

HILL WINS N. S. DECISION. CAN DISTRIBUTE STOCK.

Restraining Order Obtained by Harriman in New-Jersey Reversed.

Philadelphia, Jan. 3.—The United States Court of Appeals for the Third Judicial District, in an opinion filed here to-day, reversed the decision of the New-Jersey Circuit Court, which restrained the Northern Securities Company from distributing stock of the Northern Pacific Railroad Company. The decision is a defeat for the interests represented by E. H. Harriman. By the decree of the New-Jersey court Northern Securities was restrained from disposing of 370,230 shares of Northern Pacific common alleged to have been received from E. H. Harriman and Winslow S. Pierce, and of 347,000 shares of Northern Pacific common received by the Northern Securities Company from the Northern Pacific Company. To-day's decision gives the Northern Securities Company the right to dispose of the stock.

Messrs. Harriman and Pierce, when the Northern Securities Company had been declared by the United States Supreme Court to be an illegal combination, demanded the return of the original stock they had contributed at the time of the merger. The Northern Securities Company, it was declared, intended to make a pro rata distribution of the stock of the contributing company. The opinion, written by Judge Dallas, said at the outset:

Harriman averred that the shares of railway stock in question were acquired by the securities company; that it would hold them as custodian, depository, trustee, and that the owners of said shares were the parties who originally exchanged the same for stock in the Northern Securities Company.

The Northern Securities Company claims that it acquired the stock by purchase and that it owns the stock outright.

The court, after deciding that a purchase and not a trust was contemplated, and that the resolution was adopted at a meeting at which Harriman was present, continued:

The Northern Securities Company is the owner of 1,587,864 shares of the stock of the Northern Pacific Railway Company, which has been received from voting or receiving dividends, and, in view of this restraint, all parties agree that it should not continue. The Northern Securities Company accordingly proposes to assign them pro rata to its shareholders, including not less than twenty-five hundred persons whose shares are unquestionably acquired by purchase, and who are not parties to this suit, and as such disposition of them would effect a reasonable and equitable division of the stock among all who are entitled to participate in a distribution of the corporate assets, we are of the opinion that the injunction which prohibited it should no longer remain in force.

If the question before us had been involved and decided in the suit of the United States against the Northern Securities Company, or if it had been passed upon, though not incidentally, by the Supreme Court of the United States, in disposing of the appeal in that case, we, of course, would not regard it as an open case. But it is neither decided nor considered at any stage of that litigation.

The petition, or bill, of the United States did pray that the stockholders of the railroad companies who had exchanged their stock therein for stock of the Northern Securities Company should be enjoined from voting or receiving dividends, and that the Northern Securities Company should be enjoined from distributing any stock of the Northern Securities Company so acquired and held by them, and to accept, therefore, the railway stock in exchange for which the same is issued; but the decree, in so far as it was mandatory, went no further than to prohibit the doing of "such things which would effect the result denominated by the act." (193 U. S. 305.)

It was all that was required that it was accomplished by that part of the decree which has been already quoted, and the added clause, though apparently suggesting the prayer of the petition, which it referred, was obviously not intended to have any obligatory effect. It was permissive merely, and this we regard as the proper construction of it. It is necessary only to direct attention to them. They are:

"But nothing herein contained shall be construed as prohibiting the Northern Securities Company from returning and transferring to the stockholders of the Northern Pacific Railway Company, or to the Great Northern Railway Company respectively any and all shares of stock in either of said railway companies which the Northern Securities Company may have heretofore received from such stockholders in exchange for its own stock; and nothing herein contained shall be construed as prohibiting the Northern Securities Company from making such transfer and assignment of the stock aforesaid to such person or persons as may now be the holders and owners of its own stock originally issued in exchange or in payment for the stock claimed to have been acquired by it in the aforesaid railway companies."

Judge George Gray, of Delaware, filed a dissenting decision, in which he said:

I dissent from the judgment of the majority of this court. I do not think the judge below exercised other than sound judgment in granting the injunction. Nothing but a clear conviction that the bill was without equity would have justified the court below in refusing the injunction. It is the opinion that the injunction has given due consideration to all the parties to the suit and a case established to entitle complainants to the protection of the injunction, I am in favor of affirming the decree.

It is learned on the highest authority that the Harriman interests will not accept as a final disposition of the Northern Securities case the decision of the United States Circuit Court of Appeals in Philadelphia. The distribution pro rata of the Northern Pacific and Great Northern stock holdings of the Northern Securities Company could not legally be begun until after the mandate of the United States Circuit Court of Appeals, dissolving the injunction, shall have been filed with the United States Circuit Court from which was issued the order restraining the Northern Securities Company from making such distribution. Before the filing of the mandate, a period of at least several days, application will be made to the United States Supreme Court by the attorneys for the Harriman interests for a writ of certiorari, to review the decision just handed down by the Circuit Court of Appeals. If the Supreme Court grants the writ, the litigation will be protracted for a considerable period; if it does not, the dissolution of the injunction and the carrying into execution of the Northern Securities Company's plan of pro rata distribution will be speedily thereafter accomplished.

J. J. Hill was seen at his office soon after the news from Philadelphia reached this city. He said he was pleased, but not surprised, at the decision. There would be no haste, he said, in distributing the assets of the Northern Securities Company. Mr. Hill was asked:

"Does this mean a settlement?" and answered: "Why, yes, the court settles it."

E. H. Harriman, when the bulletin announcing the decision of the court was shown him, said:

"The matter now has been before four judges and so far it is an even division, two having declared for us and two against us."

Mr. Harriman declined to say anything further regarding the case.

After the reading of the minutes of the previous adjourned meeting, the meeting of the Northern Securities Company, which was to have been held yesterday at Hoboken and adjourned until next Monday. The only persons present were Colonel Clough, fourth vice-president of the company, and Nicholas Terhune, assistant secretary.

The announcement of the decision caused a jump in the price of Northern Securities on the curb from 152 1/2, at which it closed on Saturday, to 155. The price then fell back to below 154. The high price of Northern Pacific was 116 1/2, compared with 113 1/2 at the close on Saturday, and the stock closed at 116 1/2, a net gain for the day of 2 1/2 points. The whole list on the Stock Exchange was affected in sympathy with the decision.

St. Paul advanced from 172 to 175 1/2, closing 3 1/2 points up from Saturday at 174 1/2. The reports were revived that a plan of settlement had been suggested by the contending parties in the Northern Securities Company, but these stories were declared by both sides to be utterly unfounded.

After the decision of the United States Supreme Court in March, declaring the Northern Securities Company to be an illegal combination, a circular was issued by the management of the company, calling a special meeting of the stockholders on April 21 to vote on the proposition to reduce the capital stock from \$300,000,000 to \$3,954,000 by pro rata distribution of the Northern Pacific and Great Northern shares held by the company. The Harriman-Union Pacific interests on April 3 filed a petition in the United States Circuit Court in St. Paul, asking for leave to intervene in the case of the United States against the Northern Securities Company. The petition was denied on April 19.

The stockholders of the Northern Securities Company on April 21 approved the plan of the directors, but at their meeting a notice was

THE really great resolve for the housewife the coming year is to adopt into her cuisine more genuine home made food. Shop-made, ready-made cake, tea biscuit, crullers, bread and substitutes therefor are dry, unsatisfying, extravagant and frequently unhealthful. In many bake shops alum powders are used to cheapen the product.

With Royal Baking Powder, cake, waffles, tea-biscuit, puddings, layer cakes, crullers, cookies, muffins, crusts, griddle cakes are made with greatest ease, in perfection, superior in every way to the ready-made foods, and a saving in money.

The United States Agricultural Department reports the result of elaborate experiments under its direction, which show the great saving by baking at home, as compared with cost of All bread, cake, biscuit, etc., are very, cheaper and more made at home with POWDER.



ROYAL BAKING POWDER CO., NEW YORK.

COMMISSION TO REGULATE TRUSTS.

Senator Heyburn's Bill Proposes a Board of Five Members.

Washington, Jan. 3.—Senator Heyburn, of Idaho, to-morrow will introduce a bill providing for the regulation of corporations by a commission of five members. Four of the commissioners are to be appointed by the President and confirmed by the Senate, and the fifth is to be the Secretary of Commerce and Labor, ex officio.

SATISFIED JUDGMENTS.

The following were among the satisfied judgments filed yesterday; the first name is that of the debtor, the second that of the creditor, and date when judgment was filed:

La. Fargis, John—P. H. N. Whiting and another; \$1,611. Fargis, John—P. H. N. Whiting and another; \$1,611. Fargis, John—P. H. N. Whiting and another; \$1,611.

JUDGMENT CANCELLED.

Ginsberg, Bernard, and John L. Lindsey—Yellow Pine Company; December 12, 1897; \$1,054.

PETITIONS IN BANKRUPTCY.

The following petitions in bankruptcy were among those filed yesterday:

Judge Holt appointed Robert C. Morris receiver of the Windsor Company, dealer in cotton goods, against which an involuntary petition was filed on December 28, 1904. The amount of his bond is \$20,000. The court gives the receiver the right to sell the assets of the company and to distribute the proceeds to the creditors.

MARINE INTELLIGENCE.

MINIATURE ALMANAC
Sunrise 7:26; Sunset 4:45; Moon rises 6:06; Moon's age 29.

HIGH WATER.

A.M.—Sandy Hook 6:21; Gov. Island 6:52; Hell Gate 8:15.
P.M.—Sandy Hook 6:26; Gov. Island 7:23; Hell Gate 8:45.

INCOMING STEAMERS.

TO-DAY.

Vessel. From. Line.
"Atlantic".....Liverpool, December 28.....White Star
"Albatross".....London, December 28.....Anchor
"Albatross".....London, December 28.....Anchor
"Albatross".....London, December 28.....Anchor

OUTGOING STEAMERS.

TO-DAY.

Vessel. To. Line.
"Atlantic".....Liverpool, December 28.....White Star
"Albatross".....London, December 28.....Anchor
"Albatross".....London, December 28.....Anchor
"Albatross".....London, December 28.....Anchor

THE MOVEMENTS OF STEAMERS.

FORDON PORTS.

Manchester, Jan. 3.—Arrived, steamer Tintoretto (Bo. Swane, Dec. 31.—Sailed, steamer Exeter City (Bo. King, New-York.

THURSDAY, JANUARY 5.

Nimidian, Glasgow, Allan Star..... 10:00 a.m.
Montreal, Genoa, Spanish..... 10:00 a.m.
Cunard, Manchester, Lamer & Holt..... 10:00 a.m.

FRIDAY, JANUARY 6.

Cedric, Queenstown, White Star..... 9:00 a.m.
Roman Prince, Santos, Prince..... 9:00 a.m.
Yucatan, Santiago, Ward..... 9:00 a.m.

SATURDAY, JANUARY 7.

Iberia, Queenstown, Cunard..... 9:00 a.m.
Deutschland, Naples, Hamburg-Amerika..... 9:00 a.m.
Philadelphia, Plymouth, American..... 9:00 a.m.

SUNDAY, JANUARY 8.

Albatross, London, December 28.....Anchor
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SHIPPING NEWS.

Port of New-York, Tuesday, January 3, 1905.

ARRIVED.

Steamer Ivernia (Br.), Jeffries, Liverpool December 28 and Queenstown 29, to the Cunard S. Co. Ltd., with passengers, mails and mids. Arrived at the Pier at 4:57 p.m.

DEPARTED.

Steamer Stadenland (Dutch), Stenger, Rotterdam December 28 and Boulogne 29, to the Holland-America Line, with 108 cabin and 1,224 steerage passengers and mids. Arrived at the Pier at 5:30 a.m.

ARRIVED.

Steamer Sibiria (Ger.), Bramben, Savannah December 28 and Liverpool 29, to the Hamburg-Amerika Line, with 108 cabin and 1,224 steerage passengers and mids. Arrived at the Pier at 5:30 a.m.

DEPARTED.

Steamer Eltona (Br.), Davis, Matanzas December 28, to the Southern Pacific Company, with mids. Passed Quarantine at 12:30 p.m.

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Amusements.

METROPOLITAN OPERA HOUSE.

Grand Opera Season 1904-1905.
To-night, at 8—LA BOHEME, Sembrich, Altan; Caruso, Scotti, Journet, Rossi, Cond. Vigna.

THEATRE.

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In time of peace—
Social struggles are on and your evening clothes must be proof against criticism.

Ours are.
Evening dress suits: \$27 to \$50.
Tuxedo jackets, separately: \$14.50 to \$27.

ROGERS, PEET & COMPANY.

254 Broadway, cor. Warren,
opposite City Hall.
842 Broadway, cor. 13th,
and 140 to 148 4th Ave.
1260 Broadway, cor. 32d,
and 54 West 33d St.

We fill orders by mail.

Prepared for war!
Woolen sweaters: \$4 and \$6.50.
Hockey shoes: \$4.
Woolen gloves: 50c. to \$1.50.

Boys' hockey shoes: \$3.50.
Boys' sweaters and gloves.

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Stern Brothers

Will continue to-day

and during the week

Special Sales

In the following departments

Cloaks and Wraps

Fur and Fur-lined Garments

Housekeeping Linens

Embroideries

Lace Curtains and Rugs

West Twenty-third Street

James McCreery & Co.

On Wednesday, January the 4th,