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A remarkable decision of the United States Supreme Court, delivered about a month ago (p. 744), seems to lay down a principle of constitutional law which gives to Congress unsuspected powers over all business done across State lines.

The decision was made in a lottery case. When Congress had legislated against the use of the mails for transacting lottery businesses, and the Supreme Court had sustained this legislation, the managers of lottery concerns resorted to express companies. Congress thereupon legislated against this mode of inter-State transactions in lottery tickets, intending thereby not only to prohibit the use of the mails for such purposes but to suppress the business altogether. It did so in assumed pursuance of its Constitutional power "to regulate commerce .... among the several States."

Regarding this act of Congress as unconstitutional, upon the theory that forbidding the transportation of goods from one State to another by means other than the mails is not regulation but prohibition, lottery agents have disregarded it. The decision under consideration is a result. One of these agents, Champion by name, recently delivered a box of lottery tickets to the Wells Fargo express company in Texas for transportation to California. Upon that fact criminal proceedings were instituted against him in the Federal courts of Texas and his extradition from Chicago, where he was found and arrested, was sought. The Federal courts refusing him a writ of habeas corpus, he carried the question of his extradition to the Supreme Court at Washington, where the decision in question was made. Five judges decided against him, namely, Harlan, Brown, McKenna, White and Holmes. Four dissented—Fuller, Brewer, Shiras and Peckham. The decision of the court was rendered, therefore, by a majority of one.

In delivering this decision Justice Harlan clearly defined the position of the majority of the court as follows:

> We decide nothing more in the present case than that lottery tickets are subjects of traffic among those who choose to sell or buy them; that the carriage of such tickets by independent carriers from one State into another is therefore inter-State commerce; that under its power to regulate commerce among the several States, Congress—subject to the limitations imposed by the Constitution upon the exercise of the powers granted—has plenary authority over such commerce and may prohibit the carriage of such tickets from State to State; and that legislation to that end, and of that character, is not inconsistent with any limitation or restriction imposed upon the exercise of the powers granted to Congress.

It is obvious, then, that the transportation "by independent carriers from one State into another" of anything which is an article of traffic, is subject to the plenary authority of Congress, even to the extent of prohibition, provided there are no express Constitutional limitations upon the exercise of such power in the particular case. In the case of lottery tickets there are no limitations, and their sale across State lines may be absolutely prohibited by the Federal government. How would it be with other articles of traffic?

Newspapers could not be suppressed by Congress, because the first amendment of the Constitution forbids any abridgment of the freedom of the press. Neither could books, for the same reason. And as the free exercise of religion is Constitutionally secured, no inter-State traffic in articles connected with religious worship could be prohibited. Thus far the decision is innocuous. But outside of these narrow limits it would seem that Congress might freely prohibit any kind of inter-State traffic. Either that is true or else the anti-lottery decision in question rests upon no principle at all, but is an application of mere arbitrary legislative and judicial power.

There would seem, for illustration, to be no room to doubt the power of Congress to restrain and criminally punish the shipment from one State into another of beverages of any or every kind. This opens up a wide field for the activity of prohibitionists. At present alcoholic liquors can be shipped even into prohibition States, and so long as the original packages—barrels, kegs or bottles—are unchanged, even the State authorities cannot interfere. But if Congress could be induced to pass a restraining law, these liquors could not only be kept out of prohibition States but also out of all States except those in which their manufacture is allowed. Thus the way is offered for making the prohibition question a national issue.

Neither is there any reasonable cause for doubting the authority of Congress, under this astonishing anti-lottery decision, to restrain the trusts in any one or all the ways that have been proposed, but for which it has until now been supposed that a Constitutional amendment would be necessary. The tobacco trust, for instance, could be legislated into frag-

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ments, by forbidding inter-State commerce in tobacco and cigars, a measure that would probably have the support not only of independent tobacco dealers, but also of that large number of people who regard the use of tobacco as a vice to be suppressed by law. The beef trust, the steel trust, and numberless other trusts might be shackled in the same way.

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These possibilities suggest another—an opportunity for protectionists to carry their doctrine to the logical conclusion to which in some States they have tried by boycotting to carry it without Congressional aid; to the point, that is, of "protecting" the industries of each State against those of the others. If, for example, Congress should forbid inter-State commerce in hams, California would be protected against the cheap hams of Chicago, just as some of her citizens tried a few years ago to protect her by boycotting Chicago hams in the interest of the California product.

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The possibilities of this anti-lottery decision are indeed far-reaching. Well may the Hartford Times ask in connection with it: "How long will it be before Congress will assert absolute power over all the affairs and interests of the people of the United States?" The question is not answered, as some papers try to answer it, with assurances that Congress would not avail itself of an opportunity afforded by the courts to "arbitrarily destroy a great part of the commerce of the nation." Our protection experience affords ample proof of the disposition of Congress to legislate for private and local interests regardless of the commerce of the nation. Should a preponderance of local and private interests conclude that they would be advantaged by the suppression of inter-State traffic in anything, a protection Congress would not be slow to suppress that traffic. The majority of one in the Supreme Court has so amended the Constitution by judicial construction as to put every local business at the mercy of Congressional legislation. Nothing else has done quite as much to obliterate local sovereignty and extend the national authority.

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There is evidently at work in the West an active branch of some literary bureau or other, the especial function of which is to make gullible Democrats in the East believe that Grover Cleveland has recovered his lost popularity to the west of the Alleghenies. A specimen of the work of this inspired bureau of misinformation appeared in the Boston Herald of the 17th, in the form of a "special dispatch" from Chicago which went into ecstasies over the reception it reported the mention of Mr. Cleveland's name to have received at the dinner of the Iroquois club (p. 785) in Chicago, at which Edward M. Shepard was the principal speaker. Read it:

> It was not Mr. Shepard who set off the vocal fireworks, but the exhibit was none the less striking on that account. No sooner was the name out of the mouth of the speaker than the feasters rose in a body, climbed on chairs, threw their napkins into the air and let forth such a series of cheers as has not come from an evening party here in a long time. The sincerity of the demonstration was all the more noticeable when, a minute or two later, the name of Bryan was spoken. Some cheering ensued, but it was not nearly so convincing as that which complimented Mr. Cleveland. Two years ago there would have been a different tale to tell.

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Except for the fact that the names of Mr. Cleveland and Mr. Bryan were decorously cheered, and that there was much more cheering for Cleveland's than for Bryan's, that report is grossly misleading. There was no rising in a body, no climbing on chairs, no extraordinary waving of napkins. Nor was there any demonstration for Cleveland of any kind which would not have been made for him by the same men at any time these six years past. It is safe to say that not one hearty cheer for him came from anybody at that banquet who would not have cheered as heartily in 1896. It is also safe to say that some of the cheers for Bryan came spontaneously from men who in 1896 would have been more inclined to hiss him. The assemblage was a mixed one politically, and as the price of admission was $10, it may be reasonably supposed that Cleveland's admirers were in the majority. In the nature of things Bryan, whose work is chiefly for the expropriated classes of this republic would not be fully represented at a meeting to which the admission fee was considerably more than the average income of a vast majority of the mechanics and farmers of the country for a week's hard work. The preference for Cleveland shown at such a meeting is hardly indicative of a turning of Western sentiment toward that distinguished leader.

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The Boston Herald's dispatch is woefully wicked in its sins of omission. Not only does it neglect to say that the occasion of this mythical uprising for Cleveland was a $10 affair, and to explain that the majority in atendance had been Cleveland men all along, but it withholds the truth about the comparative cheering. Mr. Bryan did not get all the cheers that were left over after the Cleveland demonstration. He came third, not second. The second honors of that occasion were bestowed upon William Randolph Hearst. Next to Cleveland, Mr. Hearst bore off the spectacular honors of the occasion.

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Dr. Parkhurst, of New York, is reported to have assailed "the honor of the army" in his sermon last Sunday—"the honor of the army" being in this instance the chivalrous Gen. Funston. Dr. Parkhurst's sermon was on "Liars," and he unfolded Funston for exhibition as an extraordinarily interesting specimen. "Funston disguised himself and his men in the uniforms worn by Filipinos," said Dr. Parkhurst, "crept upon Aguinaldo stealthily under that guise, tricked him by a forged

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