

Kinta, I.T., January 8, 1904.

Mr F.F.Weed, Sec'y & Treas.

Star King Building,

San Francisco, Cal.

Dear friend:

I am just in receipt of your letter of the 2nd inst, in which you offer to let me in on the large deal y u have on foot. In reply have to say that I am not, at this time, in a situation to accept your offer. I have never taken much stock in speculations so far from home, as my observation has always been that they are more bother and worry than they are worth in profits. Again, I lost my barn by fire during xmas week, which touched me up for about \$5,000.00, as I had just got my feed all in to winter my cattle. Under these circumstances I do not feel disposed to branch out any at this time.

I have been confined to my room for the past week with a very sore foot; otherwise have had a very pleasant holliday. All the balance of the family are well. I am glad to know that you and your wife are well. Some time since I received your picture and Mrs McCurtain says tell you that you do not change much; the photo looks very natural. Trusting that you will get through all O.K. with your new deal, and that you will have a prosperous year, I am,

Your friend,

Kinta, Indian Territory, July 23, 1904.

McCurtain & Hill,

South McAlester, Indian Territory.

Gentlemen:-

About the first of July I bought a car of feed from Aurora Mills, of Junction City, Kansas; the shippers drew on me for amount of invoice and I paid same promptly under the impression that the car had arrived. I was in Fort Smith at the time and on my return home I found that car had not yet arrived and it is still on the road. The contents are undoubtedly spoiled by this time and I should like you to advise me what to do in case I lose the stuff ruined when the car arrives. I have no recourse on the shippers as they hold clear receipt from transportation company in the bill-of-lading and the failure of the railroad company to deliver the car in a reasonable length of time has been occasioned by floods North of here. Kindly let me hear from you at once and oblige.

Very respectfully,

GWS:tl

McCurtain & Hill,
Lawyers,
South McAlester, I.T.

July 26th 1904.

Hon. George W. Scott,

Kinta, I.T.

Dear Sir:

We are in receipt of yours of the 23rd in which you state that about July 1st you bought a car load of feed at Junction City, Kansas; that you paid the draft of the shippers under the impression that the goods had arrived; that upon your return you found that the goods had not arrived; that the goods are of a perishable nature, and are undoubtedly ruined by this time, and that the delay of the rail-road company in delivering the feed was caused by the floods north of here. Predicated upon these facts, you ask our opinion as to the liability of the R.R.Co.

The question you present is one of some difficulty, and the location of the responsibility will have to be determined by the circumstances. The liability of a rail-road company by law is an unusual and extraordinary one, and by the law the company is regarded as a practical insurer of the goods it contracts to transport against all losses with the exception of those arising, among other things, from what is known as the acts of God.

The words "the acts of God", have been the subject of much comment, and perhaps no subject could open a wider field for speculative discussion than the question what are and what are not the acts of God, and the authorities do not entirely agree as to what causes of a natural and unexpected kind will operate to relieve the carrier from liability. The weight of authority seems to be, that an inevitable or unavoidable accident, when such an accident is in no way

attributable to human agency, nor to the fault or negligence of the carrier, and if the occurrence be one produced by natural causes without the intervention of man, and no negligence on the part of the company has concurred to produce the result, the company will be excused. The law regards it as one of those misfortunes against which no skill or watchfulness on the part of the company could have guarded, and as no human agency has brought about the misfortune, it must be attributed to some irresistible force or power, which is the act of God.

All the authorities, however, agree that the act of God, to excuse the railroad company, must be the proximate cause of the loss; that is, that no other agency than that which could properly be referred to as the act of God, had intervened to produce the misfortune and is to be considered as more immediately the cause of it, and if the carrier seeks to bring itself within the exception so as to be relieved from liability, there must have been no intervention of human agency. The carrier is bound to do his utmost to protect the goods committed to his care for transportation from loss or damage, and if he fails to do so becomes liable from the nature of the contract of shipment.

If by his default in omitting to take the necessary care of goods in his charge, loss or damage ensues, the carrier will be responsible, though the so-called "act of God" may have been the immediate cause of the damage, and whenever the carrier is placed in a situation in which it becomes necessary for him to exercise his skill

or judgment, no matter what may be the circumstances of danger or difficulty, he takes the risk of their proper exercise, and if there be a way or means to prevent loss or damage, and the carrier shows a want of the necessary judgment to prevent the loss, he is responsible. Or, if the carrier delays for an unreasonable time on the ~~jour~~ journey the goods committed to its charge, and it is shown that but for such unreasonable delay the goods could have been carried beyond the reach of the danger which occasioned the loss or damage, the carrier will be held responsible.

In the above we have briefly stated the legal principles applicable to common carriers in the case stated by you. Applying these principles to the facts of your case, we beg to advise you as ~~follow~~ follows:

1st- If the feed was delivered to and accepted by the carrier under normal conditions, and it undertook to transport the same to you, and while in the performance of its duties an unexpected flood or inundation occurred, and said flood or inundation was the proximate cause of the delay whereby said feed was damaged, and if it can be shown that there was no contributory negligence on the part of the carrier, and that the agents of the road used such diligence as prudent, skilful men engaged in that kind of business might fairly be expected to use under the like circumstances to protect and secure said car of feed from damage, then it is one of those unavoidable misfortunes for which no human agency is responsible, and under the law there can be no recovery. But, if the car of feed while in the custody and charge of the company, was delayed or damaged by an unexpected storm or flood, and the company by the proper exercise of

care or diligence failed to protect said feed from damage, or loss, when it could have done so, then the company would be liable.

2nd- If, at the time the road accepted said car of feed for transportation the conditions were such as to make it reasonable ~~ap-~~
parent that there would probably be delay, and notwithstanding such probability it ventured out with said car into a section of country where there had been storms and floods with a blind confidence that it would be able to encounter the same with safety, and as a result of such venture said car was unreasonably delayed and the feed was damaged, the company brings the loss upon itself, and it can not relieve itself upon the ground that the immediate cause of the loss or damage was the act of God. Under such circumstances the law requires that the company should have used due care and diligence; that it was bound to exercise a reasonable amount of forethought and prudence in the execution of its trust, and if it ventured out from a place of safety to a place of storms and floods when all experience and conditions should have warned it of the probable delay and injury to the feed, and as a result of such venture loss and delay followed, the company responsible therefor must bear the loss.

3rd- The law imposes upon a railroad company the duty of transporting goods accepted for shipment with all reasonable dispatch and haste, and if it can be shown that this car of feed was delayed upon its journey an unreasonable time, and but for such unreasonable delay it could have been carried beyond the reach of the flood and storms which occasioned the loss, then the company responsible for such delay would be liable. The fact that the car, but for this unreasonable delay, would have been put beyond danger and would not

have been damaged, would be the direct cause of the damage and the company would be responsible.

4th- It is undoubtedly the fact that this car of feed was transported over different lines from its point of origin to its destination. This will necessitate an inquiry as to where the delay ~~XXXXXXXX~~ occurred- that is, on which line. This is necessary in order that we may know who is responsible for the delay and consequent damage, and to whom we must look for compensation. If the initial carrier operates a line of railway in the Indian Territory, we can sue it in any district where it runs or has an agent. The fact that it accepted the car of feed under a contract to transport and deliver it in good order, and that it arrived at its destination in a damaged or ruined condition, makes it prima facie liable, and the burden of proof would be on it to show that the delay occurred on some other than its own line. But if the initial carrier is beyond the jurisdiction of the courts of the Indian Territory, and we undertake to sue some connecting line with whom we had no contract, then the burden would be on us to show that said connecting line was responsible for the delay. It is decidedly best to locate the responsibility before filing suit.

It was proper for you to pay the draft, as the consignor delivered the feed to the company in good order, and the damage having occurred after its acceptance by the company you must look to the latter for reimbursement. This is a question of some difficulty, involving many questions, but we trust that we have been able to give an intelligent opinion of your rights in the premises.

(H)

Yours truly,

McCartain & Rice

Hon. Geo. M. Curtin,

IN ACCOUNT WITH

AMERICAN NATIONAL BANK

DR.

OF FORT SMITH, ARK.

CR.

8.45
6.00
7.50
40.00
6.70
40.00
20.15
14.50
7.00
3.00
75.00
1.85
10.00
10.00
70.00
7.20
25.00
15.00
15.00
16.15
35.00
7.85
35.00

476.35*

375

480.10

SEP 1 1904

BALANCE

2498.40

28 Dep

374

Checks
BALANCE

480.10

2472.40

2472.40

OCT 1 1904

BALANCE

1992.30

GREEN McCURTAIN

No. 280



PAY TO THE ORDER OF

B. Harris

Thirty five

KINTA., I. T., *Sept 16* 1804



\$ 35-¹⁰⁰/₁₀₀

¹⁰⁰/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green McCurtain

No. 282

GREEN McCURTAIN



PAY TO THE ORDER OF

KINTA, I. T.

Sept 21

1904

George W. Lance

\$ 7 ⁸⁵/₁₀₀

Seven

⁸⁵/₁₀₀

DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green McCurtain

Pay to ayers & Co

Fit Smith ark

Geo W Laull

Pay to the Order of
First National Bank,
Fort Smith, Ark.

AYERS & CO.



GREEN McCURTAIN

No. 283



PAY TO THE ORDER OF

Alexander

Three



KINTA., I. T.,

Sept 26 1804

\$ 3 ⁷⁵/₁₀₀

⁷⁵/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green McCurtain

GREEN M^CCURTAIN

No 261

PAY TO THE ORDER OF

KINTA, I. T.,

PAID
Aug 30 1904

1904

Kennedy Bros

\$ 6 ⁰⁰/₁₀₀

Sixteen hundred and no/100

⁰⁰/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green M^CCurtain

GREEN McCURTAIN

No. 265



KINTA., I. T.,

Aug 31

1804

PAY TO THE ORDER OF

Quinton Lumber Co

\$ 8 ⁴⁵/₁₀₀

Eight

⁴⁵/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,

FORT SMITH, ARK.

Green McCurtain

Nº 267

GREEN M^CURTAIN



PAY TO THE ORDER OF

Sol. C. Cohen & Co

KINTA, I. T.

1904



\$ 4 ⁵⁰/₁₀₀

Seven hundred and fifty

⁵⁰/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green M^Curtain

GREEN M^CCURTAIN

No. 266



KINTA, I. T. Sept 3 1904

PAY TO THE ORDER OF

P. H. Legum

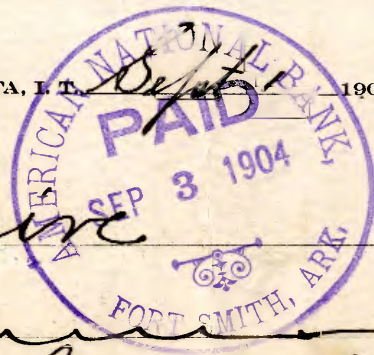
Forty

Green McCurtain

\$40 ⁰⁰/₁₀₀

⁰⁰/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.



GREEN M^CCURTAIN

N^o 262



KINTA., I. T. *Aug 30* 1804

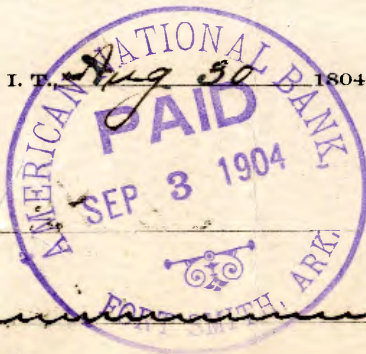
PAY TO THE ORDER OF

L. D. Allen

Six ~~100~~ ⁷⁰/₁₀₀ DOLLARS

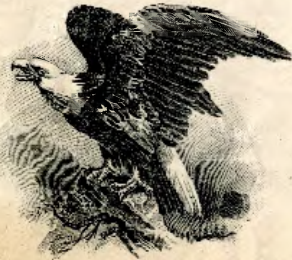
Green M^CCurtain

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.



GREEN McCURTAIN

No. 268



KINTA., I. T., Sept-3rd 1804

PAY TO THE ORDER OF

Bathiest Harris

\$ 40 ⁰⁰/₁₀₀

Forty

⁰⁰/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,

FORT SMITH, ARK.

Green McCurtain

GREEN M^CCURTAIN

No. 271



KINTA., I. T., Sept-20 1804

PAY TO THE ORDER OF

Simon Johnson

\$ 20 ¹⁵/₁₀₀

Twenty

¹⁵/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green, McCurtain

No. 264

GREEN McCURTAIN



PAY TO THE ORDER OF

KINTA, I. T.

Aug 30th

1904

C. C. Willshar

\$ 14 ⁵⁰/₁₀₀

Fourteen

⁵⁰/₁₀₀

DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green McCurtain

GREEN McCURTAIN

No. 244



KINTA., I. T.,

Aug

6th

1804

PAY TO THE ORDER OF

R. S. Forazien

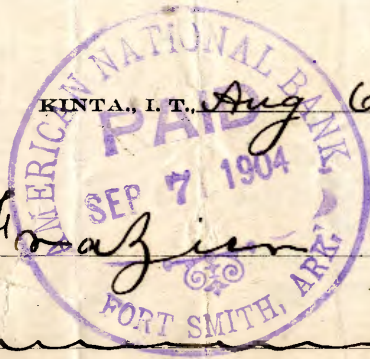
\$ *7⁰⁰/₁₀₀*

Seven

100 DOLLARS

**TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.**

Green McCurtain



No. 270

GREEN McCURTAIN



KINTA, I. T., Sept 5 1904

PAY TO THE ORDER OF

Fred Brown

Three hundred

\$ 3⁰⁰/₁₀₀

100/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green McCurtain

GREEN M^CCURTAIN

No. 275-



KINTA, I. T.,

Sept 8 1904

PAY TO THE ORDER OF

Col. C. Cohn & Co

\$ 75-⁰⁰/₁₀₀

Seventy five

⁰⁰/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,

FORT SMITH, ARK.

Green McCurtain

GREEN McCURTAIN

No. 274



KINTA., I. T., Sept 8 1804

PAY TO THE ORDER OF

American nat Bank Fort Smith ark \$1 ⁸⁵/₁₀₀

One hundred ⁸⁵/₁₀₀ DOLLARS

**TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.**

Green McCurtain

GREEN M^CURTAIN



N^o 273

KINTA, I. T.

Sept 7th

1904

PAY TO THE ORDER OF

Kirby Cooper

\$ *10⁰⁰/₁₀₀*

Ten

00

DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green McCurtain



GREEN McCURTAIN

N^o 272



PAY TO THE ORDER OF

Mathew Henry

Ten

KINTA, I. T.

1904



\$ 10 ⁰⁰/₁₀₀

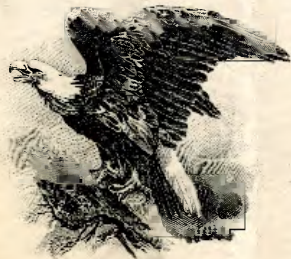
⁰⁰/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green McCurtain

GREEN McCURTAIN

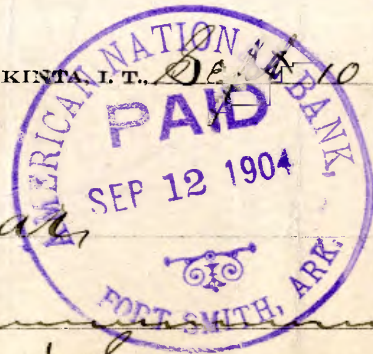
No. 278



KINTA, I. T., *Sept 10* 1904

PAY TO THE ORDER OF

C. C. Welsh



70
\$ *70* ¹⁰⁰/₁₀₀

Twenty

¹⁰⁰/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green McCurtain

No. 276

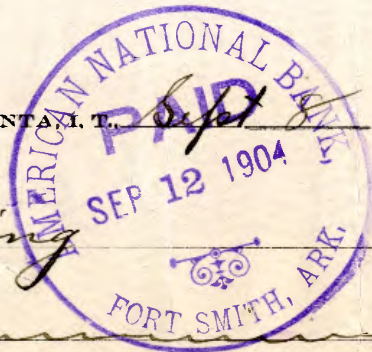
GREEN M^cCURTAIN



PAY TO THE ORDER OF

Leonardus King

KINTA, I. T. *Sept* 1904



\$ *7* ^{*20*}/_{*100*}

Seven

^{*20*}/_{*100*} DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green M^cCurtain

GREEN McCURTAIN

N^o 277



PAY TO THE ORDER OF

Ridge Road

Twenty five

KINTA., I. T.

SEP 14 1904

FORT SMITH, ARK.

Sept 10 1804

\$25 ⁰⁰/₁₀₀

⁰⁰/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green McCurtain

AMERICAN NATIONAL BANK

FORT SMITH, ARK.

July 23 1904 \$15⁰⁰/₁₀₀

Pay to

Simpson Wilson

order
or bearer

Fifteen

00/₁₀₀ Dollars

No.

206

Green McLaurin

GREEN McCURTAIN

No 269



PAY TO THE ORDER OF

KINTA, I. T., *Sept 3* 1904

William Holmes

\$ *15*^{*00*}/_{*100*}

Fifteen

^{*00*}/_{*100*} DOLLARS

To AMERICAN NATIONAL BANK,

FORT SMITH, ARK.

R Green McCurtain

No. 279

GREEN McCURTAIN



PAY TO THE ORDER OF

Kenney

Sixteen



KINTA, I. T.

14 1904

\$ 16 ¹⁵/₁₀₀

¹⁵/₁₀₀ DOLLARS

TO AMERICAN NATIONAL BANK,
FORT SMITH, ARK.

Green McCurtain

Fort Smith, Ark.,

190

Mr.

BOUGHT OF
F. W. BREDLOW,

DEALER IN

Furniture, Stoves & House Furnishing Goods,

703 GARRISON AVENUE.

51 Spring
" " Mattress.

7 50
2 90
\$ 7 40

Dear sir:

Enclosed find check covering above. Please receipt and return.

Green McCurtain
Paid F. W. Bredlow 10-1-1904

Kinta, Ind. Ter.

190

M

BOUGHT OF
GEORGE W. SCOTT
DEALER IN
General Merchandise

Interest at the Rate of Eight per Cent per Annum Charged on All Accounts Past Due

Dear Governor = I enclose herewith 2 checks
for \$2098.50 - an warrant for \$2200⁰⁰
other 101.50 having been paid by me to Paul
Stephens - on your order

Respectfully
Wm. W. Scott

11/5/04

Fort Smith, Ark.,

Oct. 12 - 1904

M *Gov. Green M^cCartan*

TO **THE ARCADE** DR.

DEALERS IN

DRY GOODS

Notions, Millinery, Clothing and Hats

TERMS CASH

PRENDERGAST & MCSHANE

PROPRIETORS

Sept 26 To	waist		230
Oct 6	"	suit	1250
7	"	mdu	8645-
11	"	22 1/2 Linoleum	60
	"	3	125-
	"	5	125-
	"	1 Ladies suit	1500
	"	3 shades	32
			130

*Paid 10/12/04
Prendergast & McShane
many thanks*

To cash

all 280.00
192.95

14295
30

1 9295-

87.05

THE ARCADE DRY GOODS HOUSE

DEALERS IN

NOTIONS, MILLINERY, CARPETS
AND GENTS' FURNISHINGS

FORT SMITH, ARK.

Oct. 7 - 1904

Gov. Green M^cIntosh,
Hinton, D. C.

Dear Sir:-

We shipped your carpets
to-day over the Ft. S. & W. R.R.
by freight.

Please accept our
Thanks and find invoice
enclosed.

Respectfully
Prendergast & McShane

Fort Smith, Ark.,

1904

M

Gov. Green M^c Curtain

TO THE ARCADE DR.

DEALERS IN

DRY GOODS

Notions, Millinery, Clothing and Hats

TERMS CASH

PRENDERGAST & MCSHANE

PROPRIETORS

Dr 1 mg art
2 av 590
1 av
1 av
1 pr. parties
16 yd Lenolun 60
28 1/2 " carpet 72

2750
1180
790
273
630
960
2040

8645

MARICOPA OIL COMPANY

ROOMS 524 AND 525
STAR KING BUILDING
TELEPHONE PRIVATE EXCHANGE 216

F. F. WEED, SEC'Y AND TREAS.

SAN FRANCISCO, CAL. Jan. 2 d. 1904.

Col. Green Mc-Curtain

KINTA I.T.

Dear Friend:-

Since my last letter to you in which I offered to let you in on a deal for some valuable stock, I have closed up the big end of it by getting 60.000 shares of it, and that leaves only a few thousand more to be disposed of. My friend Capt. Taylor one of Shelby's old Captains, came into the deal, and he and I own the most of it: Now then Green there is only about 10.000 more shares to get hold of, if you want half of it ~~wire~~ me at once as the big deal I had on hands is about ready to close, in fact our attorneys got together the other day to draw up the contract, but owing to a misunderstanding on some of the minor details it was put over a few days to give the purchasers time to consult, as they had to go to Bakersfield it will be a week or more before it will close.

I did not urge you to go in with us before Green, because I was not quite sure of making the big deal, as there is \$80.000 involved in the transaction, it takes a little time to effect it in good shape, and while I have made a good big lot of money since you and I met, it is not always in cash; and when this thing was sprung on me I was called on to raise about \$20.000; I have it all now but \$2.500 ~~at~~ the price of 10.000 shares; if you want half or all of it, you can get it by wiring me that you will take it, telegraph me anyhow; if you don't want it, I will let it go to other parties ~~wire~~ at my expense.

Well now how are you anyhow, and how is Christmas with you? Mrs Weed and I are tolerable well and wish you a merry Christmas and happy new year. Kind regards to any who may inquire about me.

Yours, Truly. F F Weed

OFFICERS:

M.H. JOHNSON, PRES.

OSCAR DAVIS, TREAS.

T.T. COTNAM, V. PRES. & SECY.

T.E. LELAND, ASST. SECY.

J.W. HOUSE, ATTORNEY.

Planters

MUTUAL INSURANCE ASSOCIATION

OF

ARKANSAS.

LITTLE ROCK, ARK.

June 23, 1904.

Mr. Green McCurtain,

Sans Boise, I.T.

Dear Sir:-

We hand you herein policy #19805
application through our Mr. E.B. Hanks.

as per your

Kindly own receipt.

Yours truly,

T. T. Cotnam,

Sec'y.