclusions are well founded, we would have presented in this case the curious anomaly of an officer of the United States army being held to account, and sentenced to punishment, for an alleged violation of a state law, when he was required to do the act complained of, by virtue of his assignment to duty as an officer of the post exchange, and in carrying out the regulations lawfully prescribed for the conduct of a post exchange; the exchange being located upon, and the act complained of being done within, the limits of a military reservation over which the exclusive political jurisdiction, save in the matter of executing process and opening and repairing public roads and highways, had been duly ceded by the state to the United States.

To briefly recapitulate the conclusions reached, I hold that by the act of the state legislature approved March 29, 1887, the state of Nebraska ceded to the United States its entire political jurisdiction, which includes judicial and legislative jurisdiction, save in the matter of executing process and opening and repairing roads and highways, over the Ft. Robinson military reservation; that this jurisdiction thus ceded to and accepted by the United States could not be recaptured by the action of the state alone, and therefore the jurisdiction ceded by the act of 1887 was not affected by the action of the state legislature in passing the so-called amendatory act of March 29, 1889; that after the cession of jurisdiction on part of the state, in 1887, justices of the peace acting under the authority of the state of Nebraska ceased to have jurisdiction over the ceded territory in matters of alleged criminal violation of the laws of the state committed on the reservation; that after the cession by the state, and acceptance by the United States, of jurisdiction over the reservation, the statutes of the state regulating the sale of liquors ceased to be in force within the territory

ceded to the United States. From these conclusions it, of necessity, follows that the warrants issued by the justice of the peace of Dawes county, upon which the petitioner was arrested by the sheriff, were so issued without due warrant of law; the informations filed with the justice showing upon their face that the acts complained of had not been done within the jurisdiction of the state, and that they could not be held to be in violation of the statutes of the state. This being so, the petitioner is clearly deprived of his liberty without due warrant of law, and is therefore entitled to be discharged from arrest.

INTERSTATE COMMERCE COMMISSION v. SOUTHERN PAC. CO. et al.
(Circuit Court, D. Colorado. May 12, 1896.)

No. 3,377.

JURISDICTION OF CIRCUIT COURTS — SUITS TO ENFORCE ORDERS OF INTERSTATE COMMERCE COMMISSION.

Where a number of railroads, operated under a common control and management, establish a rate interdicted by an order of the interstate commerce commission, the act of one of the companies in charging freight at such rate in a particular judicial district, to be carried over the various lines, is a violation or disobedience of the order in such district, within the meaning of section 16 of the interstate commerce act, as amended in 1889 (25 Stat. 860), so as to give the circuit court of that district jurisdiction of a suit by the commission to enforce its order against all the companies.

This was a suit by the Interstate Commerce Commission against the Southern Pacific Company and other railroad companies to enforce an order made by the commission in respect to certain rates for transportation of freight.

H. V. Johnson, for complainant.

Wolcott & Vaile, Chas. E. Gast, and H. T. Rogers, for defendants.

HALLETT, District Judge. This is a bill by the interstate commerce commission against the Southern Pacific Company and several other railroad companies to enforce an order of the commission, made November 25, 1895, in a suit of the Colorado Fuel & Iron Company against the said railroad companies. The Southern Pacific Company has filed a plea to the jurisdiction, alleging that it is not an inhabitant of this district, that it is a corporation of the state of Kentucky, and that it has its principal office in the city of San Francisco, in the state of California. Following this there is in the plea this language:

"This defendant further alleges that no violation or disobedience on its part of any order or requirement of the interstate commerce commission, as set forth in the petition herein, or of any order or requirement of said interstate commerce commission, has happened within the said district of Colorado."

The order of the commission relates to charges for transportation between Pueblo, Colo., and San Francisco, Cal., as to which it is