

IT FAILS TO STICK

Judge Lochren Dissolves Power's Injunction Against the N. P.

RETIREMENT WAS PROVIDED FOR

The Court Holds That Intended Consolidation Has Not Been Proved.

Judge Lochren, late yesterday afternoon dissolved the temporary injunction granted by Judge Elliott in the Hennepin county district court, restraining the Northern Pacific Railroad company from retiring its \$75,000,000 of preferred stock. The court held that the company was well within its rights in the action which was proposed to take, both its charter and the contracts made with stockholders and set forth on certificates of stock, providing that the preferred stock might be retired in just such a way as the road now proposes to effect that retirement.

Judge Lochren's opinion was delivered orally. In it he held that an injunction would lie to restrain the consolidation or merging of two parallel lines of railroad; but as there had been nothing in the evidence to show that the Northern Pacific stockholders or directors were contemplating any such thing, he dissolved the injunction in its entirety.

The decision followed an all-day argument and was not unexpected.

Further Stay Refused.

For Mr. Power, the New York man on whose relation the injunction was granted, Judge Lancaster sought to file a supersedeas bond, the intention being to appeal and thus tie up the case until its final settlement. This, however, Judge Lochren declined to permit. Judge Lancaster asked the court if the loss of the road could be so great through a stay that a bond could not be fixed sufficient to cover it; but Judge Lochren replied that the



ATTORNEY KELLOGG, FOR DEFENSE.

question of granting a supersedeas being discretionary, he would decline to allow a further stay of proceedings under the guise of an appeal.

Late yesterday afternoon Judge Lancaster took up the legal phase of the matter, following the argument of Mr. Lamont, who had attended him, and he said little regarding the merger; devoting most of his time to arguing on the right of the company to retire its preferred stock.

Judge Lochren's Decision.

Judge Lochren's decision follows: To warrant the allowance of an injunction, it must clearly appear that some act has been done or threatened which will produce irreparable injury to the party asking for the injunction.

In this action it appears that the Northern Pacific Railroad company, at its organization, when it became the purchaser of the property which had been owned by the original Northern Pacific Railroad company, provided for the issue of a large amount of common and preferred stock, common stock to the amount of \$30,000,000 and preferred stock to

the amount of \$75,000,000. The preferred stock, in some respects, is like the common stock, and the owner of the stock is a part owner of the railroad, and entitled to participate in its affairs, as other stockholders ordinarily are.

Provisions of the Stock.

This has, in this particular instance, a provision by which the owner of the common stock is entitled to turn it into an obligation to the company and discharge it; pay it off on the 1st of January of any year for twenty years.

That is a provision that appears in the resolution of the board of directors, and also in the certificates of stock issued to the preferred stockholders and to the holders of the common stock. So that there is no question about this having all the features of a contract obligation, that particular feature which authorizes the company to retire the preferred stock at its option at any time, at the commencement of the year, within the period of twenty years.

Difficult Digestion

That is dyspepsia. It makes life miserable. Its sufferers eat not because they want to, but simply because they must. They know they are irritable and fretful; but they cannot be otherwise. They complain of a bad taste in the mouth, a tenderness at the pit of the stomach, an uneasy feeling of puffiness, headache, heartburn and what not. The effectual remedy, proved by permanent cures of thousands of severe cases, is

Hood's Sarsaparilla

Hood's Pills are the best cathartics.

nel the directors, who are the governing board of the corporation, and have the right to exercise corporate powers, except where they are forbidden to exercise them, or some limitation put upon them—there is nothing that seems to debar them, when they see fit to retire that stock and put it in the form of other indebtedness or securities (other than mortgage securities, which seems to be forbidden) from doing so, if, in the judgment of the directors, it is for the interest of the corporation to do that; and if they exercise that judgment in good faith, I do not think that it is a matter that a court can re-examine, or which a minority stockholder has a right to question.

Within Directors' Power.

It follows from this, it seems to me, that what the directors here propose to do is within their power, and that there is nothing in the complaint, admitting all the facts that are



ATTORNEY MORE, CHICAGO, FOR PLAINTIFF.

alleged there, that shows that the complainant is liable to be injured in any way by the mere doing of that thing, the retiring of this preferred stock.

It seems to be admitted upon argument that a very large majority, nearly the whole of the owners of the common stock, are in favor of this scheme. It does not appear that any other, except the complainant, objects to it. That of itself would indicate that it is not a scheme for the wrecking of the company, or the wrecking of the interests of those who own the common stock, as the owners of the common stock, nearly the whole of them, are the very parties who are promoting this scheme of retiring the preferred stock.

Now, it is claimed beyond that, that this is being done for the purpose of carrying out an illegal intention. I think there is no doubt whatever that a stockholder may enjoin a corporation from doing an illegal act which is a hazard to his interests and a hazard to the value of his stock.

That is a right he has, not because he is the champion of any public policy, or entitled to litigate matters simply because they concern the public, but because it affects his own peculiar individual property interests, and to that extent he has a right to be protected by injunction, if need be.

Now, the question is whether this is shown to have any direct tendency to any illegal result.

Is Case Like Pearsall Case?

We may take it that it is decided definitely in the Pearsall case that it is clearly illegal to form consolidations or mergers of competing and parallel lines of railroad; but has its retiring of the preferred stock, this scheme for retiring the preferred stock, any direct relation to anything of that kind?

Relation to Nor. Securities Co.

I do not think that it is pretended, or that anybody would think of pretending that,



GENERAL COUNSEL BURN OF NORTHERN PACIFIC.

when this provision was incorporated in the resolution of the directors before any stock was issued, and was put in the form of a contract in all the certificates of stock, that any scheme of consolidation of another road was contemplated.

If the Northern Pacific Railroad company never thought of consolidation, but to pay off the preferred stockholders and issue common stock, it had authority to do that. And that of itself would certainly have no tendency towards consolidation.

It is claimed that it would place certain persons who are alleged to be manipulating these stocks with a view to a consolidation in a position in which they would be enabled to carry out their schemes better than if there was not a retiring of the preferred stock. That is asserted. I do not see

that it very clearly appears from any of the facts that are set forth.

The mere scheme of retiring the preferred stock could be carried out just as fully if, instead of the common stock, the company had issued securities of some other kind.

Will Use Force and Boycott

New York Sun Special Service

Dublin, Jan. 1.—Michael Reddy, M. P., speaking at a United Irish league meeting in Dysart, County Roscommon, declared that the land was not for grabbers. The Irish should make use of force and the boycott, and they would do it.

Crane for Secretary of the Navy

New York Sun Special Service

Washington, Jan. 1.—Governor Crane of Massachusetts is now being brought forward as a candidate for the naval portfolio to succeed Secretary Long. It is stated on excellent authority that the portfolio will be tendered the governor just as soon as the president is prepared to act upon Secretary Long's resignation.

Once-a-Year Eskimo Paper

Special to The Journal.

Sault Ste. Marie, Mich., Jan. 1.—A rare specimen in the newspaper of the north that any other paper in the world, and that it is the only annual newspaper. Dr. Rogers secured the curio while at Cape Prince of Wales, 325 miles north of Nome, once a year. It is said that the paper is the only one edited and printed by Eskimos, that is published further north than any other paper in the world, and that it is the only annual newspaper. Dr. Rogers secured the curio while at Cape Prince of Wales, 325 miles north of Nome, once a year. It is said that the paper is the only one edited and printed by Eskimos, that is published further north than any other paper in the world, and that it is the only annual newspaper. Dr. Rogers secured the curio while at Cape Prince of Wales, 325 miles north of Nome, once a year.

Undone by Boys' Testimony

Special to The Journal.

Armour, S. D., Jan. 1.—Judge Adams' court at Platte had a most peculiar case. Ralph Thomas, while on his way home from town, passed by the residence of Abe Hampton, whom he saw severely punishing one of his nephews. Thomas, thinking the punishment too severe, had Hampton arrested. At the trial the plaintiff appeared for himself, no doubt thinking his testimony would be sufficient to convict Hampton, but imagine his surprise when the boy took the stand and swore that the punishment was none too severe and was what he needed. The case was dismissed by the judge.

PEOPLE, PRESIDENT

These Foregather Pleasantly at the White House.

WEALTH OF FLORAL ADORNMENT

No Flaw to the First New Year's Reception of McKinley's Successor.



JUDGE BELDEN, FOR PLAINTIFF.

Washington, Jan. 1.—President Roosevelt held his first New Year's reception at the White House to-day. Surrounded by the presidential and cabinet circle, he greeted officials in every branch of public life as well as the foreign concourse of people from private life. The scene within the historic mansion was one of extraordinary beauty and brilliancy and a light of interest and interest on the occasion this year from the fact that this was the first official function of magnificence with Mr. Roosevelt and his interesting family, as the central figures. The day was ideal for the observance of the time-honored custom of making New Year's calls. The sun shone from a cloudless sky, the air was cool and bracing and the decorations of the White House were in full bloom.

Early in the day an army of decorators and florists took possession of the mansion and transformed the stately corridors and parlors into bowers of palms, potteries and sweet-smelling flowers. The official program of the day fixed 11 o'clock as the time for opening the reception with the call of the members of the cabinet and the foreign representatives, but some time before that hour the approaches leading up to the marble portico were filled with carriages, while long lines of people took position at the gates in order to have points of vantage when the public reception began.

Brilliance, Electric and Floral.

The mansion was aglow with a myriad of electric light and to this was added the beauty of a profusion of flowers, plants and vines, bunched about the mantels and draped from chandeliers and walls. The floral decorations reached their height of effectiveness in the east room. Here the great crystal chandeliers were looped with smilax, while the recesses of the chamber were banked with poinsettia blossoms, begonias and tall ferns. The red and blue parlors there were the same effective disposition of flowers and plants, the flaming red of the poinsettias being most apparent everywhere.



ATTORNEY BOUTELL, FOR PLAINTIFF.

In the outer corridor, just within the entrance, the band of the engineer corps, U. S. A., sixty strong, in their brilliant uniforms, were ranged in tiers, while further along in the conservatory was the band of the Marine band, in their bright red uniforms. While the musicians were taking their places, the Roosevelt children were having a merry time through the corridors, and one of them heard playing the "Kangaroo March" in the private apartments of the presidential family. Shortly before 11 o'clock the throngs of distinguished callers began to assemble in the main corridor.

In Many-Hued Array.

First came the members of the diplomatic corps in their rich court uniforms, resplendent in medals and decorations. It was a most cosmopolitan throng, with the oriental silks of Chinese minister, the red fez of the Turkish minister, and the more modern attire of the Japanese conspicuous amid the group of diplomats. The members of the corps gathered in the red parlor preparatory to being presented to the president and Mrs. Roosevelt.

At 11 o'clock a fanfare from three trumpeters, stationed at the further end of the main corridor, announced the approach of the president and the receiving party. At the same moment President and Mrs. Roosevelt appeared at the upper landing of the corridor and, arm in arm, descended the stairway, while the Marine band broke into "Hail to the Chief." The president bowed as he passed along, frequently giving a cheery response to the New Year's greetings extended to him from those in the line.

Mrs. Roosevelt's Gown.

Mrs. Roosevelt held in her hand a superb bouquet of pink orchids. She wore a gown of pink and white, heavily embroidered with blue yoke and diamond ornaments, and in her hair sparkled a diamond tiara. The president was in the conventional black frock coat. He had no boutonniere, but a strict military style, and only bit of color in his attire. Following the president and wife came the members of the cabinet and their wives, the secretary of state and Mrs. Hay, the secretary of the treasury, the secretary of war and Mrs. Root, the postmaster general and Mrs. Smith, the attorney general and Mrs. Knox, the secretary of the interior and Mrs. Hitchcock, the secretary of agriculture and Miss Wilson, and Secretary and Mrs. Cortelyou.

The presidential party took up their station in the blue parlor, with the president and Mrs. Roosevelt immediately alongside the entrance, ready to grasp the hands of callers as they were announced. The cabinet ladies formed a long line extending from Mrs. Roosevelt to the further side of the room, while back of the receiving line were grouped the members of the cabinet and a gay party of young people.

As soon as the president took his position he turned to the ladies invited, back of the line, and gave them a hearty greeting and well wishes of the day.

Diplomats Received.

When the signal was given for admitting the distinguished official callers who by this time filled the outer corridors to overflowing. As dean of the diplomatic corps, the British ambassador, Lord Pauncefote, is usually the first of the foreign callers to greet the president. Today, however, he was absent from the line, having conveyed his private greetings to the president, and the head of the line was taken by Lady Pauncefote and the Messrs. Pauncefote and their Secretary, military and civil attaches of the British

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Shook Hands, After All.

President Roosevelt's manner of receiving his callers was exceedingly gracious and happy. As each guest was announced by Colonel Bingham, the president grasped the hand of the visitor and wished him a hearty new year, often accompanying this with some felicitous expression to any one recognized as a close friend. There was no hurrying along of the callers and often there was considerable delay while pleasantries were exchanged.

Mrs. Roosevelt proved to be a most charming new year's hostess, and the cordiality of her greetings reminded many of the callers of the days when Mrs. Cleveland was mistress of the White House.

After the members of the diplomatic came Chief Justice Fuller and the associate justices of the supreme court, then the judges of all the other high courts in Washington. Next came the executive branch, senators and representatives in congress. Speaker Henderson was among these.

General Miles Arrives.

Then there was another flash of gold lace and the highest ranking officers of the army and navy were received. There were Lieutenant General Nelson A. Miles and Major General Henry C. Corbin, adjutant general, and others. General Miles was in the full uniform of his high rank. The president greeted General Miles with the same hearty courtesy he had shown to others and General Miles returned the salutation in the same spirit, and then passed, smiling, along the line.

Admiral Dewey.

Admiral Dewey was at the head of the long line of naval officers, all in full uniform. The admiral wore the superb sword voted to him by congress for the victory of Manila, and on his breast was the congressional medal commemorating that event. He, too, was most cordially welcomed by the president. The officers of the marine corps, with Brigadier General Heywood at their head, followed the navy, after them came officials of the many official branches.

Reception to the Public.

At 12:30 the reception to the public began, and thousands took first occasion to grasp the hand of the president. Following the reception at the White House, the president principal social events here of the day were the receptions of the cabinet officers. Secretary Hay, following the usual practice, entertained the entire diplomatic body at noon. Other cabinet homes open to callers were those of Secretary Root, Attorney General Knox, Secretary Hitchcock, Mrs. Fuller, wife of Chief

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