

Lexington and Eastern Railway Company,

Samuel M. Wilson
C. J. J. J. J.
General Counsel.

Legal Department

Lexington, Ky.

Winchester, Ky.

November 26, 1913.

J. J. Donohue, Esq.,
Chief Law Agent, L & N R R Co.,
Louisville, Ky.

Dear Sir:-

I have just received your favor of the 24th instant, enclosing Mr. Warren's letter of the 25rd, with papers therein referred to, and other papers and briefs which you think may be helpful in handling the case of Noble's Admrx. v. L & N R R Co., pending in the Fayette Circuit Court.

Mr. Warren and Mr. Landrum seem to have reached the conclusion that Noble, when killed, was unquestionably engaged in interstate commerce. You, however, seem to take the opposite view, and I have myself all the time been inclined to the opinion that he was not actually engaged in interstate commerce and that it would be an exceedingly difficult matter for the plaintiff to establish. It is, at best, a very close question, and I heartily concur with you in thinking that we ought to take advantage of every slip that the plaintiff or her attorneys may make in this case. In other words, if the plaintiff attempts to recover under the federal act, as I think she has attempted to do, as the suit is now drawn, I think we ought to require her and her attorneys to meet every requirement under that act. It is doubtless true, as stated in one of your letters, that, if the plaintiff proceed under the state law and, in the course of the trial, it develop that the plaintiff has a cause of