

REDEVELOPMENT CASE DECIDED AT OKLAHOMA.

AS MYERS VIEWS IT
PLAINTIFF IN THE CASE HAS NO
CAUSE OF ACTION.

ALIEN LAND LAW NOT APPLYING

EITHER IN LETTER OR SPIRIT, TO
INCLUDE RAILROADS.

Season of the Law Argued at Length and
Its Application, to Prevent "Land-
lordism," Shown.

Oskaloosa, Kan., Dec. 28.—In the Jef-
ferson county court here this afternoon
Judge Louis Myers handed down a de-
cision in the famous Santa Fe railway re-
development case, holding in favor of the
railway company.

The other questions of law raised by
the attorneys on both sides were not
passed upon, Judge Myers holding that
this point alone was sufficient to end
the litigation. The attorneys for the
plaintiff will take steps in order to carry
the case to the Kansas supreme court on
an appeal.

When court convened there was a no-
table array of officials, both court and rail-
way, present. Attorneys Hite and Henry
Keeler represented the state, and At-
torney A. A. Hurd and ex-Judge Albert
H. Horton, the railway company. Among
the spectators were the following rail-
way officials, who had arrived during
the day on a special train from Chicago:
President C. A. Ripley, General Solicitor
E. D. Kenna, Third Vice-President Paul
Morton and General Manager J. J.
Frey.

Just before court opened the Santa Fe
attorneys, not knowing when the de-
cision would be rendered, filed an amend-
ment to their original answer, in which
they set forth that the property of the
present Santa Fe Railroad company was
the same as formerly owned by the Santa
Fe Railroad company, and that the act
under which the redevelopments were
brought was void because it was re-
pugnant to section 8 of article 1, also
article 6, of the United States constitu-
tion.

Court convened at 3 o'clock and Judge
Myers promptly got down to the busi-
ness at hand. After a few preliminaries
had been disposed of, the reading of the
decision, which proved quite lengthy,
was begun.

JUDGE MYERS' DECISION.
"The pivotal point in the case," says
Judge Myers, "turns on section 3,
whether or not the alien land law applies
to property necessarily used in operat-
ing a railroad."

"The great weight of judicial author-
ity, in this country," continues he,
"has been in favor of the view that the
company necessary for the operation of its
railroad, cannot be seized and sold in
parcels under an execution. The courts
have also held, invariably, that the
alien land law does not apply to prop-
erty that is held in fee and 'lands'
that the same should not be taken to
mean roadbed or right-of-way of a rail-
road company, or other property neces-
sary to its operation."

"The real estate held or acquired by a
public corporation, like that held or
owned by a railroad company, is a spe-
cific of a delegated right of eminent do-
main, and necessary for uses in which
the public is concerned is not, within the
meaning of the law 'real estate.'"

REASON OF THE LAW.
The decision cites several authorities
to uphold its stand, and continuing, says:
"We know from current history that the
mischief primarily sought to be reme-
died by the enactment of chapter 3,
was the prevention of the ownership of
large tracts of land in the state by aliens,
and the establishment in this state of the
oppressive system of landlordism pre-
valent in England and other countries."

"It may be that there is reason for
prohibiting the investment of foreign
capital in the purchase or operation of
railroads in the state, but there seems
to have been no decision of such reasons
in the legislative body of the state, or
newspapers up to the time of the adop-
tion of the act of 1891."

"It is axiomatic that statutes will be
construed in the most beneficial way
when their language will permit the pre-
vention of absurdity, hardship or in-
justice resulting, and, also, that public
convenience and public interest must be
considered. If this statute is in any way
unambiguous or doubtful."

DIDN'T MEAN RAILROADS.
"Considering all of the provisions of the
statute of 1891, in view of the well-known
mischief intended to be remedied there-
by, and especially in view of the expres-
sions of the legislature, it is clear that
the term 'real estate' which would
include the land, and other sections of the
statute, was not intended to embrace a rail-
road or any essential part thereof. The
legislature did not intend to make the
provisions of the statute applicable to
railroads."

"The result follows that the plaintiffs'
petition in this case does not state a
cause of action. The state fails to
provide for a forfeiture of railroads on
account of alien ownership of capital
stock in railway corporations, and no
petition can be formulated under
the provisions of this statute which would
be sufficient to forfeit and sell the prop-
erty of the defendant corporation used
in the operation of its railroad."

"In my opinion, the letter and the
spirit of the statute includes rail-
roads."

PREFERRING TO FORFEIT
President and Cabinet Taking Counsel
Together on Pacific Railroad.

Washington, Dec. 28.—The Evening
Star today says: The president has had
several conferences of late with the ex-
ecutive council, the secretary of the in-
terior and the secretary of the treasury
with a view to speedy action for the
redevelopment of the public lands in the
Pacific states to the government.

It is said to be settled that steps will
shortly be taken for the forfeiture of the
public lands in the Pacific states to the
government. It is also said that the
provision for the settlement of the ques-
tion at its present session.

With the amount already maintained.

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offices, Spain offers to the United States
a sincere desire to see the Cuban ques-
tion settled on a basis of peace and com-
mercial loss which we have sustained on
account of the disturbance. She assures
us that she is now considering a reciprocity
treaty which will deal mainly with
cuban products and which will be framed
on such advantageous terms toward
this government, that our losses, both
in commerce and in the destruction of
American property in Cuba, will be most
generously compensated. Premier
Canovas says Spain cannot, of course,
as a self-respecting and respected na-
tion, stand before the world as making
an agreement with a rebellious subject
state. She has freely granted all she
now offers, and that in the face of a
rebellion. But she accepts the good
will of the United States and offers to
act as a mediator and to guarantee to the
insurgents amnesty and the enforcement of
the new reform law, which she is about
to proclaim in Cuba."

"The form of government offered is
the Spanish statesman declares, the
limit of independence which can be grant-
ed to a province by any nation without
adversely affecting the interests of the
mother country. Autonomy, as
enjoyed by the Canadians, can never be
granted in Cuba."

"What Spain is willing to grant the in-
surgents, if they lay down their arms,
and what she asks the United States to
guarantee, is an act which provides for
the council of administration to control
all matters pertaining to the
commerce of the island and all estimates
upon the general taxation and expendi-
tures of the island, as well as its gen-
eral home government."

GREAT BRITAIN DENIES IT.
London, Dec. 28.—The foreign office
informs the Associated Press that no
communications to any power regarding
the Cuban question have been received
made by Great Britain, and it is added
that no representations, directly or in-
directly, have been made on the subject
to the United States by Great Britain.
If any other powers have done so, the
foreign office is not aware of the fact.

TUNNEL UNDER THE CASCADES
Contract Let for a Big Job on the Great
Northern.

Seattle, Wash., Dec. 28.—H. C. Henry,
the millionaire contractor, has confirm-
ed the contract to build the approaches to
the Great Northern tunnel through the
Cascade mountains, and that men
were immediately set to work to com-
plete the preliminary work. Mr. Henry re-
fused to state the amount of the contract.
The tunnel will be two and a half miles long
and will reduce the altitude of the road
1,600 feet.

IN THE ESTATE OF A. J. DAVIS
Appeal Taken from the Suffolk County
Probate Court.

Boston, Mass., Dec. 28.—An appeal has
been taken from the decree of the probate
court of Suffolk county, which re-
cently authorized Administrators Moore
and Wells to sell the real estate of A. J.
Davis, the multi-millionaire, of Butte,
Mont., to sell 9,000 shares of Butte and
Boston mining stock to W. A. Payne, of
New York, for the purpose of which
certain trusts have been created, and
certain first mortgage bonds of the Butte
and Boston company, amounting to \$170,000.

The appellants are Elizabeth Bowdoin
and Harriet Wood, of Springfield, Erwin
Davis, of New York, and John T. Davis,
of California. This brings the case to
the supreme court of this commonwealth.