

\$700,000,000 CASE WHEN BY RAILROADS

Rich Oil Lands in California Remain With Lines, Rules Highest Supreme Court.

GOVERNMENT IS TOO LATE

Decision in Test Action Brought by Edmund Burke Against Southern Pacific Railroad Company Time for Suit Elapsed.

WASHINGTON, June 22.—Title of transcontinental railroads to some \$700,000,000 worth of petroleum land as against other private claimants was upheld today by the Supreme Court in a test suit brought by Edmund Burke, of California, against the Southern Pacific Railroad Company.

At the same time Justice Van Devanter, for the court, stated that seemingly the Government's right to attack the railroad's title for fraud or error had expired in 1900 or 1901. It was made plain, however, that the rights of the Government were not involved in the case before the court and there was no mention of the recent suit brought by the Government against the Southern Pacific to regain the very lands in question. Government officials, after the decision, stated they would continue to press the suit.

Since the Government began to grant lands to transcontinental railroads in 1866 every patent issued to the roads has contained a reservation or exception to the effect that lands in the patent found later to be mineral lands should not pass to the railroads. Such a reservation was contained in the patents issued to the Southern Pacific for California lands in later years found to be rich with gushing oil wells. Burke asserted the land did not pass to the railroad and sought to inherit as mineral lands.

The court held that the Land Office officials could not perform their duty imposed upon them by Congress not patenting mineral lands by merely inserting the reservation or exception. It held the officials were bound to determine whether the lands were mineral before issuing the patent and that the patents were binding unless procured by fraud or error.

Justice Van Devanter stated that the patents were issued in 1894 and apparently the Government had not proceeded to set up any claim of fraud in obtaining them before that time, although the railroads had presented affidavits that the lands were not mineral. Therefore, he added, seemingly, the right to make the attack had expired in 1900 or 1901.

Patent Issued in 1894. The Government issued a patent in 1894 to the Southern Pacific in aid of its construction of a transcontinental line. Patents were issued likewise to the Northern Pacific and other lines traversing the plains and the Rockies to the coast. Each patent contained an exception and reservation reading as follows:

"Excluding and excepting all mineral lands should any such be found in the tracts aforesaid, but this exclusion and exception, according to the terms of the statute, shall not be construed to include coal and iron lands."

For years a fierce controversy has been waged as to the effect of the discovery of oil. The railroads contended that all lands under the patents were oil lands, and that there were no other lands not excepted from the grant. Furthermore, the railroads contended that the exception was void under the law governing realty.

The Government took the position that it could show at any time, even after the issuance of the patent, that the lands were oil in nature, and thus prevent their remaining in the hands of the railroads.

COURT INJUNCTION DENIED

Treasury Head Not Restrained From Granting Cuban Sugar Differential.

WASHINGTON, June 22.—The Supreme Court declines to issue an injunction restraining the Treasury Department from granting Cuban sugar the 20 per cent differential provided by treaty. In addition to the new reduced rates of the tariff law.

The merits of the case, brought by the State of Louisiana, were not passed upon, however, and action in the Customs Court was not precluded by the decision.

BIG ERUPTION POSSIBLE

Scientists Say Lassen Should Be Watched for Danger Signs.

REDDING, Cal., June 22.—Mount Lassen is not a geyser. Its action, since first it broke into eruption on May 30, has been decidedly volcanic. This was the declaration today of J. S. Diller, a Government expert, and considered the foremost authority on the Lassen quadrangle.

DUCHESS OF MANCHESTER'S FATHER AND WOMAN WHO IS SUING HIM FOR \$100,000 HEART BALM.



DUKE'S BACKER SUED

Heart Balm Asked of Duchess of Manchester's Father.

\$100,000 SUM REQUESTED

Miss Icy Wareham, Dog Fancier Whose Kennels Are Famous, Alleges Railroad Capitalist Was "Gay Lothario."

NEW YORK, June 18.—Eugene Zimmerman, the Cincinnati railroad capitalist, better known as the father of the Duchess of Manchester and the financial "angel" of the Duke himself, has come face to face with new experiences, involving for the time being \$100,000. It is a heart balm suit brought by Miss Icy Wareham, who in the complaint just filed here declares Mr. Zimmerman promised to marry her last December, but that he has procrastinated and procrastinated beyond the limit of her endurance. She maintains in her complaint that she has repeatedly asked her one-time suitor to fulfill his contract but that he has from time to time put her off.

NOVEL FLIGHT DESCRIBED

(Continued From First Page.) which almost swallowed up the little gunboat, a fire broke out in the coal bunkers while we were trying to keep the vessel up to the wind, and in doing so were headed straight for China and the open China sea.

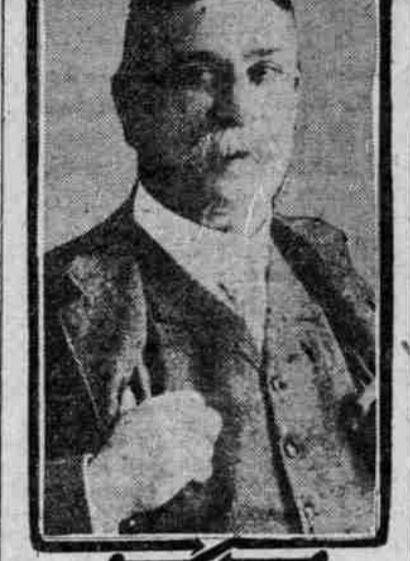
MUSTIN COMMANDS BATTLESHIP

He is now a lieutenant commander, but being in command of a ship, is entitled to be called "captain."

Of course I wanted to make a flight in one of the naval aeroplanes, and the captain was kind enough to give me permission to do so. There are three flying boats and two pontoon flyers in the camp, and the corps of aviators consists of seven men. Mustin, Bellinger, Tower, Cheater and Smith are experienced flyers.

PACE IS 100 MILES AN HOUR.

I am quite certain that I could not sit with my feet hanging over the edge of the machine, and that I could not undergo the most sickening quills, yet in flying at great heights with one's feet hanging over nothing, there is no effect of nausea or dizziness. Perhaps the most interesting part of the flight was the movement forward and the rush of wind counteracting the dizziness that one has when looking down from a stationary height.



Miss Icy Wareham and Eugene Zimmerman.

to sea again. When we passed over the battleship fleet on this second trip we were flying at a little over 1000 feet height and the ships looked small below us. The great New York, Wyoming and Arkansas loomed up their staggering mightiness, and the tops of the Wyoming's basket masts, which seem high when one is up in them, looked insignificantly low.

GIRL, 15, ACCUSES AUNT

MRS. DOLLIE McDERMOTT ON TRIAL UNDER MANN ACT.

Niece of 21-Year-Old Woman Was Taken From San Francisco to Boise, Idaho, for Illegal Traffic.

SAN FRANCISCO, June 22.—(Special.)—The trial of Mrs. Dollie McDermott for a violation of the Mann act in transporting Blossom Ferguson, her 15-year-old niece, from this city to Boise, Idaho, was begun today before a jury in Federal Judge Dooling's court. The Ferguson girl told of being met on the street by her aunt as she was on the way to school in January last and going first to Boise and later to Bingham, Utah. It was not until reaching the latter place that she entered upon an illegal life.

WILSON ASKS SQUARE DEAL

Campaign Against Legislation Artificially President Says.

WASHINGTON, June 22.—Discussing the so-called "psychological" business depression with callers today, President Wilson said he had no quarrel with any persons or corporations who desired to express either to him or to Congress their own opinions on business conditions and anti-trust legislation, but he contended that systematic circulation of form letters and telegrams protesting against new legislation was open to criticism.

Harvard Prodigy Gets Degree.

CAMBRIDGE, Mass., June 22.—The youngest student ever graduated from Harvard will be William James Sidle, 16, when he receives his degree this week. He completed the work last year, but was declared too young to receive a degree.

Buenos Ayres Has 1,560,163.

BUENOS AYRES, Argentina, June 22.—Figures of the census of the city of Buenos Ayres, recently taken, show the number of inhabitants to be 1,560,163. In 1910 the total was 821,391. General Gregorio Velez, Argentine Minister of War, resigned his portfolio today.

PIPELINE CASE LOST BY STANDARD OIL

Supreme Court Upholds Hepburn Amendment and Government Contention.

TWO JUSTICES DISSENT

Ruling Holds Lines Common Carriers Subject to Interstate Commerce Regulation—One Independent Company Excepted.

WASHINGTON, June 22.—Standard Oil lost its vigorously waged fight against Government regulation of its pipelines today when the Supreme Court upheld the validity of the amendment to the Hepburn rate law, which placed oil pipelines across state lines common carriers subject to the authority of the Interstate Commerce Commission.

The court exempted from the operation of the act the Uncle Sam Oil Company, an independent. Chief Justice White and Justice McKenna dissented from this action.

Justice McKenna also vigorously attacked the constitutionality of the act. Justice Holmes pointed out in announcing the majority's conclusion, that the act was passed to relieve the country from monopoly of the Standard Oil Company, and the mere fact that the Standard's pipelines owned all the oil it transported did not take it out of the class of common carriers. He explained that in effect the Standard was carrying the oil of other producers, even if it did force them, as a condition of the transportation, to sell the oil to it. Congress, the court declared, had the power to make corporations that were common carriers in fact become so in form.

Exemption Is Explained. As to the Uncle Sam Company, Justice McKenna held, had done nothing outside of the exercise of the rights which all property owners possessed—namely, to use their own property exclusively for themselves.

Inquiry Ends in Amendment. The pipeline amendment to the Hepburn rate law of 1906 was the result of investigation by the Bureau of Corporations into the affairs of the Standard Oil Company. When the Bureau reported adversely, it urged Congress to amend the rate law, then before Congress, so as to place pipelines under the regulation of the Interstate Commerce Commission.

Commerce Court Denied. The six hostile companies applied to the Commerce Court and it enjoined the enforcement of the order, on the ground that the amendment was unconstitutional. The court held that there was not the real and substantial relation between the avowed objects of the legislation and the means devised for attaining those objects to make the law constitutional.

Before the Supreme Court, the Government took square issue with the Commerce court, and the relation of the objects and the means used. The Government insisted that the object of the legislation was to make it impossible to organize another oil monopoly, such as had been struck down by the court in the Standard Oil decision in 1911. It contended that monopoly of pipelines was the root of total monopoly in the oil business.

DECISION'S EFFECT IS SHOWN

Opposing Attorneys View Ruling and Relation to Future Steps.

SAN FRANCISCO, June 22.—In a statement on the Supreme Court's oil land decision, issued tonight, C. R. Lewers, the Southern Pacific Company's counsel, who has handled the railroad side of the various land cases, said: "The practical effect of the decision is this: 'A patent to a railroad company is a declaration by the Government that the lands described in the patent are non-mineral and this declaration cannot be questioned by any one except the Government, even though the minerals were known to exist in the land at the date of the patent.'

"The Government may bring suit to conceal such a patent for fraud or error in its issuance, provided this suit be brought within the period fixed by the statute of limitations. If the statute of limitations has expired, as it has in the present case, the title of the railroad company is unassailable."

"The Government may perhaps now raise the contention that the statute of limitations did not run, because the lands were obtained by fraud and because this fraud was concealed until recently. It is impossible to prove that the lands were obtained by fraud, because at the time they were patented, it was not dreamed that oil could be found in them. In short, there was no fraud and there was no concealment."

KRYPTOK FAR VISION Without Lines in the Lens

Age Demands Comfort

If you must wear double-vision lenses—wear Kryptoks. We grind Kryptoks in our own factory on premises.

THOMPSON OPTICAL INSTITUTE 209-10-11 Corbett Building Fifth and Morrison

GLOBE THEATER ANNOUNCEMENTS

TODAY "Father's Flirtation" "Song in the Dark" Pathe's Weekly

Lord Chumley E. H. Sothern's Great Success

Dope The Greatest Uplift Drama of Today 10c Always 10c

OTHER CASES WEAKEN IS VIEW

Kruttschnitt Says Sting Is Taken From Remaining Contentions.

NEW YORK, June 22.—Julius Kruttschnitt, chairman of the Southern Pacific Company, said today of the Supreme Court decision in the oil lands case:

"In the opinion of our counsel it sets forth principles which should be a very important factor in any future litigation in other suits which are now pending in the courts regarding other oil properties in California."

"It takes the sting out of the Government suit against the Southern Pacific, leaving but one contention against the company, namely, fraud in obtaining title to the lands and the Government will have to prove such contention."

GUARD HEADS MAY QUIT

DISAFFECTION AMONG COLORADO MILITIA OFFICERS REVIVES.

Adjutant-General Chase Says Some Men Will Retire for "Health Reasons," but Denies Disaffection.

DENVER, June 22.—Reports of disaffection among officers of the Colorado National Guard and pending resignations were revived today with the convening of the Annual Infantry Officers' School, at the state rifle range, near here. Officers said to be concerned declined to discuss the subject of the resignation of Major C. C. Townsend with an absolute denial of any organized movement among officers to quit the guard.

Alleged failure of the state to back up the men in the field during the fighting which began with the battle of Ludlow, April 29, and closing with the truce at Walsenburg, which was approved by Governor E. M. Emmons, is said to have caused the reported disaffection.

General Chase admitted that of more than 100 officers, 14 had expressed to him a desire to be relieved, for reasons of business and health, or because of removal from Colorado. He said the resignation of Major C. C. Townsend had been accepted because of ill-health and "this is the only one acted upon."

POSLAM SOAP SAFEST FOR BABY'S BATH SOOTHES TENDER SKIN

POSLAM SOAP is the one soap that you may feel absolutely safe in using in the nursery. It is non-irritating, absolutely pure. It soothes, protects from infection and disease; is superior for baby's skin because it contains Poslam, the great healing remedy. Poslam Soap acts as tonic and beautifier for any skin, improves the complexion, removes roughness. Unsurpassed for shampooing. Its daily use benefits and delights.

WHAT IS A REAL ESTATE AUCTION? THAT'S the question we have been asked scores of times since the announcement that we had decided to establish a permanent auction real estate market in Portland.

To all we answer, "much the same as any other auction." If you are a seller you merely submit your property for looking at our office. It is then appraised, and if the appraisal is satisfactory, and the title is perfect, it is then O. K.'d for regular listing in the catalogue for the next regular auction sale day.

If you are a buyer you secure a copy of the catalogue published for a specific sale date. You look it over as you would any catalogue, and select the item or items which most appeal to you. You then examine the property, and perhaps submit it for your real estate broker's opinion. You then attend the sale on the date announced and bid as you like on the property or properties as they are offered individually.

The establishment of this regular real estate market promises to result in widespread and permanent benefit, directly and indirectly, to the public in general. Inquiries Invited.

Metzger & Goodkind Auction Realty Co. 401-402 Title & Trust Building, Portland, Oregon

Grand Special Sale In order to close out our Men's, Women's and Children's Low-Cut Shoes, Colonials and Pumps, we will sell them at a reduction of 10%

ROSENTHAL'S 129 Tenth, Bet. Wash. and Alder Sts. Boyden Shoes Hanan Shoes

Entertainment Unsurpassed An entertainment far exceeding anything ever before attempted in a Pacific Coast hotel will be produced in the Arcadian Garden, commencing Monday, June 29.

Hotel Multnomah H.C. Boness, Mgr. L.P. RETNOLDS, Asst. Mgr.

FISHER, THORSEN & CO. Manufacturers and Jobbers of Everything in Paints, Varnishes, Stains, Enamels, Etc.

The Big Paint Store Front and Morrison Streets