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TWO-CENT RATE IS NULLIFIED BY SUPREME COURT

MISSOURI'S PASSENGER AND FREIGHT LAWS VOID DECISION MAY SOUND KNELL OF ALL SIMILAR ACTS

Federal Judge McPherson Declares State is Confiscatory and Unconstitutional—Appeal is Threatened

KANSAS CITY, Mo., March 8.—Missouri's 2-cent passenger and freight laws were nullified by a decision handed down here today in the federal district court by Judge McPherson.

As a result it is believed there will be a quiet return in Missouri to 3-cent fares.

Frank Hagerman, counsel for the eighteen companies involved, declares the court's ruling sounds the death knell of the 2-cent rate in every state in the Union.

Judge McPherson held that both the commodity and passenger laws were confiscatory and unconstitutional.

The state, on the other hand, declared emphatically that Missouri's fight for lower rates would continue.

Attorney General Major said an appeal would be taken, and that the present legislature would be asked to pass a new rate law that would stand the tests of court.

Governor's Opinion Governor Hadley made a similar statement at Jefferson City.

"All I can say at this time," said the governor, "is that the decision is not a correct one. It does not end the fight, however. The state will surely appeal to the United States supreme court.

Of course the question is in the hands of the attorney general." Commenting at some length on the decision Governor Hadley said:

"While the decision of Judge McPherson is simply the opinion of one judge it must be accepted as the law until the questions involved are submitted to the United States supreme court.

"The claim that the rates fixed by the freight and passenger laws were unreasonably low and therefore confiscatory was based upon expert testimony as to how the common expenses could be divided between state and interstate traffic.

Denounces Theory "The theory of the railroad experts is that the expenses common to the state and interstate traffic should be divided in proportion to the revenue produced by the two classes of traffic with an added increase of cost for the doing of state business.

"This theory seems to me manifestly wrong and absurd, as its necessary result would be to increase the rates and the greater the revenue produced by the state traffic the larger would be the amount of expenses assigned to the traffic."

Judge McPherson in his decision said: "The question is whether the traffic wholly within the state of Missouri generally referred to in the evidence as local traffic can be carried under the freight rate statute of 1907 and the passenger fare statute of 1907 at such a profit as will give a reasonable return after paying expenses upon the investment, or whether such traffic is carried at a loss or less than such a reasonable profit."

The court has reached the conclusion that upon this question the statutory rates fixed by either and both statutes are not remunerative.

In giving the reasons for such conclusions the decision says: "The unquestioned and undoubted rule is that there is a presumption in favor of the validity of every legislative enactment.

"The railway companies have the burden of removing this presumption and showing that the statute clearly, or as some courts say, palpably, and others say beyond a reasonable doubt, causes the state to be impoverished.

Cites Many Authorities "The authorities upon this question form a long and unbroken line, with the single exception of the majority opinion in the Pennsylvania case decided a year ago. And that one authority is not persuasive.

"All testimony and argument bearing upon the question as to what consideration the legislature of Missouri gave to these enactments is utterly immaterial. Much was said in argument as to the message of Governor Hughes of New York two years ago in declining to approve the 2-cent fare statute of that state. Governor Hughes had the moral courage to veto a measure of popular favor because he believed it to be unjust and that it would be a precedent for legislation and those of a proposed legislature consummated are entirely different.

"Most laymen and many lawyers believe that the question is whether the railway company as a system is earning sufficient revenue upon the value of the property of the system. They believe that if the Burlington, Santa Fe, Wabash or any other railroad system is earning such money as will pay all charges and expenses, including taxes and interest, with reasonable dividends to the stockholders, that state rates for state business must stand. Of course no one believes this who has given the slightest attention to the question. That precise question was before and was decided by Justice Brewer and affirmed by the supreme court in the Nebraska case of Smyth vs. Ames."

SENATE COMMITTEE REPORTS AGAINST TWO-CENT MEASURE TOPEKA, March 8.—The senate committee on railroads submitted today an adverse report on the 2-cent fare bill which had already passed the house.

This came immediately on the receipt of the news of the decision of Judge McPherson holding the Missouri 2-cent fare law unconstitutional.

Governor Stubbs issued an interview in which he said: "My opinion that the legislature of this state should enact a 2-cent fare rate law is not changed by the decision of the Missouri case. I do not believe the court of Missouri had any evidence that the rate in that state was not remunerative or confiscatory."

(Continued on Page Two)

RAT TIES UP TRAFFIC AND PUTS POWER HOUSE OUT OF COMMISSION

SAN FRANCISCO, March 8.—One small, inquisitive rat, demolished the electric wires of this city for a short time, put a powerhouse out of business and left his own body a carbonized connection for 16,000 volts of electricity.

The rat crawled across two of the main wires of the bench powerhouse, which supplies part of the local street car system with power, and when the repair men of the power company investigated the cause of the mysterious shutdown of the place they found only a bit of carbon in the shape of a rat's body.

CATHOLICS TOLD TO ABJURE SOCIALISM

PRIEST SAYS PONTIFF HAS ISSUED WARNING

Member of Polish Church in Wisconsin is Nominated on Ticket of Co-operationists, but Withdraws

[By Associated Press.] MILWAUKEE, March 8.—A special to the Evening Wisconsin from Manitowish, Wis., says:

Members of the Roman Catholic church who are affiliated with the Socialist party must choose between that party and their church.

This was broadly intimated by Rev. Kubiszewsky of St. Mary's Polish Catholic church on Sunday in an address from the pulpit.

The priest said a circular letter from Pope Pius X was the basis for his statement.

The climax was reached here by the nomination by the Socialists of Peter Kaufmann, a member of the Catholic church, for city treasurer.

Kaufmann has withdrawn from the ticket, however, and he is said, will sever his connection with the party.

THE NEWS SUMMARY

FORECAST For Los Angeles and vicinity: Fair Tuesday; brisk north winds. Maximum temperature yesterday, 65 degrees; minimum, 43 degrees.

LOCAL Supporters of Mayor Harper in his campaign to be re-elected in recall election hold club over all city employees in recall.

Clergymen of Methodist Episcopal faith are practically solid for the election of George Alexander, and at a body meeting endorse his candidacy.

Prominent Mexican is subjected to insult and rebuffing by Mayor Harper when he presents petition to police commission asking denials of vice in Sonoma.

Police accuse Martinez of stabbing Guzman, aged Mexican who was injured probably fatally in brawl at international restaurant Sunday, and charge of assault to commit murder.

Probable boy may be of injuries received while attempting to ride bicycle between two street cars.

Attorney Fredericks holds that social clubs outside of incorporated cities do not come within the purview of the decision of the supreme court, which says clubs in Los Angeles need not pay liquor license.

Inspector of Licenses tries to compel social clubs of city to pay a fee for selling liquor to members.

Dr. Wiley, assistant police surgeon, will be heard tonight by civil service commission on charges made against him by son of man who profited by alleged improper diagnosis.

Detective McKenzie made face charges of alleged abuse made by him is said to have been "discontinued."

Slayer of Righetti is held without bail and it is hinted his statute may be his defense.

Boy makes descent in balloon and is drowned probably; body, balloon and parachute have not been found.

Superior court departments are rearranged and regulations for their conduct are effected.

Police capture five members of a supposed gang of thugs who is believed to have been responsible for recent robberies.

Student arrested on charge of having stolen books from public library, where books valued at several hundred dollars have been missing.

Destitute locksmith, tired of struggle for livelihood, ends his life by firing bullet into his head.

Third member of trio of alleged thieves is sentenced to prison because of attempt to abscond.

Wife granted divorce from wandering spouse by the superior court. Decision of Justice Carlson's bank former important issue in the hearing of promotor of institution who acts as his own attorney.

HARPERITES HOLD CLUB OVER ALL CITY EMPLOYEES

OFFICE HOLDERS WARNED TO FIGHT RECALL

THREATS FAIL TO INTIMIDATE SOME WORKMEN

"I Expect to Vote for Alexander and Let Them Do Their Worst," Says One Honest Fellow

"All I want is a square deal."—A. C. Harper.

This is what the city of Los Angeles with 300,000 people asked of A. C. Harper when he was elected mayor. Did the people get a square deal? Harper's record shows.

EXTREMES to which the Harper supporters are driven in their efforts to find votes for the mayor are indicated in the orders which have gone out to all city employees to vote for Harper or suffer the consequences. These have been particularly strong in the street department, now headed by Edward Kern.

Intimidation is the watchword down the line at the city hall. It has failed to work in a number of cases, however.

"I expect to vote for George Alexander as the recall candidate for mayor," said William Maximier of 745 Isbel street, a city employee. "I am employed by the city, and I have been told that I would lose my position if I should vote for Alexander. But I should vote for him, let come what will."

"They are trying to use it as a club over our heads," said another city employee, "but it won't work very fast with a number I know of. The way they act about this shows they want to make a machine and control the city politics purely for political purposes. George Alexander doesn't stand for that I am going to stand for him."

Glum at City Hall "They are feeling pretty glum at the city hall," said another man who draws his wages from the city. "I don't know what they are doing, but few of them know me. I made some inquiries. 'Well, they've got Harper's goat,' says one man, 'but we're doing the best we can.'"

"They are doing the best we can," said another man who is confidentially said the recall looked like a serious proposition.

An instance of the distress evident in the work of the Good Government league, which was organized to stimulate misapprehensions among the voters, was shown in the case of a man who started face the league held a meeting Saturday night at the Log Cabin saloon on Second street, and as a result there will be a "refreshment" at Harper's meeting at Liberty hall tomorrow night at which league officials and the mayor will speak. The meeting is being advertised as under the auspices of the Independent Political club, which ran during the last national campaign as the Standard Republican club and of which Ike Margolis is president.

Margolis was rather loath to act as a chestnut puller because of the ridicule heaped on him in cartoons and articles in a pro-vice newspaper, but he was induced to fall in line, and he is now sending out printed invitations to the meeting signed by him as president of the "club in charge." These printed invitations state that the Wideman "Good Government league" will defend the recall of the mayor and that Harper himself will oppose it, giving the impression of a debate on both sides of the subject. The "good government" organization which is now put up to defend the recall movement is the same organization which in an evening pro-vice paper last week was feeling indignant because "Mayor Harper was being done a rank injustice."

"It has been declared by some," says Ike Margolis as president of the Independent Political club in his circular invitation to attend the "independent debate," "that the recall has been invoked by designing and discredited office seekers who see in the recall a paper in their efforts to make fun of the recall."

The pro-vice paper is getting many hard raps in connection with the recall. Rabbitt in Portland plans to hold services on Saturday evening at 633 Pasadena avenue, tonight. Members of the First Precinct Alexander club have been making a "petition" canvass of one neighborhood to talk about the importance of the meeting and making an effort to get out every voter in Garvanza who is able to attend. While doing this they have been also calling attention to the fact that the pro-vice paper suggested the "chasing of the red light district to Garvanza," and recommending that no patronage be extended to a paper which would slander one of the best populated residence districts in that manner.

George Alexander will be the principal speaker at the First precinct tonight, and the members of the club insisted on this. He was named as the candidate for mayor, Lamar Harper and Dr. P. S. Michelsen will also speak on the recall movement. The First Precinct club has provided special music for the meeting.

Meetings Arranged Other meetings arranged in the interest of the recall campaign are: Thursday evening, March 11—Mason hall, Thirty-third and Main streets. George Alexander and T. L. Woolwine, speakers.

Friday, March 12—Normandie hall, 1430 West Jefferson street. George Alexander and Lorin A. Handley, speakers.

Friday, March 12—East End Alexander club, meeting at Maplewood hall, Ninth and Wilson streets. George Alexander and H. M. Myers, speakers.

Tuesday, March 16—Henderson hall, 2205 1/2 South Union avenue. Judge John D. Works and George Alexander, speakers.

Wednesday, March 17—Edendale hall, (Continued on Page Five)

IS VICE PROTECTED IN LOS ANGELES?—XXVIX

A Reply to the Address to the Public Published by the One Hundred Citizens Who Are Managing Mayor Harper's Campaign

OF THE Respectable, Law-abiding Citizens INCLUDED IN the Committee of One Hundred Who Are Managing Mayor Harper's Campaign:

Gentlemen: The Herald is forced to confess an emotion of surprise occasioned by some of the statements contained in your address to the electors of the City of Los Angeles published in the Times and Examiner of the 7th inst.

The Herald believes the large majority of your number to be good, law-abiding citizens who want to do that which is best for our city, of which every decent citizen within its borders is, and should be, exceedingly proud.

Knowing this, it has been the source of considerable astonishment to find your names appended to an article containing some statements which appear in the address under consideration.

The Herald can only explain that fact on one of two hypotheses—Either you did not carefully read the address before you signed it, or you have been very grossly imposed upon with reference to certain matters touched upon in it.

Inasmuch as The Herald has had more to say against Mayor Harper's administration than all other public journals in Los Angeles combined, and the specific statements of fact made by The Herald have not been denied by the Mayor or any of his friends, and inasmuch, further, as your address states in defense of Mayor Harper that—"When facts were missing, when guilt could not be found, then deliberate slander and malicious falsehood was invoked to smirch the Mayor and to create the belief throughout the country that the City of Los Angeles was a very sinkhole of official corruption and of private vice"—The Herald deems it not only appropriate but necessary that it should give some detailed attention to an address containing such statements.

The Herald does this also for another reason. It is forced to believe that you have been imposed upon by friends of Mayor Harper, because it feels well assured that no such decent, law-abiding citizens as it believes you to be could permit their names to be appended to an article containing such statements as the address referred to does, if you were fully advised of all the facts as The Herald knows those facts to exist.

As to Mayor Harper's appointments to office you say: "As good men were selected as during any previous administration."

Gentlemen, did you ever know of any other Mayor of the City of Los Angeles who dared appoint upon the Police Commission, charged with the enforcement of the criminal ordinances of the city, a professional gambler and habitual frequenter of saloons, such as Samuel Schenck?

Do you not know it to be a fact that when Mr. Schenck's name was announced as an appointee upon the Board of Police Commissioners the sense of decency of every citizen of this city who knew the man's reputation in the community was outraged?

We will later undertake to give you the reasons why Mayor Harper insisted upon making this appointment, knowing as he must have known that his insistence in this matter ought to, and did, cost him the respect and confidence of many of the decent people of the city.

You say: "No official appointed by Mayor Harper has been charged in the courts with crime and malfeasance in office."

Has it come to the point in the City of Los Angeles that the standard of fitness for official position is the fact that a man has not been charged with crime and that all men who have not been charged with crime are deemed fit to hold official positions in this city?

Do you not know that Samuel Schenck was arrested and prosecuted for wrongdoing and illegally using his authority as Police Commissioner to insult a lady on the street and then to have arrested and incarcerated in the city jail two of your fellow citizens of the most unimpeachable standing and reputation in this community?

You also dwell upon the fact that Mayor Harper has been shown to be a fit Mayor for the City of Los Angeles because he was not indicted by the Grand Jury as a result of its investigations, and with great apparent gratification you say:

"His enemies caused him, his administration and every official appointed by him to be subjected to the most exacting scrutiny of a Grand Jury and its experts, and not one indictment was returned—none could be found."

Has the City of Los Angeles sunk so low in the character of citizens with which her offices can be filled that we can afford to adopt as a standard indicating fitness for office the fact that a man has not been indicted by a Grand Jury?

In this connection, do you recall that portion of the Grand Jury report which stated that certain officials had made themselves liable to accusation by the Grand Jury and gave a reason why the Grand Jury did not return such accusation?

That your memories may be refreshed in this matter The Herald quotes from the Grand Jury report which has been referred to in your address with so much apparent satisfaction. This report says:

"WITH THE FACTS AS TO OPEN NEGLECT TO ENFORCE THIS LAW BY THE AUTHORITIES and in its stead to attempt to enforce a set of regulations (which may or may not be an improvement on the law), all before this Grand Jury, WE REFRAIN FROM FINDING AN ACCUSATION AGAINST THE OFFICIALS BY REASON OF THE FACT THAT, DURING OUR SESSION, THE AUTHORITIES ORDERED ALL HOUSES CLOSED UPON THE ADVICE OF THE CITY ATTORNEY, AT THAT TIME SHOWING THEIR POSITION WAS DEFENSELESS."

You should also know that the "set of regulations" referred to by the Grand Jury in that part of their report above quoted were a set of rules or regulations controlling the police force in its dealings with a portion of the city's criminal element which had their origin with the Mayor and his Police Commission and which those officials had substituted as governing the police force in place of the statute law of the state and ordinances of the city applicable to this criminal class.

The Herald finds itself in a position to name the reason why the Mayor attempted to substitute a set of regulations of his own for the laws of the city and state which he had sworn to uphold and enforce, and to this The Herald will take occasion to refer later in the campaign.

In your address you say further: "To the surprise of thousands of the best citizens, a clique within a civic body, called the Municipal League, formulated a program to control the executive department of the city government and caused to be made and circulated a petition for the recall of the Mayor and the election of a successor."

Do you realize the fact that this organization which you call a "clique" is the organization which more than any other gave to this city, against the bitter opposition of the Southern Pacific Machine, now supporting Harper, the charter amendments recently adopted by which the city's great interest in the electric power to be developed by the Owens River Aqueduct and the rights which the city is sure to acquire in the San Pedro Harbor will be fully protected; the election of councilmen at large by the city is provided for, and a primary election system which will go further than anything else possibly could to divorce our city government from the control of party political machines, was made a party of our city's organic law?

Good citizens, as you are, can all of you together point to a service for the city which begins to equal the services above enumerated of this "clique"?

Bear in mind, too, that the meetings of the Municipal League at which action to recall Mayor Harper was agreed upon, were attended by a majority of the members of that League and that more than any other body in the city, probably, the League is composed of men who represent its best interest in every line of business and endeavor upon the banker, the merchant, the manufacturer to the laboring man who depends upon his daily wage for the daily living of himself and family.

The Herald cannot believe that some of you deliberately set your names to an address which refers to that body whose civic patriotism has been demonstrated in a hundred different ways to the benefit of this city as a "clique."

And does it not occur to you that this "clique" must in the recall which is started have been singularly representative of the sentiment of the city when you think for a moment that within little more than a week of working days this same "clique" succeeded in securing the names of nearly 11,000 of the electors of the city to the petition to recall Mayor Harper from the office which he had dishonored and disgraced by using it as a personal asset of his own to forward his own personal, private financial interests, at the financial and moral expense of the city, as The Herald has shown and will show again before it is through with the consideration of your address.

The Herald will tomorrow give some attention to what your address says with reference to the funds contributed to advance the cause of Mayor Harper's recall and other matters relating thereto.

BOY DESCENDS BY PARACHUTE; LOST IN OCEAN

YOUNG AERONAUT AND BALLOON CANNOT BE FOUND

NEARBY TORPEDO BOAT CREWS DO NOT SEE ACCIDENT

Ballooning Was Not Known to Manager of Exhibition, Who Allowed Him to Make Ascent at San Pedro

BLOWN out across the inner harbor a quarter of a mile east of the Gaffey fill at East San Pedro, a youthful aeronaut, Lester Elkins, came down in a parachute yesterday afternoon and disappeared in the ocean before help could reach him.

The balloon ascension was scheduled for Sunday, but owing to a furious wind it was postponed until yesterday afternoon. L. L. Hill, manager of the exhibition, allowed his wife to make her initial ascension two weeks ago, and she narrowly escaped serious injury by coming in contact with the roof of a building when she made her descent.

Yesterday Otto Clancy, a messenger boy of San Pedro, was to have gone up, but Elkins persuaded Manager Hill to permit him to ascend. The balloon was a stranger to Hill, but as he claimed to have been connected for a year or more with the Parker Carnival company of Abilene, Kas., and said he had made many ascents there and was an expert diver and swimmer, Hill allowed him to make the ascent.

The wind blew from the east, and the test balloon which was released came down on dry land, but when the regular ascension was made at 3:30 o'clock from the Gaffey fill, the wind again had shifted.

Many thousands of persons watched the balloon as it rose to a great height and gradually drifted over the water. Hill states the balloon went up at least 5000 feet. When Elkins cut the parachute loose from the balloon it fell immediately, coming down into the ocean beyond the breakwater, near Deadman's island.

Wind Is Too Strong Elkins tried to swing the parachute so as to have it fall on the sand in the Gaffey fill, but owing to the strong wind he was gradually borne out over the sea in the direction of the United States torpedo boat destroyers Whipple and Paul Jones, which were busy at target practice a mile or so beyond.

Anxious spectators lined the bluff here and saw the parachute hit the water. Those who were nearer to East San Pedro make the statement that Elkins dove out from the parachute before it struck the water. Others claim that he swam away, awaiting help, for fully fifteen minutes, and then disappeared.

Manager Hill rushed for the ferry as soon as the tragedy was known. The direction the balloon was taking, and went out with a number of persons on the trestle which marks the east jetty on the Gaffey fill.

Clancy and others procured the launch Emeline and went out through the entrance of the harbor to the scene of the tragedy. Careful search was made but no trace could be found of the parachute or the aeronaut.

Hill was much affected at the mishap to Elkins. He claimed to see the boy as he swam away, but Elkins could have drowned. He said: "I have been in this business for nearly fifteen years, and this is my first accident. I have had from a balloon ascension."

"Personally I have made many ascensions over water, having taken it into the lake at San Pedro, and also into the river. It is difficult for me to realize that Elkins has drowned. I did not know his name. He claimed to be an expert swimmer, as well as a performing balloonist. He either became tangled in the ropes or was seized with a cramp. My only regret is that I did not go myself. I know I would not have drowned."

Launch Passes Scene of Tragedy The launch Virginia from Long Beach passed near the scene of the drowning about ten minutes after the parachute and boy had hit the water, but Captain Napier when interviewed on his arrival at the Fifth street landing said he did not see the man in the parachute nor hear the calls from the men on the trestle, and hence did not go to the rescue. The officers and men on the Whipple failed to see the accident. The tragedy had occurred that the boys in the launch were able to reach the scene, and by that time no traces were to be seen of the aeronaut, parachute or balloon.

From Ed Grant, who works in a restaurant at San Pedro, he told that the youthful aeronaut was learned. Grant claims to be his friend, and stated that Elkins went to San Pedro from San Antonio, Tex., to work in a factory on Lafayette street. He had letters received by Elkins, as well as recommendations, one from J. B. Lippincott, assistant chief engineer of the Los Angeles aqueduct, the other from R. H. Lacy of the Lacy Manufacturing company, stating that Elkins was a good chauffeur.

Grant said he did not know he had had any experience as an aeronaut. A search for the balloon will be made today, and a lookout kept for the body of Elkins.

FOUND DEAD IN DOORWAY AFTER ALLEGED ROBBERY

CHICAGO, March 8.—Hugh Hopkins, son of J. J. Hopkins, superintendent of stations of the South Side Elevated railroad, was found dead early today in a doorway after John Latta, a bartender, had reported to the police by telephone that he had exchanged shots with a holdup man in a south side saloon.

Latta is detained by the authorities pending an investigation of his story. He says that Hopkins pounded on the door of the saloon after closing hours, and when the door was opened drew a revolver and fired.

Latta returned the fire and Hopkins fled. His body was found a block from the scene of the shooting.

Dustin Farnum to Wed CHICAGO, March 8.—Dustin Farnum, the actor, it was learned today, has taken out a license here to marry his leading lady, Miss Mary B. Conwell of Cadiz, Ohio.