

SOUTH DAKOTA RAILWAY CASE

Judge Garland of United States Court Renders Decision.

SAYS LAW VIOLATES THE CONSTITUTION

Maximum Rates of Charges Fixed by Commissioners Do Not Stand—Would Not Afford Reasonable Compensation.

SIOUX FALLS, S. D., Aug. 9.—(Special Telegram.)—Judge Garland of the United States court late this afternoon filed his decision in the celebrated South Dakota railroad case. His decision is in substance as follows: The schedule of maximum rates of charges for the transportation of freight and passengers adopted, fixed and established by the Board of Railroad Commissioners of South Dakota is held to be in violation of the constitution of the United States, in this, to-wit: That the schedule, if enforced, would operate to take the property of the railroad without just compensation, without due process of law, and would deprive it of the equal protection of the laws.

It is held that the schedule adopted by the railroad commissioners would not afford the railroad companies reasonable compensation for the service performed. The railroad commissioners and their successors, agents, etc., are perpetually enjoined and restrained from putting into effect or attempting or claiming to put into effect the schedule of freight and passenger rates adopted by the board. It is ordered that the schedule of freight rates of the commissioners be taxed, together with its disbursements necessarily incurred.

Judge Garland further decides that when circumstances have changed so that the rates adopted in the schedule shall yield the railroad company reasonable compensation for the service performed the board of Railroad Commissioners can apply to its court by supplemental bill or otherwise for a further order in that behalf. The case has been in the courts since 1897 and was once decided in favor of the commissioners. On appeal to the United States supreme court, however, the case was remanded to the lower court with instructions to appoint a master in chancery to ascertain the railroad companies' earnings, in order to arrive at the equities in the case. This investigation has been going on for some time and a report of the special master was filed last June. It is upon this report that the present decision is based.

Roads Ask for Smaller Assessment. PIERRE, S. D., Aug. 9.—(Special Telegram.)—Representatives of the various roads operating in the state today appeared before the State Board of Assessment and asked for a reduction on the ground of a material increase of new property in the state. There is no increase in the total valuation and to leave the assessment the same as last year would raise their taxes in larger ratio than that of other property. The board considered their statements, but made no material changes, with the exception of adding new mileage. The work of the assessment board will be completed tonight. It is one of the shortest sessions on record. There were none on the board who attempted to play politics and the work was pushed along rapidly.

Boy Drowned While Swimming. YANKTON, S. D., Aug. 9.—(Special.)—Charles Hirsch was drowned in the artificial lake on the Leonard Kleibach farm, near Tripp, recently. A number of boys and young men had entered the water for a swim. Almost immediately young Hirsch was taken with cramps. One of the boys were good swimmers, but none of them hurried to his aid. The drowning boy seized him around the arms and body and both went to the bottom, the would-be rescuer freeing himself with difficulty. This so frightened the others that no further effort was made to save the boy. His body was recovered later in the day in about six feet of water.

Grain Man Makes Assignment. PHILLIPSBURG, Kan., Aug. 9.—(Special.)—Charles Turner, who for years has been manager of the Alliance elevator at Agra, this county, made an assignment yesterday for the benefit of creditors. The elevator is owned by a stock company, the farmers around Agra subscribing for the shares. Turner represented this county in the legislature in 1895-6, and has always been considered a good business man and had the confidence of the people. The creditors have employed an attorney and the matter will be taken into court. It is generally supposed that Turner was plucked on the Board of Trade.

Land Buyers in South Dakota. HOWARD, S. D., Aug. 9.—(Special.)—The rush of land buyers which began a little during harvest, has begun again. Fourteen came Tuesday evening and eight more yesterday. They are from Iowa and northern Illinois. Harvest is over and much of the grain in the stacks. Threshing has just begun. The yield is ranging from six or seven to twenty-five bushels. Crops are generally turning out better than was anticipated.

Reunion at Phillipsburg. PHILLIPSBURG, Kan., Aug. 9.—(Special.)—The annual Phillips county soldiers' reunion, which will be held in this city August 25, 29 and 30, promises to be the best this county has had for years. Such notable speakers as Senators Burton and Harris, Governor Stanley and Department Commander Norton will be present. The reunion will be under the direct management of the Phillipsburg Grand Army of the Republic post.

Miss Finch Appointed Teacher. ABERDEEN, S. D., Aug. 9.—(Special.)—Miss Marjorie Finch of this city has been appointed a teacher in the deafmute school at Sioux Falls. Miss Finch has been a student at Gallade college, Washington, D. C., and was personally recommended for the position by President Gallade.

Ranch Employee Uses Pitchfork. RAWLINS, Wyo., Aug. 9.—(Special.)—Word from Ferris states that two employees of the Chapman ranch quarreled Saturday and one of the men ran the tines of a pitchfork through his antagonist's arm. No arrests have been made.

Inquest Over Willie Nickel. CHEYENNE, Wyo., Aug. 9.—(Special.)—The coroner's inquest over the killing of Willie Nickel at Iron Mountain three weeks ago was resumed this morning behind closed doors at the courthouse. Some very important witnesses are being examined and it is the purpose of the authorities to keep their testimony from the public for a few days, hence no authoritative news can be gleaned.

Black Hills Hopes for New Road. SPEARFISH, S. D., Aug. 9.—(Special.)—It looks much as though the Milwaukee Railway company has its eyes on the reservation between the Black Hills and the Missouri river. R. M. Callahan, general freight agent of the company, residing at Chicago; his son and Manley Nickelson of Kansas City, general stock agent of the company, have arrived in this city, having come overland from Evans, the terminus of the company's road west of Aberdeen. The three men refused to give an interview, but enough was dropped in the conversation to make the Spearfish people believe they are here on business. They were much pleased with the country intervening between this city and Evans as a stock grazing country and thought that there were even greater possibilities when the country settled with smaller stockgrowers. The Milwaukee company has two terminals on the river and it has long been the dream of the Black Hills people that a road will be built across to one of them at least, which would connect the two portions of the state. The coming across the natural line of road from the northernmost terminus to the Hills by the officials of the Milwaukee road, who would have the most to say about the building of such a road, is considered sufficient proof by the people here that the company is actually figuring on the extension of its western line.

WILLIE NICKEL AT IRON MOUNTAIN

Further Effort to Open N Street Under a Change of Conditions.

SEWER IS ALLEGED TO BE A NUISANCE

Numerous Property Owners Are Interested in the Proposition and Have Combined in the Employment of an Attorney.

Another attempt is to be made to open N street to the river. This time there is an entire change of tactics. A local attorney stated yesterday that he had prepared papers which he expects to file with the district court today asking that the city be restrained from using the N street sewer. It is alleged in the petition that the sewer, which empties into a natural stream at Nineteenth and N streets, is a nuisance. To verify this samples of the sewage have been bottled and will be introduced as evidence. The bottles show that the sewer is far from being a good one and that disease is liable to be spread by allowing this sewage to run through portions of the city to the river through a creek.

A number of damage suits are already on file in the district court citing the city to appear and show cause why this nuisance should not be abated and reimburse property owners for losses incurred by reason of their inability to rent houses on account of the open sewer.

At least a dozen property owners have combined in this fight and employed one attorney to push the case. The idea is to compel the city to either comply with the N street sewer to the river, but to open the street as well.

The N street sewer, which extends from Twenty-fourth and N streets to Nineteenth and N streets, was constructed in 1893, the purpose being to combine a storm water and sanitary sewer. A couple of years ago there was a bad washout at Twentieth and N streets and City Engineer Beal recommended that the sewer be extended to Nineteenth street. This was done and for a time there was no complaint, as the overflow from the Curo mineral springs, which had been dammed up, was carried off by the sewer.

The attorney who is attempting to force the city to extend this sewer to the river via the injunction route said yesterday that it would be useless to proceed with the extension until the street is graded. This really is the primary object of the injunction. Time after time attempts have been made to secure signatures of property owners for the grading of N street from Twentieth street east, but complications have always arisen. Some of the property is owned by persons in California, while other tracts abutting are in litigation. When Jack Watkins was secretary of the Commercial club he worked for several months in an endeavor to clear up the titles and secure signatures in the business section. Five blocks were turned, and now the ordinance under which these special taxes were levied are not considered valid. Even since W. C. Lambert has been in charge of the legal department of the city an especial effort has been made to prepare ordinances of this nature. In such a manner that the courts could not find a flaw. The passage of these ordinances has also been looked after with care. It is the intention of the city legal department to carry all such contested special tax cases to the supreme court.

Officials of the city stated yesterday that certain attorneys are writing letters to taxpayers urging that certain taxes, most especially the water tax, be not paid. The ordinance under which these special taxes were levied are not considered valid. Even since W. C. Lambert has been in charge of the legal department of the city an especial effort has been made to prepare ordinances of this nature. In such a manner that the courts could not find a flaw. The passage of these ordinances has also been looked after with care. It is the intention of the city legal department to carry all such contested special tax cases to the supreme court.

Copies of Charter. A month or two ago the public printers at Lincoln promised that the new South Omaha charter could be printed in book form and ready for distribution by August 1. The book is not ready and advice received from Lincoln yesterday are to the effect that there is no telling when the session laws will be given to the public. City officials are anxious to secure a corrected copy of the new charter in order that the same may be printed in pamphlet form for distribution here. It is thought that quite a number of copies of the charter could be sold providing the city placed the price at not more than \$1 this morning it is to be taken up at the next city meeting.

Magic City Gossip. The Street Fair association has commenced suit against a number of delinquent subscribers. Louis Dolezal, son of Frank Dolezal, Twenty-seventh and Q streets is visiting friends at Toledo, Ia. On account of the absence of Dr. Wheeler no preaching will be held at the First Presbyterian church Sunday night. The bridge across Mud creek in Albright at Madison street broke down yesterday under a load of beer. The bridge will be rebuilt by the Union Pacific.

The ferryboat, Castalia, will commence regular trips on Sunday. A road direct to Mansua will be opened and it is expected that there will be no more traffic.

Rev. J. A. Johnson writes to the Bee from Franklin, Ind., that he found his father seriously injured. It is expected by physicians in charge that the crisis will be passed in a day or two. Rev. Johnson will not return, there is a decided change for the better.

Wreck on the Lehigh Road. Black Diamond Express Jumps Track on Account of the Rails Spreading. ROCHESTER, N. Y., Aug. 9.—A special from Leroy, N. Y., says: A bad wreck has been reported on the Lehigh Valley two miles north of Leroy. All the doctors obtainable here have been called. It is reported that the Black Diamond express, the Lehigh's fastest train, jumped the track on account of rails spreading and that many persons were injured.

The last two coaches of the Lehigh Valley flyer, the "Black Diamond," eastbound, jumped the track a short distance west of the station, and after crashing along the ties for ten rods were hurled to one side. The rear coach landed bottom up in the ditch. It is reported that nine persons are seriously injured and many more badly

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9.90

A FINAL CLEAN UP OF Men's Clothing

OUR experience has taught us that nothing is as effective as an extremely low price, when we want to dispose of merchandise quickly. These suits are reduced to nearly half their former selling price, merely because we want them out of the house when the new fall goods come in. If you are clothing wise, you'll appreciate the offerings.

Men's Odd Coats and Vests —worth up to \$10.00—on sale on main floor Saturday at 2.98



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BOSTON STORE J.L. BRANDEIS & SONS 16th and Douglas Sts. Omaha. Your choice of our \$10 & \$12 men's suits 6.90. Figures cannot convey the fact as forcibly as the values are worthy of. It's quite a decrease in price—from \$10.00 and \$12.50 to \$6.90. But we shut our eyes to all losses and feel glad to see 'em go at that price. It cleans up our odd lots, and gives you a big bargain, and that's what we always aim to give you. These suits are made of pure wool fabrics, are well tailored, and fit perfect—on sale Saturday, at 6.90. Your choice of our \$18 & \$20 men's suits 9.90. Of course, if you "don't need the money" as they say, you can let this offer go by. But if \$8 or 10.00 is worth saving, avail yourself of this opportunity. These suits are made of the best fabrics, in a great variety of select patterns, and are finely tailored. The men who paid \$18.00 and \$20.00 for the identical garments two or three months ago, feel that they got their money's worth. You can buy 'em Saturday at just about half. 10c pair for children's white duck and colored linen pants, worth up to 39c a pair, on sale Saturday on 2nd floor.

TO RELIEVE CAR FAMINE

Traffic Officials Representing Ten Roads Hold Council to Devise Means.

KANSAS CITY, Aug. 9.—Operating and traffic officials representing ten railroads met here today to discuss plans looking to a solution of the problem which confronts them because of inadequate terminal facilities to handle the volume of grain and other traffic which is now congesting the local railroad yards.

The Santa Fe, which is the largest grain originator, demands some remedy for existing conditions or it will discontinue receiving grain for shipment to Kansas City except under guaranty of immediate disposition. The Santa Fe had 700 loaded grain cars in its yards today. The average detention this year of cars here is from seven to ten days, while in Chicago the average detention is three days. The roads realize that terminal facilities here have not been increased in proportion to the increase in the volume of traffic. The grain men have tried to better the conditions, but because of the scarcity of cars their efforts have accomplished nothing.

SHORT LINE IS RESTRAINED

San Pedro Road Secures Court's Protection for Long Stretch of Proposed Track.

SALT LAKE CITY, Utah, Aug. 9.—By an injunction granted at Carson City, Nev., today the Oregon Short Line is restrained from interfering in any way with the San Pedro company, the Senator Clark road, on the line in Lincoln county, Nevada. The decision affects about 150 miles of the proposed line between Salt Lake City and Los Angeles and is regarded as a most important decision in the litigation between the Oregon Short Line and the San Pedro road.

No Change on Mexican Roads.

NEW YORK, Aug. 9.—The Evening Post prints the following: One of the controlling interests in the Mexican Central railroad says that the current reports of a purchase of the Mexican International railroad by that company are made out of whole cloth and that there has been no recent change in the status of the National railroad nor in the plans for its development being worked out by the present owners.

Omaha Road Branching Out.

CUMBERLAND, Wis., Aug. 9.—The Chicago & North Western & Omaha road will tap the upper Michigan iron country. It has surveyed a line from here to Rice Lake, where it will connect with the Birch Lake branch, now building. This will be the western terminus for the present. The line will be 125 miles long.

MACARTHUR BIDS TO KANSAS

Intimates Desire to Accept Invitation to Attend Twentieth Reunion at Ottawa.

KANSAS CITY, Aug. 9.—Major General MacArthur may attend the twentieth Kansas reunion at Ottawa, Kan., September 2 to 4. Adna G. Clarke, a lieutenant of the regimental organization, has received a communication from General MacArthur signifying his intention of attending if it is possible for him to do so. Vice President Roosevelt has also been invited to attend the reunion.

MOST OF RANTOUL IS BURNED

Martin House is Only Building Left in Business Portion of Illinois Town.

CHAMPAIGN, Ill., Aug. 9.—The entire business portion of Rantoul was destroyed by fire this afternoon. The Martin house is the only building in the business section that escaped. The fire originated in the grain elevator and soon spread to adjacent business buildings. A steamer was telegraphed for from this city and in forty-five minutes it was operating against the fire. Five blocks were burned. Many of the buildings destroyed had been erected since the fire two years ago. Thirty-six business firms were burned out. Among the buildings destroyed were the postoffice, depot, Masonic temple, new hotel and opera house. Both newspaper offices were destroyed. While much of the contents of the stores was saved the loss will exceed \$100,000. The insurance will fall far short of that amount.

Business Portion of Lime Springs.

GRINNELL, Ia., Aug. 9.—(Special Telegram.)—The business portion of Lime Springs was destroyed by fire this morning. The fire was swept up the principal business street by a strong wind. The loss is estimated at from \$150,000 to \$200,000. The buildings burned are: A. J. Johnson, harness shop; D. B. Dayton, drug store; John S. Sumner, merchant; A. M. Howland, restaurant; Harry Moore, livery; H. P. Anderson, general store; John Ruskak, livery; Elva Duerden, millinery; G. H. Wetter, restaurant; Coleman & Wealth, general store; John G. Love, drug store; Burns, meat market and the telephone exchange.

Elevator at Germania, Iowa.

FORT DODGE, Ia., Aug. 9.—(Special.)—The big Wells elevator at Germania has been burned to the ground, causing heavy loss. The elevator standing between the streets in danger and Germania has no fire department. People of the town topped the railroad tank and by the water secured from this source saved the other elevator. The elevator which was burned contained a carload of cars, 375 bushels of wheat and 200 bushels of corn. The loss was covered by \$2,300 insurance, and the elevator will be rebuilt at once.

Business Section of Mercer, Mo.

PRINCETON, Mo., Aug. 9.—The business section of Mercer, a small town near the lowest state line, was destroyed by fire last night. The buildings burned including the postoffice, a bank and a department store. Only one store was left standing.

WRECK ON THE LEHIGH ROAD

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CLEVELAND, O., Aug. 9.—As a result of the proceedings instituted by Attorney General Sheets to flush up the affairs of the Guarantee Savings and Loan company of this city, the offices of the company were not opened for business this morning.

President A. L. Mix, together with the directors and the attorneys for the company, were in conference throughout the day. It was said that a statement issued by the institution under date of June 15 last showed the total resources to be \$687,835, with liabilities the same.

The institution did a very large business not only in Cleveland, but throughout the state as well. The company, it is said, will take advantage of the law requiring sixty days' notice from depositors. Meantime the deficit will be made good, it is said, and business resumed.

BRITISH OBJECT TO TARIFF

Delay in Signing of Protocol in China Is Due to the English Government.

WASHINGTON, Aug. 9.—The State department makes public the following: A cablegram received from Mr. Rockhill late yesterday reports that the delay in signing the final protocol of agreement between the powers and China is due to objections raised by Great Britain by the international commission for the revision of the tariff. The nature of the British objections is not stated. It also appears that the British government asks the reconsideration of some clauses to which no agreement had been reached, owing to the opposition of several powers.

Curb Broker Subject to Special Tax.

WASHINGTON, Aug. 9.—Commissioner Yerkes of the internal revenue bureau has held that a dealer in "puts," "calls" and "spreads" is subject to special tax and stamp tax under the first clause of paragraph 5, section 8 of the act of March 2, 1901, notwithstanding the fact that his business is not the same that commonly known as "bucket-shop."

No Banks in Nicaragua.

WASHINGTON, Aug. 9.—Nicaragua is left for the present without a single banking institution, through a ruling of the supreme court of Nicaragua that the London bank of Central America, limited, has no legal status in that country, according to a report to the State department from Consul Sorby at San Juan del Norte.

Russians Maneuver in Finland.

COPENHAGEN, Aug. 9.—The Dannebrog today says the Russians are about to hold extensive maneuvers in Finland. Seven Danish vessels have started to transport troops and material from Revel in northern town of Russia on the south side of the gulf of Finland to the scene of the military operations.

Uniform Course for Indians.

WASHINGTON, Aug. 9.—Miss Estelle Reel, national superintendent of national Indian schools, has completed a uniform course of study for the Indian schools. The course treats thirty-one subjects, designed to train the Indian to be self-supporting.

Loan Company Closed Up

Cleveland Firm Forced to Close Its Doors by Attorney General of Ohio.

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SEXINE PILLS

For years this remedy has been the standard nerve restorative. Thousands of happy men owe their newly found strength to its use.

Sexine Pills replace weakness and exhaustion with strength and vigor; the brain becomes clear; the nerves steady and calm; gloomy forebodings are banished and perfect vitality is fully restored.

If you are suffering as above, try a box; you'll be encouraged by its effect to take the full course of six boxes—then if you are not entirely cured, we will refund your money. This satisfactory offer is one of the factors of our success.

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