

State of Kansas v. State of Colorado: abstract of complainant's testimony

Section 7, Pages 181 - 210

A summary of testimony given by Kansas residents in the State of Kansas v. State of Colorado U.S. Supreme Court case. The court case centered upon Kansas' claim that Colorado irrigators were using more than their fair share of water from the Arkansas River. In their testimony, numerous Kansans commented on the decline in the flow of the Arkansas River between 1870 and 1900. In 1907, the court decided the case in Colorado's favor, refusing to order Colorado to restrict its use of Arkansas River water. However, the court left open the possibility that at some point in the future the economic damage caused to Kansas by Colorado's use of the river might give Kansas the right to relief. Under this doctrine of "equitable apportionment" of economic benefits from water resources, Kansas sued Colorado in 1943. This suit led to the negotiation of the Arkansas River Compact which was approved by Congress in 1949. Kansas sued Colorado again in 1986 claiming that Colorado violated the terms of the compact. The court ruled in Kansas' favor.

Creator: Kansas. Office of the Attorney General

Date: August 15 - September 21, 1904

Callnumber: Office of the Attorney General, Major Case Files - Kansas v. Colorado

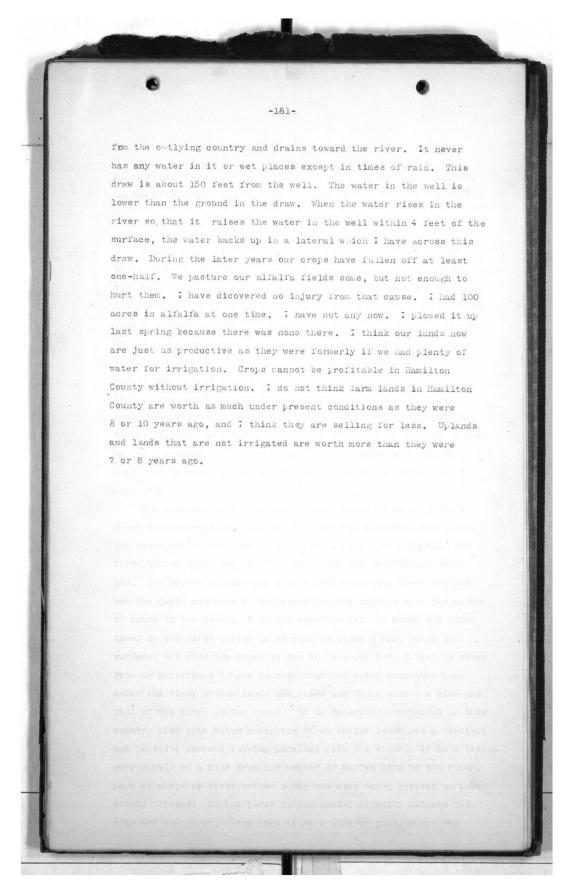
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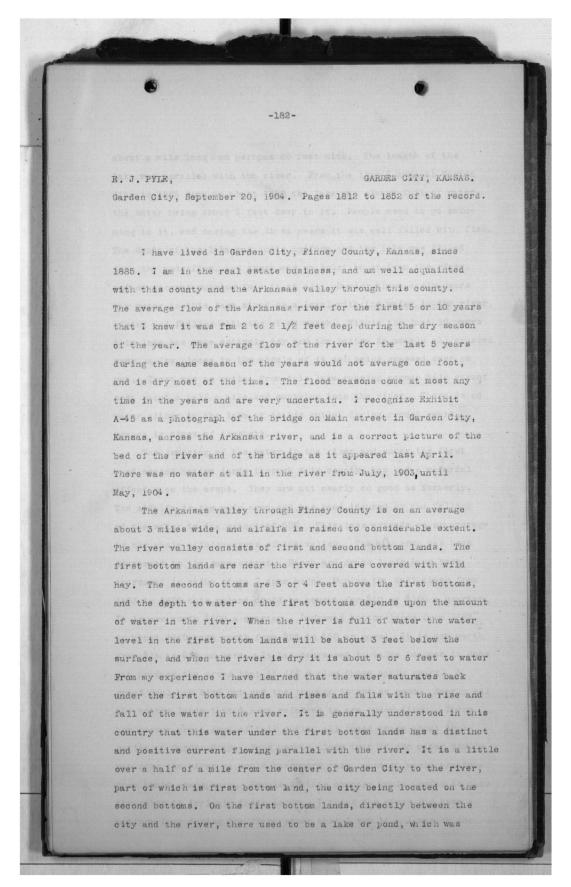
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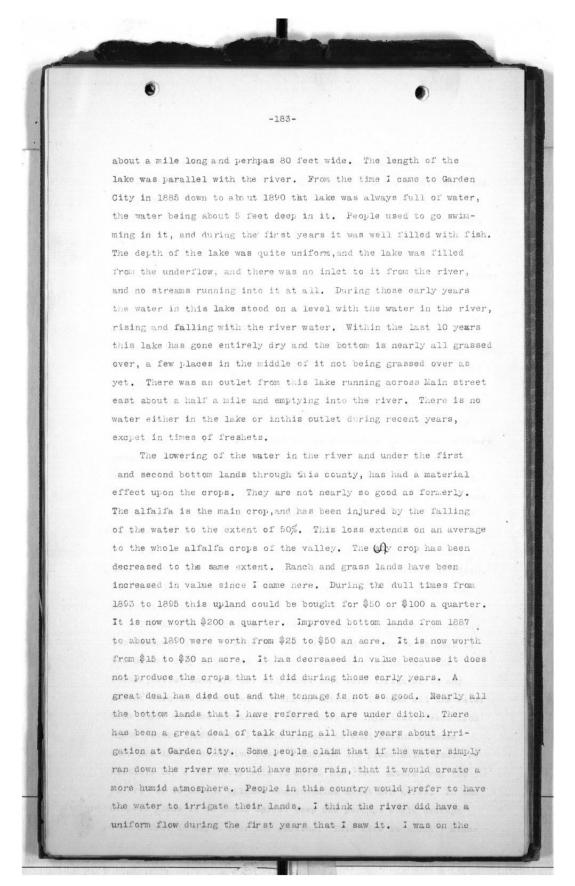




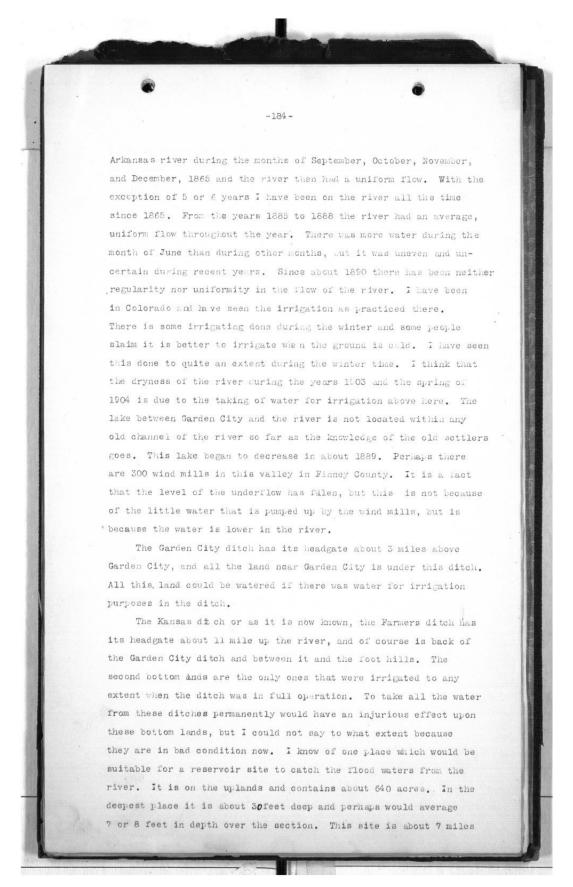




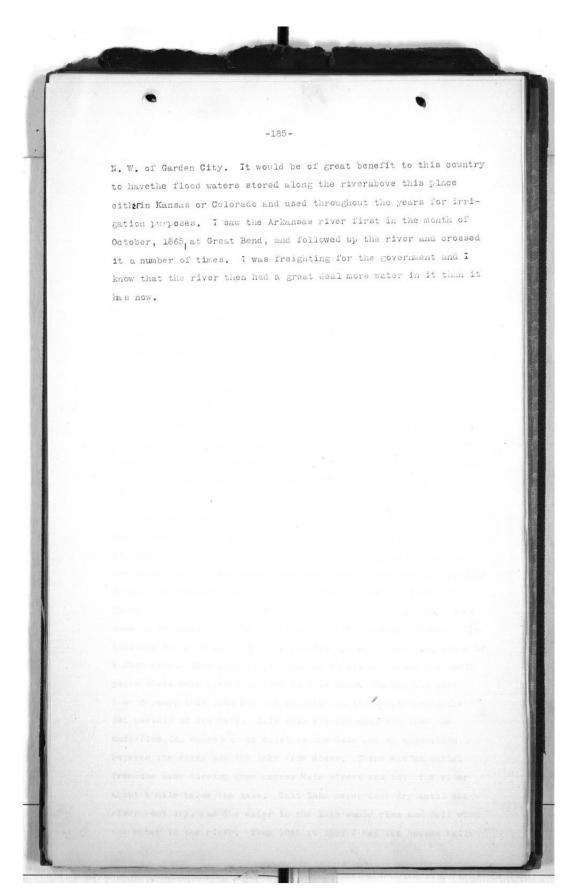




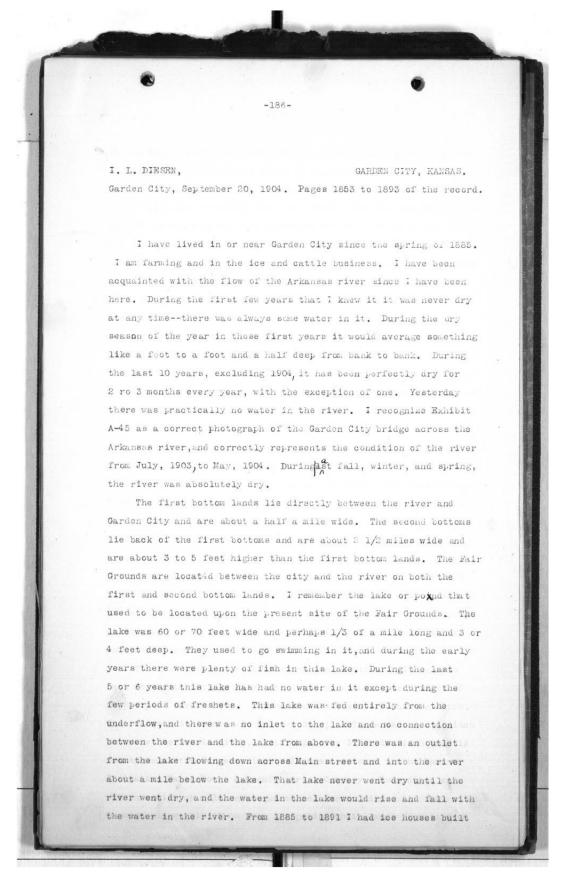




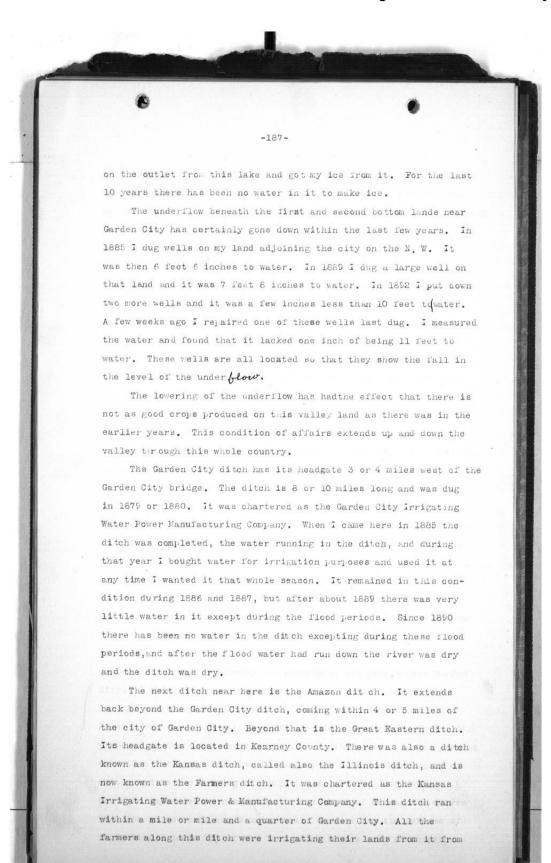




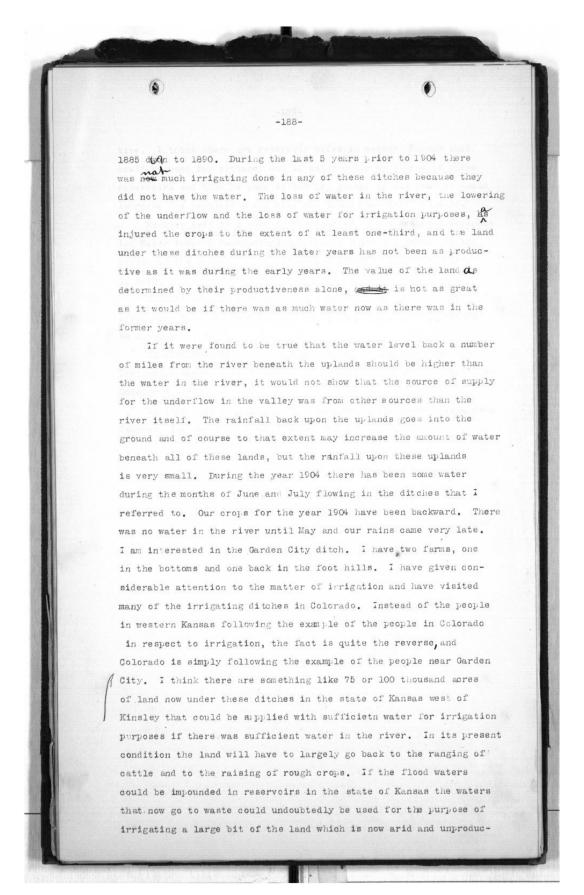




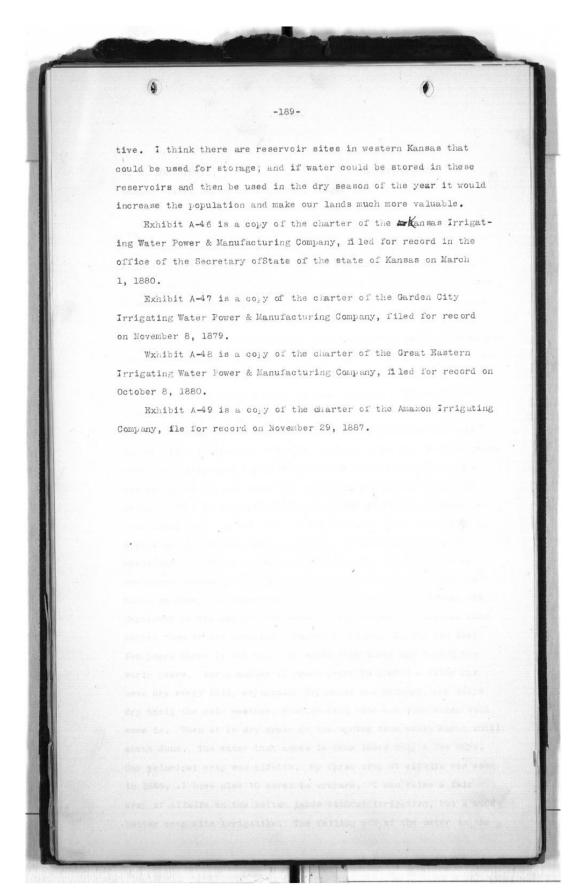




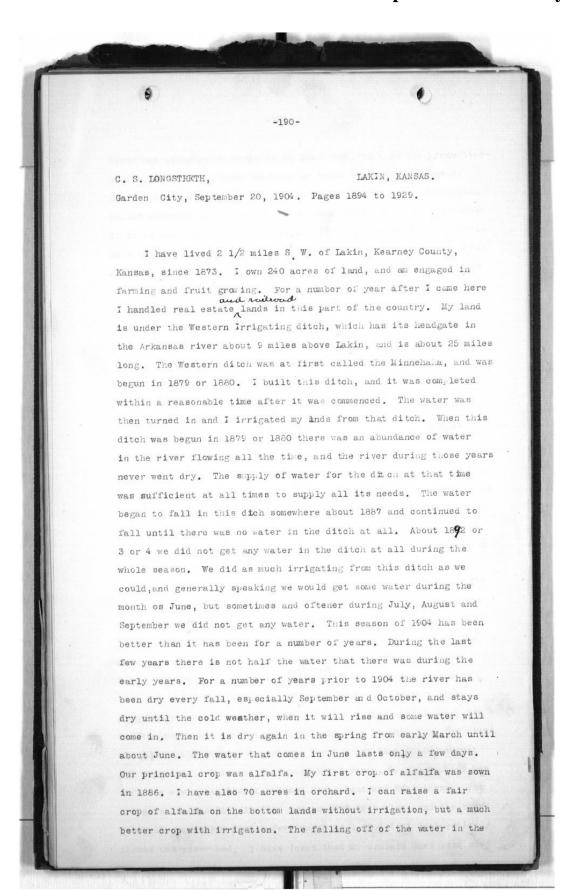














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-191river has affected my crops to at least 50%, that is the productiveness of my land has been decrease at least one-half, because of not getting the water at regular seasons. The time for irrigation varies somewhat according to the season. We irrigate in the winter if it is very dry, but in the spring if we get rain we do not irrigate until the land needs it. If we do not get the water for irrigation when the alfalfa needs it, it decreases the crop. There is a decrease in the grain crops and everything of that kind. We got no water at all in this ditch during the year 1903 and none until about May, 1904. There are about 25000 acres of land that could be irrigated from this Great Eastern ditch if there was a good supply of water in it. The decreased flow in the river and my inability to get water to irrigate my orchard has reduced the productiveness of the orchard in the same way and to the same extent that it has affected my alfalfa crop. I have been growing fruit for the last 50 years. We did not get the water in the ditch because there was no water in the river, and it was not because the ditch was out of repair -- I know that. There is a wastegate in the dam at the head of the ditch, through which the water goes into the river. I placed the wasteway there myself. The first time I ever saw the river dry was in the year 1886 or 1887, and the river was not dry at my place in 1874, and if any witness has testified that the river was dry from Wichita to Colorado during the year 1874, they were most assuredly mistaken. During the years 1876 and 1877 there was ample water in the river at this point, and there never was a time that there was not flowing water in the river at this point prior to 1886 or 1887. Prior to those years, however, the water was lower in the river dwon at Hutchinson than it was at Lakin. In my handling of the Colorado lands I became familiar with the river from the year 1873 on down to the present time. Frequently during the years from 1873 the river would be very low at Hutchinson, and I think very probably that in 1874 that the river was Mactically dry at Hutchinson for a short time during August and September. This was the grasshopper year. My observation was that the river was lowest between Great Bend and Hutchinson. The bridge at Garden City is from 800 to 1000 feet wide, and the river generally ran there from a few inches to 1 or 2 feet deep entirely across the river bed. I have found that my orchard does best when



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-192irrigated according to the amount of water needed. This year I have irrigated my orchard five times. The last time it was irrigated was only a few days ago. I plow my orchard up about once in three years. I am not presonally interested as an owner in any ditch. I rent the water from the ditch company. The lack of water has most certainly decreased the productiveness of my land. I have always taken all the water I could get, when I needed it. This year I have not been able to irrigate as much land as I should have done if I had known there was going to be a supply of water in the ditch. We must know beforehand that we will get the water or we will not be ready for it when it does come. If I had known I would be sure of water I would have put all my land in; and for that reason I have lost the crops I could have put in if I got the water. Therg has been sufficient water this season, but last year and the year before and for many seasons before that the water was so scarce that this year I di not want to take those chances. I think the flow of the river has gradually fallen off in late years fully 50% or more, although there is more water flowing in the river in the winter time than there is in the summer time. I think that the cutting off of the timber in the mountains has the effect of melting the snows more quickly and the water does not last as long in the river as it did when there was more timber in the mountains. There is a great deal of water that runs to waste in the Arkansas river during the flood periods which would be sufficient to bring under irrigation many thousands of acres of land that is now arid. There are natural reservoir sites along the river in which this water could be stored within the state of Kansas. I think that just north of Sherlock a large reservoir could be placed, and there are other sites west of that. I had an engineer at one time run some preliminary surverys between Lakin and these sites, and the engineer told me that if these reservoirs were once filled up that the water would never go out. We have also a good reservoir site right on this ditch in the bottom, that if once full of water would irrigate that whole valley in dry seasons to the extent of perhaps 25000 acres. I have been interested in the subject of irrigation and have pioneered in that line here in Kansas. The subject of irrigation has been of great interest for more than 20 years along this valley, and irrigation has brought in settlers along the river.



