

OREGON SHORT LINE TRUSTEES.

Harriman and Pierce Ask Leave
To Intervene in Suit Against
Northern Securities Co.

PETITION U. S. CIRCUIT COURT.

Returnable April 12—Object of Fight
Is Control of the Northern
Pacific Railway.

St. Paul, April 2.—E. H. Harriman, as trustee for the Oregon Short Line, today filed a petition in the federal court asking to be allowed to intervene in the case of the United States against the Northern Securities company with the object of compelling the Northern Securities company to turn over to him the Northern Pacific railway stock originally exchanged for Northern Securities stock.

This action is taken as the beginning of the contest for the control of the Northern Pacific railway between the Hill-Morgan faction of the Northern Securities company and E. H. Harriman. This suit, it is said, is to compel the securities company to return to the original holders the Northern Pacific shares exchanged for Northern Securities stock, instead of the proposed division of Northern Pacific and Great Northern stock.

The Harriman interests, prior to the formation of the securities company, held a controlling interest in the Northern Pacific stock, the struggle for which culminated in the panic of May 9 on the New York stock exchange.

E. H. Harriman and Winslow S. Pierce, acting as trustees for the Oregon Short Line, signed the petition, which was filed in the United States court today, asking the court to direct the Northern Securities company to return to the original shareholders the Northern Pacific stock exchanged for Northern Securities stock at the time of the formation of the Northern Securities company.

The petition was filed by John G. Dillon and William Guthrie, as attorneys for Harriman and Pierce, and notice of the action was served on M. D. Grover, C. W. Bunn and George B. Young, attorneys for the securities company. The petition is returnable on April 12.

E. H. Harriman and allied interests and James J. Hill, J. P. Morgan and others.

That some step was anticipated the attorneys admitted, but each stated that the filing of the petition on Saturday came as a surprise, and he was unable to state what course would be pursued until the principals had been consulted.

The citation in the suit is directed to the Northern Securities company, the Northern Pacific, the Great Northern railway, J. J. Hill, J. P. Morgan and others, and gives notice that on April 12 Harriman, Pierce and the Oregon Short Line railway company will apply to the judges of the United States circuit court for leave to file a petition of intervention in the suit of the United States against the same defendants, with reference to the execution of the final decree of the court which was filed April 9, 1903.

The petition sets forth that the Northern Securities stock assigned to the petitioners in exchange for Northern Pacific common and preferred stock is held intact by the Equitable Trust company of New York, as pledge for a bond issue of the Oregon Short Line, and is available for exchange. It is alleged that the plan proposed for the distribution of Northern Securities assets by the pro rata return of the Northern Pacific and Great Northern stock in the hands of the same people, who are now in control, and would in effect defeat the decree of the court.

It is asked that the directors of the Northern Securities company be directed to return to the petitioners the Northern Pacific common stock originally exchanged by them, and the additional Northern Pacific common stock created by the conversion of the preferred stock of that road exchanged for Northern Securities stock, and that the directors of the securities company be enjoined from carrying into effect the proposed plan of distribution, until the court acts upon this petition.

TEXT OF PETITION.

First—Your petitioners, Harriman and Pierce and the Oregon Short Line railway company, are now, and ever since November 18, 1901, have been the registered owners and holders of \$2,491,871 par value of the capital stock of the defendant Northern Securities company and such holding of stock by them is, and was as trustees for the use and benefit of your petitioners, the Oregon Short Line railway company, which company was and still is the owner thereof.

Second—Your petitioner, the Oregon Short Line railway company, by indenture dated on July 15, 1901, the railroad company pledged \$2,491,871 par value of said stock with the Equitable Trust company of New York as trustee for an issue of bonds of \$2,500,000 face value which have been certified and issued, but under the terms of said indenture the stock so pledged and standing in the name of your petitioners, Harriman and Pierce, is available to your petitioners for the purpose of tender, return and restoration of the status quo as hereinafter alleged and prayed, which will fully appear by reference to said trust indenture to be produced on the hearing.

Third—As your petitioners are advised and believe, over 95 per cent of the outstanding capital stock of said Northern Securities was issued in exchange for shares of the capital stock of the Northern Pacific and Great Northern railways respectively, and less than half per cent of said stock was issued for other property. They are further informed and believe that about

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\$175,244,000 par value of the stock of the Northern Pacific railway company was issued in exchange for \$153,749,425 par value of the stock of the Northern Pacific railway company, and about \$212,600,000 par value of said securities company stock was issued in exchange for \$118,124,220 par value of the stock of the Great Northern Railway company.

HARRIMAN AND PIERCE.

Fourth—The \$2,431,000 par value of stock of the Northern Pacific stock now standing in the names of said Harriman and Pierce, was part of the original issue of the stock of said Northern Securities company, and was issued directly to them by said Northern Securities company, or about Nov. 18, 1901, in exchange for \$37,923,000 par value of the common stock and \$41,085,000 par value of the preferred stock of the Northern Pacific railway company, and at the time of such exchange there was also paid to them by or on behalf of said securities company, the sum of \$8,916,829 in cash. The original certificates issued to them are still registered in their names and are now actually in the custody of said trust company as pledges and available for tender, return and restoration.

WHAT WAS UNDERSTOOD.

Fifth—At the time of such exchange it was understood and agreed that the \$41,085,000 par value of the preferred stock should be converted into common stock of the Northern Pacific railway company; and thereupon, after the exchange of the preferred stock for common stock of the Northern Pacific railway company, the same new common stock substituted in lieu of the certificates for preferred stock, and Northern Securities company now holds all the common stock into which said preferred stock was so converted.

FINAL DECREE.

Sixth—The final decree in the above entitled cause, entered in this court on the 31st day of April, 1903, was that the Northern Securities company, duly affirmed by the supreme court of the United States and in the decision there announced affirming said decree it was directed that the judgment of the supreme court of the United States be affirmed, with liberty to the circuit court to proceed in the execution of its decrees as the circumstances may require.

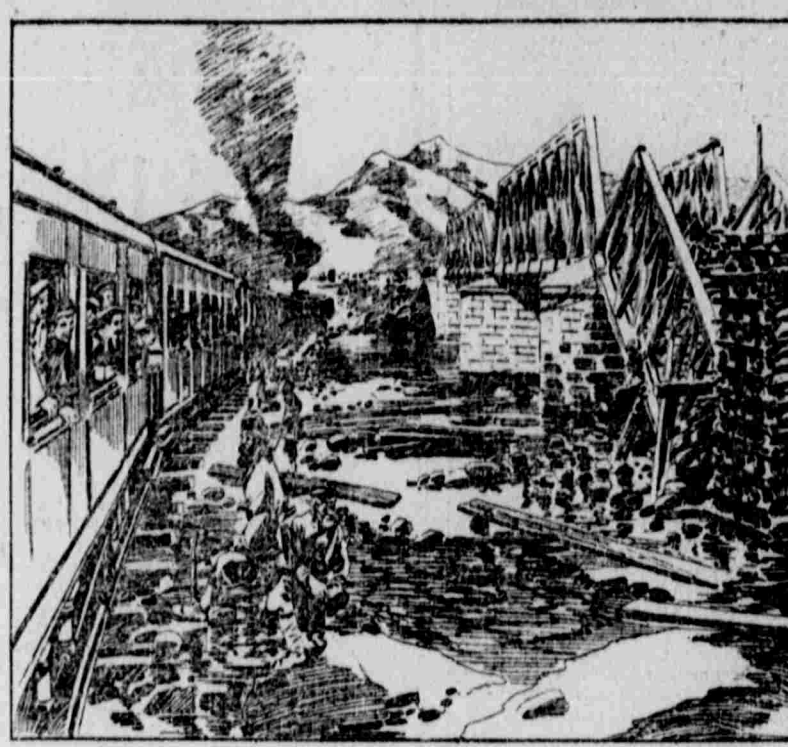
Seventh—Upon such decision of the supreme court of the United States has not yet issued and under the rules will not issue until the expiration of 30 days from the date of decision, unless by special order.

DETERMINED TO DISTRIBUTE.

Eighth—Immediately upon the rendition of the decision by the supreme court of the United States affirming the decree of this court, the individual defendants above named and the Northern Securities company determined, without waiting for the issue of the mandate of the supreme court of the United States, and without any order of this court, in execution of its decree to distribute and divide the stock of the Great Northern and Northern Pacific railway companies held by the Northern Securities company, pro rata among the stockholders of the Northern Securities company, according to their holdings of its stock, and not to return and transfer to the stockholders of the Northern Pacific railway company and the Great Northern railway company, respectively, any and all shares of stock in either of these railway companies which the Northern Securities company originally received from such stockholders in exchange for its own stock, nor to transfer and assign the stock in either of the railway companies to any such person or persons as may now be the holders and owners of its own stock originally issued in exchange or in payment for such stock of said railway companies respectively.

Ninth—Upon being informed of such purpose and intention to distribute the stock of the Northern Pacific and Great Northern companies pro rata among the

THE UNFINISHED MANCHURIAN RAILWAY.



RUSSIAN TROOP TRAIN CROSSING A TEMPORARY BRIDGE.

One of the chief obstacles that have faced the Russian government in its war with Japan is the difficulty of transporting troops to the front. For example, the recent washing out of a bridge between Harbin and Port Arthur necessitated the throwing of a temporary bridge across a rather wide river and on it piling an uneven and rudely constructed track, over which the delayed troop trains might pass. In war operations time is an item of the utmost importance, as a delay of twenty-four hours may mean the loss of a battle.

stockholders of the Northern Securities company, your petitioners submitted the matter to counsel and were advised that there were serious doubts as to the legality of the proposed plan. The fact that they had been so advised was promptly communicated by your petitioners to the Northern Securities company, with the request that the meeting of the board of directors of said company which had been called for March 22, 1904, be adjourned for a few days so as to afford an opportunity for further consideration by your petitioners and their counsel, but such request for adjournment was not granted, and at such meeting held in the city of New York on said date, notwithstanding the request for an adjournment was submitted, the following resolutions and resolutions were adopted by your petitioners, Harriman being present as a director of said Northern Securities company, but declining to vote, viz:

RESOLUTION ADOPTED.

"Whereas, In the course of its business this company has acquired and now holds 1,537,594 shares in the capital stock of the Northern Pacific railway company and 1,181,242 shares in the capital stock of the Great Northern railway company; and

"Whereas, In a suit brought by the United States against this company, the said railway companies and others, this company has been enjoined from voting upon the shares of either of the said railway companies and each of the said railway companies has been enjoined from paying to this company any dividend upon any of the shares of such railway company held by this company; and

"Whereas, This company has issued and there are now outstanding 3,854,000 shares of its own capital stock; and

"Whereas, This company desires and intends to comply with the decree in the said suit, fully and unreservedly and without delay;

"Resolved, In consideration of the premises, it is declared necessary and desirable for this company so to reduce its present capital stock, as will enable it without delay, in connection with such restriction, to distribute among its shareholders the shares of capital stock of said companies held by it.

"Resolved, That the board of directors of this company hereby declares it

advises that article 4 of this company's certificate of incorporation be amended, so as to read as follows:

"Fourth—The capital stock of this company is hereby reduced to three million, nine hundred and fifty-four thousand dollars (\$3,954,000) and shall hereafter be three million, nine hundred and fifty-four thousand dollars (\$3,954,000) divided into 35,540 shares of one hundred dollars (\$100) each. Such reduction of capital stock shall be accompanied by each holder of outstanding shares of this company's stock surrendering to the company for payment ninety-nine (99) per cent of the shares held by him.

"Upon the surrender to this company by any shareholder of the entire number of shares and parts of shares of this company's stock which he is hereby notified to surrender, the company will assign to him for each share so surrendered thirty-nine dollars and twenty-seven cents (\$39.27) of the stock of the Northern Pacific railway company and thirty dollars and seventeen cents (\$30.17) of the preferred stock of the Great Northern railway company and proportional amounts thereof for fractional shares of the stock of this company.

"The board of directors, or executive committee, from time to time shall make such rules and regulations as it shall deem necessary or convenient for carrying out the provision hereof, and all matters pertaining to the surrender and retirement of the stock of this company, or to the assignment and transfer of the stock of the said railway companies, hereby contemplated, shall be under the direction of the board for the purposes hereof, the stockholders of this company, and the number of shares held by them respectively shall be determined from the stock transfer books of the company, which books of determination shall be closed at a day and hour to be determined by resolution of the board.

"Resolved, That a meeting of the stockholders of this company for the purpose of making action upon the said alteration of the certificate of incorporation of this company, and also upon such other business as may come before the meeting, be, and is hereby called to be held at the general offices of the Northern Pacific railway company, in the city of Hoboken, county of Hudson, and state of New Jersey, at 11 o'clock a. m., on April 2, A. D. 1904."

The directors of the Northern Securities company at the meeting further resolved that a circular or notice should be forthwith sent to the stockholders of the Northern Securities company explaining in detail the proposed plan of distribution, and thereupon such circular or notice was immediately sent to the stockholders.

READY TO RESTORE STOCK.

Your petitioners are prepared, able and willing, and hereby offer to restore to the said Northern Securities company all the original certificates of stock of the securities company so received by Harriman and Pierce, and to repay the money paid them by or on behalf of said Northern Securities company in such sum as the court shall fix in the restoration of the status quo in exchange for and upon the return of the common stock of the Northern Pacific railway company and the common stock of said railroad company representing the preferred stock converted.

Tenth—As your petitioners are informed, believe, and aver, such plan of distribution adopted by the board of directors of the Northern Securities company, if consummated, would vest a majority of the stock of both the Great Northern and Northern Pacific railways in the same individual stockholders of the Great Northern company, who originally co-operated in the promotion and organization of the Northern Securities company, and who are still co-operating and acting in concert and combination, and would continue the common management and direction of said two competing railway companies, in violation of the decree of this court ineffectual and defeat or evade its true intent and purposes.

Whereof, as your petitioners are without other relief in the premises, your petitioners pray that they be granted leave to file this petition in said suit, and to intervene therein for the protection of their rights; that the individual defendants and said Northern Securities company be required to make full answer in the premises, but under oath, which is expressly waived, and thereupon that your petitioners be permitted in proper time to proceed to a hearing in due form upon proof and upon such notice as may be directed by the court as to all of the matters alleged in the above petition.

Your petitioners further pray that it be ordered and adjudged in execution of the said final decree of this court, so affirmed by the supreme court of the United States, that the said Northern Securities company return and transfer to your petitioners the common stock of the Northern Pacific railway company received from them, and that the common stock of said railway company, into which the preferred stock of said railroad company has been converted as aforesaid, in exchange for its own stock, and upon the payment of such sum as the court shall fix in the restoration of the status quo.

Your petitioners further pray that, pending the hearing and determination of the manner in which such decree of this court shall be executed, the defendants, Northern Securities company be enjoined and restrained from distributing its present holdings of stock of said Northern Pacific railway company under the plan of distribution proposed by it or otherwise than by return, as authorized by said decree, and that your petitioners may have all such other or further or different relief as may be just, equitable and proper.

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No.	Name.	Share.	Am't.
41	S. M. Warmbath	100	\$ 5.00
42	E. M. Warmbath	100	5.00
43	E. M. Warmbath	100	5.00
44	Bertha Behr	200	10.00
45	Sam Harris	100	5.00
46	Adel Waldman	100	5.00
47	M. A. Seagull	100	5.00
48	E. P. Denison	100	5.00
49	W. M. McMahon	100	5.00
50	Schiff & Solomon	100	5.00
51	Martin E. Lippman	100	5.00
52	Gabe Greenwald	100	5.00
53	A. Prince	100	5.00
54	Fannie Lippman	100	5.00
55	Jennie L. Thorman	100	5.00
56	Meyer Goldsmith	100	5.00
57	Samuel Harris	100	5.00
58	E. Kierman & Co.	100	5.00
59	Jos. Silverman	100	5.00
60	Chas. E. Stanton	100	5.00
61	Adolph A. Solomon	100	5.00
62	J. H. Heller	100	5.00
63	J. H. Heller	100	5.00
64	Adolph A. Solomon	100	5.00
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