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# MOMENTOUS DECISION IS HANDED DOWN

(Continued From Page One.)

companies, or to exercise any control whatsoever over the corporate acts of any of the subsidiary companies by virtue of such stock, or by virtue of the power over the subsidiary corporations acquired by means of the illegal combination, either by use of liquidating certificates or otherwise.

But the defendants are not prohibited from distributing rateably to the shareholders of the principal company the shares to which they are equitably entitled in the stocks of the defendant corporations that are parties to the combination. The defendants are enjoined from continuing or carrying into further effect the combination adjudged illegal hereby and from entering into or performing any like combination or conspiracy the effect of which is to restrain commerce in petroleum; or to prolong the unlawful monopoly of either by the use of liquidation certificates, or by making any express or implied agreement or agreements, like that adjudged illegal relative to the control or management of any of the corporations, or the price or terms of purchase, or the sale or by the rates of transportation of petroleum or its products, or relative to the quantities thereof purchased, sold, transported or managed by any corporations which will have a like effect in restraint of commerce.

### Case to Go to Highest Court.

The case will be appealed direct to the United States supreme court, as the judges who signed today's decree are in effect the judges of the United States circuit court of appeals, although they were sitting for the purpose of trying this case as the circuit court for the eastern district of Missouri. The decree of the court dissolving the Standard Oil trust becomes effective in 30 days, when, no doubt, a stay will be granted for the purpose of an appeal.

When the decree takes effect, unless a stay is granted, an injunction will issue restraining the Standard Oil company from further continuance of its business under its present formation. It appears from the concurring opinion written by Judge Hook that the company cannot do business under any other form with the object of stifling competition for he says on this subject that it is thought that with the end of the combination the monopoly will naturally disappear, but should it not do so, and any of the members of the combination retire from it, except one who might perpetuate the monopoly by the aggregation of the physical properties and instrumentalities, it would constitute a violation of the decree of the court.

In the trial the point was made that the Standard Oil company was a beneficial corporation in that it, by reason of economy in operation, reduced the price of its product. This, Judge Hook says, can have no weight. The suit was begun by the federal attorney. The general proposition of the defense was that the present organization of the Standard corporation was the result of the natural growth of a great industry and that no statute had been violated.

### Brief History of the Case.

This case was heard in the United Seates court in St. Louis in April last by Circuit Judges Sanborn of St. Paul, Van Deventer of Cheyenne, Hook of Leavenworth and Adams of St. Louis.

Judge Sanborn, the presiding judge, wrote the opinion and the decree, in which all the judges concur, and sent them to Judge Adams at St. Louis, who filed them and entered the decree in that city this morning.

The case was argued by Frank B. Kellogg of St. Paul and Charles B. Morrison of Chicago for the United States, and John C. Milburn of Buffalo, D. T. Watson of Pittsburg, Moritz Rothenthal of Chicago and John G. Johnson of Philadelphia on behalf of the defendants.

It was instituted in 1906 by Attorney General W. H. Moody to enjoin John D. Rockefeller, William Rockefeller, Henry M. Flagler, Henry H. Rogers, John D. Archbold, Oliver H. Payne, Charles M. Pratty, the Standard Oil company of New Jersey and about 70 other corporations, from maintaining a combine and conspiracy in restraint of trade, to monopolize interstate and international commerce, and the decree grants the injunction sought by the government.

The case is one of the most notable in the history of the national government on account of important industrial and legal questions and the vast financial interests involved. The evidence filled 21 volumes and occupied more than 10,000 printed pages, and the arguments of counsel more than 300 printed pages.

The nature of the case and the character of the decision appear from the syllabus of Judge Sanborn's opinion, which reads:

### Syllabus of Opinion.

"Congress has power under the commercial clause of the constitution to regulate and restrict the use in commerce among the several states and with foreign nations of contracts, of the method of holding title to property and of every other instrumentality employed in that commerce so far as it may be found necessary to do so in order to prevent the restraint thereof denounced by the anti-trust act of July 2, 1890 (26 Stat. 209).

"Test of the legality of a combination under this act is its necessary effect of competition in commerce among the states or with foreign nations.

"If its necessary effect is only incidentally or indirectly to restrict that competition, while its chief results is to foster the trade and increase the business of those who make and operate it, it does not violate that law.

"But if its necessary effect is to stifle or to directly and substantially restrict free competition in commerce among the states, or with foreign nations, it is illegal within the meaning of that statute.

"The power to restrict competition in commerce among the several states or with foregn nations vested in a person or an association of persons by a combination, is indicative of the character of the combination because it is to the interest of the parties that such a power should be exercised and the presumption is that it will be.

"The combination in a single corporation or person, by an exchange of stock, of the power of many stockholders holding the same proportion, respectively, of the majority of the stock of each of the several corporations engaged in commerce in the same articles among the states, or with foreign nations, to restrict competition therein, renders the power thus vested in the former greater, more easily exercised, more durable and more effective than that previously held by the stockholders, and it is illegal.

### Standard Owned Other Companies.

"In 1899 the stockholders of the Standard Oil company of New Jersey owned a majority of the stock of 19 other corporations in the same proportions that they owned the stock of the Standard company and those 20 corporations controlled by the ownership of the majority of their stock or otherwise, many other corporations.

"Each of these corporations was engaged in some part of the business of producing, buying, refining, transporting and selling petroleum and its products, and they were conducting about 30 per cent of the production of the crude oil and more than 75 per cent of the business of the purchasing, refining, transporting and selling of petroleum and its products in this country.

"Many of them were engaged in commerce in these articles among the several states and with foreign nations, and were naturally competitive.

"During the 10 years prior to 1879 the several individual defendants had acquired control of many corporations, partnerships and refineries that had been competing in this business; had placed the majority of the stock of those corporations and the interests in proportion in business thus obtained in various trustees to be held and operated by them for the stockholders of the Standard Oil company of Ohio, one of the 19 companies in which the individual defendants were principal stockholders, and had thereby suppressed competition among these corporations and partnerships.

"In 1879 they and their associates caused all the trustees to convey their interests in the stock, property and business of all these corporations to five trustees, to be held, operated and distributed by them for the stockholders of the Standard Oil company of Ohio.

### Throttle Competition.

"From 1879 to 1897 they prevented these corporations and others engaged in this business, of which they secured control, from competing in this commerce by causing the control of their operations, and, generally, of a majority of their stocks to be held in trust for the stockholders of the Standard Oil company of Ohio, and from 1892 to 1899 they accomplished the same result of a similar stockholding device and by the joint equitable ownership of the majority of the stock of the corporations.

"In the year 1899 the seven individual defendants and their associates caused the majority of the stock of the 19 companies to be transferred to the Standard Oil company of New Jersey, in exchange for its stock, that the latter company thereby acquired the legal title to majority of the stock of each of the 19 companies, the control of these companies and of all the companies which they controlled and the power to fix the rates of transportation, the purchase and selling price of petroleum and its products, which all these corporations should pay and receive in the conduct of their business in commerce among the states and with foreign nations.

"Since that exchange of stock the seven individual defendants have been and are stockholders and officers of the Standard Oil company of New Jersey, which has exercised and is still using that power, and by its use has prevented and is still preventing competition in commerce among the states and with foreign nations among the corporations held.

### Transaction Constituted a Conspiracy.

"The transaction constituted a combination and conspiracy in restraint of, and to monopolize, commerce among the states and with foreign nations in violation of sections 1 and 2 of the anti-trust act of July 2, 1890, and the government is entitled to an injunction to the further continuance and operation thereof."

The decree enjoins the seven individual defendants, the Standard Oil company and its subsidiary corporations, from continuing or carrying into effect the illegal combination they have formed and from entering into any like combination or conspiracy the effect of which will be to restrain interstate commerce in petroleum, or its products, or to prolong the unlawful monopoly of such commerce obtained by the defendants as stated in the decree, and they are forbidden from engaging or continuing in interstate commerce until they dissolve their illegal combination.

The decree takes effect 30 days from the date of its filing unless suspended by an appeal to the supreme court.

Judge Sanborn in his opinion says:

"This is a suit brought by the United States to enjoin the Standard Oil company of New Jersey, a corporation, about 70 subsidiary corporations and seven individual defendants, from continuing an illegal combination in restraint of commerce among the several states and in the District of Columbia, in the territories, and with foreign nations, in violation of the Sherman anti-trust act of July 2, 1890.

"The provisions of that act pertinent to the issues in this case are:

### Provisions of Act Violated.

"Section 1. 'Every contract combination in the form of trust or otherwise, or conspiracy in restraint of trade, or commerce, among the several states or with foreign nations, is hereby declared to be illegal.

"Section 2. 'Every person who shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of trade or commerce among the several states or with foreign nations shall be deemed guilty of a misdemeanor.

"The word 'person or persons' wherever used in this act shall be deemed to include corporations and associations.

"Repeated decision of the purpose and meaning of this act have been established by controlling beyond doubt in this tribunal these pertinent rules for its interpretation and application to the facts of the case. The test of legality of a contract or combination under this act is its direct and necessary effect upon competition in interstate or international commerce. If the necessary effect of a contract, combination or conspiracy is to stifle, or directly and substantially to restrict, free competition in commerce among the states or with foreign nations it is a contract, combination or conspiracy in restraint of that trade, and it violates this law. The parties to it are presumed to intend the inevitable result of their acts and neither their actual intent nor the reasonableness of the restraint imposed may withdraw it from the denunciation of the statute.

* * * *

"The exchange of the stock or shares in the ownership of competitive corporations engaged in interstate or international commerce for stock or share ownership of a single corporation, the necessary effect of which is a direct and substantial restriction of competition on that commerce constitutes a combination in restraint of commerce among the states or with foreign nations that is declared illegal by the law.

* * * *

"The business of the defendants is the production and the purchase of petroleum, its storage, its transportation from the producing wells to refineries, the refining of this oil and the transportation and sale of its products to purchasers in this and in other countries."

### History of Standard Oil Company.

The court here inserts a history of the formation of the Standard Oil company, beginning in 1865, when John D. Rockefeller owned a refinery in Cleveland, Ohio, and later absorbed by its successors in 1870 the Standard Oil company of Ohio with a capital of $1,000,000. The opinion continues:

"Between the organization of that corporation, in 1870, and April 8, 1879, Henry H. Rogers, John D. Archbold, Oliver H. Payne and Charles M. Pratt associated themselves with Rockefeller and Flagler and became stockholders in this corporation and these seven defendants and their associates increased its number of stockholders to 37, its capital stock to $3,500,000, the value of its property to a much larger sum, and acquired for the stockholders of that corporation by the purchase of property conveyed directly to it, by the exchange of its stock for stock of other corporations and for interests in partnerships and by placing the title to the business property obtained in the new corporations organized to hold them and then vesting the title to a majority or all of their stocks in various individuals in trust for the stockholders of the Standard Oil company, more than 40 competitive refineries located respectively in Cleveland, Pittsburg, Titusville, Parkersburg, Baltimore, Philadelphia, Bayonne, New York harbor, Boston and other places, and the ownership of the entire interest or of a controlling interest in more than 30 companies, some of which were corporations while others were partnerships, engaged in the same general business.

### Becomes a Trust.

"The result was that on April 8, 1879, the stockholders of the Standard Oil company were, by their holding of stock and by their position a cestui que trust, practically the owners of controlling interests in the property and the business of more than 30 companies engaged in the oil business, the title to which was held in trust for them by the Standard Oil company and other trustees in proportion to their ownership of the stock of that corporation.

"Thereupon on that day the Standard Oil company and all the other trustees conveyed their interests in the stock and business of this concern to George H. Vilas, M. R. Keith and George F. Chester, in trust, to hold and manage for them and to divide and distribute the 37 stockholders of the Standard Oil company in proportion to their respective holdings of the stock of that company. The trustees, however, did not divide or distribute through the operating refineries and the companies under which they held under this deed and with their earnings purchased other property and the stock of other companies until in 1882 they held in this trust property worth more than $55,000,000."

The court here refers to the trust formed in 1882, "to the effect that all of the stocks they owned in the Standard Oil company of Ohio and in all other corporations and limited parties engaged in the oil business were conveyed to nine trustees during their lives and the life of the survivor of them and for 21 years thereafter unless the trust was sooner dissolved by vote of the shareholders."

The opinion further says:

### $70,000,000 in Trust Certificates.

"Six of the individual defendants were six of the nine trustees and these trustees issued for the stocks, the title to which was thus conveyed to them, trust certificates of the par value of $70,000,000 and between 1882 and March 21, 1892, additional certificates of the par value of $27,250,000 so that on the latter day there were outstanding certificates for 972,500 shares in the trust."

The opinion then refers to the ousting of the company from Ohio in 1882, and that on March 21, 1892, the trust agreement was terminated and the stock transferred to the Standard Oil company of New Jersey and other companies "so that they retained the stocks of the 20 principal companies and these 20 companies held the stocks in the 64 other companies."

There were outstanding trust certificates for 972,500 shares in this trust and the owners of the certificates were quitable owners of the stocks in all the companies. The method of division and distribution of these stocks adopted by the trustees is described in the opinion and the decision continues:

"But the receipt by the assignee of his share of stock of any one of these companies conditioned by the terms of the assignment upon his accepting his share of the stock of all of them.

"This method of distribution appears to have deterred many of the holders of trust certificates from surrendering them and accepting their shares of the stocks. The individual defendants, however, and their more intimate associates surrendered their trust certificates and took such shares of the stock as to aggregate the stock of each of the 20 companies and secured to themselves the control and management of all the companies in that way until the year 1899.

"In that year the defendant, the Standard Oil company of New Jersey, a corporation, was one of the 20 companies.

### Standard Charter Enlarged.

"The par value of its capital stock was $10,000,000. Its charter was so amended that it was empowered to do all kinds of mining, manufacturing, trading and transportation business, to acquire, hold, vote, sell and assign shares of capital stock and to carry on its business in all parts of the world.

"Its capital stock was increased to $100,000,000 and the stocks of the other 19 companies were exchanged for the stock of the Standard Oil company of New Jersey, so that the latter company succeeded to the legal right to the majority of the stock of the 19 companies and thereby to the management and control of these companies and of all the companies which they controlled.

"Therefore, in this decision, the Standard Oil company of New Jersey will be called the principal company and the companies it then and thereafter controlled the subsidary companies.

"Between 1899 and the filing of the bill in this case, in November, 1906, the affairs of the principal company and the subsidiary companies have been managed by the former as the business of a single company and single person. Subsidiary companies have come and gone at its bidding, but it still holds control of more than 20 of the chief companies, whose management was committed to it in 1899. The par value of the capital stock of these companies in 1899 was about $100,000,000. In 1908 it was more than $150,000,000.

### How Oil Business Is Controlled.

"From 1899 to 1907 the principal company and the subsidiary companies it has operated under this trust produced more than one-tenth of the crude oil obtained in this country, transported more than four-fifths of the petroleum derived from the Pennsylvania and Indiana oil fields, manufactured more than three-fourths of all the crude oil refined in the United States, owned and operated more than one-half of all the tank cars used to distribute its products, marketed more than four-fifths of all the illuminating oil sold in the United States, exported more than four-fifths of all the illuminating oil sent forth from the United States, sold more than four-fifths of all the naptha sold in the United States, sold more more than nine-tenths of all the lubricating oil sold to railroad companies in the United States.

"The principal company by means of this trust and the commanding volume of the oil business which it acquired, thereby secured, and it has since exercised and is using, the power to prevent competition between the companies it controls, to fix for them the purchase price of the crude oil, the rates for its transportation and the selling prices of its products. It has prevented, and is preventing any competition in interstate and international commerce in petroleum and its products between its subsidiary companies and between those companies and itself."

### A Most Important Decision.

Leavenworth, Kan., Nov. 20.—"It is one of the most important decisions ever rendered in this country," declared Attorney General George W. Wickersham, when apprised here this morning of the decision dissolving the Sandard Oil company.

Soon after Mr. Wickersham arrived here news of the decision was conveyed to him by the Associated Press. He had come to inspect the federal prison here.

"I am much gratified at the decision, of course," said Mr. Wickersham. "But until I have been able to see the decision any opinon I might express must naturally be of a personal nature.

"It is one of the most important decisions ever rendered in this country.

"A decision of dissolution against a great corporation like the Standard is the utmost that could have been imposed by law upon the great monopolies, which has been the subject of the antitrust legislation."

### ENJOYABLE PARTY.

One of the enjoyable parties of the week was held at the home of Mrs. T. H. Wade, on East Spruce street, in honor of Mrs. Wise of Helena. The afternoon was spent in doing embroidery work, after which the guests partook of a delicious luncheon. The dining room was artistically decorated in chrysanthemums, the color scheme being yellow and white. Those invited were Mesdames E. J. Adams, W. Kendrick, Connaughton, Carl Yeager, M. McCann, R. Melaney, and Misses Roy, Beatrice Adams, Annie Odenwald and Mamie Wade.

### MASQUE BALL—ELITE HALL.

At the L. O. T. M. masquerade ball Monday evening all who attend will be requested to raise their masks in the presence of the door committee. Tickets $1.00. Ladies without escorts 25 cents.

### ATTENTION.

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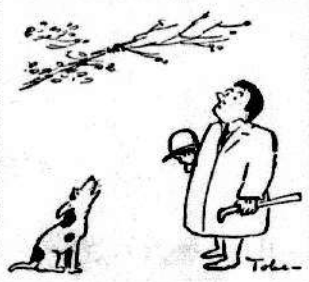

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