

JUDGE DUNNY WILL DECIDE

Arguments for an Injunction Against the Maximum Rate Bill Submitted.

DECISION WILL SOON BE REACHED

Galaxy of Railway Stars in Court—Attorney Greene Attacks the Constitutionality of the Bill—Attorney General Hastings Defends It.

Judge Dunny has the Burlington's application for an injunction against the State Board of Transportation now under advisement, the case having been argued and submitted Tuesday afternoon. The arguments were heard in chambers. There were present Attorney General Hastings, Treasurer Bartley and Commissioner Humphrey of the state board, together with Secretary H. Dwyer, the attorney for the defense and its interests, while on the other side were General Manager Holdridge of the B. & M., General Manager George Harris of Chicago, general manager of the Chicago, Burlington & Quincy, C. J. Greene, T. M. Marquette, Hon. J. M. Woolworth and Captain Ed. Martin of Burlington.

As soon as the matter was taken up, Attorney General Hastings moved for a continuance, claiming that he had received notice of the proceeding on Monday night, and that as the maximum rate bill would not go into effect until August 1, and the Board of Transportation did not contemplate immediate action along the lines of the plaintiff seemed to anticipate trouble, there was no need for immediate action.

Mr. Greene contended that the board did not contemplate any immediate action the injunction might as well be granted now as at a subsequent time, and the issuance of a writ would have a certain effect.

The court said he had heard very little about the case, as he had only seen a small part of the bill filed by the defendant. He thought the bill for the new law to go into effect was so near at hand that there was very little time for the attorneys to hear what the attorneys had to say about the granting of the writ.

Mr. Greene had the first inquirer. He outlined the bill setting forth the allegations and the grounds on which it was sought to secure the granting of the writ. The court inquired of the defendant members of the state board were citizens of the state. Mr. Greene thought the allegation that they were state officers was sufficient, but the court reminded him that the state had a governor a short time ago whose citizenship was not so clear as it might have been for quite a while after he had been elected.

Mr. Greene reviews the bill. In reviewing the bill Mr. Greene held that the legislature could not compel a railroad to carry freight for less than cost, as that truly meant confiscation of the property for public use. He also attacked the allegation that the maximum rate bill was unconstitutional because it made exceptions in the rate of the same territory, which runs through much of the same territory as the plaintiff's road, touching the same points, and the bill therefore refused to make an exception in the rate, contrary to the provisions of the constitution of the state and nation. He submitted a table of rates, as narrowed to a number of other states similarly situated as Nebraska, and charged that the reduction called for was fully 30 per cent.

He read from the State Board of Transportation, made in 1891, holding that the rates then in effect were perfectly just and reasonable, and that it was not the duty of the legislature to set forth the injustice that would be worked against the farmers living along the line of the Rock Island, which road, he said, could not be run at a profit without relief from the extortion could be obtained such as was offered by the bill to the other members of the board, other lines of railway. He charged that the bill was an extremely vicious one, in that it discriminated between the railroads and the railroads, and that it discriminated between the citizens living along the lines of the two sets of roads.

Mr. Marquette followed, and declared that it was his right, in his capacity as attorney of the state and the United States, as by its terms the company was deprived of its right in the bill, and that he was not being allowed to judicially introduce evidence as to the reasonableness of its rates. If its provisions were carried into effect, he said, it would be a violation of the constitutional guaranty that no one should be deprived of life, liberty or property without due process of law. Men now employed would be dismissed, and the unemployed men seeking employment would be wonderfully swelled, while all the distress would come that always follows a great wrong.

Attorney General Hastings' Reply. Attorney General Hastings, in behalf of the defendants, insisted that there was no need of an injunction to protect the interests of the plaintiff. He said it was a simple remedy at law, and no irreparable damage could be caused. Even if the board should go ahead and issue the order which the plaintiff alleged it was about to do, it had no way of enforcing that order. Touching on the points raised by the attorney on the other side, he said that the law was constitutional as it was passed by the legislature under the section of the constitution that delegates that authority to the lawmaking body. The legislature had said that the rates prescribed were reasonable, and if the plaintiff should have the benefit of the law, it had the power to raise them to any figure not exceeding what they were on the first of the present year, but this was a tribunal before which that matter should be heard, as that belonged to the supreme court of the state. It was charged that the bill passed by the house was the same as that passed by the senate, and that the one signed by the governor was not the same as either of the others. The authority governing the federal courts was very clearly to the effect that the signatures of the speaker of the house, the president of the senate and the president of the United States, and the proper filing with the secretary of state of any bill in congress made its authentication complete. He did not attempt to argue the constitutionality of the clause exempting other roads, as it was clearly established that it could be thrown out without in any way interfering with the body of the law. So far as the defendant's contention that it was perfectly willing to have that clause thrown out, and make all the roads subject to the provisions of the bill. He understood that the bill was taken on in the senate. He also held that the plaintiffs were not deprived of their day in court, and if they made their case, they would secure an order from the supreme court requiring the board to restore a portion of the rate and the board refused to comply they would promptly seek the writ of habeas corpus and he would expect to suffer.

Latent Under Advisement. Mr. Marquette took another short inquiring, and declared that if it had not been for the exemption clause the bill would never have been passed, as the Short Line had friends in the senate who would never have voted for it unless that road had been exempted from the provisions of the bill. He denied that this clause could be struck out, as it affected some one, although it did not affect any one it might have been struck out. He held that the bill would stand as it was, and he was very much in favor of its falling.

Numerous authorities were cited by each

SHOT AN INDIAN SOLDIER

High Eagle was Flying Low Around Fruit Trees and Was Wounded.

FILLED WITH LEAD BY A FARM HAND

J. H. Vickory, an Employee at Porter Redman's Orchard, Inflicts Punishment that May Prove Fatal—Outbreak of Indian Soldiers Anticipated.

For the sake of purchasing a few apples High Eagle, an Indian soldier, may lose his life. About 2 o'clock yesterday afternoon J. H. Vickory, a farm hand, working on Porter Redman's farm, about one mile west of Fort Omaha, observed three men stealing apples from the orchard about eighty yards from the house. He hastened into the house, saw a double-barreled shotgun, and opened up on the men, fired at random in their direction. Several howls of pain answered the lead report of the gun, and the three men ran down to the road known as Redman avenue. There they stopped and were reinforced by about ten or twelve more Indian soldiers. As soon as they discovered that High Eagle was badly wounded they hurried toward Vickory, who was slowly retreating toward the house.

The threatening aspect of the soldiers alarmed the man so that he started for shelter and safety with all possible speed. When he closed and locked the door the Indians were close at his heels. Vickory was not the only one who has been shot. Indians had circled around the house and were advancing as if to storm the place. They gave vent to their rage with shouts and threatened to destroy the house unless Vickory came out. Several of the Indians had their rifles aimed at the man, and he was slowly retreating toward the house.

Existing special one-way excursion rates each way may be reduced in consequence of the following figures: To and from East St. Louis, \$5.25; St. Louis, \$5.50; Kansas City, Atchison, Leavenworth, St. Joseph, Omaha, \$7.75; Denver, Pueblo and Colorado Springs, \$17.25; Trinidad, \$18.25; from Omaha to Chicago one way, \$7.50 from Chicago to Omaha, \$8.25.

The round-trip rate between Colorado common points and the Missouri river to be \$17.75. The round-trip rate between Trinidad and the Missouri river to be \$22.25. The one-way rate between the same points to be \$12. Single trip rates between Utah common points and the Missouri river to be \$12.50. In basing rates for through continuous passage tickets by association lines and to be tendered to all connecting lines as basing rates, provided the same are in accordance with the minimum proportions to be accepted from connecting lines on single trip business in either direction during the time those tickets are on sale.

Western passenger lines have issued a boycott, ordered today, against the Tennessee, Kentucky and Mississippi river road notice that on and after tomorrow they would discontinue passenger business relations with it to the extent of refusing to issue tickets on their lines or to sell any tickets over the Midland.

An earnest appeal has been sent to the Chicago and North Western transportation association for weekly excursions to Fort Omaha during the World's fair season, for which a one-way rate for the round trip to Chicago and return to Omaha was made last spring, but the Chicago roads then declined because they said the brokers would not sell the low-rate tickets to demoralize the market. They said the Chicago people to pass the anti-scalper law. Now they come and say they have passed the law and again ask the rate.

LEAVES GRANTED AND CHANGES IN POSTS ORDERED BY THE GENERAL COMMANDING. WASHINGTON, July 26.—[Special Telegram to THE BEE.]—Leave of absence for two months to take effect from the date of his report on duty as Indian agent, was granted Captain George L. Brown, Eleventh infantry.

Leave of absence for three months is granted Colonel Henry C. Hodges, assistant quartermaster general. Captain Admon Barrett, military storekeeper, in addition to his present duties, is assigned to the depot of the quartermaster's department, Indiana, take charge of the office and report to the quartermaster general, Colonel Henry C. Hodges, assistant quartermaster general on leave.

Extension of leave of absence granted First Lieutenant Joseph T. Clarke, Fifth artillery, April 21, 1893, is still further extended six months.

Leave of absence for one month, with permission to accept an extension for one month, is granted Lieutenant Colonel James Kline, Ninth infantry.

First Lieutenant Joseph T. Clarke, assistant quartermaster, is transferred from Poplar River, Mont., upon the abandonment of that post, to Fort Omaha, Neb., and reported to the commanding officer of the latter post for duty.

It May Again Become Necessary to Land United States Marines. WASHINGTON, July 26.—[Special Telegram to THE BEE.]—The situation of Managua at Nicaragua, is being closely watched at the State department, and it is not felt that there is any great personal danger, and if he had a formal protest to the revolutionists, as reported, against their disregard of the principles of civilized warfare in firing upon a legation without warning, and endangering the legation building, he has probably done so with a view to making the matter one of the most serious in the history of the United States since the Alliance is now on her way from Corinto to Peru. If it should appear that Mr. Baker's mission and the legation is in danger through the failure of the Zavalta government or of the revolutionists, the United States will probably not be so promptly withdrawn as they were on the other coast.

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FIERY OF A MAD MOB

Denver Citizens Avenge the Cruel Murder of an Old Man.

AWFUL WORK OF THE EXCITED THROTT

Stone Walls, Iron Bars and Armed Guards Fail to Thwart It.

BLOODY AND CRUEL SCENES ENACTED

Fearful Treatment Accorded the Wretched Murderer by the Lynchers.

SHOCKING FEROCITY WAS EXHIBITED

Desperate Struggle When the Fated Man's Cell was Reached—Two of the Mob Shot by the Guards.

GREENWOOD, Ia., July 26.—[Special to THE BEE.]—No evidence of hard times is visible in Greenwood or Mills county. Corn is generally in good condition and fruit promises well.

Hinchman-Merston brick block is approaching completion and will be one of the finest of the new buildings erected this season in the city.

The excavation for the opera house and Old Fellows' hall is practically complete, and the building material is being placed on the site. The structure will be one of the finest buildings in the city.

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IN THE HANDS OF RECEIVERS

Troubles Which Beet the Financial Management of the Erie Railroad.

FOR THE PROTECTION OF ITS CREDITORS

Savage Attacks by a Wall Street Clique on Its Credit Forces the "Old Reliable" to Take the Step—Insolvent Troubles.

New York, July 26.—The Erie Railroad company has gone into the hands of receivers. Judge Lacombe of the United States circuit court named John King and J. G. McCallough. They gave \$200,000 bonds with D. O. Mills and J. Lowber Welch of Philadelphia and sureties. The Erie credit has been savagely attacked on Wall Street of late, owing to the mixed condition of the Erie's financial affairs, and the executive committee adopted resolutions yesterday placing the road in the hands of receivers. This measure was taken purely in the interest of the road and its creditors. Within the last few days the floating debt of the Erie became impossible of renewal, and in order not to sacrifice the best interests of the company it was decided to place the road in receivers' hands.

The decision to put the Erie road into the hands of receivers was the result of a late yesterday, as it was found necessary to prevent the sacrificing of securities. The company's floating debt, about \$6,000,000, is mostly held abroad, but is well secured.

COMPLICATIONS WHICH AFFECTED THE MARKET. New York, July 26.—The market was generally described by the brokers as the banner day. It was expected that the news of the Erie road going into the hands of receiver would cause a downright panic on the exchange, but to the surprise of some there was nothing substantial in the first hour. There was a general decline, as one broker expressed it, but the market recovered, the best fall being in Lake Shore, which sold down from 114 to 109. As the day wore on, the market recovered, and the situation very close to panic. At times the sales of investment stocks proceeded in such volume and with such violence as to send the market into a panic. The market was better before the fall of 1873. London bought for a time, but proved powerless to stem the tide of liquidation. Some of the best stocks on the market broke from 4 to 5 points upward. Lake Shore in particular netting 7 points. New York Central 4 1/2; Manhattan Electric 1/2; Western Union 7. One extraordinary incident was the sale of 1,500 shares of Evansville & Terra Haute, a stock not active on the exchange. The stock was sold for 100 cents, but a bearish broker, and although the price was quoted yesterday at 120 bid, no buyer could be found. The stock was sold at 75, a decline of 56 points in a day, probably unparalleled in the record of the Stock exchange.

STOCKS TOOK A SUDDEN DROP. The market declined and in about midday, after the Erie news, the market was better. The announcement of the failure of H. I. Pacific, 18 per cent; Western Union, 7 1/2; Jersey Central, 9 1/2; St. Paul, 49 1/2; Rock Island, 40; Erie, 109; New York Central, 94 1/2; General Electric, 44 1/2.

THE BEARS HAD IT ENTIRELY THEIR OWN WAY; there was no opposition to their onslaught. The announcement of the failure of H. I. Pacific & Co., particulars of which will be found in another column of this newspaper, added another element of profit to the market. The market was better, and the price was quoted yesterday at 120 bid, no buyer could be found. The stock was sold at 75, a decline of 56 points in a day, probably unparalleled in the record of the Stock exchange.

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