

## MERGER HELD ILLEGAL

**United States Supreme Court Sustains Government in Securities Case--Stifling of Competition Main Object of Consolidating Parallel Roads--Sherman Law is Constitutional.**

Washington, March 15.—The opinion of the supreme court of the United States in the case of the Northern Securities company vs. the United States, involving the merger of the Northern Pacific and the Great Northern Railroad companies, was handed down during the day and was in favor of the government. The opinion was read by Justice Harlan and concurred in by Justices Brown, Brewer, McKenna and Day, while the chief justice and Justices White, Peckham and Holmes dissented.

The opinion of the United States circuit court for the district of Minnesota was affirmed.

The effect is to sustain the contention that the anti-trust law applies to railroad combinations of the character in question.

Justice Harlan said that in the merger of the two roads the stockholders disappeared, and reappeared in the Securities company, the two thus becoming practically consolidated in a holding company, the principal object being to prevent competition.

"No scheme or device could certainly more effectively come within the prohibition of the anti-trust law and it is, within the meaning of the act, a trust."

The case has attracted more attention than any other suit before the court since the first insular cases were decided and has been regarded by bench and bar as equal in importance with those cases and with the income tax case. It was argued in December last and attracted general attention at that time, as it did previously when the decision was rendered by the circuit court for the district of Minnesota.

### CONTENTIONS OF THE GOVERNMENT UPHOLD.

The suit was instituted by the United States against the Northern Securities company and the two railroad companies, the Northern Pacific and the Great Northern, and their leading stockholders for the purpose of dissolving the merger of the two roads, which the United States declared had been created by the creation of a holding company, the Securities company. This consolidation was claimed to be in violation of the Sherman anti-trust law. It was claimed on behalf of the government that this consolidation was in effect a pool created to promote the interests, not of one system at the expense of the other, but of both at the expense of the public. The railroads claimed that the transfer of the stock of the two companies to the Securities company was in the nature of a sale and perfectly legitimate.

The contentions of the Securities company were reviewed and Justice Harlan said they had received full attention. He quoted the various opinions involving the trust question, saying that from them it is to be gathered that all contracts in restraint of trade, reasonable or unreasonable, are prohibited by the Sherman law and that congress has the power to establish such regulations as are laid down in that law.

Replying in detail to the points made for the Securities company Justice Harlan said that the contention that the law is an interference with the rights of the individual states by which the companies are incorporated was not well founded. In such cases, he said, the authority of congress is supreme.

He also declared it to be unnecessary to determine the right of owners of railroad stock to sell the property, nor was it true that the right of the Securities company to own and hold railroad stock is the only question involved. Such contentions are wide of the mark—mere men of straw. All that the government complains of is the existence of a corporation to repress commerce and is not concerned with the other points.

### DECISION UPHOLDS THE POWER OF CONGRESS.

Justice Harlan said that in this day there should be no doubt of the complete power of congress to control interstate commerce. All the prior trust cases were in support of that contention. Whether free and unrestrained competition was wise, he said, was an economic question with which the court need not concern itself, the question was that of statutory law.

He asserted the power of congress over interstate commerce to be as complete as the power of a state over domestic commerce.

Coming to the plea of the railroads that the anti-trust law should be declared unconstitutional he said that the court could not see its way to that end.

"If," he went on, "the Securities company's contentions are sound why may not all the railroads of the United States enter into a combination and by the device of a holding cor-

poration control rates throughout the country in defiance of congress?"

Justice Harlan also took occasion to say that there had been nothing in the Securities company's certificate of incorporation to indicate its purpose to be that of destroying commerce and he therefore absolved the state of New Jersey from any charge of such knowledge in advance. It might be true that a federal court had no power to dissolve a corporation of a state, but this circumstance could not be an indication of powerlessness to enforce the law, than which no corporation is stronger. No device could suffice to prevent this enforcement of the national statutes. The courts had, indeed, consistently held to the supremacy of the national laws in cases of conflict between these laws and the laws of the states. So long as congress confined itself to its prescribed functions, he said, there could be no danger. At any rate the error, if any, was with congress and it was for congress to supply the remedy and not for the courts.

Justice Harlan also discussed the predictions of financial disaster from the enforcement of the anti-trust law, but discouraged them, saying they were usual under such circumstances and need not be realized.

### PREVENTION OF COMPETITION ONLY OBJECT OF MERGER.

Justice Harlan declared that the only object of the merger was to prevent competition and he said that if no one else knew this to be the case J. Pierpont Morgan, one of the defendants, knew that to have been the case.

Extracts from Morgan's testimony were quoted in support of this statement.

Logically construed, Justice Harlan said, the decision should be followed by the criminal prosecution of the parties at interest in this case.

Speaking of the general understanding that the Sherman law applied only to large corporations the justice said that this impression was breathed from every pore of the statute, but that its language did not bear out the conclusion.

"In our judgment," said Justice Harlan, "the evidence fully sustains the material allegations of the bill and shows a violation of the act of congress in so far as it declares illegal every combination or conspiracy in restraint of commerce among the several states and with foreign nations and forbids attempts to monopolize such commerce. Laying aside the many things of a minor character and summarizing the principal facts it is indisputable, upon this record, that under the leadership of the defendants, Hill and Morgan, the stockholders of the Great Northern and Northern Pacific railway corporations, having competing and substantially parallel lines from the Great Lakes and the Mississippi river to the Pacific ocean at Puget sound, combined and conceived the scheme of organizing a corporation under the laws of New Jersey which should hold the shares of stock of the constituent companies."

Continuing Justice Harlan said that "this combination is, within the meaning of the act, a trust, but if not it is a combination in restraint of interstate and international commerce and that is enough to bring it under a condemnation of the act."

### LARGE TERRITORY AT MERCY OF COMBINE.

He held that if such a combination were not destroyed "all the advantages that would naturally come to the public under the operation of the general laws of competition, as between the Great Northern and Northern Pacific Railway companies, will be lost and the entire commerce of the immense territory in the northern part of the United States, between the Great Lakes and the Pacific at Puget sound will be at the mercy of a single holding corporation, organized in a state distant from the people of that territory."

The decree of the circuit court, he said, could not have been of smaller scope and it had in no way exceeded its authority. The law must not be narrowly construed, but reasonably construed. The defendants could not complain of the finding of the circuit court and Justice Harlan, in conclusion, announced the confirmation of the decision of that court, saying:

"The judgment of this court is that the decree below of the circuit court be and hereby is affirmed, with liberty to the circuit court to proceed in due execution of the decree as the circumstances may require."

Judge Harlan concluded at 1:18 p. m. He was followed by Justice Brewer, who, while concurring in the judgment, did not accept all of the language of the opinion.

### JUSTICE HOLMES READS DISSIDENTING OPINION.

Justice Holmes read the dissenting opinion. He construed the anti-trust law as a criminal statute and declared

## HAVE WE BEEN MISINFORMED AS TO THE FARMER?

[Dr. Webber of the department of agriculture declares that Americans are failures as farmers.]



Is this the real type of American farmer, as the magazine and newspaper writers would have us believe—



—or is this? —Chicago Record Herald.

that there was nothing in it to indicate that it had been enacted merely for the control of large concerns, as is generally contended. Indeed, the law had not been understood as applying to railroads until so construed by the supreme court. The act, he contended, applies only to contracts and combinations in restraint of trade and makes no reference to competition.

He thought this inference due to the size of railroad corporations. He took the position that there has been no attempt to monopolize in this combination of the railroads and said that there could be no more objection to the purchase of the stock of the Northern Pacific and the Great Northern roads by the Securities company than if bought by Mr. Morgan himself.

Justice White also read a dissenting opinion, taking up especially the power of congress to control commerce. Beginning with an argument in support of dissenting opinions he outlined the points involved in the case. He referred to its importance and called attention to the fact that only four members of the court, one less than a majority, had united in the opinion of the court. He then said that such principles as are laid down in that opinion are "destructive of government, destructive of human liberty and destructive of every principle upon which organized society depends."

## STATE CONVENTIONS

**Republican Conventions for North Dakota Called by State Committee.**

The next republican state conventions will be held as follows:

The convention to elect delegates to the national convention will meet in Fargo May 18.

The state nominating convention will be held at Grand Forks July 27.

Counties can call conventions whenever they see fit.

The proposition of one delegate to seventy-five votes carried and makes the convention have 511 delegates.

The above matters were settled by the state republican committee which met in Fargo yesterday. The convention will be smaller in numbers than the last.

Col. Robinson of Mayville, member of the committee presented the following resolutions which were adopted unanimously:

The republican state committee of North Dakota, reflecting the sentiment of the republicans of the state take this occasion to declare its loyalty to President Roosevelt, and we pledge him our earnest support for a renomination. Proud of his distinguished services, his intense Americanism, his devotion to the higher ideals of statesmanship and national integrity and proof of his fidelity to every interest affecting impartially the welfare of all the people of this nation. We look forward with confidence to an endorsement of these excellent qualities and his re-election to the presidency.

In the death of Marcus A. Hanna, the members of the republican state committee of North Dakota feels that they have suffered a personal loss. Senator Hanna was not simply a manipulator of politics but a broad statesman, a patriotic American and true friend, not only of capital, but of labor, and his name is inseparably interwoven with the history of the

period during which this country made its greatest progress. He was quiet, but forcible, positive and far sighted and his death was a great loss, not simply to the party, but to the country and to the world.

The following members of the state committee were present:

- L. B. Hanna, Fargo, chairman.
- M. H. Jewell, Bismarck, secretary.
- A. Short, Pembina.
- J. R. Gibson, St. Thomas.
- Gunder Olson, Grafton.
- J. H. Mathews, Larimore.
- Stephen Collins, Grand Forks.
- William Budge, Grand Forks.
- J. E. Paulson, Hillsboro.
- James Kennedy, Fargo.
- Geo. D. Brown, Wild Rice.
- S. G. More, Buffalo.
- Elmer H. Myrah, Wahpeton.
- A. N. Carlblom, Forman.
- R. S. Adams, Lisbon.
- Governor White, proxy for J. D. Black, Valley City.
- David Bartlett, Cooperstown.
- M. H. Jewell, proxy for A. O. Whipple, Devils Lake.
- John Knauf, Jamestown, proxy for Harry Cornwell, Eldridge.
- L. B. Hanna, proxy for R. W. S. Blackwell, LaMoure.
- Geo. W. Irwin, Ellendale.
- N. F. Boucher, Bismarck.
- G. K. Vikan, Bottineau.
- W. C. Gilbreath, Mandan.
- L. A. Simpson, proxy for R. H. Johnson, Dickinson.
- J. E. Galehouse, Carrington.
- F. W. Schieffer, Fessenden.
- Geo. H. Stevens, Towner.
- M. H. Jewell, proxy for John Satterlund, Washburn.
- N. F. Boucher, proxy for G. O. Gulack, Ashley.
- Matthew Lynch, Lidgerwood.
- G. M. Young, proxy for Wm. Cruft, Lucca.
- W. H. Robinson, Mayville.

The apportionment includes two members of the committee at large, and two from unorganized counties making the convention 513.

## MONETARY UNIT OF PANAMA.

**Will Be a Gold Dollar Similar to That of the United States.**

Panama, March 16.—According to a decree of the convention published Monday the monetary unit of the republic after Dec. 31, next, will be the gold dollar of the same dimensions and weight, by law, as the United States dollar. The silver currency now in circulation will be exchanged at the rate of \$100 in gold for \$225 in silver. The decree is being greatly discussed.

## Wisconsin Day at World's Fair.

St. Louis, March 16.—Elks' day at the world's fair will be July 26. Wisconsin day will be July 27 instead of June 23. The change was made at the request of the Wisconsin commission. June 4 will be "Pike Day."

## No More Arms for Rebels.

New York, March 17.—Instructions are understood to have been received by officials of the Clyde Steamship line from the state department at Washington to accept no more arms and ammunition for the Jimenez revolutionists in San Domingo. General Jimenez is said to be arranging for munitions of war from Canada.

## AWFUL TALES OF BLOOD

**DETAILS OF SLAUGHTER OF GERMAN SETTLERS BY NATIVES IN SOUTHWEST AFRICA.**

### VICTIMS' BODIES HORRIBLY MUTILATED

**TERRIBLE SCENES EXCITE SOLDIERS TO A LONGING FOR SPEEDY REVENGE.**

Berlin, March 17.—Letters from German Southwest Africa have arrived here giving details of the ghastly treatment of German settlers, 113 of whom were killed outright or tortured to death in the district of Okahundja alone. Women outraged and dismembered and with pieces of their bodies nailed to the doors of the houses and boys mutilated and left to die slowly were frequent spectacles. The expeditionary columns, on coming in sight of a farmer's house, would see the heads of its former occupants fastened to the roof.

These sights appear to have excited the rage of the soldiers. The letters express longings for revenge and a determination, as one writer says, "to kill everything black." That causes some papers to urge the government to telegraph instructions to Colonel Leutwein, the governor of German Southwest Africa, that he order the soldiers to restrain themselves and conduct the war in a civilized manner. Colonel Leutwein himself comes in for criticism, as it is alleged he left insufficient numbers of troops in the exposed districts and was misled by the temper of the natives, having frequently at his own table chiefs who are now in rebellion and who are wearing decorations and swords of honor bestowed on them by the governor in behalf of the emperor. The Tageblatt intimates that Colonel Leutwein will be recalled.

### STUTSMAN COUNTY.

Medina (Leader)—W. F. Carey has shipped two cars of hay to St. Cloud, Minn.—Mrs. Phillips has sold her holdings in sheep to Dix & Rosemore of Paris.—Rev. Bauer of Jamestown held services last Sunday at the residence of John Troutman. He will hold services tomorrow at the residence of Christ Klundt south of town.—Born To Mr. and Mrs. Sylvio last Tuesday, a girl.—A pleasant party was tendered Bert Germain last night it being his birthday. The evening was spent in dancing and a delightful luncheon was served.—Wm. Schelstke and family have returned from California where they went about a year ago and have decided to make their future home in North Dakota.

Cleveland (Herald)—John Hein and wife arrived Thursday from Palmer, S. D., and will make this place their future home.—Emil Wiese, of Alcester, S. D., has arrived and is preparing for the spring work. He intends to put in a large crop on his section south of here.—C. Terpena made a trip to New Salem and other western North Dakota points and sold several carloads of hay as that article is very scarce in that section of the state.—A large number of the friends of Mr. and Mrs. F. L. Kellogg gathered at their home in Windsor Monday to give them a surprise on their twentieth wedding anniversary. Dancing, games and the evening as a very pleasant one.—The store of Schneider & Sons closed Tuesday as the trustees concluded that it did not pay to operate it any longer.

Pingree (Patriot)—Numerous inquiries that are being made regarding fence posts and wire are indicative that there will be a great deal more fencing done in this community this year than has been done for several years.—John Price came near losing his house by fire last week.—T. W. Scrafford returned from Seneca, Kansas, last week.—Miss VandeErav has closed her term of school.—The Ladies Aid will make a contribution to the Children's Home at Fargo.—Mrs. Levi Jarvis is seriously ill in Iowa.

### MR. HILLS PLANS.

St. Paul, Mar. 15: Friends of Mr. Hill claim that he is not beaten yet in the object desired by the Securities company in the adverse decision of the supreme court. It is reported that Mr. Hill controls the Erie road and will now have that road take over the Northern Securities holdings. If the government continues the prosecution of the cases it must also go after the Vanderbilts, the Pennsylvania and the B. & Q. which were formerly competing systems but are now in one combination.

## STILL BLAMING JAPAN

**CZAR RECEIVES THE GERMAN ATTACHES WHO ARE ON THEIR WAY TO THE FRONT.**

### RUMORED JUNCTION OF SQUADRONS

**PORT ARTHUR AND VLADIVOSTOK FLEETS LIKELY TO TAKE THE AGGRESSIVE.**

St. Petersburg, March 17.—The emperor, receiving the German attaches, Laneinstein and Tettau, who are to leave for the front March 18, said, among other things:

"Gentlemen, all Europe now realizes that Russia tried to avoid war and to obtain a peaceful settlement. Many of the powers strove also to attain this end, but Japan forced the war, infringing all international law. Gentlemen, you will be able in the Far East to see how Russia observes humane and correct conduct during war."

The Grand Duke Cyril, who has arrived at Port Arthur, will serve as first officer of the battleship Petropavlovsk.

### WILL BECOME AGGRESSIVE.

**Rumored Junction of Vladivostok and Port Arthur Fleets.**

Shanghai, March 17.—Advices from Nagasaki say that a rumor is in circulation there to the effect that Admiral Makaroff's fleet, which was stationed in the outer harbor at Port Arthur, has broken through the Japanese cordon, probably under cover of darkness, and effected a junction with the Vladivostok fleet.

This move has been expected ever since Admiral Makaroff decided to keep the fleet under steam in the outer harbor.

It is supposed that the fleet made a dash through the Korean straits and found the Vladivostok cruisers along the Korean coast.

It will be in keeping with Makaroff's policy to launch his whole strength against the Japanese Port Arthur fleet and such action is looked for, provided the rumors are true.

### DESCENDING FROM VLADIVOSTOK

**Russian Army Corps Moving Towards Korea.**

Paris, March 17.—The Temps correspondent at St. Petersburg asserts that a Russian army corps is descending from Vladivostok toward Korea. He says that Port Arthur has a garrison of 20,000 men and is provisioned for a year.

The Russian ministry of marine, the Temps correspondent further asserts, claims that Japan's losses since the opening of the war are four cruisers and five torpedo boat destroyers and the machinery of a 12,000-ton battleship seriously injured.

The correspondent concludes his dispatch with asserting that the concentration of Russian troops at Mukden and Harbin is considered as terminating the danger from a Japanese landing in the northern part of the bay of Korea.

### THREE HUNDRED CASUALTIES.

**Said Russians Lost Heavily in Last Port Arthur Attack.**

London, March 17.—The Telegraph's correspondent at Yinkow cables that most of the shells fired into Port Arthur during another bombardment on March 12 were part of the ammunition found on board the captured East Asiatic steamer Manchuria, which was bound for Port Arthur with 7,000 tons of war material. The Russians were greatly surprised at seeing their own shells bursting among them. Thirty casualties occurred in one large fort. The total Russian casualties were over 300 killed and wounded. This is authentic. Evidently not much damage was done to the Japanese ships, for the forts made but feeble reply.

### RUSSIA SECURES A LOAN.

**Completes Arrangements for Money When Needed.**

Berlin, March 17.—A dispatch from St. Petersburg says that the Russian government has succeeded in floating a war loan of \$200,000,000. International financiers, the names of whom are kept secret, have agreed to advance the money to Russia, to be repaid when the war ends. The loan will take the form of consolidated stock. The money will be given to the Russian government when the present resources become exhausted. The funds Russia has at hand will last a considerable time.

### CANNOT BE GIVEN ANY HELP.

**Port Arthur Must Be Held With Present Garrison.**

Newchwang, March 17.—General Kuropatkin has telegraphed General Stoessel that he must hold Port Arthur with the present garrison. Kuropatkin states that he is forming his first line of defense with an army of 300,000 men, with a second line of 200,000 to guard the lines of communication and to prevent the Chinese from assisting the Japanese.