

KANSAS VICTORY OVER STATE

Receivers Told to Ignore Order of Henderson Martin.

In an Opinion Handed Down by Judge Marshall.

VIOLATES PRINCIPLES OF LAW

Utilities Commission Has No Right in the Matter.

Is Without Jurisdiction Over Oklahoma Oil Fields.

COMPANY MAKING NO MONEY

Cannot Be Compelled to Spend What It Has.

Cannot Be Forced to Furnish Any Gas, Court Says.

Directors of the Kansas Natural Gas company are directed not to obey the order of the Kansas public utilities commission in an order received today in the Topeka office of the United States district court from Judge John Marshall of Salt Lake City, Utah. Judge Marshall declares that the writ issued by Henderson Martin, as chairman of the utilities commission and directing the gas companies to extend their pipe lines to new gas fields in Oklahoma, is not founded upon sound principles of law.

The Marshall opinion means that the courts and utilities commission cannot compel the gas company receivers to spend all or any portion of the million dollar earnings now on hand in an effort to provide an adequate gas supply for the Oklahoma-Kansas and Missouri consumers next winter. Judge Marshall does not deny in his opinion that ample gas can be secured by an extension of the Kansas Natural pipe lines to new fields distance of from thirty to fifty miles. But the federal judge says there is no law which permits a Kansas utilities commission to compel the receivers to perform a service in another state over which it holds and claims to hold jurisdiction.

Rates Too Low.

Going still further into the controversy, Judge Marshall calls the attention of the public utilities commission to the fact that there is no obligation on the part of the gas company which compels it to furnish gas and certainly none which compels it to invest its investment in an institution which is at present in financial straits and in the hands of a receiver.

The federal court backs up its line of argument by the assertion that a railroad company might be chartered in Kansas and never build one foot of road. But that company would not be liable to the state for failure to build. "This is a fundamental principle of law," says the court, "and I think applies in the present case."

A Flat Refusal.

Judge Marshall's opinion is brief. But it is right to the point. He makes clear the fact that he does not have a high regard for the order of the Kansas utilities commission and both from the standpoint of lack of legal power and failure to produce from the charter anything binding on the gas company to extend its mains and for the still further reason that a Kansas commission cannot make an order affecting operations in another state, the federal judge flatly refused to permit the receivers of the company to obey the mandate issued July 17 by Henderson Martin as chairman of the state commission.

The Marshall decision today follows the action of the state utilities commission, which on July 16, ordered the receivers for the Kansas Natural Gas company to extend its pipe lines to new gas fields in Oklahoma and to prepare to supply ample gas pressure for consumers in the state. Chairman Martin, who wrote the order, gave the gas company just one week in which to comply with the order. Instead of obeying the order, the federal receivers rushed to Salt Lake City, Utah, where they presented the case to Judge Marshall and asked for directions.

pointment of the receivers by Judge Pollock in December 1912, the company shows earnings in the amount of practically a million dollars.

Deception Was Charged.

Morrison further charged that the gas company and its receivers had persistently endeavored to deceive the public as to the real available gas supply in an effort to obtain an increase in rates to consumers. The report stated that new fields opened in Kansas and Oklahoma insured ample gas supply for consumers in all of the towns supplied by the corporation. All that was needed, according to Morrison, was an order directing the gas company to extend its mains to these new fields. That order was issued by the court set aside by the federal court and the receivers—both state and federal—are ordered not to observe its provisions.

Evidence offered at the Salt Lake City hearing was to the effect that the owners of Oklahoma gas fields were willing to pay the cost of extending the pipe lines, practically taking the burden off the shoulders of the public. The opinion in length, but a clear-cut review of the financial troubles of the Kansas Natural Gas company.

Reviewing the Case, the Federal Judge Says in Part:

"The Kansas Natural Gas company is a foreign corporation. It was duly admitted to do business in Kansas. The business it was authorized to do and was in fact engaged in, was the obtaining of supplies of natural gas by purchase from the owners of wells and the transportation of this gas by pipe lines to various cities in Kansas and adjoining states, where it was sold to local public service corporations or to manufacturing plants. It was not a common carrier, but was granted the right of eminent domain, and its business was such as to give the public an interest in it. By reason of its entry into Kansas and the grant to it of the right of eminent domain, it entered into an obligation to the state to the extent of and with respect to its property devoted to this quasi-public service, that it prevented the alienation of that service. The bond holders took their mortgage with notice of this fundamental obligation and subject to it."

State Can Make Rates.

"On foreclosure, the purchaser must buy the property subject to the same duty. The state because of the public interest, has the power to prescribe reasonable rates for gas sold and to secure the efficiency of the grant by reasonable regulations, and it is not to be doubted that a receiver of the property of the corporation must operate it in accordance with valid state laws and regulations. But what are the limits of the duty to the state? There was no specific contract or charter provision, or exclusive right, granted so as to imply a contract to supply gas in any quantity or to build one mile of pipe line that it might fulfill the needs of the people dependent upon it."

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construct new lines and undertake a new and extensive enterprise by a court through the medium of a receiver is one to be exercised with great caution, and only under exceptional circumstances. It is rare indeed that it should be done at the expense of the public.

FIRST GOOD RAIN

Pittsburg Gets Only Heavy Rain of Summer—Is General.

Too Late to Help Corn Much—More Promised.

Pittsburg, Kan., July 24.—A rain totalling eighty-five hundredths of an inch fell here early this morning, the first heavy rain of the summer, except for a slight shower yesterday morning the first precipitation for three weeks. The rain was general over southeastern Kansas, Columbus, Weir, Scammon, McCune, Girard and other points in this section reporting rainfall similar to that in Pittsburg. Much of the corn in this section has been ruined by the drought and the hot winds, but the moisture is of immense value to a considerable acreage. More rain is promised.

Is Raining at Wichita.

Wichita, Kan., July 24.—Rain is falling here today and nearly all other points in the south central part of Kansas are reporting rain. The rainfall in any one place was no more than a half inch up to noon.

DO EXPRESS BUSINESS

Parcels Post for 100 Pound Articles Predicted by Congressman.

Washington, July 24.—Supporting Postmaster General Burleson in his proposed extension of parcel post service Representative Lewis, one of the authors of the parcel post law today declared that the government must take over transportation of all parcels up to 100 pounds.

Representative Lewis contended that under the law the postmaster has complete authority to increase the weight on parcel post business and he assailed the railroads for their support of the express companies in opposing Postmaster General Burleson's order.

Railroad representatives joined in the fight to prevent Postmaster General Burleson from increasing the size of parcel post packages transmissible through the mails and reducing the rates, to become effective August 15. A delegation representing the railroads generally throughout the country laid their complaints before the senators and representatives and prepared to protest formally against the change to the interstate commerce commission.

The movement in the senate itself to forestall the department charges by repealing the section of the parcel post law under which the postmaster general claims the right to regulate rates is being further crystallized when Senator Bryan, of Florida, introduced a joint resolution to repeal the legislation in question. Another development today was the postponement of the explanation demanded by the senate postoffice committee of Postmaster General Burleson of his authority to inaugurate the changes from tomorrow until Friday.

Showers on the Way.

Ideal circus weather was the order today. The Ringling hoo-doo was broken. The day has been cool and pleasant.

There are showers on the way. The wind has shifted to the east and according to the local weather observer, as soon as the circus leaves town the water wagon will be brought out and vegetation given another dose of moisture. The wind is blowing at the rate of 10 miles an hour.

The hourly readings:
7 o'clock.....70 11 o'clock.....76
8 o'clock.....69 12 o'clock.....78
9 o'clock.....70 1 o'clock.....79
10 o'clock.....74 2 o'clock.....79

panies for the carriage of packages, and complained that they would lose from \$15,000,000 to \$20,000,000 a year on business the government would take from the express companies through the reduced rates and increased maximum limit on the sizes of the packages.

It also was pointed out that the roads would receive no compensation from the government for the carrying of the very business for which the express companies had paid them millions. It was urged that in the enactment of the parcel post law congress allowed the railroads 5 per cent additional pay for the increased business placed upon them and that if the proposed changes were to be made the roads would be entitled to a further increase in compensation.

CROPS ARE HELPED

Rain Falls Over Most of Eastern Kansas.

More Is Promised for Tonight or Tomorrow.

Crop prospects were given a boost in the Kaw valley and the southeastern portion of the state late Wednesday when rain fell ranging from a quarter of an inch at some points, to 3.82 inches at Fort Scott. The total precipitation at Topeka was .44 of an inch.

Rain began falling shortly before 2 o'clock at Topeka as reported in Wednesday's issue of the State Journal. It continued until 5:25 o'clock when there was a lull. From 8:15 to 9 o'clock a light rain fell.

With the rain came a dropping of the mercury. Wednesday proved to be the coolest day at Topeka since June 6. The minimum temperature today was 64 degrees recorded at 5 o'clock this morning.

According to "Sunny" Flora, the local weather man, it often happens that precipitation accompanies cool weather which follows a period of drought and he is of the opinion that there is more moisture on the way. The forecast from Washington calls for unsettled weather with probable showers tonight or Friday. "The outlook is encouraging," commented Mr. Flora this morning.

A few light showers are reported from sections of the state other than those mentioned. There was some precipitation in the southwestern portion of the state, but not enough to do the crops much good.

The Santa Fe reports that there was a heavy electrical storm at Arkansas City. The Union Pacific reports moderately heavy showers between Topeka and Junction City. Light showers are reported from Central Branch points.

Showering on the Way.

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MEDIATION TALK

Proposal That United States Act as Mediator in Mexico.

Plan Not Taken Very Seriously but Is Being Discussed.

CONSTITUTIONALISTS OPPOSE

Would Be Placed at Disadvantage Pending Conclusions.

President Wilson Disapproves of Open Discussion Now.

Washington, July 24.—Discussion of the Mexican situation today turned toward proposals that the United States act as a mediator while elections are held and a constitutional government established.

Although such suggestions have at various times been made to President Wilson, Secretary Bryan and members of congress by persons in this country and Mexico, the proposition has never had the stage of serious consideration, because of the insistent attitude of the constitutionalists that they would not entertain mediation under any conditions.

"Who would guarantee an honest election? The only guarantee we have is to take possession of the government by arms and put in a provisional president and hold elections when the country is pacified. Elections with most of the country up in arms would be impossible."

This was the answer of the constitutionalist representatives here today to reports that mediation was about to be undertaken through the offices of the United States.

The constitutionalists profess to see in such a proposal an effort on the part of the Huerta government to secure a suspension of hostilities during which it would take retaliatory measures to suppress the constitutionalists cause. The constitutionalists point out that the same kind of proposals were repeatedly made in the declining days of the Diaz administration.

"I have had many letters," said Senator Bacon as he left the White House, "and there has been much talk among senators about the possibility of mediation, but we recognize that it all depends on the attitude of the factions in Mexico."

"We would have to be invited to mediate; we could not exercise any authority. I don't know how practicable it would be."

"Perhaps the best thing would be if both sides could get together without mediation by any one else and name a provisional president which would be satisfactory to both and hold an election."

pointed out that expressions by senators might arouse bad feeling in Mexico.

Rebels Win Big Victory.

Eagle Pass, July 24.—Official announcement was made today at constitutionalist headquarters in Piedras Negras of the capture of Torreón, Mexico, by constitutionalist. Fifteen hundred prisoners, 20 cannon and large supplies of ammunition fell into their hands, the constitutionalist claim.

SENATOR ANGRY

Cummins, Who Started Lobby Investigation, Makes Denials.

But Mulhall, With Letters to Back Him, Says They Tire Him.

Washington, July 24.—Senator Cummins, author of the resolution under which the senate committee is investigating "the lobby," today added his denial to statements of Martin M. Mulhall, one time lobbyist for the National Association of Manufacturers, to John Kirby, president of the association, Mulhall told of meeting Senator Cummins in May, 1910, and going to the room of the late Senator Dolliver, where they talked about a speech to be made in the house by Rep. Kendall of Iowa. Senator Cummins denied that statement categorically.

"I have no recollection of seeing Mulhall or speaking to him on any subject, but I am not prepared to say that I have not," said Senator Cummins.

"But I am certain that I did not have any conversation with him about the speech Kendall was to make on the eight-hour bill. I am certain I never went into Dolliver's room with him and I am certain that I never had any conversation with him there."

Mulhall leaned forward in the witness chair and shouted, "I'm getting tired of these denials."

"As a matter of fact," observed Senator Cummins, "the room then occupied by Senator Dolliver was a single room. I don't care to cross-examine this witness any further."

Mulhall declared he had no intention of implying that Cummins had done anything wrong and the senator replied he was not making an explanation because he believed in his own integrity in any way, but because he believed Mulhall's statements were incorrect.

Mulhall added that the Manufacturers' Association was opposed to Senator Cummins because he was known to favor an eight-hour bill, and declared that if the committee investigated the association properly it would find that it had "chased Senator Cummins all over Iowa."

Before he got to the Cummins matter, Mulhall told the committee that he, Counsel Emery and others had a "secret room" in the basement of the house side of the capitol where they conferred and made long distance telephone calls. He said that room had been furnished by Representative McDermott, of Illinois. "The committee did not go into the subject in detail."

Island Getting a Shaking.

St. Thomas, D. W. I., July 24.—St. Thomas and the neighboring islands experienced a prolonged and unusually severe earthquake early today. No damage has so far been reported.

Weather Forecast for Kansas.

Unsettled weather with probably showers tonight or Friday.

HOODOO IS BROKEN

Ringling Brothers' Circus Is Greeted by Fine Weather.

Great Crowds Watch the Parade on Topeka Streets.

PREVIOUS EFFORTS OUTDONE

Spectacle of Joan of Arc Opens Tent Program.

The "Big Top" Filled to Capacity by Admiring People.

Circus day, the one big holiday of the summer for the youngsters as well as the grown-ups, dawned today, but turned bright and clear by 8 o'clock. Just about the time of sunrise four long trains brought the thousand wonders of Ringling Brothers' "world's greatest shows" to the city.

The entire aggregation rolled quietly into the city, coming on 86 cars from the Josephine circus arena, which halted Wednesday. The usual quota of excited small boys and quite a number of their fond parents gathered in the railroad yards to watch the big circus unload and move to the circus grounds. A number of the youngsters were accorded the privilege of carrying water for the animals, and in return for their services received a ticket admitting them to one of the performances. In a surprisingly short space of time the city of white tents was erected and everything was ready for the start of the street parade.

The Parade.

The street parade started from the show grounds shortly before noon and was a revelation of color and grandeur. It was by far the longest and most gorgeous procession ever seen in the streets of this city and was composed of the entire aggregation of performers and workmen sat down to a breakfast, consisting of some 250 dozen eggs, 5,000 griddle cakes and 500 pounds of coffee, not to mention a liberal supply of fruit, breakfast food and coffee.

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Every train, trolley and wagon road brought a throng of spectators to the city this morning and long before the parade started, the streets were lined with men, women and children. Immediately after the procession a free aerial exhibition was given on the show grounds and a large proportion of the crowd followed the parade to the grounds. The show is a big sideshow, containing the freaks, was thrown open at an early hour, and a rushing business was done by this institution until time for the doors of the big show to open.

This afternoon's performance began promptly at 2 o'clock and the gigantic "big top" seating more than 12,000 people was crowded with humanity. Opening the program came the elaborate spectacle of Joan of Arc, in which more than 1,250 characters were presented under a circus banner. More than 375 artists appeared in this portion of the entertainment and of these the majority were foreigners making their first appearance in America this season. The riding, aerial and acrobatic numbers were exceptionally clever and unusual, and the fifty funny clowns kept the entire audience in a constant state of good natured uproar.

The circus will give another performance at 8 o'clock this evening and the doors will open an hour before the show starts in order that spectators may have ample time to visit the menagerie.

The circus moves from here to Hutchinson.

TODAY'S GAMES.

Western.
Wichita at Denver, rain.
Topeka at Lincoln, clear.
Sioux City at St. Joe, cloudy.
Omaha at Des Moines, clear.
National.
Chicago at Philadelphia, clear.
Cincinnati at Boston, cloudy.
St. Louis at Brooklyn, postponed, rain.
Pittsburg at New York, postponed, rain.
No games scheduled.
Association.
Milwaukee at Kansas City, cloudy.
St. Paul at Minneapolis, clear.

STREET PARADE BY RINGLING BROTHERS' CIRCUS.

