

FISH DEFEATED IN LEGAL FIGHT

Harriman Rules Illinois Central Under Decision of Judge Ball.

NEW SUIT TO BE BROUGHT

Control of One Corporation by Another Not Contrary to Law—Illinois Central and Union Pacific Are Not Competitors.

CHICAGO, Feb. 20.—Judge Ball, of the Superior Court, today dissolved the injunction secured last October by Stuyvesant Fish by virtue of which the Harriman interests were restrained from voting 28,223 shares of the capital stock of the Illinois Central Railroad at the annual meeting of the company.

There is no appeal from the decision handed down today by Judge Ball, but it is considered possible that Mr. Fish will take further legal steps to regain possession of the Illinois Central. Judge E. B. Farrar, of New Orleans, who has acted as leading counsel for Mr. Fish throughout, said today, after the rendering of the decision, that the case will now be tried on its merits, but declined to say how any new proceedings will be instituted.

Harriman Bubbles With Joy.

None of the principals in the case were in court, both Mr. Fish and Mr. Harriman being in New York. All the attorneys on both sides and many other lawyers and business men were present and filled the courtroom to overflowing. President Harahan, of the Illinois Central, came in while the decision was being read and heard the latter portion of it. When the conclusion had been reached, he said:

"My head is too full of that decision to allow me to say anything, but to say that I am highly pleased and more than highly pleased is putting it mildly."

Judge Ball, who is of somewhat frail physique, turned over to his son the task of reading the decision, which contained almost 10,000 words. As soon as it was concluded there was a veritable stampede in the courtroom, brokers, lawyers and messengers making a rush for the doors, in order to announce the result. They ran into various rooms, seeking for telephones, and many were heading for the elevators, while others fled wildly down the stairway. Such excitement and confusion has not been witnessed in the court's courthouse for many years.

Fish Failed to Prove Injury.

The court declared that Mr. Fish had not been able to prove any of his contentions that the domination of the Illinois Central by Mr. Harriman would be to its detriment. Judge Ball believed that the interests of stockholders would be injured thereby. The Union Pacific and the Illinois Central were not competing, but competing in the same field, and the one could not be a commercial rival of the other in such a sense as to fall within the scope of the legal decisions against alliances between competing railroads.

Should Ask Board to Sue.

The decision was in substance as follows: It is urged that the complainants under the rules of equity practice should have requested the officers and directors of the Illinois Central to bring this suit—that such a request and refusal by the corporation are necessary prerequisites to the right to bring this action. This suit might have been brought by the Illinois Central, its stockholders or that corporation are equally interested. Before a stockholder is entitled to sue in his own name and conduct a litigation which usually belongs to the corporation he should show to the satisfaction of the court that he called upon the directors to bring the suit and their neglect or refusal to comply with his request, or that he showed that an application to them would have been useless.

The bill as amended alleged that complainants made no application to the company to bring suit, first, because they believed they have the individual right as stockholders to bring this action, and second, that it would have been idle to have made such application, because eight of the 12 directors of the Illinois Central believe that the Union Pacific and the Railroad Securities Company have a right to vote the stock of the Illinois Central, and five others would have been advised by Harriman not to allow the bringing of such a suit and would have followed such advice, and because of the personal hostility of eight of said directors to Fish they would not have permitted such a suit to be brought.

No Injury to Fish Probable.

The first reason given may be passed, as it is a legal conclusion, and the alleged facts stated as the basis for the second reason are vigorously denied in affidavits filed by said eight directors.

The only thing averred and proved in this case as to the future actions of the complainants is that at the coming meeting of the Illinois Central the Union Pacific and the Railroad Securities Company will vote the stock they own and control for the election of directors, and five others would have been advised by Harriman not to allow the bringing of such a suit and would have followed such advice, and because of the personal hostility of eight of said directors to Fish they would not have permitted such a suit to be brought.

Decides on Facts, Not Prophecy.

The bill, however, charges many things which may happen to the detriment of the Illinois Central and its stockholders if the

Union Pacific and the Securities Company be permitted to vote at such meeting, but no facts are alleged or proved which even tend to bring about such results. Courts of equity act on facts alleged and proved, and not on fears, or unproved prophecies. If it were not that the name of Harriman is a name to conjure with, these allegations would not be taken so seriously. There are many things stated in the bill as to the intention of the defendants which, if put in force, or even attempted to be put in force, would call upon the court to intervene, but a diligent search of the record fails to show that such things exist in any concrete form. The complainants say that, if the Union Pacific and the Securities Company are permitted to vote at the coming election, the hold of Mr. Harriman upon and his domination over the Illinois Central will be strengthened and that finally the Illinois Central will be reduced to a subservient position and will be given the least end of the carrying trade. But they fail to allege and prove facts supporting these allegations.

While Mr. Fish may rightfully desire to remain a director of the Illinois Central and to that end may use every lawful means in the power of himself and his friends, he has no right to that office unless he is legally elected therefrom. Hence his demand, if it comes from the lack of valid votes, is no legal injury to the civil or property rights of Fish or those of his fellow complainants. As private citizens the complainants are not keepers of the public conscience, nor are they the conservators of the rights of the public to sustain this bill, it is not sufficient for them to show merely that the complainants have a public wrong, they must also show that by the doing of such act they will suffer a special injury to their civil or property rights. This election of directors at the coming meeting can work no special injury to the complainants, a special injury to any of them is proved which calls for the interposition of this court.

Question of Public Policy.

The court then asserted that the findings and opinion of the Interstate Commerce Commission are not evidence in this case, and declared that he had no power to enforce the Sherman act, and quoted numerous legal decisions in support of his assertion. The decision then continued:

There is but one ground upon which this bill can be maintained. If the Union Pacific has no right to buy, hold or sell either the Illinois Central or the Securities Company, or either of them is including in this election wholly without right the stock of the Illinois Central, without alleging irreparable injury, may be taken to show that the bill is not in the public policy of this state. There is no public policy of this state which prohibits the purchase of the stock of a corporation by a foreign corporation, which stock it purchased and paid for and holds under an express power granted to it by the state of its creation?

The court declared that corporations per se are not barred from being and holding the stock of other corporations, and said the fact that the purchaser might be a foreign corporation and the stock that of a domestic corporation could not change the rule of law. He said:

The reason for the holding of the stock of the Illinois Central by the Union Pacific and the Railroad Securities Company is invalid, it is in the fact that they are foreign corporations.

Corporations May Own One Another

The court denied that there is any rule of the American common law prohibiting one corporation from holding stock in another corporation, and that a corporation has in its charter specific power to do so. In this case, he said, it was proved and not denied that the Union Pacific and the Railroad Securities Company each has express power granted to it by the state of its creation to buy, own and hold stock in other corporations.

The court then entered upon a long and extensive discussion of various statutes regarding the holding of stock by corporations in other corporations, declaring finally in law nor opposed to the public policy. He then said:

The right of the Railroad Securities Company to hold the stock of the Illinois Central is not in violation of the public policy of this state, and the law of Utah, has a clear right to own shares of stock of Illinois Central which it purchased in 1906, and that it has the essential right to vote that stock at meetings of the Illinois Central, unless the right is forbidden by the laws or public policy of Illinois. The court said in conclusion on this subject:

"Such prohibition does not exist unless it affirmatively appears. It is not established by the mere lack of legislation upon that subject."

Not Controlled by U. P.

In concluding his decision, Judge Ball said:

The usual effect of a preliminary injunction is to continue the status quo until the final hearing. To sustain this preliminary injunction and thus to prevent the Union Pacific and the Railroad Securities Company from voting their stock at the coming election will be to change the status quo before the right of these corporations to own and vote such stock has been fully and finally determined by the court. With those conditions barred out, the meeting might result in an entire change in the management of the Illinois Central, and solve the injunction and let the action of the court in regard to the ownership and voting power of this stock await the final hearing. To sustain this preliminary injunction and thus to prevent the Union Pacific and the Railroad Securities Company from voting their stock at the coming election will be to change the status quo before the right of these corporations to own and vote such stock has been fully and finally determined by the court. With those conditions barred out, the meeting might result in an entire change in the management of the Illinois Central, and solve the injunction and let the action of the court in regard to the ownership and voting power of this stock await the final hearing.

What All Fuss Is About.

Mr. Fish, who was formerly president of the Illinois Central, filed a bill on October 14, 1907, asking that 28,223 shares of Illinois Central stock owned by the Union Pacific Railroad Company, the Railroad Securities Company and the Mutual Life Insurance Company of New York, be enjoined from being voted at the annual meeting of the railway company set for October 16. Judge Ball issued a temporary restraining order.

Fish Not Ready to Talk.

NEW YORK, Feb. 20.—At the office of Stuyvesant Fish it was said that Mr. Fish would make no comment on the Illinois Central case until he had seen the text of the decision.

RAILROAD WAGES WILL NOT BE CUT

Groundless Fear in Financial Circles That Lines Contemplate General Reduction.

RUMOR CAUSE OF STIR

While Old Scale in Operating Departments May Be Applied, the Roads Are Not Planning Any Concerted Action.

WASHINGTON, Feb. 20.—Industrial and financial circles have been more or less concerned over what they regard as a prospect that the railroads of the country have in contemplation a general reduction in the wages of their employees. Such apprehension is practically groundless. Information which has reached the Interstate Commerce Commission particularly, and other officials of the Government, indicates clearly that there is no concerted action on the part of American railroads to make general changes in their wage scales at this time or in the near future. Instances of proposed readjustment of wage scales are cited in the cases of three or four Southern systems.

Return to Former Scale.

The proposition in a general way will be to return to the wage scales which were in force about a year ago, at which time general advances in the pay of men in the operating departments of the railroads throughout the country were made. What conclusions may be reached it is not possible now definitely to foretell. Assurances have been given by the railway officials that they have no disposition to impose any hardship upon their employees, and they will not do so.

Chairman Knapp, of the Interstate Commerce Commission, who, by the operation of the so-called Erwin law, is made one of the two members of a board of mediation—Professor Charles P. Neill, Commissioner of Labor, being the other—in accordance with the suggestion contained in President Roosevelt's letter to the Commission, respecting the railroad wage question, is holding himself in readiness to act under the law whenever he may be called upon by one or the other of the parties to any wage controversy.

No Action Now Possible.

Pending direct application by one party or the other to any question in dispute, Chairman Knapp explained that practically nothing could be done. While some railroads have suffered during the past few months from a falling off of business, the records shown in the reports of operation received by the Interstate Commerce Commission indicate no large or very general reduction in revenues. On account of the financial stringency during the autumn and early weeks of winter, some curtailment of construction work was made. This work, which is in a measure continuing, will be resumed in a majority of instances at the opening of spring.

COAST VESSELS ARE TIED UP

San Francisco Lumber Traffic Paralyzed by Labor Troubles.

SAN FRANCISCO, Feb. 20.—The fight between the Marine Engineers' Association and the steam schooner owners of San Francisco, is now on in dead earnest, the committee which controls 90 per cent of the total number of steam vessels carrying lumber to and from this port, and other ports on the Pacific Coast having today decided to lay to every one of these vessels with the exception of the steam schooner Westport, which will carry foodstuffs exclusively to Crescent City.

The committee of the engineers presented its communication to the committee of owners this morning, refusing to meet the terms of the ultimatum presented by the owners. After being in session nearly all day in the office of the Hammond Lumber Company, the owners committee decided to lay off the vessels. Five steam schooners which were scheduled to sail today were taken to Oakland Creek and tied up and the crews discharged. As fast as the vessels reach this port and their cargoes are discharged to sail today were taken to Oakland Creek and tied up and the crews discharged. As fast as the vessels reach this port and their cargoes are discharged to sail today were taken to Oakland Creek and tied up and the crews discharged.

Forced to Continue Strike.

SAN FRANCISCO, Feb. 20.—About 135 cigarmakers went on strike yesterday, owing to a grievance against Nicolo Venezia, assistant foreman of the factory. Venezia's assistants and the cigarmakers wanted to call the strike off, but the employers, anticipating a strike, caused preparing material for work, so as to avoid loss by damage to the stock, and the men will remain out for a couple of days before they can resume their work.

Santa Fe Closes Topeka Shops.

TOPEKA, Kan., Feb. 20.—The Santa Fe railroad shops at this point will not open tomorrow morning for work. The officials say the closing down will only be temporary, perhaps until Monday. This means the throwing out of employment of 200 men. Lack of work and the financial stringency are given as the causes.

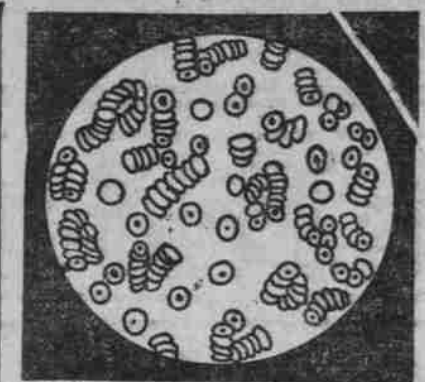
Limits Coal-Miners' Hours.

LONDON, Feb. 20.—The government bill limiting the working hours of coalminers to eight hours was introduced in the House of Commons today by Herbert John Gladstone, Home Secretary. It at once passed its first reading.

PRESSES WILFLEY CHARGE

House Committee to Act on Impeachment Petition.

WASHINGTON, Feb. 20.—In the House today, Waldo, of New York, made a demand for the impeachment of Judge L. R. Wilfley, of the United States Court for China at Shanghai. He presented and read articles of impeachment.



Human Blood Highly Magnified.

The part of the blood that gives it red color is the mass of microscopic bodies called red corpuscles. These also carry oxygen, the great supporter of life, to every organ of the body.

In anaemia these red corpuscles are reduced in number and the patient becomes pale and weak. It is the oxygen they carry that enables the stomach to digest food. Reduce the quantity and indigestion follows.

It is the oxygen that makes it possible for the kidneys to throw off the uric acid constantly forming. Lacking it the uric acid poisoning causes rheumatism.

There is also a close and scientifically recognized relation between the number of red corpuscles in the blood and the health of the nerves.

Dr. Williams' Pink Pills actually and indisputably increase the number of red corpuscles in the blood and therefore increase its oxygen-carrying capacity. In this way they cure anaemia in the most direct way and give color to the cheeks and lips, prevent and cure stomach trouble and rheumatism and have proved of wonderful value in nervous troubles.

No claim is made for this remedy that is not substantiated by hundreds of well-established cures. If you are sick and the treatment you are taking does not prove beneficial, you owe it to yourself to try Dr. Williams' Pink Pills.

See per box; six boxes, \$6.00 at all druggists. Dr. Williams' Medicine Co., Schenectady, N. Y.

Advertisement for Sam'l Rosenblatt & Co. featuring overcoats, topcoats, raincoats, and sweaters. Text includes 'For a Few Days We Will Sell Overcoats Topcoats Raincoats Of \$15 Values, at \$8.75' and 'Sweaters Regular and "V" Neck Styles, in All Colors, Regular \$2.50 and \$3.00 Values, at \$1.15'. It also lists 'See Window Display on Morrison Street' and 'Copyright 1907 by Hart Schaffner & Marx'.

day at the White House. The accumulation of official matters was then considered by Mr. Taft.

FIGHT INDIAN LIQUOR SALE

Money Included in Bill Framed by Committee.

WASHINGTON, Feb. 20.—The Senate committee on Indian affairs today continued its consideration of the Indian appropriation bill but the report will not be concluded before next week. Among the amendments adopted were:

Increasing from \$25,000 to \$100,000 the appropriation for suppression of the traffic in intoxicating liquors among the Indians; making an appropriation for agricultural experiments, to send a special agent to negotiate with various tribes with a view to the commutation of perpetual annuities; authorizing the Secretary of the Treasury to expend \$50,000 for the purchase of agricultural lands and irrigation of them for the use of Indians in California.

Make Alaska a Territory.

WASHINGTON, Feb. 20.—A bill was today introduced by Clegg, delegate from Alaska, to establish a territorial government in Alaska.

May Bridge Two Rivers.

OREGONIAN NEWS BUREAU, Wash.

ington, Feb. 20.—Secretary Garfield has drafted a bill for two bridges across the Warm Springs River on the reservation and the Deschutes River, to cost \$600, the tolls to be collected from users.

BECKER TO CONDUCT FIGHT Will Prosecute Suit to Recover the Southern Pacific Land Grant.

OREGONIAN NEWS BUREAU, Wash.—The Attorney-General has not yet fully decided how the land grant suit against the Oregon & California Railroad Company will be prosecuted, but it is his present intention to place Tracy C. Becker in charge, and it is quite probable that E. D. Townsend will be designated as special representative of the Attorney-General to collaborate with Mr. Becker, though this plan has not been

Slaughter on United Railroads.

SAN FRANCISCO, Feb. 20.—Cash fares collected by the United Railroads during the years 1907 numbered \$4,585,979, and transfers collected \$7,756,068, according to a statement filed with the Board of Supervisors by General Manager Black today. The report also noted that 121 persons were injured on the cars during the year, and 80 deaths were caused by accidents.

SILVERFIELD'S SPECIAL SALES DAY

Spring Suits at a Popular Price

Rarely so early in the season—in fact in the commencement of it—are silk-lined, tailored, new, stylish street suits offered at \$27.50

A large and comprehensive assortment is ready for this week's selling—in blacks, blues, browns, grays, tans and white—in the semi-tailored effects, single and double-breasted jacket style; two, three and four-button cutaways, and new butterfly and Japanese models—in all-wool serges and diagonals, shadow stripe materials, herringbone weaves, plain and fancy Panamas—in sizes for small women and misses and all intermediate sizes, up to 42-inch bust. Specially priced \$27.50

An Unusual Sale of Spring Waists

Made of fine Persian Lawn. These waists are of a VALUE BEYOND THE ORDINARY—Ten different patterns are exhibited for your choice—The values are as follows:

\$1.50 Persian Lawn Waists, bands of embroidery for	49c
\$2.50 Persian Lawn Waists, bands of embroidery for	89c
\$2.50 Tailored Waists of Persian Lawn, starched linen cuffs and collar	\$1.49
\$2.50 Tailored Waists of Persian Lawn, bands of embroidery for	\$1.49
\$2.50 Tailored Waists of figured damask	\$1.49
\$2.75 Lingerie Waists, plain tucked and embroidery	\$1.35
\$3.00 Lingerie Waists, Val. lace and embroidery	\$1.89

REMODELING AND REPAIRING OF FURS AT GREAT REDUCTIONS. Highest prices paid for Raw Furs. By selling to Manufacturers such as the Silverfield Company you save the middlemen's profit. Send for new Price List.

EXCLUSIVE OUTFITTERS FOR WOMEN AND CHILDREN

SILVERFIELD'S

FOURTH AND MORRISON STREETS

LARGEST AND LEADING FUR MANUFACTURERS OF THE WEST