

THE NORTHERN SECURITIES TEST.

This is the bill of equity filed in the United States circuit court for the district of Minnesota by the government to test the validity of the Northern Securities merger and asking for a permanent injunction against the Northern Securities company and Northern Pacific and Great Northern railroads from further operations under the merger.

In the Circuit Court of the United States for the District of Minnesota—The United States of America, Complainant, vs. Northern Securities Company, the Great Northern Railway Company, the Northern Pacific Railway Company, and Others, Defendants.

PETITION.

To the Judges of the Circuit Court of the United States for the District of Minnesota:

Now comes the United States of America, by Milton D. Purdy, the United States attorney for the district of Minnesota, acting under direction of the attorney general of the United States, and brings this its proceeding by way of petition against the Northern Securities company, a corporation organized and existing under the laws of the state of New Jersey, the Great Northern Railway company, a corporation organized and existing under the laws of the state of Minnesota, the Northern Pacific Railway company, a corporation organized and existing under the laws of the state of Wisconsin, James J. Hill, a citizen of the state of Minnesota and a resident of St. Paul, and William P. Clough, D. Willis James, John S. Kennedy, J. Pierpont Morgan, Robert Bacon, George F. Baker and Daniel Lamont, citizens of the state of New York and residents of New York city, and, on information and belief, complains and says:

I. The defendants, the Northern Pacific Railway company and the Great Northern Railway company, were, at the times hereinafter mentioned, and now are, common carriers, employed in the transportation of freight and passengers among the several states of the United States and between such states and foreign nations, and, as such carriers so employed, were, and are, engaged in trade and commerce among the several states and with foreign nations.

II. On and prior to the 13th day of November, 1901, the defendants, James J. Hill, William P. Clough, D. Willis James and John S. Kennedy, and certain other persons whose names are unknown to the complainant, but whom it prays to have made parties to this action when ascertained (hereinafter referred to as James J. Hill and his associate stockholders), owned or controlled a majority of the capital stock of the defendant, the Great Northern Railway company, and the defendants, J. Pierpont Morgan and Robert Bacon (members of and representing the banking firm of J. P. Morgan & Co. of New York city), George F. Baker and Daniel S. Lamont, and certain other persons whose names are unknown to the complainant, but whom it prays to have made parties to this action when ascertained (hereinafter referred to as J. Pierpont Morgan and his associate stockholders), owned or controlled a majority of the capital stock of the defendant, the Northern Pacific Railway company.

III. The Northern Pacific Railway company and the Great Northern Railway company, at and prior to the doing of the acts hereinafter complained of, owned or controlled and operated two separate, independent, parallel and competing lines of railway running east and west into or across the states

of Wisconsin, Minnesota, North Dakota, Montana, Idaho, Washington and Oregon, the Northern Pacific system extending from Ashland, in the state of Wisconsin, and from Duluth and St. Paul, in the state of Minnesota, through Helena, in the state of Montana, and Spokane, in the state of Washington, to Seattle and Tacoma, in the state of Washington, and Portland, in the state of Oregon; and the Great Northern system extending from Superior, in the state of Wisconsin, and from Duluth and St. Paul in the state of Minnesota, through Spokane, in the state of Washington, to Everett and Seattle, in the state of Washington, and to Portland, in the state of Oregon, with a branch line to Helena, in the state of Montana, thus furnishing to the public two parallel and competing transcontinental lines connecting the Great Lakes and the Mississippi river with Puget Sound and the Pacific ocean.

At the times mentioned, these two railway systems, which will hereafter be referred to respectively as the Northern Pacific system and the Great Northern system, each of which, with its leased and controlled lines, main and branch, aggregate over 5,500 miles in length, were the only transcontinental lines of railway extending across the northern tier of states west of the Great Lakes, from the Great Lakes and the Mississippi river to the Pacific ocean, and were then engaged in active competition with one another for freight and passenger traffic among the several states of the United States and between such states and foreign countries, each system connecting at its eastern terminals, not only with lines of railway, but with lake and river steamers to other states and to foreign countries, and at its western terminals with sea-going vessels to other states, territories and possessions of the United States and to foreign countries.

IV. Prior to the year 1893, the Northern Pacific system was owned or controlled and operated by the Northern Pacific Railroad company, a corporation organized and existing under certain acts and resolutions of congress. During that year the company became insolvent and the line was placed in the hands of receivers by the proper courts of the United States. While in this condition, awaiting foreclosure and sale, an arrangement was entered into between a majority of the bondholders of the Northern Pacific Railroad company and the defendant, the Great Northern Railway company, for a virtual consolidation of the Northern Pacific and Great Northern systems and the placing of the practical control of the Northern Pacific system in the hands of the defendant, the Great Northern Railway company.

This arrangement contemplated the sale, under foreclosure, of the property and franchises of the Northern Pacific Railroad company to a committee of the bondholders who should organize a new corporation to be known as the Northern Pacific Railway company, which was to become the successor of the Northern Pacific Railroad company; one-half of the capital stock of the new company was to be turned over to the shareholders of the defendant, the Great Northern Railway company, which in turn was to guarantee the payment of the bonds of the Northern Pacific Railway company.

An agreement was to be entered into for the exchange of traffic at intersecting and connecting points and for the division of revenues therefrom. The carrying out of this arrangement was defeated by the decision of the supreme court of the United States in the case of Pearsall vs. the Great

Northern Railway company (which was decided March 30, 1896 and is reported in the 161st volume of the reports of said court, beginning on page 646, to which reference is made), in which it was held that the practical effect would be the consolidation of two parallel and competing lines of railway, and the giving to the defendant, the Great Northern Railway company, a monopoly of all traffic in the northern half of the state of Minnesota as well as of all transcontinental traffic north of the line of the Union Pacific, to the detriment of the public and in violation of the laws of the state of Minnesota.

Early in the year 1901 the defendants, the Great Northern and Northern Pacific Railway companies, acting for the purpose of promoting their joint interests, and in contemplation of the ultimate placing of the Great Northern and Northern Pacific systems under a common source of control, united in the purchase of the total capital stock of the Chicago, Burlington and Quincy Railway company of Illinois, giving the joint bonds of the Great Northern and Northern Pacific Railway companies, payable in twenty years from date, with interest at 4 per cent per annum, for such stock, at the rate of \$200 in bonds in exchange for each \$100 in stock, and in this manner purchased and acquired about \$107,000,000 of the \$112,000,000 total capital stock of the Chicago, Burlington and Quincy Railway company, or about 98 per cent thereof.

In this manner, at the time stated, the defendants, the Great Northern and Northern Pacific Railway companies, secured control of the vast system of railway lines known as the Burlington system, about 8,000 miles in length, extending from St. Paul, in the state of Minnesota, where it connects with the Great Northern and Northern Pacific Railway systems, through the states of Minnesota, Wisconsin, and Illinois, to Chicago, in the state of Illinois, and from these two cities through said states and through the states of Iowa, Missouri, Nebraska, Colorado, South Dakota, Wyoming and Montana, to Quincy, in the state of Illinois; to Burlington and Des Moines, in the state of Iowa; to St. Louis, Kansas City and St. Joseph, in the state of Missouri; to Omaha and Lincoln, in the state of Nebraska; to Denver, in the state of Colorado; to Cheyenne, in the state of Wyoming, and to Billings, in the state of Montana, where it again connects with the Northern Pacific Railway system, these states lying west of Chicago and south of the states crossed by the Great Northern and Northern Pacific systems, and constituting the territory occupied in part by what is known as the Union Pacific Railway system, which has been and is a parallel and competing system within said territory with the said Burlington system.

The attempt to turn over a controlling interest in the stock of the Northern Pacific Railway company to the Great Northern Railway company and thus effect a virtual consolidation of the two railway systems, having thus, in the year 1896, been defeated by a decision of the supreme court of the United States, the defendants, James J. Hill, and his associate stockholders of the defendant, the Great Northern Railway company, owning or controlling a majority of the stock of that corporation, and the defendants J. Pierpont Morgan, and his associate stockholders of the defendant, the Northern Pacific Railway company, owning or controlling a majority of the stock of that corporation, acting for themselves as such stockholders and on behalf of the said railway companies in which they owned or held a controlling interest, on and prior to

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the 13th day of November, 1901, contriving and intending unlawfully to restrain the trade or commerce among the several states and between said states and foreign countries carried on by the Northern Pacific and Great Northern systems, and contriving and intending unlawfully to monopolize or attempt to monopolize such trade or commerce, and contriving and intending unlawfully to restrain and prevent competition among said railway systems in respect to such interstate and foreign trade or commerce, and contriving and intending unlawfully to deprive the public of the facilities and advantages in the carrying on of such interstate and foreign trade or commerce theretofore enjoyed through the independent competition of said railway systems, entered into an unlawful combination or conspiracy to effect a virtual consolidation of the Northern Pacific and Great Northern systems, and to place restraint upon all competitive interstate and foreign trade or commerce carried on by them, and to monopolize or attempt to monopolize the same, and to suppress the competition theretofore existing between said railway systems in said interstate and foreign trade or commerce, through the instrumentality and by the means following, to-wit:

A holding corporation, to be called the Northern Securities company, was to be formed under the laws of New Jersey, with a capital stock of \$400,000,000, to which, in exchange for its own capital stock upon a certain basis and at a certain rate, was to be turned over and transferred the capital stock, or a controlling interest in the capital stock, of each of the defendant railway companies, with power in the holding corporation to vote such stock and in all respects to act as the owner thereof, and to do whatever it might

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