Court Holds That It Violates Anti-Trust Law.

DECISIONON MERCER

THE OPINION IS UNANIMOUS

Government Wins on Every Point and Northern Securities Company Is Forbidden to Vote or Acquire Stock of Merged Roads.

ST. PAUL, April 5 .- Following is the ext of the decision of the United States incuit Court of Appeals in the Northern

"This is a bill exhibited by the Unite States to restrain the violation of an act of Congress, approved July 2, 1860, enti-tied, 'An act to protect trade and com-merce against unlawful restraints and moopolies;' which is commonly termed the

"From admissions made by the plead-ings, as well as from much oral testimony, we reach the following conclusion ects matters of fact:

"Two of the defendants, namely, the Northern Pacific Railway Company and vorinern Pacific Railway Company and the Great Northern Company, are the owners respectively of lines of railroad which extend from the cities of Duluth. St. Paul and Minneapolia, in the State of Minneaota, thence across the continent to Fuget Sound. These roads are and in unbile estimation stimation ever have been regarded s parallel and competing lines. For some ears, at least, after they were built they competed with each other actively for continental and interstate traffic. In the Spring of the year 1991 they united in purchasing 96 per cent of the entire capital stock of the Chicago, Hurlington & Quincy Rallway Company and be-came joint survives for the payment of the bonds of the last-named company, whereby the purchase was accomplished, which were to run 20 years and bear 4 per cent interest per annum. The at of stock so acquired was of the alue of about \$107,000,000, and as it was purchased at the rate of \$200 per 80.079 npanles was thus increased to the 1900 00

extent of \$200,000,000. "Subsequent to the acquisition of the stock of the Burlington Company and in the Bummer of 1901 certain large and in-fluential stockholders of the Northern Pa-cific and Great Northern Companies, who had practical control of the two reads and who have been made parties defendant to the present bill, acting in concert with each other, conceived the design of plac-ing a very large majority of the stock both of the last-named companies in the hands of a single owner. To this end the stockholders arranged and agreed with each other to procure and cause the formation of a corporation under the laws of the State of New Jersey, which latcompany, when organized, should buy or at least the greater part, of the ek of the Northern Pacific and Great Northern Companies. The individuals who conceived and promoted this plan agreed with each other to exchange their agreed with each other to exchange respective holdings of stock in the named railroad companies for the stock of the New Jersey company when the same should be fully organized, and to use their influence to induce other stock-holders in their respective companies to do likewise, to the end that the New Jersey company might become the sole owner of the whole or at least a majority of the stock of both roads. In accordance with this plan the defendant, the Northern Securities Company (hereafter termed the Becurities Company) was organized under the laws of the State of New Jersey on November 13, 1804, with a qapital stock of 1400,000,000, that sum being the exact amount required to purchase the total stock of the two railroad companies at the price agreed to be paid therefor.

Stock of Companies Exchanged. When the Securities Company was orcanized it assented to and became a party o the scheme that had been devised by its promoters before it became a legal entity. Shortly after its organization the apany acquired a large maurition Con

proved. Combinations in that form were accordingly prohibited; but Congress, eviaccordingly prohibited; but Congress, evi-dently anticipating that a combination might be otherwise formed, was careful to declare that a combination in any other form, if in restraint of interstate trade or commerce, or if it directly oc-casioned or effected such restraint, like-wise should be deemed filegal. Moreover, in the cases arising under the act it has been held by the highest judicial author-ity in the Nation, and its opinion has been reliterated in no uncertain tone, that been reiterated in no uncertain tone, that the act applies to interstate carriers of freight and passengers as well as to all other persons, natural or artificial; that the words in restraint of trade or commetce do NOT mean in unreasonable or partial restraint of trade or commerce, but any direct restraint thereof; that an agreement between competing roads which requires them to act in concert and fixes the rate for carriage of passen-gers or freight over their respective lines from one state to another, and which by that means restricts temporarily the right of any one of such carriers to name rates for the carriage of such freight or pas sengers over its read as it PLEASES, is a contract in direct restraint of commerce within the meaning of the act, in that it tends to prevent competition: that it mat-ters not wheher, while acing under such a contract, the rate fixed is reasonable or unreasonable, the voice of such a con-tract or combination being that it confers powers to establish unreasonable rates and directly restrains commerce by plac-ing obstacles in the way of free and unrestricted competition between carriers who are natural rivals for patronage; and finally, that Congress has the power un-der the grant of authority contained in Federal legislation to regulate commerce to say that no contract or combination

shall be legal which shall restrain inter-state commerce or trade by putting off the operation of the general law of competition

Too Plain for Argument.

Too Finin for Argument. "Taking the foregoing propositions for granted, because they have been decided by a court whose authority is controlling. It is almost too plain for argument that the defendants would have violated the anti-trust act if they hed done through the agency of natural persons what they have accomplished through an artificial person of their own creation. That is to say, if the same individuals who promoted say, if the same individuals who promo The Securities Company, in pursuance of a previous understanding or agreement, to do so had transferred the stock in the two to so and transactions to a third party or parties, and had agreed to induce other shareholders to do likewise, until a ma-jority of stock of both companies had vested in a single individual or associavested in a single individual or associa-tion of individuals, and had empowered the holder or holders to vote the stock as their own, receive all the dividends there-on, and pro-rate or divide them among all the stockholders of the two companies who had transferred their stock, the re-wild would be a combination in suit would have been a combination in direct restraint of interstate commerce, because it would have placed in the hands of a small coterie of men the power to suppress competition between two com-

peting interstate carriers whose lines are practically parallel. "It will not do to say that, so long as each railroad company has its own board of directors, they operate independently and are not controlled by the owner of the majority of their stock. It is the

non experience of mankind that the acts of corporations are dictated and that their policy is controlled by those w own the majority of their stock. I deed, one of the favorite methods Intn these days, and about the only method, of obtaining control of a corporation is to purchase the greater part of its stock. It was the method pursued by the North-ern Pacific and Great Northern Companies to obtain control of the Chicago Burlington & Quincy Railroad, and s long as directors are chosen by stock holders, the latter will necessarily domi

domi nate the former and in a real sense determine important corporate acta plished Provides to Kill Competition. "By what has been done, the power has been acquired (and provision made for maintaining it) to suppress competi-

between two interstate carriers who own and operate competing and parallel lines of railroad. Competition, we think, would not be more effectually restrained than it is now under and by force of the existing organisation if the two rail road companies were consolidated under a single charter. It is manifest, there-fore, that the New Jersey charter is about the only shield which the defendants can interpose between themselves and the law,

"The resoning which led to the acquisttion of that charter would seem to have been that, while as individuals the promoters could not, by agreement betwee themselves, place the majority of stock of two competing and parallel roads in the hands of a single person or persons, giving him or them the power to operate the roads in harmony and stiffe competition, yet that the same persons might create a purely fictitious person. termed a corporation, which could neither think nor act except as they directed and, by placing the same stock in the name of such artificial being, accomplish the same purpose. The manifest unreasons bleness of such a proposition and the grave consequences sure to follow from its approval compel us to assume that it is unsound, especially when we reflect that the law as administered by courts of equity looks always at the substance of things, at the object accomplished, whether it be lawful or unlawful, rather than upon the particular devices or means by which it has been accomHE MORNING OREGONIAN, FRIDAY, APRIL 10, 1903.

The defendants are: The Northern Se-

MERGER IS A TRUST.

(Continued from First Page.)

final, for even if the Securities Company

had won today the Government would

probably have appealed. The questlor

was of such importance that an

ist and are doing a good business.

road properties in the future.

daughter, Miss Clara Hill.

at 104 bid.

Stock Takes a Tumble.

APPEAL MAY BE DELAYED.

Supreme Court Not Likely to Hear

Case Till October.

weeks will be devoted to argument, as the

call for docket will be suspended Fri-

day. It is considered impossible that the

papers can be put in shape and the case

prepared for consideration of the court

The court, however, sometimes has made

a special arrangement for the hearing of

within that time.

where they stand.

of the power in question say that neither natural nor artificial per-tions can combine or comparts in any form whatever to place restraints on interstate ormanies or trade. The argued, however, that such as combination of interests as was formed and has been heretofore described was lawful and not prohibited by the anti-trust act because such restraint upon interstate trade or commerce, if any, as it imposes, is indirect, collateral and re-mote, and hance the combination is not one of that character which the Congress of the United States can lawfully forbid. It is pertinent, therefore, to inquire in what way the existing combination that what way the existing combination that what way the existing combination that has been informed does affect interstate commerce. It affects it, we think, by giving to a single corporate entity or, in concert and in its name and under cover of its charter, the power to trol all the means of transportation trol all the means of transportation that are owned by two competing and parallel railroads engaged in interstate commerces; and in other words, the power to dictate every important act which the two com-panies may do; to compet them to act in harmony, in establishing interstate rates for the carriage of freight and passengers and generally to preserve the policy which they shall pursue. It matters not, we think, through how many hands the orders comes by which these alms are accomplished or through what channels; the power was not only acquired by the combination, but it is effectually exer-cised, and it operates directly on inter-state commerce notwithstanding the man-ner of its exercise, by controlling the ner of its exercise, by controlling the means of transportation, to-wit: The cars, engines and railroads by which persons and commodities are carried, as well as by fixing the price to be charged for such

"Again, it is urged, tentatively, that if

"Again, it is urged, tentatively, that if the existing combination, which the Gov-ernment seeks to have dissolved, is held to be one in violation of the anti-trust act and unlawful, then the act unduly restricts the right of the individual to make contracts, buy and sell property and is invalid for that reason. With reference to this contention, it might be suggested (as it has been by the Gov-ernment) that as the situs of the stock which the Securities Company has bought which the Securities Company has bought is in the States of Wisconsin and Minne-cots, which respectively chartered the Northern Pacific and the Great Northern

Companies, and the stock owes its be-ing to the laws of those states, and as each state hus forbidden the consolidaeach state has forbidden the consolida-tion of competing and parallel lines of railroad therein and has likewise probilited any consolidation of the 'stock and franchises' of such roads, the contantion ast montioned is entitled to little con-tideration in the second inet mentioned is entitled to little sideration in the case at bar. But, sideration in the case at bor. But, which ing and ignoring this suggestion, the ar-gument advanced in behalf of the de-fendants is met and answered, so far as this court is concerned, by the decision in Addison Pipe & Steel Company vs. the United States, 15 U. S. 205, 225, where it is said, inter alla: "Under this grant of power to Con-grees (the power to results commerce

gress (the power to regulate commarce between the several states and with for-eign nations), that body, in our judgment, may enact such legislation and decing's vold and prohibit the performance of any contract between individuals or corpora-

tions where the natural and direct effect of such a contract will be, when carried out, to directly, and not as a mere inci-dent to other and innocent purposes, regulate to any substantial extent, interstate

Arguments Proved Baseless.

Arguments Proved Baseless. "Learned counsel for the defendants further contend as follows: "That the anti-trust law was not in-tended to include or prohibit combinations looking to the virtual consolidation of parallel and competing lines of railroad, although such a combination operates to stifle competition; that no relief can be granted to the Government in this in-etance, because the combination or constance, because the combination or con spiracy of which it complains has accom

plished its purpose, to wit: The organiza-tion of the Securities Company and the lodgment of a majority of the stock of the two railroads in its hands before the bill was filed: and, finally that the combina-tion proved was one formed in aid of commerce and not to restrain it," in other words that it was one formed to enlarge the volume of interstate traffic and thus nefit the public

"The court cannot assent to either of these propositions. The first, we think, is clearly untenable for the reasons already stated and fully disclosed in the decisions heretofore cited. Concerning the second contention, we observe that it would be a novel, not to say absurd.

inder the direction of the very individuals

moted It.

example to them. of the anti-trust act to hold that after an unlawful combination which it had no right to acquire, namely, which it had no right to acquire, namely, to restrain commerce by suppressing com-petition, and is proceeding to use it and execute the purpose for which the combi-nation was formed, it must be left in possession of the power that it has ac-quired, with full freedom to exercise it. Obviously, the act, when fairly interpreted, will bear no such construction. Congress simult destroy the power in place any almed to destroy the power to place any direct restraint on interstate commerce when by any combination or conspiracy formed by either natural or artificial persons, such a power had been acquired demand the Government may intervene and demand relief as well after the combina-tion is fully organized as while it is in process of formation. In this instance, as we have already said, the Securities Company made itself a party to a combi-nation in restraint of interstate commerce that antedated its organization as soon as it came into existence, doing so, of course

ISSUE SINK THE RACE WATTERSON APPEALS TO NORTH TO END CONFLICT.

> ays Agitation About Political Rights Has Injured Negroes-Leave Settlement to Evolution.

CHICAGO, April 3.-The annual banquet of the Hamilton Club, which is held each of the Hamilton Club, which is held each year on the anniversary of the surrender at Appomation, took place tonight in the Auditorium Hotel. A large number of local guests were present and others came from distant states. Ex-Congressman Francis W. Cushman, of Tacoma, Wash., was to have delivered an address but was unable to be present because of the stockholders in exchange for its own stock or to make such transfer and as-eignment to such person or persons as are now the holders and owners of its own stock originally insued in exchange for the stock of said companies." A formal decree in accordance with the decision was filed. Circuit Judges Cad-well, Sarborn, Thayer and Vandeventer heard the case and all concurred in the opinion, which was written by Judge Thayer and filed in St. Louis at the same time it was handed down in the United States Circuit Court of Appeals in this city. was to have delivered an address but was unable to be present because of the death of his father. The other addresses were by Henry Watterson, of Louisville, Ky.; Rov. Thomas P. Greens, Cedar Rap-ids, Ia., and Edward L. Hamilton, of Michigan. Michigan

Watterson, in responding to the Mr. oast, "Peace Between the Sections," re-terred to the "dual rasponsibility of the North and South for African slavery and the War of Secession," and to the "negro guestion," which he said is "a racial problem to be solved by the process of evolution, not by political agitation. He

curities Company, the Northern Pacific Raliway Company, the Great Northern Raliway Company, J. J. Hill, William Clough, D. W. James, John S. Kennedy, J. P. Morgan, Robert Bacon, George F. Baker and Daniel S. Lamont. said: "I appeal to you as Republicans, and through you appeal to the Republicans of the United States, to have done with the conceit that, unless you stand by the black man, that unless you continue him as an issue in partisan politics, injustice will be done him. In the bettering of his condi-tion and in the acquisition of property he has made wondroug progress the last five and thirty years; and relatively greatciaton of the court today as a blow to railroad enterprise, I should say that the reverse is the case. Capital all over the progress in the South than in orth. He could not have done this in the ountry is analous to know its rights in out the sympathy and co-operation of the Southern whites. He has made little progress in the aris of self-government, either North or South, because of the agitation which has kept him in a state the matter of railroad construction and operation. Railroad men want to know "The decision today is just one step closer to a decision from the United States Supreme Court, which shall be

of perpetual excitement, with no helpful public opinion to moderate ff, and has been made the sport and prey of politi-cal existence aligners address of with cal exigency, always selfish and, with respect to him, more or less visionary and

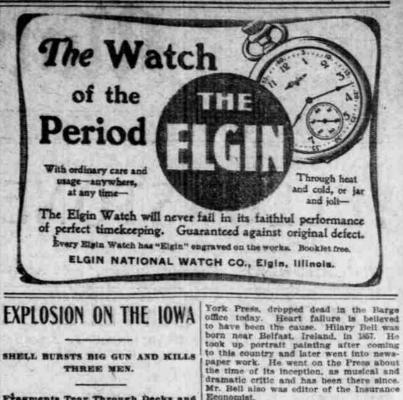
appea "The negro can never become in any beneficent or genuine sense an integral and recognized part of the body politic except through the forces of evolution, which are undoubtedly at work, but which in the nature of the case must needs go exceedingly slow. Where there is one was assured no matter who won. These facts are certain. Both railroads held by the Northern Securities Company still ex-"When railroad men know exactly how the law is to be interpreted they will negro fit for citizenship, there are mil-lions of negroes wholly unfit. The hot-house process has been tried and it has failed. If, invested with every right enprobably find good ways to see that properties are operated economically and profitably." A conference of leading financiers was joyed by the whites, the blacks, gaining all things else, have brought corrup on into the suffrage and discredit upor held this afternoon in the office of J. P. Morgan & Co. to discuss the details of mselves, is it not a kind of m the decision and its bearing upon rallfurther to press artificial methods which however justified theoretically from edu-cational lookouts in Michigan. Iowa and Wisconsin, fail helpless to the ground in their practical application to the semi-An effort was made to see J. J. Hill, but he kept himself in seclusion and deded himself to all callers. Mr. Hill had barbarous toilers in the cotton fields and just returned from Europe, where he had corn lands of Alabama, Georgia and South Carolina. I appeal to you equally in what I conceive the true interest of the been for five weeks, accompanied by his black people along with the white people of the South; nay, and of the North as well, for all our interests are indimsolu-ble, interchangeable and that, can never NEW YORK, April 9.-In the outside market Northern Securities, which had be good or bad for one section which is sold up to 105%, broke to 103 on receipt of not good or had for the other section. the news from St. Paul. The stock closed

"Modern invention, which has already annihilated time and space, is surely grasing sectional lines. It ought not to lave so much as a reminiscence of seclave so much as a reminiscence of sec-tional strife. If that dread spirit should come again its evil winds will not blow between the North and the South, but between the East and West, the horns of WASHINGTON, April 9.-Unless there the dilemma presented by extremes in-volving a new, irrepressible conflict be-tween capital and labor. May that day is very great expedition in bringing the merger case to the United States Supreme Court, and also in its consideration therenever come, but in case it does, the con-servatism of the North will need the con-servatian of the South. The law-lowing forces of the North will need the law after, the Supreme Court will not pass on the case during the present term. The court will adjourn finally in the latter breeding instincts of the South. The Americanism of the North will need the Americanism of the South." part of May, and will not convene again until next October. Of the remaining time of this term, only the next three

WILL NOT ACT ON BACE ISSUE.

Union League Tables Report Favor ing Investigation in South.

NEW YORK, April 9.-The Unior League Club committee on political re-form made its report tonight on a reso-lution submitted two months ago empow-ering the committee to investigate recent legislation in Southern States disfran-



MAY KILL MOUNTAIN LIONS

Park Authorities Have Some Sport

Reserved for President.

CINNABAR, Mont., April 9 .- President

Roosevelt made an early start this morn-ing from his headquarters in the Park for an extended trip through certain por-

number of mountain Hons in the Park, and as the authorities are making a de-termined effort to exterminate them, it is possible the President may get a few shots during his stay.

Notwithstanding that numerous notices

Secretary Loob received no word from the President today beyond the announce-ment that he had left his headquarters

Chief Paymaster in Philippines.

WASHINGTON, April 2.-Major George R. Smith has been designated as Chief Paymaster of the Division of the Philip-

been serving in the Philippines as Pay-master, has been relieved of duty and he will report to General Corbin in Wash-ington for duty.

Easy to Operate

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Distinction

The perfect product of the still,

Hunter

Because purely vegetable-yet thor-ough, prompt, healthful, satisfactory-

Easy to Take

Hood's Pills

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RELAN

ent was released.

for a trip into the Park.

ins of the reserve. There are a large

SHELL BURSTS BIG GUN AND KILLS THREE MEN.

> Fragments Tear Through Decks and Crush Scamen as They Sit at Dinner-All Horribly Mangled.

PENSACOLA, Fis., April 9.-- A disas

trous explosion occurred on the battle-ship lows today while the vessel was at target practice in the Guif. The forward port 12-inch gunt burst from a premature explosion of a shell 12 feet of the plece whether the turner batter demoliphent These outside the turret being demolished. Three men were killed and five injured, two The killed: First-Class Seaman iKele

Ordinary Seaman Purcell. Gunner's Mate Berry. The injured: First-Class Seaman Gercht, Ordinary Seamen Tuesdale, Brown, Roths-child and Parrucker. The men killed and injured were on the had been given to the outside world that no newspaper men would be allowed in the Park while the President was there, one enterprising reporter tried to force his way in yesterday. He rode a horse and had a dog with him. The man was arrested before he had proceeded far, and the dog shot. Later the correspondsecond or gun deck at mess. Three pieces of the exploded gun, each weighing over a ton, passed downward through the spar deck, falling upon the men at mess, instantly killing the three named. All of

the men were horribly mutilated. The heavy missilss, after passing through the gun deck, continued down to the third deck, where they came in contact with the armored deck, the heavy steel bringing them to a stop, thus saving the engineers and firemen who were at work below. Al-though the upper decks were covered with Paymaster of the prison of the Philip pines, relieving Lieutenant-Colonel Charles H. Whipple, Deputy Paymaster-General, who has bee nordered to this country to report to the Adjutant-Gen-eral. Major Elijah H. Halford, who has

men, none was seriously injured. The explosion occurred just as the mass had been sounded. The firing was to have ceased after the shot for the dinner hour. The range had been set, and the Iowa was steaming along at a speed of 12 knots an hour when the officer in charge of the 12-inch turret gave orders to load and fire. The time fuse was set, the plece charged, the breech closed and the word given to fire. Following the report of the gun there was a amothered noise as the shell exploded midway in the gun and pieces of the bursted gun and shell Three great

were scattered broadcast. Three s holes were torn through the deck. The Massachusetts, six miles dist was signaled for aid, and one of the distant. ters put off with a surgeon and assistan . The injured men were taken to surgeon. The injured men were taken to the hospital and their injuries dressed. The dead were brought to Pensucoin. Some claim the explosion was caused by a defective shell, and others think that the frequent firing of the piece at Culebra during the Winter, added to the work done here during the past ten days, so strained the piece that the force of the a defective shell, and others think

burst the gun.

Names of Killed and Injured. WASHINGTON, April 2.-A long dis-patch came to Acting Secretary Darling,

o fike Navy Department, tonight from Rear-Admiral Higginson, commanding the North Atlantic equadron at Pensacola. It is in cipher, and gives what are app-

It is in cipher, and gives what are posed to be the names and next of kin of those suffering 'from the accident on the Iowa. They are: F. L. Berry, ordinary seaman; next of kin, Mrs. Hattle Wilson, Las Vegas, N. M. E. L. Purcell, landsman; next of kin,

of all the stock of the Northern Company at the rate of \$115 per share, paying therefor in its stock at par. At the same time it acquired about 300,600 shares of the stock of the Great Northern Company from those stockholders of that company who had been instrumental in company of the Securities Company, pay-ing therefor at the rate of \$150 per share and using its own stock at par to make the purchase. The Securities Company subsequently made further purchases of stock from the Great Northern Company at the same rate, and in about three months had acquired stock of the latter company amounting at par to about \$83,-000,009, using for that purpose its own stock to the amount of about \$171,000,000. The Securities Company was enabled to make the subsequent purchase from stockholders of the Great Northern Company not immediately concerned in the organization of the Securities Company by the advice, procurement and persua-sion of those stockholders of the Great Northern Company who had been instru-mental in organizing the Securities Com-pany and had exchanged their own stock for stock in that company shortly after its organization. At the present time the Securities Company is the owner of about 56 per cent of all the stock of the Northern Pacific Company and the owner of about 16 per cent of all the stock of the Great Northern Company.

Results of the Scheme.

The scheme which was thus devised and consummated led inevitably to the

r results: -It placed the control of the two roads in the hands of a single person, to-wit: The Securities Company, by virtue of its ownership of a large majority of the stock of both companies.

"Second-It destroyed every motive for competition between two roads engaged in interstate traffic which were natural competitors for business, by pooling the earnings of the two roads for the common benefit of the stockholders of both companies: and, according to the familiar rule that every one is presumed to in-tend what is the necessary consequence of his acts when does will be not done of his acts when done wilfully and delibstately, we must conclude that those who conceived and executed the plan aforesaid intended, among other things, to accom-plish these objects.

"The general question of law arising upon this state of facts is whether such a bination of interests as that above ribed falls within the inhibition of the said anti-trust act or is beyond its reach. The act brands as 'illegal' every contract, combination in the form of trusts, on organs-wank, or comspiracy in restraint of trade or commerce among the several states or with foreign nations. Learned counset on both sides have commented on the general isngunge of the act, doing so, of course, for a different purpose, and the generality of the lenguage employed is, in our judgment, of great significance. It indicates, we think, that Congress, being unable to foresee and describe all plans that might be formed and all the expedi-

New Jersey Law No Shield.

"So far as the New Jersey charter is concerned, the question, broadly stated which the court has to determine, is May Be Good, but Is Illegal. "Relative to the third contention, which has been pressed with great zeal and ability, this may be said: It may be that such a virtual combination of parallel and competing lines of railroad as has been whether a charter granted by a state can be used to defeat the will of the National Legislature as expressed in a law relat-ing to interstate trade and commerce over which Congress has absolute control. effected, taking a broad view of the situa-tion, is beneficial rather than harmful. It may be that the motives which inspired the company by which this end was ac-Presumptively, at least, no charter granted by a state is intended by the state to have effect or to be used for such a purpose, and in the present instance it is clear that the State of New Jersey did omplished were wholly laudable and uncomplished were wholly inudable and un-selfish: that the combination was formed by the individual defendants to protect great interests which had been commit-ted to their charge: or that the combina-tion was the initial and a necessary step in the accomplishment of great designs, which, if carried out as they were con-ceived, would prove to be of inestimable where to the communities which these not intend to grant a charter under cover of which an object denounced by Con-gress as unlawful, namely a combination conferring the power to restrain interstate commerce, might be formed and maintained because the enabling act un-der which the Securities Company was organized expressly declares that three value to the communities which there roads serve and to the country at large. We shall neither affirm or deny either of these propositions, because they present issues which we are not called upon to or more persons may avail themselves of the provisions of the act and become a corporation for any lawful purpose. "This language is not merely perfunctdetermine and some of them involve ques-tions which are not within the province of any court to decide. Involving as they do questions of public policy which Conory; it means, obviously, that whatever powers the incorporators saw fit to as-sume they must hold for the accomplish-ment of lawful objects. The words in question operate, therefore, as a limita-tion upon all the powers enumerated in greas must determine. It is our duty to ascertain whether the proof discloses a combination in direct restraint of inter-state commerce: that is to easy, a com-bination whereby the power has been acthe articles of association which were filed by the promoters of the Securities Company, so that, however extensive and quired to suppress competition between omprehensive these powers may seem o be, the State of New Jersey has two or mote competing and parallel lines of railroad engaged in interstate com-merce. If it does disclose such a com-bination, and we have little hesitation in " 'You shall not exercise them so as to

"You shall not exercise them so as to set at definance any statute lawfully en-acted by the Congress of the United States of any other statute enacted by any other state wherein you see fit to exercise your powers." "But, aside from this view of the sub-ject, if the State of New Jersey had un-dertaken to invest the incorporators of the Securities Compare with the sport answering this question in the affirmative, then the anti-trust act, as it has been

heretofore interpreted by the Court of Last Resort, has been violated and the Government is entitled to a decree. Decree of the Court.

"A decree in favor of the United States will accordingly be entered to the fol-lowing effect: "Adjudging that the stock of the North-

the Securities Company with the power to do acts in the corporate name which would operate to restrain internate com-merce and for that reason could not be Aquoting that the mock of the North-ern Pacific and Great Northern Com-panies, now held by the Securities Com-pany, was acquired in virtue of a combi-nation among the defendants in restraint of trade and commerce among the several states, such as the anti-trust act deunable to foresee and describe all plans that might be remorted to, to place restraints on interstate trade or com-merce, deliberately employed words of such general import as, in its opinion, would comprehend every scheme that end. Definition of Trust Applied. "What is commonly termed a trust by individuals or corporations for the pur-pose of monopolising the manufacture of ties, which was well known and fully un-"westood when the anti-trust act was ap-

pergency cases, and this precedent might be followed in the present case, if desired by all parties, and if the court should consider the exigency such as to justify it. Owing, however, to the importance of the case, to the difficulty of preparing for it. to the fact that the law under which it must be tried is now, and that the time for the Summer adjournment is drawing near, it is not at all probable that a conclusion can be reached during this term. The law allows 30 days for perfecting the appeal.

HOLE TO CRAWL THROUGH. Securities Lawyer Finds Flaw in De-

cree of Court. NEW YORK, April 2.-One of the leading counsel in the Northern Securitie

case said: "As yet this is an undigested opinion but, from the hasty glance I have given it. I call your attention to the closing phrase of the Judge's order, which practically nullifies the whole effect of the decision. It provides that the Northern Securities Company may transfer and as-sign the stock of the Northern Pacific and Great Northern Rallways now held by it to such person or persons as are now holders and owners of original stock in exchange for the stock of the said companies. This right of transfer is vital, and it seems to me renders nugatory the main conclusion of the court.'

A representative of J. P. Morgan & Co. said the decision put a new light on the entire matter, and would enable lawyers Northern Securities Company to work along new lines.

Rock Island Deal Not Affected.

NEW YORK, April 9 .-- Ex-Judge William H. Moore, who is one of the dominant factors of the Rock Island Company, is quoted as saying: "The decision in the Securities case will

in no way affect the Rock Island-Frisco deal. They are not competing lines, and the case is in no way analagous."

Rome Settling Down Again,

ROME, April 3.--A peaceful solution of the strike continues to be probable. The city has almost resumed its normal as-pect, the only difference being the absence of cabs. Many pligrims, especially Germans, have arrived for the Easter functions. They will be received in audi-ence by the pope on Monday. In more than 200 churches holy week services are eding without incident.

Catholic School Burned.

AUSTIN, Tex., April 9.-Edwards Col-lege, a Catholic school building, situated three miles from here and valued with contents at \$175,000, was today destroyed by fire. The 200 students got out safely.

One Woman's Experience With Grip Remedy.

Grip Remedy. While suffering from a severe attack of the grip and threatened with ppeumonia. Mra. Annie H. Cooley, of Middleffeld. Conn. began using Chamberiain's Cough Remedy and was very much benefited by its use. The pains in the chest soon dis-appeared, the cough became loose, ex-pectoration easy and in a abort time she was as well as ever. Mrs. Cooley says abe cannot speak the highly in praise of this remedy. For sale by all druggists.

chising negroes, and also on a resolution introduced by Warner Miller demanding that Congress enforce the 14th and 15th amendments to the United States Constitution by the reduction of the number of Representatives in each state where the franchise has reduced the proportion to the extent of disfranchisement. Mr. Mil-ler's resolution also indersed the attitude of President Roosevelt on the Monroe

The committee's report included the res-olutions, with slight modification. There was a discussion that continued until midnight, but which was said to have been wholly harmonious. The report was tabled by a vote of 55 to 60.

May Impeach Arkansas Governor. LITTLE ROCK, Ark., April 8.-The ways and means committee of the House today filed its report on the invæstigation of charges preferred against Governor Davis by Attorney-General Murphy on behalf of the State Penitentiary Board. Seven of the 11 members signed the ma-jority report, finding certain charges sus-tained, the three principal ones being the alleged minuse of contingent funds, use of a private car furnished by the Choctaw Railroad, and accepting of coal from a realized, and accepting of coal from a concern which was supplying the state in-stitutions, no evidence being introduced of his intention to pay for it. Three mem-bers signed a report econcrating both Governor Davis and the members of the penitentiary board from any action of a criminal nature. A motion has been made to accept the majority report. If it is adopted, impeachment proceedings may

Must Answer for Contempt.

CHICAGO, April 9 .-- Judge Hanecy to day cited the Election Commissioners to appear before him on the charge of con-tempt of court. The hearing is set for tomorrow. The action was taken besause of the opening of the Lorimer-Dur. borrow ballots, in defiance of the injunc-tion issued by Judge Hanecy. It is re-ported that an agreement has been made to have the matter before the court, and to appeal it to the supreme tribunal of the state.

Champion Negro Rights.

SCHENECTADY, N. Y., April 2.-At a mass meeting held here last night resolu-tions were adopted with much enthusiasm inforsing the action of President Roosevelt in appointing negroes to office and upholding the rights of the colored peo-ple to partake of the fruits of citizenship.

For Direct Election of Senators. For Direct Election of Sensiors. SPRINGFIELD, III. April 8.-The House unanimously passed the Senate joint resolution favoring a constitutional amendment for the election of United States Senators by a direct vote of the house is a senator of the people

Candidate for Long's Sent.

DODGE CITY, Kan., April 3.-C. F. Cline, of Stafford, was nominated today by the Democrats of the Seventh Con-gressional district to succeed Chester I.

Want Polygamy Forbidden.

KANSAS CITY, Mo., April 9.-The con-Farence of Recorganized Latter-Day Saints in Independence today denounced polygamy in resolutions which called for an amendment to the Constitution of the United States which would prohibit it.

E. L. Purceit, Marshart, and Marshart, Walter iKel, seaman; next of kin, A. Moore, St. Charles, Mo. The names of those who were injured are: G. Rothachlid, coppersmith; I. E. Tuesdale, landsman; Paul Gocht, quarter-master; F. Parrucker, gunner's mate of the third class.



the third class.

of Altamont, Near Oswego.

KANSAS CITY, April 2 .- A special to

KANSAS CITY, April 3.-A special to the Times from Joplin, Mo., says: It is reported tonight that a tornado passed over Southeastern Kansas at 4 o'clock this afternoon, and Altamont, a small town 50 miles west of this city, suf-fered much damage. A telephone mes-sage from Oswego, Kan., seven miles east of Altamont, stated that there was a seof Altamont, stated that there was a se-vare storm in the vicinity of Altamont, but nothing is known as to its extent. Passengers on an east-bound 'Frisco train stated that it was reported at Alta-mont as the train passed through there at 7 o'clock that a tornado had passed over the town and had done much damage in the country near there. No further

in the country near there, particulars can be learned. No furthe

MORE DEATHS IN ALABAMA.

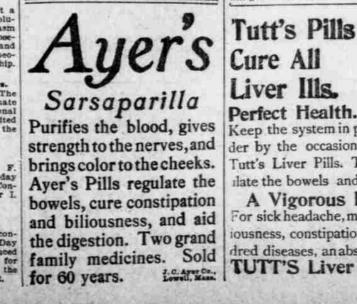
Two McCoy Children Expire and Two Others Can't Live.

Others Can't Live. HANCEVILLE, Als., April 2.-Two more deaths resulted today from the tornado which swept the country west of here Wednesday morning. The dead are: Isabel McCoy, aged 5, and Effic McCoy. Two other members of the McCoy family are also expected to die. One of the Odell, children, it is thought, will also die, being injured internally. Reports of the storm damage across the

river reached here today. The storm jumped to Summit, in the northern part of Blount County, where several persons were seriously injured and a dozen houses and barns destroyed.

Sudden Death of Hilary Bell.

NEW YORK, April 9.-Hilary Bell, the dramatic and musical critic of the New





Some must die on mountains high And some in war's commolion: The deadly wire, and smoke, and fire, End lives of pure devotion. And some there he who death will see In every flash of lightning. But wearers feel with the rubber heel Beyond mere tempest-fright ning.

O'Sullivan Rubber Heels insulate the ody and rob the tempest of its terrors.

New rubber is the reason.

There's hidden danger in junk rubber, to buy by the name-O'Sullivan's

O'Sullivan's are Sc pair, plus price of attaching.

Every dealer in this city has them-or will get them for you.

Cure All Liver Ills. Perfect Health. Keep the system in perfect order by the occasional use of Tutt's Liver Pills. They reg-

ilate the bowels and produce A Vigorous Body. For sick headache, malaria, biliousness, constipation and kindred diseases, an absolute cure TUTT'S Liver PILLS