

U.S. Supreme Court Says Northern Pacific Merger is Illegal

SECURITIES CO. LOSE THEIR CASE.

Justice Harlan, Delivering Opinion Of the Court, Decides for United States.

PURPOSE TO KILL COMPETITION.

Held That Power of Congress Over Interstate Commerce is Absolute.

DECISION WAS NOT UNANIMOUS.

Justices Brown, Brewer, McKenna and Day, Concurred, Fuller, C. J. White, Peckham and Holmes Dissenting.

Washington, March 14.—The opinion at 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 companies, was handed down today and was in favor of the government. The opinion was read by Justice Harlan.

The opinion of the circuit court for the district of Minnesota was affirmed. The effect is to sustain the contention that the Sherman 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.

IT WAS A TRUST.

"No scheme or device could certainly more effectively come within the provision of the anti-trust law and it is within the meaning of the act, a trust," the case has attracted greater attention than any other suit before the court since the first insular cases were decided and has been regarded by both sides as an important case in the history of the law.

SUIT INSTITUTED.

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 combination and restoring the original status of the companies.

COMPANY'S CONTENTION.

The contentions of the Securities company were reviewed by Justice Harlan. He stated that the various opinions involving the trust question, saying that from them it is to be gathered that the Sherman law, and that Congress has the power to regulate such regulations as are laid down in that law, Congress had power to enact the statute.

As 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 is not well founded. In such cases, he said, the authority of Congress is supreme. He also declared that it is 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 the property was invaded.

Such contentions are wide of the mark, and are of no avail. All that the government complains of is the existence of a corporation to repress competition and is not concerned with the other points.

POWER OF CONGRESS.

Justice Harlan said that in this day of progress there should be no doubt of the power of Congress to control interstate commerce, although means might be resorted to for that purpose. All the prior decisions, whether free and untrammelled, or under the influence of an economic question with which the court need not concern itself, have settled the power of Congress over interstate commerce to be as complete as the power of a state over domestic commerce.

GOV. WELLS PROTESTS

Against Delay in Opening the Uintah Reservation.

(Special to the "News.")

Washington, D. C., March 14.—Gov. Wells has telegraphed a protest against the delay in opening the Uintah Indian reservation.

The Utah delegation will call on the secretary of the interior and endeavor to induce him to change his program, which at present contemplates postponement of the opening until 1905.

NEW JERSEY ABSOLVED.

Justice Harlan also took occasion to mention the company's contention that the state of New Jersey had no right to interfere with the company's operations.

Jersey from any charge of such knowledge in advance. It might be true that a federal court held 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.

CONCURRED AND DISSENTED.

Washington, March 14.—The merger decision was concurred in by Justices Brown, Brewer, McKenna and Day, while the chief justice and Justices White, Peckham and Holmes dissented. Justice Brewer in concurring did so for different reasons than that of the majority, however.

The courts had indeed consistently held to the supremacy of the national laws in case of conflict between those laws and the laws of the states. So long as Congress could itself do 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.

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.

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 company's officers to proceed in the execution of the decree as the circumstances may require."

The decision was concurred in by Justices Brown, Brewer, McKenna and Day, while the chief justice and Justices White, Peckham and Holmes dissented.

Justice Harlan was followed by Justice Brewer, who while concurring in the judgment did not accept all of the language of the opinion.

Justice Holmes read the dissenting opinion. He construed the anti-trust law as a criminal statute and declared that the circuit court was in error in that it had been enacted merely for the control of large concerns as is generally considered.

PRESIDENT GETS NEWS.

Washington, March 14.—President Roosevelt received the news of the supreme court's decision in the Northern Securities case from the Associated Press. He expressed his satisfaction with the decision and said that the contentions of the government. Later he will express his personal congratulations to the attorney general.

GOV. VAN SANT ELATED.

St. Paul, Minn., March 14.—Gov. Van Sant, when told of the decision in the merger case was highly elated. He said:

"I am much gratified with the result of the decision. In my opinion the decision means more to the people of our country than any event since the great civil war. It will for all time prevent the formation of illegal trusts and unlawful combinations."

J. J. HILL IS MUM.

New York, March 14.—J. J. Hill, president of the Northern Securities company, received news of the decision at the company's offices in this city. Mr. Hill declined to discuss the matter, except to say:

"There is nothing to be said at this time. The properties of the Northern Securities company are still there. They are as good as ever."

Mr. Hill intimated that he might have something to say as soon as he got some definite scope of the decision. Mr. Hill's course for some time after the news came out with John H. Kennedy, who is one of the directors and largest stockholders in the Securities company. At the offices of J. P. Morgan & Company the Northern Securities company, who is alleged to have taken an active part in drawing up its charter, was in Washington today.

TOM TOBIN ELECTROCUTED

For Murder of Capt. J. B. Craft in September, 1902.

Ossining, N. Y., March 14.—Thomas Tobin was put to death today in the electric chair at Sing Sing for the murder of Capt. James B. Craft in New York City. He walked to the chair uttering a prayer that his mother had taught him when a child. Three shocks were given before he was pronounced dead.

Tobin, an ex-convict, was employed in a tannery in September, 1902, when Capt. Craft, a wealthy Long Islander, visited the place. The captain displayed some money and a drug was put into his liquor. The victim falling to recover consciousness, Tobin dragged him to the furnace room, cut off his head with a cleaver and threw it into the furnace.

POSTMASTER FOR VIEW UTAH.

(Special to the "News.")

Washington, D. C., March 14.—Elizabeth Maycock has been appointed postmaster at View, Weber county, Utah, vice James Jensen, removed.

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RUSSIANS HAVE NOT ABANDONED PORT ARTHUR.

Situation Unchanged—Nothing of Importance Has Occurred There in Last Twenty-four Hours—Riot at Shansi Turns Out to Have Been Unimportant—Engineer Minawamisa Signally Honored.

St. Petersburg, March 14 [Noon].—There is no truth in the rumors that the Russians have abandoned Port Arthur, Admiral Abaza, secretary of the commission on far eastern affairs, authorizes the Associated Press to deny the story. He says the situation at Port Arthur is unchanged and that nothing of importance has occurred there in the past 24 hours.

Wei Hai Wei, March 14.—The Japanese here report that Port Arthur has been captured.

Tien Tsin, March 14.—Upon inquiry the riot at Shansi turns out to have been unimportant.

The reported occupation of Port Arthur by the Japanese is untrue, according to a telegram received here at 11 o'clock which left Port Arthur at 7 o'clock on Sunday evening. The government is strongly opposed to the proposed emigration of Chinese to the Transvaal.

Nagasaki, March 14.—The East Asiatic steamer Manchuria has been condemned by the naval prize court at Sasebo, including her cargo, which is partially neutral property.

Tokio, March 14.—Engineer Minawamisa, the heroic officer of the torpedo boat destroyer Kasumi, has been signally honored for his gallantry. He has been given the order of the Kyte, the order of the Rising Sun and promoted from engineer to chief engineer. The order of the Kyte is the Japanese equivalent of the British Victoria cross and the American medal of honor. Chief Engineer Minawamisa is the first to whom the Kyte has been awarded for heroism in war. It is improbable that he will survive his wounds.

Tokio, March 14.—Viceroy Alexieff's report stating that a Japanese torpedo boat destroyer was sunk and the cruiser Takasago heavily damaged by the shell fire of the Russians during the fourth attack on Port Arthur is officially pronounced untrue. The damaged Japanese torpedo boat destroyers can be repaired in one week and it will not be necessary to dock them.

PRES. SMITH BACK FROM WASHINGTON

Returned This Morning Accompanied by Pres. Lyman and Hyrum Smith.

LOOKING AND FEELING WELL.

Was Received With Marked Consideration and Respect in Washington and En Route.

President Joseph P. Smith returned from Washington this morning accompanied by President F. M. Lyman and Apostle Hyrum M. Smith. When seen at his office a short time afterward President Smith said he did not care to discuss the Smoot case, being of the opinion that quite full and complete reports had already reached Utah which would suffice for the present at least.

President Smith was looking and feeling remarkably well and was in the best of spirits. He stated that he had been received with marked consideration and courtesy both at the national capital and en route. The senators were particularly kind and affable and his treatment generally was all that could possibly have been desired.

On the return trip the little party reached Omaha some hours earlier than they anticipated and taking advantage of the time boarded an electric car and ran down to the little town of Florence, memorable in "Mormon" history. While there a gentleman named Mayfield, whom they did not know, but who recognized them, accented them and kindly directed their attention to the various points of interest, including the old "Mormon" cemetery, which covers two acres of ground and where sleep the remains of many of those who gave up their lives for the truth's sake in the old pioneer days.

They also saw a stately cottonwood tree planted by President Brigham Young. A music stand has been erected beneath its leafy bowers and thousands of strangers visit the spot and recount the days of long ago. Florence, says President Smith, is now growing and promises to become a place of considerable importance. The muddy Missouri has washed away much of the old ground, and the island is becoming larger and altogether the place is quite picturesque though not as animated as in the days when its importance was recognized as an outfitting point in the great "Mormon" migration westward.

"SPOTTED" A BARBER.

"Peacher" Got Shaved on Sunday and Then Went and Told it to the World.

This morning a complaint was filed in Judge Diehl's court against Sam Bjorklund, a barber in the Kenyon barber shop, charging him with violating the ordinance against Sunday barber work. It is alleged that he shaved a man yesterday. The customer was an agent of the "barbers' union," and he promptly filed a complaint against Bjorklund.

EXPRESS TRAINS SLOW IN SIBERIA.

They Travel Slower Than the Very Slowest Train in European Russia.

STRANGE SCENES BY THE WAY.

Bustle and Activity at All Stations, Are Indicating That it is a Time of War.

St. Petersburg, March 14, 3:45 p. m.—A Russian correspondent proceeding to the front, writes to the St. Petersburg Telegraph bureau from Irkutsk, Siberia, as follows:

"Our express train travels slower than the slowest train in European Russia. The seat of war is still remote but its presence is felt. The long rows of cars filled with soldiers, the caravans and the primitive sleighs, drawn by shaggy horses, which we pass along the way at the crowded stations, break the monotony of the snowbound wastes and the endless forests, and the stillness is broken by the songs of the jolly reavers and the bells of the village churches sounding clear through the frosty air. This bustle and activity amidst the Siberian desolation strikingly illustrates the Russian giant stretching his limbs preparatory to punishing the foe, den. Reuntenkamp, who is to lead the Cossack division, is traveling on the same train. He tells me that all these reservists will be come splendid hardened soldiers a fortnight after coaching the front."

At Irkutsk we met the soldiers of the war—children and women trying to get back to European Russia. On our entrance into the semi-darkness of the station we were greeted by the wailing of children issuing from the dirt heaps and baggage encumbering the floor. Their waxes faces and bloodshot, sleepless eyes would melt a heart of stone. The wild, panic-stricken flight of their mothers from Manchuria, after the startling outbreak of the war led to great suffering. They reached this place after untold hardships, only to find that they will have to wait weeks more until there is sufficient train accommodation to enable them to proceed further.

"So the children have been pining, sleepless and motionless in this fetid atmosphere because outside reigns deathly frost."

Foreigners in New England.

Hartford, Conn., March 14.—Tables of figures showing the immigration of foreigners into New England during 1903 have just been completed by the Rev. Joel S. Ives, who for the past four years has conducted a census of the foreign population of the New England states in behalf of the congregational home missionary society. According to his figures the influx of foreigners last year was as follows: Maine, 1,997; New Hampshire, 1,881; Vermont, 1,611; Massachusetts, 63,757; Rhode Island, 8,467; and Connecticut, 21,815 a total of 102,501.

Southern Europe supplies a great number of these immigrants for the total of 21,815 are Italians 8,877; Poles,

MR. ROOSEVELT PLEASES RUSSIA.

His Recent Proclamation on Observance of Neutrality Produces A Good Impression.

SHOWS AMERICA IS NOT HOSTILE

The St. Petersburg Press Unanimously Praise Him for the Course He Has Taken.

St. Petersburg, March 14.—President Roosevelt's recent proclamation regarding the observance of neutrality by all officials and the abstention from either action or speech which might cause irritation to either Japan or Russia has produced a great impression here. The newspapers this morning print prominently articles commending the substance and spirit of the proclamation in the highest terms.

The Official Gazette accepts it unreservedly as a complete answer to the charges that the American government is hostile to Russia and declares that hereafter, despite any seemingly untoward incident which may arise, it will be considered settled once and for all that the American government has taken a friendly attitude towards our aims and policies in the far east."

This undoubtedly marks a change in American sentiment, the people there realizing the danger of supporting Japan."

The Novosti hails the auspicious initiative of President Roosevelt in the interest of universal peace and good relationship between Russia and the United States, saying:

"He wields practically unlimited authority with respect to the foreign policy of the country. Secy. Hay submitting to the will of the president."

The Russ welcomes the proclamation as convincing evidence of a more friendly feeling on the part of the Americans for Russia.

The Boerse Gazette remarks "Theodore Roosevelt was the first ruler to respond to the warning cry issued many years ago by Emperor William against the 'yellow peril.'"

The St. Petersburg Zeitung asserts that the proclamation leaves no further doubt that the United States has a firm intention to observe strict neutrality and adds:

"It bears the stamp of strong and most distinguished personality."

The papers also make a display this morning of the denial of the Newchwang reports that the United States intends to support the protest of the commander of the United States gunboat Helena against the plan of the Russian authorities to sink Japanese at the entrance of the Liao river, evidently considering that this puts an end to the statement which caused a flurry here yesterday, and that further comment is unnecessary.

The Alexander committee announces that in addition to the regular army pensions a supplementary pension of \$25 a year will be given to the widows and orphans of the non-commissioned

officers and \$24 to those of soldiers and sailors killed in the face of the enemy. BLOCKING THE LIAO RIVER.

Yin Kow, March 14.—The local Russian authorities are apparently incensed and manifest much annoyance at the solicited inquiries of the commanders of foreign gunboats regarding the projected blocking of the Liao river before the arrival of the Japanese, which later event is regarded as a foregone conclusion. Although the blocking of the Liao and also the defense of the settlement and native town are regarded as unattainable, it is certain that an unimportant disposition of guns and the arrangement of a defense plan have already been made. The arrival of Gen. Kondratovitch a few days ago, however, arrested the arrangements and threatened to cause the abandonment of the original intention.

The highest Russian opinion obtainable at Port Arthur and Newchwang admits the government's intention to fall back indefinitely, until the mobilization of 200,000 troops for the purpose of assaulting and opposing the Japanese, and probably 200,000 more to oppose the Chinese.

The same opinion asserts that Vice Admiral Makaroff will fight hard. He is determined to weaken the enemy at any cost, and make the operation of the Baltic Sea fleet in the far east feasible, though it may be necessary to fight without the Pallada, Carevitch and Retvizan, which it is admitted cannot be fully repaired within six months of constructing a mud dock in which to repair the Carevitch and Retvizan, naval experts allow a year for the work.

SALVER'S FIND.

Those Working on the Variag Found Two Bodies.

Tokio, March 14.—Salvers working on the Variag at Chemulpo found the bodies of two Russian sailors. They were taken ashore and the captains of the Russian and Asiatic steamers arranged burial services today. The Japanese consul was present.

Eight of the 23 wounded Russians who were taken to the Matsuyama Red Cross hospital in a serious condition. Three of them had both legs amputated by a French surgeon, but re-amputation is now necessary. One Russian has 165 wounds from steel splinters scattered over his body. Japanese surgeons are locating them with Roentgen ray and extracting them.

FROZEN MEAT.

Has it Any Injurious Effect Upon Consumers?

London, March 14.—The question was raised in the house of commons today whether frozen or chilled meat has any injurious effect on consumers, as especially whether such meat contributes to increasing the number of cases of cancer in the United Kingdom. President Long, of the local government board, said that while he had no information on the subject he thought that the matter might properly be referred to the royal commission inquiry into the causes of cancer, which is now sitting.

TO SUBDUE HEREROS.

Eight Hundred Cavalry and Two Mounted Batteries Necessary.

Berlin, March 14.—In the reichstag today before the order of the day was taken up, Dr. Steubel, director of the colonial office, announced the receipt of a cable message from Col. Leutwein, governor of German Southwest Africa, saying that 800 cavalry with two mounted batteries, were indispensable for subduing the Hereros, of whom 5,000 were under arms and still occupying strong positions on the end of the railroad. A bill providing for these reinforcements will be introduced in the house as soon as it can be prepared.

OPIUM JOINT RAIDED.

Colored Man and Three White Women Were Smoking "Poppy" When Caught.

A 3 o'clock this morning Sergeant Roberts and Officers Corless and Johnson made a raid on an opium joint on Franklin avenue, and arrested the alleged keeper of the joint and four inmates who were smoking the "dope" at the time.

The man whom the officers claim to be the proprietor of the place is Frank Woods, alias Ed Smith, a colored man. The inmates, a man and three women of the town, gave their names as Howard Brown, bartender, Mamie Brown, Rose Johnson, and Ethel Cummings. They were all taken to the police station and locked in jail in default of bonds.

WANT TO BRING HIM BACK.

Weber Sheriff Gets Requisition Papers On California Governor.

Gov. Wells today issued requisition papers upon the governor of California for the return to this state of John Furay, who is wanted at Ogden for robbery alleged to have been committed on Oct. 20, 1903. He is also believed to have been implicated in the murder of young Roy Wells whose death has been surrounded with mystery. Sheriff Bailey of Ogden, will leave this afternoon for San Francisco to bring Furay back for trial.

MISTAKEN OR WHAT?

"When You See it in the Herald" Send For the Auditing Committee.

"When you see it in the Herald" it may have happened. But before you accept its news items or utterances as statements of fact send for a private detective, auditor or expert to check up for you. If you don't a wilderness of interrogation points may arise and worry you like apparitions of the night. A case in point: The Herald yesterday sent a reporter to the Tabernacle to chronicle the proceedings of the afternoon service. Where he was before that is a matter of speculation as the police declare that it was a "close Sunday," and that access could not even be had through back or side entrances.

However, when he got to the Tabernacle he heard the presiding officer inquire if "Elder Abram Hatch of Heber City" was in the congregation. It transpired that he was not. Accordingly Elder C. W. Purpus of the Deseret News was called upon to deliver the sermon, which he did. The reporter may never have heard of Mr. Purpus though he was for a considerable time editor of the Herald. This morning the "If It Happens" organ gravely announced that "Elder J. M. Hatt was the speaker. The young man who 'urined in' the story was probably writing or talking through his own at the time. It will be remembered that the Herald also rebuilt the Tabernacle some months ago.

THE PROTESTANTS MUCH FAVORED.

Their Attorneys Treated with More Consideration Than Senator Smoot's.

MR. VAN COTT IS INDIGNANT.

That Judge Hiles is Permitted to Co-act Name of His Particular Friend

WHO HAS ENTERED POLYGAMY.

His Evidence Was Patently Prejudiced And Part of it Totally Discredited By Ex-Sen. Rawlins Telegram.

(Special to the "News.")

Washington, D. C., March 14.—The committee on privileges and elections reached no decision today as to when the Smoot hearings shall be resumed. The probabilities appear to be that an interval of 10 days at least and possibly two weeks will be allowed to elapse before the next witnesses will be called.

The committee seems disposed to pay far more attention to the convenience of attorneys for the protestants than to that of counsel for Senator Smoot. Mr. Taylor can reach his home from Washington in 12 hours and can return in equally short time, but if Messrs. Van Cott and Richards undertake a journey across the continent they will be compelled to start back as soon as they get to Salt Lake in order to participate in further proceedings, provided the recess lasts only 10 days. There is a very widespread belief that the committee is disposed to shape its course to the convenience of Mr. Taylor without reference to Senator Smoot in any particular. Not only this but the committee, or at least the chairman, has shown a streak of unfairness. Only Saturday Judge Hiles was allowed to make statements concerning the alleged plural marriage of some one he knows in Salt Lake, said to have been contracted since the manifesto and yet Chairman Burrows declined to compel him to give the name of "his friend," who is alleged to have violated the law. Very naturally Mr. Van Cott is indignant, but on the other hand Judge Hiles' testimony was so patently prejudiced that its force was lost, and a telegram received from ex-Senator Rawlins by Senator Burrows completely refuted one portion at least; it is controverted in its most essential particulars.

There seems to be no longer reason to doubt that every effort will be made to postpone a report on Mr. Smoot until after the election for political reasons, and it is likely that to facilitate this plan, a sub-committee will be authorized to proceed to Utah during the recess of Congress in order to make further inquiry into local political conditions in the state.

FUNERAL OF THE QUEEN

DOWAGER OF KOREA.

Took Place in Seoul Today, the Scene Being a Strange and Weird One.

Seoul, March 14.—The funeral of the queen-dowager who died in January, was held here today. The bier was placed on a catafalque at the west gate of the city, where United States Minister Allen and other diplomats gathered at 5:30 o'clock this morning. It was a weird scene. Thousands of lantern bearers, soldiery and the populace in white dresses gathered around a brazier until daybreak. The emperor, attired in straw colored robes and head dress, arrived at 6 o'clock, and performed his devotions over the body within a canvas pavilion. The procession then started to the tomb, eight miles outside of the city, the bands playing funeral dirges.

The procession was a couple of miles long and full of oriental color. It was headed by native police, followed by lantern bearers and spearmen in fantastic attire, carrying banners and huge paper horses. Then came two biers, gorgeously colored and surmounted by dragons' heads. They were borne on the shoulders of a hundred men, there being 200 pallbearers. The biers were surrounded by eunuchs and court functionaries. The first bier was empty, being intended to cheat the devil.

The populace crammed the streets and covered the roofs to witness the pageant. After the start of the procession the emperor received the diplomats. The Japanese minister, being the senior member, presented the condolence of the corps.

RAIN OR SNOW.

The weather continues uncertain as an indeterminate quantity in algebra, and the local government observer does not look to see anything suggestive of settled weather for some weeks to come. At the same time the mercury does not fall very low, and the prospect is moist rather than chilly. Even in the northwest, the thermometer is below zero only at one point, viz., at Calgary, where it was 4 degrees below this morning. In the Mississippi valley there was quite a fall of snow yesterday. The approach of another low barometric area from the northwest promises cloudy weather with rain or snow tonight.