

The Northern Securities Test.

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common rights, and in violation of the act of congress of July 2, 1890, entitled, "An act to protect trade and commerce against unlawful restraints and monopolies."

IX.

If the defendant, the Northern Securities company, has not acquired a large majority of the capital stock of the defendant, the Great Northern Railway company, it is because the individual defendants named, and their associates in the combination or conspiracy charged in this petition, or some of them, since it became apparent that the legality of their corporate device for the merger of the stock of competing railway companies, through the instrumentality of a central or holding corporation, would be assailed in the courts, have purposely withheld, or caused to be withheld, a large amount of the capital stock of said railway company from transfer for the stock of the Northern Securities company, and have purposely discouraged and prevented the transfer and exchange of such stock for the stock of the Northern Securities company, all for the purpose of concealing the real scope and object of the unlawful combination or conspiracy aforesaid, and of deceiving and misleading the state and federal authorities, and of furnishing a ground for the defense that the Northern Securities company does not hold a clear majority of the stock of the Great Northern Railway company.

The complainant avers that such stock, so withheld or not transferred to the Northern Securities company, is now in the hands of some person or persons unknown to the complainant friendly to and under the influence of the individual defendants named and their associates aforesaid, or some of them, and will either not be voted, or be voted in harmony with the Great Northern stock held by the Northern Securities company, until the question of the legality of this corporate device for merging competing railway lines shall be finally and judicially determined, when such stock will either be turned over to the Northern Securities company or continue to be held and voted outside said company, but in harmony with the Great Northern stock held and voted by it, as may at the time seem advisable.

X.

In further pursuance of the unlawful combination or conspiracy aforesaid, the Northern Securities company

A BUSY WORKER

Coffee Touches up Different Spots.

Frequently coffee sets up rheumatism when it is not busy with some other part of the body. A St. Joe, Mo., man, P. V. Wise, says: "About two years ago my knees began to stiffen and my feet and legs swell, so that I was scarcely able to walk, and then only with the greatest difficulty, for I was in constant pain.

I consulted Dr. Barnes, one of the most prominent physicians here, and he diagnosed the case and inquired, 'Do you drink coffee?' 'Yes,' 'You must quit using it at once,' he replied. I did so and commenced drinking Postum in its place.

The swelling in my feet and ankles and the rheumatic pains subsided quickly, and during the past 18 months I have enjoyed most excellent health, and, although I have passed the 68th mile post I have never enjoyed life better.

Good health brings heaven to us here. I know of many cases where wonderful cures of stomach and heart trouble have been made by simply throwing away coffee and using Postum."

(subject, it may be, to the conditions stated in the next preceding paragraph) is about to and will, unless restrained by the order of this court, receive and acquire, and hereafter hold and control as owner and proprietor, substantially all of the capital stock of the defendant railway companies, issuing in lieu thereof its own capital stock to the full extent of the authorized issue, of which, upon the basis of exchange aforesaid, the former stockholder of the Great Northern Railway company have received or will receive and hold about 55 per cent thereof, the balance going to the former stockholders of the Northern Pacific Railway company.

XI.

No consideration whatever has existed, or will exist, for the transfer as aforesaid of the stock of the defendant railway companies from their stockholders to the Northern Securities company, other than the issue of the stock of the Northern Securities company to them in exchange therefor, for the purpose, after the manner, and upon the basis aforesaid.

The defendant, the Northern Securities company, was not organized in good faith to purchase and pay for the stocks of the Great Northern and the Northern Pacific Railway companies. It was organized solely to incorporate the pooling of the stocks of said companies and to carry into effect the unlawful combination or conspiracy aforesaid. The Northern Securities company is a mere depository, custodian, holder, and trustee of the stocks of the Great Northern and the Northern Pacific Railway companies, and its shares of stock are but beneficial certificates issued against said railroad stocks to designate the interest of the holders in the pool. The Northern Securities company does not have and never had any capital sufficient to warrant such a stupendous operation. Its subscribed capital was but \$30,000, and its authorized capital stock of \$400,000,000 is just sufficient, when all issued, to represent and cover the exchange value of substantially the entire stock of the Great Northern and Northern Pacific Railway companies, upon the basis and at the rate agreed upon, which is about \$122,000,000 in excess of the combined capital stock of the two railway companies taken at par.

XII.

If the government fails to prevent the carrying out of the combination or conspiracy aforesaid, and the defendant, the Northern Securities company, is permitted to receive and hold and act as owner of the stock of the Northern Pacific and Great Northern Railway companies as aforesaid, not only will a virtual consolidation of two competing transcontinental lines, with the practical pooling of their earnings, be effected, and a monopoly of the interstate and foreign commerce formerly carried on by them as competitors between such lines in the carrying of interstate and foreign traffic be destroyed, but thereafter, to all desiring to use it, an available method will be presented, whereby, through the corporate scheme or device aforesaid, the act of congress of July 2, 1890, entitled, "An act to protect trade and commerce against unlawful restraints and monopolies," may be circumvented and set at naught, and all transcontinental lines, indeed the entire railway systems of the country, may be absorbed, merged, and consolidated, thus placing the public at the absolute mercy of the holding corporation.

XIII.

In furtherance of the purpose and object of the unlawful combination or conspiracy aforesaid to monopolize or attempt to monopolize the trade or commerce among the several states, and between such states and foreign countries, formerly carried on in free competition by the defendants, the Northern Pacific and Great Northern

Railway companies, and to place a restraint thereon, the individual defendants named and their associate stockholders of the defendant railway companies, have combined or conspired with one another and with other persons (whose names are unknown to the complainant, but whom it prays to have made parties to this action when ascertained) to use and employ, in addition to the corporate scheme or device aforesaid, and in aid thereof, various other schemes, devices, and instrumentalities, the precise details of which are at present unknown to the complainant, but will be laid before the court when ascertained, by means of which, unless prevented by the order of this court, the object and purpose of the unlawful combination or conspiracy aforesaid may and will be accomplished.

PRAYER.

In consideration whereof, and inasmuch as adequate relief in the premises can only be obtained in this court, the United States of America prays your honors to order, adjudge and decree that the combination or conspiracy hereinbefore described is unlawful, and that all acts done or to be done in carrying it out are in derogation of the common rights of all the people of the United States and in violation of the act of congress of July 2, 1890, entitled, "An act to protect trade and commerce against unlawful restraints and monopolies," and that the defendants and each and every one of them, and their officers, directors, stockholders, agents and servants, and each and every one of them, be perpetually enjoined from doing any act in pursuance of or for the purpose of carrying out the same, and, in addition, that the several defendants be respectively enjoined as follows:

First—That the defendants, the Northern Securities company, its stockholders, officers, directors, executive committee and its agents and servants, and each and every one of them, be perpetually enjoined from purchasing, acquiring, receiving, holding, voting (whether by proxy or otherwise) or in any manner acting as the owner of any of the shares of the capital stock of either the Northern Pacific Railway company or the Great Northern Railway company, and that a mandatory injunction may issue requiring the Northern Securities company to recall and cancel any certificates of stock, issued by it in purchase of or in exchange for any of the shares of the capital stock of either of said railway companies, surrendering in return therefor to the holders thereof the certificates of stock in the respective railway companies in lieu of which they were issued.

Second—That the defendant, the Northern Pacific Railway company, its stockholders, officers, directors, agents and servants and each and every one of them, be perpetually enjoined from in any manner recognizing or accepting the Northern Securities company as the owner or holder of any shares of its capital stock, and from permitting such company to vote such stock, whether by proxy or otherwise, and from paying any dividends upon such stock to said company or its assigns, unless authorized by this court, and from recognizing as valid any transfer, mortgage, pledge or assignment by such company of such stock, unless authorized by this court.

Third—That the defendant, the Great Northern Railway company, its stockholders, officers, directors, agents and servants, and each and every one of them, be perpetually enjoined from in any manner recognizing or accepting the Northern Securities

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company as the owner or holder of any shares of its capital stock, and from permitting such company to vote such stock, whether by proxy or otherwise, and from paying any dividends upon such stock to said company or its assigns, unless authorized by this court, and from recognizing as valid any transfer, mortgage, pledge, or assignment by such company of such stock unless authorized by this court.

Fourth—That the individual defendants named, and their associate stockholders, and each and every stockholder of either of said railway companies who has exchanged his stock therein for the stock of the Northern Securities company, be each, respectively, perpetually enjoined from in any manner holding, voting, or acting as the owner of any of the stock of the Northern Securities company, issued in exchange for the stock of either of the said railway companies, unless authorized by this court, and that a mandatory injunction may issue requiring each of the said defendants to surrender any stock of the Northern Securities company so acquired and held him by him, and accept therefor the stock of the defendant railway company in exchange for which the same was issued.

Fifth—That the individual defendants named and their associate stockholders, and each and every person combining or conspiring with them, as charged in paragraph XIII. hereof, and their trustees, agents and assigns, present or future, and each and every one of them, be perpetually enjoined from doing any and every act or thing mentioned in said paragraph, or in furtherance of the combination or conspiracy described therein, or intended or tending to place the capital stock of the defendant railway companies, or the competing railway systems operated by them, or the competitive interstate or foreign trade or commerce carried on by them, under the control, legal or practical, of the defendant, the Northern Securities company, or of any person or persons, or association or corporation, acting for or in lieu of said company, in the carrying out of the unlawful combination or conspiracy described in said paragraph.

The United States prays for such other and further relief as the nature of the case may require and the court may deem proper in the premises.

To the end, therefore, that the United States of America may obtain the relief to which it is justly entitled in the premises, may it please your honors to grant unto it writs of subpoena direct to the said defendants, the Northern Securities company, the Northern Pacific Railway company, the Great Northern Railway company, James J. Hill, William P. Clough, D. Willis James, and John S. Kennedy, and their associate stockholders of the Great Northern Railway company, as their names may become known to complainant and the court be advised thereof, J. Pierpont Morgan, Robert Bacon, George F. Baker and Daniel S. Lamont, and their associate stockholders of the Northern Pacific Railway company, as their names may become known to complainant, and the court be advised thereof, and the persons referred to in paragraph XIII. hereof, as their names may become known to complainant and the court be advised thereof, and to each of

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