

Southern Pacific And Union Pacific Merger Legalized

This Opinion was Handed Down Today by the United States Circuit Court in St. Louis—Judge Hook Filed Dissenting Opinion.

Majority Decision was Written by Judge Adams—Opinion Goes into Every Phase of the Matter Thoroughly—Decision is as Follows:

By Associated Press. St. Louis, June 24.—The merger of the Southern Pacific and Union Pacific Railroads is legalized, according to an opinion handed down today by the United States circuit court of the eighth district.

Judge Hook filed a dissenting opinion in which he expressed the belief that the government's petition was well founded and should have been granted.

The majority decision was written by Judge Elmer B. Adams, and was mailed to the clerk of the court here. According to his opinion the only question was this: "Was the Union Pacific Company extending only from Omaha and Kansas City on the east to Ogden on the west, a competing line prior to 1901 for trans-continental business with the Southern Pacific Company, whose line extended from New York on the east over the sea to New Orleans and thence by rail to San Francisco and Portland on the west?"

While the Union Pacific was entirely dependent upon the Southern Pacific for its connection westward, the Southern Pacific was not at all dependent upon the Union Pacific for its connection eastward," read the majority opinion.

"Our conclusion," continued the opinion, "is that all the facts of this case considered in their natural, substantial and practical aspect and give their appropriate relative significance do not make the Union Pacific a substantial competitor for trans-continental business with the Southern Pacific in or prior to the year 1901."

"We therefore pass to a consideration of those less important matters upon which the government to establish destruction of competition between these companies.

"Certainly, the desire to appropriate the traffic business done by the Southern Pacific on the minor lines or to suppress a competition in traffic which was in the aggregate of such small proportions could not have been the inspiration of the vast outlay involved in the purchase of the Huntington stock. It did not amount to a direct and substantial restraint of either interstate or international commerce. This is not sufficient to bring within the consideration of the anti-trust law.

"This concludes consideration of the effect of the transaction chiefly relied upon by the government in this case. "But it is contended that the purchase by the Union Pacific of a controlling interest in the stock of the Northern Pacific Company was also violative of the anti-trust law.

"Without dwelling on the reason for the purchase of this stock, disclosed in the preceding statement of fact, it is sufficient to say that if any controlling interest was thereby acquired it was lost some time before this suit was instituted, and that none of this stock is held by or for the Union Pacific Company.

"As there is no showing of any like ambitions project in this respect for the future, we fail to discover any opportunity or reason for the injunctive relief on this account."

The court held also that the investment of the Harriman lines in the Santa Fe was not for acquiring control and that if it was for obtaining information concerning the operation of a great competitor they chose a lawful way for doing it.

ern Railway, The Farmers Loan and Trust Company, Edward H. Harriman, Jacob H. Schiff, Otto H. Kahn, James Stillman, Henry H. Rogers, Henry C. Frick and William A. Clark.

The government's petition was signed by Attorney General Bonaparte and his special assistants. It sets forth in detail the agreements by which the defendants at various times since 1901 were alleged to have obtained for themselves and others the management and control of the various defendant roads, their branches and steamship lines and to have operated them ever since in restraint of commerce.

Since the suit was filed Mr. Harriman and Mr. Rogers have succeeded R. S. Lovett, successor to Harriman in the railroad system, was stipulation made a defendant, Attorney General Bonaparte and Assistant Attorney General Purdy retired from office while the suit was pending. Hearings were held in many cities of the country.

Arguments were made in the case before Judge Sanborn, Hook, Adams and Van Devanter on October 15, 1910, in St. Paul; C. A. Severance and Frank B. Kellogg argued for the government; Judge P. F. Punne, of California, spoke for the Southern Pacific; former Senator John C. Spooner appeared for Henry C. Frick; N. H. Loomis, of Omaha, for the Union Pacific; and David T. Watson, of Pittsburgh, submitted a special brief and argued for all of the defendants. The judges of the eighth judicial circuit of the United States circuit court have had the case under advisement since the arguments.

The suit was tried in the circuit court under the expedition act of congress. Any appeal will be made directly to the United States supreme court.

Did not Cause Change in Rates. St. Louis, June 24.—The merger, according to the court, did not cause a change in rates, no complaints of discrimination and no conspiracy. Concerning those features the opinion reads:

"The proof shows that after 1901 as well as before the rates for trans-continental traffic were the same over both the Union Pacific and Southern Pacific lines.

"There has since then been with respect to either of these lines no impairment of service, no discontinuance of efforts to satisfy the public and no complaints of shippers of any inferior or inadequate service.

"A substantial majority of the stock of the Southern Pacific Company has been held by parties other than the Union Pacific Company but we fail to find any complaint by which holders of any discrimination against their road or any failure to properly promote its welfare.

"Hundreds of millions of dollars have, since 1901, been expended on the roads. Their physical condition has been vastly improved and their efficiency for public service as well as for private profit has been greatly enhanced. The whole proof taken together, we think, fails to disclose conspiracy to restrain interstate or foreign commerce in violation of the first section of the act."

Much Lawlessness As Result of Strike

By Associated Press. Cleveland, June 24.—Six men, said to be sympathizers of the striking garment workers, entered a great car last night, armed with pieces of gas pipe and severely beat Henry Newman, a non-union cloak maker, and Harry Hawkins, a special guard who was escorting Newman to his home. They also beat several of the passengers who interfered, breaking one man's arm. Mrs. Viola Unterseuber was pushed off the car's rear platform and dragged a hundred feet. She was severely cut and bruised.

Many Killed in Battle

By Associated Press. San Diego, Cal., June 24.—The losses of "General" Mosby's forces in Tijuana Thursday were much greater than first reports indicated. Celsio Vega, in command of the Federals, reported last night that his men buried thirty-one bodies, and that a total of fifty-eight had been found. Corpses were placed in trenches south of the town. Few if any of them will ever be identified.

A Mexican who was arrested as a spy by Vega's men yesterday afternoon was given until this morning to satisfy the federals that he is not an insurgent emissary. If he fails he will be shot.



Physicians Declare Pussy a Germ-omnibus, and Demand Her Exclusion From the Home.

Ships and Sailors Have A Day

By Associated Press. Portsmouth, England, June 24.—This was the day of ships and sailors. The king and queen and the foreign representatives at the coronation left the capital and came here for the great naval review off Spit Head. Fine weather put the finishing touches on one of the most magnificent displays of the week.

Their majesties, accompanied by the official envoys of other countries, came from London in a special train. The king wore an admiral's uniform. The prince of Wales was in a shipman's uniform. The queen, Princess Mary and nearly all of the royal ladies were dressed in navy blue. With their majesties were all the other members of the imperial family.

Many special trains were run from London, carrying Indian princes, peers and peeresses, members of Parliament, lords of the admiralty and diplomats. The regular trains and excursion trains arriving during the morning added great numbers to the thousands already gathered here from all parts of the world. Seventeen nations were represented in the vessels moored in Spithead roadstead in the English channel between the mainland and the Isle of Wight.

Of the number ten were battleships of the Dreadnought class from the British navy, and one visiting Dreadnought, the German Von der Tann. First, however, in size and armament was the American battleship Delaware.

Various types of warships added to the British Dreadnoughts and Invincibles made the total British contingent 170 ships.

All the vessels in the roadstead, including the foreign warships and excursion steamers with spectators were moored in lines supplemented by shorter lines of submarine and torpedo boats.

Long Drouth At Last Broken

By Associated Press. Louisville, Ky., June 24.—A heavy rainfall last night and early today broke the long drouth which has prevailed for several weeks throughout the Ohio Valley. While some crops were past saving, it is believed that this rain will be of great benefit. Reports from different sections of the country received by the weather bureau show that the rainfall in the Louisville district was greater than in any other section, 1.42 inches being recorded.

Rains General.

By Associated Press. Louisville, Ky., June 24.—General rains have also been noted during the past 24 hours over Tennessee, Arkansas, the lower Mississippi valley, northern Alabama and northeastern Texas. The heaviest rainfall, however, occurred at Louisville. Temperatures were not so high yesterday over the region where rain has occurred, but they again ranged from 91 to 92 degrees over the plain states, Nebraska, the upper Ohio valley, the lake region and the Atlantic states south of New York, the highest being 100 degrees at Abilene, Texas. Cloudiness obtains generally this morning throughout the Ohio valley and southward to the gulf and rain continues at a number of stations in this area.

Gen. Evans Weaker.

By Associated Press. Atlanta, June 24.—General Clement A. Evans is growing weaker slowly, it was reported this afternoon at the home of the former commander of the United Confederate veterans. The aged veteran is suffering with muscular rheumatism, and little hopes are now entertained for his recovery.

CLARENCE FINK CALLED IN LORIMER CASE

By Associated Press. Washington, D. C., June 24.—Keen interest was aroused in the Lorimer investigation today when it became known that Clarence S. Fink, general manager of the International Harvester Company, would be the witness of the day.

It was he who created the sensation before the Helm investigating committee of the Illinois legislature, by testifying that Edward Hines, of Chicago, asked him to contribute for his company \$10,000 toward a \$100,000 fund which had been used in electing Lorimer. His reports of this alleged conversation probably were the cause of the second investigation by the senate of the Lorimer election.

The probability of Lorimer's counsel subjecting the witness to a rigid cross-examination in an endeavor to break down the testimony added to the general interest. As was the case in the examination of Edgar A. Bancroft, general counsel for the International Harvester Company, a grilling was expected on the point of why the alleged conversation was not given to the public earlier.

Pale and still weak from the loss of blood, given to save the life of his wife, Senator Luke Lea today attended the session of the Lorimer investigation committee for the first time. The entire membership of the committee is now sitting at the daily session.

Mr. Bancroft was recalled as a witness at the opening of today's session. William J. Hines, on behalf of Lorimer's counsel, asked the witness about the interest of the McCormick family, connected with the International Harvester Company, in the recent mayoralty campaign in Chicago. Mr. Bancroft testified he was an inactive member of the Merriam finance committee, but reiterated that he knew nothing more about the contributions of the McCormick family to the Merriam campaign fund other than what he had seen in the newspapers. Mr. Hines inquired particularly about a reported \$10,000 contribution charged to Mrs. Nettie McCormick, mother of Cyrus McCormick, the present president of the company.

"Is she interested in politics?" inquired the counsel.

"She is interested in anything that she believes is for the interest of Chicago," replied Mr. Bancroft.

Kohlstaet Called.

Herman H. Kohlstaet, editor and proprietor of the Chicago Record-Herald, was the second witness of the day. Under examination by Attorney John H. Marble, Mr. Kohlstaet gave his opinion of Senator Lorimer.

"He is a dual character," declared Mr. Kohlstaet. "In his private life I admire him. He has beautiful children and his home life is ideal. But I have always opposed Lorimerism."

Goodpasture Case To Jury

By Associated Press. Nashville, Tenn., June 24.—The case of Judge E. C. Goodpasture, charged with an attempt to bribe Representative J. Q. McDonald, went to the jury shortly before noon today. The defense completed its testimony this afternoon and the state rested without offering evidence in rebuttal. Nothing throwing any new light on the case developed this morning. The attorneys submitted the case without argument and Judge Neil began his charge to the jury at 11 o'clock.

Argue Claim of North Carolina

Special to The News. Raleigh, N. C., June 24.—Mrs. Chas. U. Harris, an attorney for Mrs. Annie O. Eatman, accompanied by Police Officer J. H. Wyatt, of the Raleigh police force, as agent for the state, to bring back the prisoner, left today for Baltimore, where Mr. Harris will Monday argue before the governor of Maryland the merits of North Carolina's demand for the return of Madam Hunter, with numerous aliases, to Raleigh to answer the charge of fleeing Mrs. Eatman and others out of sums of money through fraudulent manipulations as a fortune teller and a worker of "charms."

Harris carries with him, any way, a great number of affidavits to prove the contentions and charges against Madam Hunter, on which the extradition papers are based. Furthermore, Police Officer Wyatt knows the woman wanted, personally, and will identify her, thus disposing of any dispute over identity.

DETROIT PITCHER UNDERGOES OPERATION.

By Associated Press. Detroit, June 24.—George Mullin, the Detroit pitcher, is in a local hospital recovering from the effects of an operation upon his nose. An ulcerous growth and two pieces of decayed bone were removed yesterday. It is expected that he will be able to join the team early next week. All season Mullin's nose has caused him suffering and loss of sleep and he believes it has affected his pitching.

Identified as Deserter.

By Associated Press. San Diego, Cal., June 24.—"General" J. R. Mosby, who commanded the insurgents in the Tijuana fight, was identified yesterday at Fort Rosecrans as a deserter from the United States marine corps. The identification was made by several marines who knew him when he was stationed with parts of the corps at Mare Island. The desertion, they state, occurred a year and a half ago.

Denies New Trial.

By Associated Press. Chattanooga, Tenn., June 24.—Judge McReynolds of the criminal court today overruled a motion for a new trial for Dr. John W. Sherman, convicted and sentenced to ten years for the murder of his brother-in-law. In disposing of the case Judge McReynolds said the evidence was amply sufficient to justify the verdict. The court also held that the bond of \$10,000 was sufficient. The case was appealed.

Take Up Statehood.

By Associated Press. Washington, June 24.—The senate committee on territories voted today 3 to 3 to report favorably the house resolution admitting New Mexico and Arizona to statehood, with the provision that the Arizona constitution containing the judiciary recall shall be re-submitted to the people. Slight amendments to the house resolution were made.

President Threatens To Veto Canadian Reciprocity Bill

TO INVESTIGATE BEER INDUSTRY.

By Associated Press. Washington, June 24.—The beer industry of the United States is to undergo a searching inquiry at the hands of the board of food and drug inspection. Dr. H. Wiley, chief chemist of the department of agriculture and chairman of the board, has given notice of a general hearing on beer in this city July 31.

For those who attend the hearing Dr. Wiley has formulated a formidable list of questions. These cover about every phase of the manufacture of beer, ale, porter and stout. One of the points upon which the board desires light is the meaning of the terms "lager" and "bock" as applied to beer.

If any domestic brews of beer, ale, porter, or stout, are masquerading under the names of foreign products the board is likely to find it out. Some questions along that line are scheduled.

Ask For Release Of Morse

By Associated Press. Atlanta, Ga., June 24.—Application for a writ of habeas corpus was made today by Attorneys for Charles W. Morse before United States District Judge Newman.

The petition demands a hearing for the convicted New York banker on two grounds. It is contended that as Morse was convicted on a misdemeanor charge he can not be incarcerated lawfully in a prison erected solely for felons. It is contended further that the 15-year sentence is excessive in that the law limits the court to 10 years on any one count on the offense charged against Morse.

Morse originally was convicted on 53 counts, but the court of appeals sustained only four of the counts, all charging false entry. As no mention was made of the counts by the court in passing sentence, Morse's attorneys contend that it must be construed as being on one count only.

Referring to Morse as probably the "most thoroughly tried man who has ever had his day in court," the United States district attorney opposed the granting of the writ on the ground that no new points had been raised, arguing that all the contentions on which the petition was based had been disposed of at previous hearings.

Several hours were devoted by the court to hearing arguments on the petition at the end of which Judge Newman indicated that he would take the matter under advisement.

Booth Tarkington, George Ade Race

By Associated Press. Indianapolis, Ind., June 24.—"Our boys and girls," members of the Indiana society of Chicago, who arrived yesterday for Chicago, are being fought out close to nature today and are coveting with the "rustics" in the country near here. Rural contests such as pitching horseshoes, fiddlin', barn dancing and sack, potato and egg races have been arranged by the local "come-on-home" society, which has the outing in charge.

One of the features will be chariot races between Booth Tarkington and George Ade and Meredith and Wilbur D. Nesbit. Another will be the balloon "indians" which was towed across fields from the speedway to the picnic grounds late yesterday. The balloon will be cut loose at the grounds and as many "prodigals" as desire can take an air ride.

A play written especially for the occasion was given last night, following the parade, in which all the visitors participated.

Doing Good is Real Profession

By Associated Press. San Francisco, June 24.—In discussing "The possibilities of the modern woman," Miss Elizabeth Kiptrick, of Corinth, Miss., missionary field secretary of the Sunday school board of the Methodist Episcopal church, South, declared that stability, healthfulness, and progress in citizenship as well as in commercial life depends quite as largely on the feminine grasp of the situation as on the masculine strength and ability. Doing good is a real profession for women of the noblest type.

Christianity, public spirited women have kept faith with the inexorable decrees of life and destiny," said the speaker, "and the problem now is to awaken all the sleeping beauties of our time, hedged in with selfishness, thoughtlessness, social ambition and ignorance, or send a radiant angel of revelation to do it for us."

FARMER AND SON PROBABLY DROWNED.

By Associated Press. Kalamazoo, Mich., June 24.—Luther Hale, a farmer 63 years old, and his son Truman, 23 years old, are believed to have been drowned in Hamilton Lake near Augusta, late yesterday. Some time after they went to the lake to fish their boat was found bottom side up and their hats were discovered drifting toward the shore.

If Hobbled With Amendments President Tells Several Senators He Will Kill the Measure—Telephones His Determination to Take Step.

By Associated Press. Washington, June 24.—It became known at the capitol today that President Taft, talking over the long distance telephone from Providence last night repeated to several senators his determination to veto the Canadian reciprocity bill in case any amendment is added to it. New dispatches from Providence that the president undoubtedly would veto any tariff bills passed at this session are accepted by senators as accurately reflecting the president's attitude.

It is Also Understood That the President Stands Ready to Veto Any Tariff Bills Passed at This Session of Congress.

By Associated Press. Washington, June 24.—It is announced that the marriage of Miss Katherine Brown, granddaughter of ex-Senator Henry Gasaway Davis, to Lieut. Chester P. Barnett, of the Third Field Artillery, U. S. A., will be solemnized Thursday, June 29th, at "Graceland," the Davis home.

Date for Brown Wedding.

By Associated Press. Elkins, W. Va., June 24.—It is announced that the marriage of Miss Katherine Brown, granddaughter of ex-Senator Henry Gasaway Davis, to Lieut. Chester P. Barnett, of the Third Field Artillery, U. S. A., will be solemnized Thursday, June 29th, at "Graceland," the Davis home.

CRITICAL TIME IN WARE-KRAMER TOBACCO TRIAL

Raleigh, June 24.—One of the most critical legal contests of the whole trial is now in connection with the hearing of the Ware-Kramer Tobacco Co. vs. American Tobacco Co. in that counsel are contesting before Judge Connor the admissibility of evidence involving conspiracy between the American Tobacco Co. and W. M. Carter whom the Ware-Kramer Co. charge with having come from the American Tobacco Co. to the Ware-Kramer Co. as salesmanager for the purpose of mismanaging the sales department of Ware-Kramer Co. to the advantage of the A. T. Co. The fight between counsel is leading up to the placing of President F. T. Ware of the Ware-Kramer Co. on the stand to testify among other things, as to conversations that took place between he and Carter. The purpose of the plaintiff is to present this evidence in such manner as to have the evidence as to declarations of W. M. Carter implicate also the American Tobacco Co. under the rule that the evidence of one conspirator is applicable as evidence to the other. These matters and numbers of exceptions on the part of the defense to make portions of depositions yet to be read, are being fought out before Judge Connor in chambers while the court has taken recess from Friday afternoon to Monday afternoon. The purpose is to have the depositions so pruned and rulings as to scope of other evidence so defined by the time court reconvenes Monday as to have this week of the trial proved with greater dispatch that it has as yet. It is expected that the whole of next week will be required to complete the witness of the plaintiff in this trial. Interests of W. M. Carter are being looked after in this trial by H. G. Connor, Jr., son of the presiding judge.

Chatham Car Line Rapidly Building

Work on the Chatham car line, which is being constructed by the Charlotte Rapid Transit Company, of which Mr. Paul Chatham is president, is being pushed rapidly. Already the grading has been completed from the Country Club to the Seaboard Air Line railroad tracks near the Monroe road.

Ten cars are in constant operation distributing dirt along the track from the S. A. L. tracks to the Julius Alexander place. The W. J. Oliver Construction Company, of Knoxville, Tenn., has the contract and are sustaining their reputation for rapid work. The contract calls for the completion of the work by September 1st.

DEATH OF LITTLE LAD

Mr. and Mrs. Charles Thomas Lose Their Five-Year-Old Son—Funeral is Tomorrow. Charles, the five-year-old son of Mr. and Mrs. Charles Thomas, of 217 North Graham street, died this morning between 3 and 4 o'clock at the Mercy General hospital. The child had been sick for some time, and its recovery for several days, despaired of. Bright, handsome and winsome, he was a favorite in his neighborhood. The funeral services take place tomorrow afternoon at 3 o'clock at the residence.