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The New-York Tribune

JUSTICE HARLAN'S DISSENT

Says Court Would Usurp Power Delegated to Congress.

Washington, May 15.—Associate Justice Harlan, while concurring in the decision that the Standard Oil Company violated the Sherman anti-trust law, dissented from a part of Chief Justice White's opinion. He held that the opinion read into the act by inference a definition of "unreasonable" restraint of trade, a change in the law that had been sought by interested persons for years. He contended that this was a usurpation by the judiciary of the functions of the legislative branch of the government, contrary to the express mandate of the Constitution.

"The anti-trust law of 1890," said Justice Harlan, "was passed during a period of great unrest in the country. Great aggregations of capital had been formed and were forming, and some had reached out a hand even to secure control of the necessities of life. Congress deliberated what should be done, and finally this law was passed to meet the conditions. They fell upon this plan to declare illegal restraint of interstate commerce and making punishable the monopolizing of trade or attempts to monopolize any part of it. There could be nothing clearer than these words or their intent—not if you were to say two and two make four.

"The men in Congress who framed and passed this law knew what they wanted to do and how to do it. They knew the common law with respect to restraint of trade. They knew they could do nothing with domestic trade in a state, but they knew they had much to do with trade among the states.

"The public policy of a government is found in its statutes and, when they have not spoken, in its courts. This question has come up three times, and each time there has been an affirmance that a contract in restraint of trade is illegal. Until now there has been no attempt to define the difference or to particularize between 'restraint of trade' and 'unreasonable restraint of trade.'

"Every one knows that since 1897, at each session of Congress, attempts have been made to get the Sherman Anti-Trust law amended so as to make illegal unreasonable restraint of trade, instead of plain restraint of trade. The law never has been amended in this particular, in my judgment it never will be amended along this line.

"Great lawyers have argued before this and other courts that the intent of this law was to declare illegal unreasonable restraint of trade, not ordinary restraint of trade. They contended, as was mentioned by the learned Chief Justice, that the statute did not go further than the common law, and that ordinary restraint of trade was not sought to be brought under the law.

"The language of the statute, however, is clear. The Constitution provides there shall be three co-ordinate branches of government—the legislative, executive and judicial, each with clearly defined duties. This decision to-day, says the judiciary, by its action, shall amend the Constitution."

"NOT CONFISCATORY"

Standard Oil Counsel Says Decision Protects Property.

Chicago, May 15.—John S. Miller, chief counsel for the Standard Oil Company in the case in which a fine of $29,240,000 was assessed against the corporation by Judge Kenesaw Mountain Landis, said to-night that the decision was not of general application.

"The opinion was based on a particular case," he said, "and it is not safe to generalize or to apply it to other cases. The language of the opinion protects property and is not confiscatory, and this, to my mind, means that business will not be affected as much as many persons imagine."

Levy Mayer, who, with Mr. Miller, is conducting the defence of ten Chicago meat packers charged with violation of the Sherman law, said:

"No sweeping anticipation of the illegality of all great corporate enterprises is either justifiable or sustainable. Each company will depend for its existence upon facts and circumstances peculiar to that corporation. I believe that a legal means of reorganization will be found by all affected corporations."

Alfred D. Eddy, local counsel for the Standard Oil Company, said:

"With the provisions of the Sherman law clearly understood, the Standard Oil Company will be able to go forward with a precision and certainty it has not known for years. The Supreme Court has declared its present organization illegal under a little understood law and now it remains for the managers to change the conditions through reorganization."

TAX LOSS FOR NEW JERSEY

Standard Oil Has Paid Into Treasury $51,000 a Year.

[By Telegraph to The Tribune.]

Trenton, N. J., May 15.—The decision of the United States Supreme Court dissolving the Standard Oil Company will cost the State of New Jersey $51,000 a year in taxes. This is the amount turned into the state treasury each year by the oil corporation, under the law governing the taxation of miscellaneous corporations. The capitalization of the Standard is $100,000,000, and under the law it pays each year one-tenth of 1 per cent on the first $2,000,000, one-twentieth of 1 per cent on the next $3,000,000 and $50 for each $1,000,000 of the remainder of its capitalization.

The Standard Oil Company is one of the biggest taxpayers under the law governing miscellaneous corporations, among the others being the United States Steel Corporation and the American Tobacco Company.

GIBBONS HEADS NAVAL ACADEMY.

Annapolis, May 15.—Captain John H. Gibbons assumed the superintendency of the Naval Academy to-day when Captain John M. Bowyer, who was forced by ill health to relinquish the post, turned the affairs of the institution over to his successor. Captain Bowyer, after bidding the officers at this station an individual farewell, left for Washington.

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CONSTIPATION

STANDARD OIL AN UNLAWFUL TRUST

United States Supreme Court Finds It Exists in Violation of the Sherman Law.

CHIEF JUSTICE WHITE'S OPINION

He Holds That the Rule of Reason Must Be Applied in Dealing with Corporations—Justice Harlan, in Partial Dissent, Would Condemn All Restraints of Trade.

Washington, May 15.—Announcing the opinion of the United States Supreme Court in the Standard Oil case, Chief Justice White reviewed the preliminary proceedings in the case in the Circuit Court of the United States for the Eastern District of Missouri. He restated the essential points in the bill of the government asking for the dissolution of the Standard Oil Company and the answer questioning the jurisdiction of the court and denying the claims of the government. He dismissed the objection to the jurisdiction in a few words by holding that it was not well founded.

He then came to the arguments as to the law and the facts in the case, saying that out of the "jungle" of law and facts both sides were agreed on only one thing, and that was that the determination of the controversy rested on the proper construction and application of the first and second sections of the anti-trust act. The first section reads as follows:

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.

The second section reads:

Every person [which subsequently was explained in the statute to include corporations] 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.

Diverse View of Law and Facts.

The views of the two sides, as to the law, the Chief Justice said, were as wide apart as the poles. The same, he said, was true as to the facts. He added:

Thus, on the one hand, with relentless pertinacity and minuteness of analysis, it is insisted that the facts are established that the assailed combination took its birth in a purpose to unlawfully acquire wealth by oppressing the public and destroying the just rights of others, and that its entire career exemplifies an inexorable carrying out of such wrongful intents, since, it is asserted, the pathway of the combination from the beginning of the time of the filing of the bill is marked with constant proofs of wrong inflicted upon the public and is strewn with the wrecks resulting from crushing out, without regard to law, the individual rights of others.

It is asserted that the existence of the principal corporate defendant, the Standard Oil Company of New Jersey, with its vast accumulation of property, because of its potency for harm and the dangerous example which its continued existence affords, is an open and enduring menace to all freedom of trade and a byword and reproach to all modern economic methods.

On the other hand, in a powerful analysis of the facts, it is insisted that they demonstrate that the origin and development of the vast business which the defendants control was but the result of lawful competitive methods, guided by economic genius of the highest order, sustained by courage, by a keen insight into the commercial situation resulting in the acquisition of great wealth, but at the same time serving to stimulate an increased production, to widely extend the distribution of the products of petroleum at a cost largely below that which would otherwise have prevailed, thus proving to be at one and the same time a benefaction to the general public as well as an enormous advantage to individuals.

Only One Point of Agreement.

In this state of affairs the Chief Justice seized on the single point of concord, namely, the application of the two sections of the Sherman anti-trust law, as the initial basis of an examination of the contention. The remainder of his opinion divided itself into a consideration of the meaning of the Sherman anti-trust law in the light of the common law and the law of the United States at the time of its adoption, the contentions of the parties concerning the act and the scope and effect of the decisions of the Supreme Court, the application of the statute to the facts and, lastly, the remedy.

In striving to get at the meaning of the two sections of the law he said that the sole subject with which the first section dealt was "restraint of trade," and that the "attempt to monopolize and monopolization" was the subject of the second section. The Chief Justice added that in getting at the meaning of these words he would be guided by the principle that where words are employed in a statute which at the time had a well known meaning in common law, or in the law of this country, they were presumed to have been used in this sense unless the context compels to the contrary.

Common Law and Sherman Law.

He summarized his search into the common law and the law of the country at the time the Sherman anti-trust law was passed, so far as the first section was concerned, as follows:

a. That the context manifests that the statute was drawn in the light of the existing practical conception of the law of restraint of trade, because it groups as within that class not only contracts which were in restraint of trade in the subjective sense, but all contracts or acts which theoretically were attempts to monopolize, yet which in practice had come to be considered as in restraint of trade in a broad sense.

b. That in view of the many forms of contracts and combinations which were being evolved from existing economic conditions, it was deemed essential by an all-embracing enumeration to make sure that no form of contract or combination by which an undue restraint of interstate or foreign commerce was brought about could save such restraint from condemnation. The statute under this view evidenced the intent not to restrain the right to make and enforce contracts, whether resulting from combination or otherwise, which did not unduly restrain interstate or foreign commerce, but to protect that commerce from being restrained by methods, whether old or new, which would constitute an interference that is an undue restraint.

c. And as the contracts or acts embraced in the provision were not expressly defined, since the enumeration addressed itself simply to classes of acts, those classes being broad enough to embrace every conceivable contract or combination which could be made concerning trade or commerce or the subjects of such commerce, and thus caused any act done by any of the enumerated methods anywhere in the whole field of human activity to be illegal if in restraint of trade, it inevitably follows that the provision necessarily called for the exercise of judgment which required that some standard should be resorted to for the purpose of determining whether the prohibitions contained in the statute had or had not in any given case been violated. Thus, not specifying, but indubitably contemplating and requiring, a standard, it follows that it was intended that the standard of reason which had been applied at the common law and in this country in dealing with subjects of the character embraced by the statute was intended to be the measure used for the purpose of determining whether in a given case a particular act had or had not brought about the wrong against the which the statute provided.

As to the second section, he said, the investigation of the common law and of law at the time the Sherman act was passed established that it was intended to supplement the first and to make sure that by no possible guise could the public policy embodied in the first section be frustrated or evaded. Having in the first section forbidden all means of monopolizing trade—that is, unduly restraining it by means of every contract, combination, etc.—the second section, according to the chief justice, "seeks if possible to make the prohibition of the act all the more complete and perfect by embracing all attempts to reach the end prohibited by the first section by any attempt to monopolize or monopolization thereof, even although the acts by which such results are attempted to be brought about, or are brought about, be not embraced within the general enumeration of the first section.

Here the Chief Justice first spoke of using the "rule of reason" in applying the statute to any given case. He said:

And, of course, when the second section is thus harmonized with and made, as it was intended to be, the complement of the first, it becomes obvious that the criteria to be resorted to in any given case for the purpose of ascertaining whether violations of the section have been committed is the rule of reason guided by the established law and by the plain duty to enforce the prohibition of the act, and thus the public policy which its restrictions were obviously enacted to subserve.

And it is worthy of observation, as we have previously remarked concerning the common law, that although the statute, by the comprehensiveness of the enumerations embodied in both the first and second sections, makes it assiduously certain that its purpose was to prevent undue restraints of every kind or nature, nevertheless, by the omission of any direct prohibition against monopoly in the concrete, it indicates a consciousness that the freedom of the individual right to contract when not unduly or improperly exercised was the most efficient means for the prevention of monopoly, since the operation of the centrifugal and centripetal forces resulting from the right to freely contract was the means by which monopoly would be inevitably prevented if no extraneous or sovereign power imposed it and no right to make unlawful contracts having a monopolistic tendency were permitted. In other words, that freedom to contract was the essence of freedom from undue restraint on the right to contract.

The Chief Justice next considered the contention of the parties as to the meaning of the statute. He said in substance the propositions of the government were reducible to the claim that the language of the statute embraced "every contract, combination, etc., in restraint of trade," and left no room for the exercise of judgment, but simply imposed the plain duty of applying its prohibitions to every case within its literal language. The error of the government on this point, he said, was assuming that the decisions of the court had decided in accordance with its contentions.

"This is true," said the Chief Justice, "because, as the acts which may come under the classes stated in the first section and the restraint of trade to which that section applies are not specifically enumerated or defined, it is obvious that judgment must in every case be called into play in order to determine whether a particular act is embraced within the statutory cases, and whether, if the act is within such classes, its nature or effect cause to be a restraint of trade within the intendment of the act.

Right of Contract Upheld.

To hold to the contrary would require the conclusion either that every contract, act or combination of any kind or nature, whether it operated as a restraint on trade or not, was within the statute, and thus the statute would be destructive of all right to contract or agree or combine in any respect whatever as to subjects embraced in interstate trade or commerce, or, if this conclusion were not reached, then the contention would require it to be held that as the statute did not define the things to which it related and excluded resort to the only means by which the acts to which it relates could be ascertained—the light of reason—the enforcement of the statute was impossible because of its uncertainty.

The merely generic enumeration which the statute makes of the acts to which it refers and the absence of any definition of restraint of trade as used in the statute leave room for but one conclusion, which is that it was expressly designed not to unduly limit the application of the act by precise definition, but, while clearly fixing a standard—that is, by defining the ulterior boundaries which could not be transgressed with impunity—to leave it to be determined by the light of reason, guided by the principles of law and the duty to apply and enforce the public policy embodied in the statute, in every given case whether any particular act or contract was within the contemplation of the statute.

Not Conflicting with Previous Cases.

At this point in the opinion Chief Justice White touched on the phase of the case which formed the basis for Justice Harlan's dissenting opinion. It was that the opinions of the Supreme Court in the cases of the United States agt. Freight Association and United States agt. Joint Traffic Association excluded the right thus to reason in interpreting the statute. Chief Justice White declared that the general language of those opinions had been subsequently explained and held not to justify the broad significance attributed to them.

"And in order not in the slightest degree to be wanting in frankness," said the Chief Justice, "we say that in so far, however, as by separating the general language used in the opinions in the Freight Association and Joint Traffic cases from the context and the subject and parties with which the cases were concerned, it may be conceived that the language referred to conflicts with the construction which we give the statute, they are necessarily now limited and qualified. We see no possible escape from this conclusion, if we are to adhere to the many cases decided in this court in which the anti-trust law has been applied and enforced, and if the duty to apply and enforce that law in the future is to continue to exist. The first is true, because the construction which we now give the statute does not in the slightest degree conflict with a single previous case decided concerning the anti-trust law, aside from the contention as to the Freight Association and Joint Traffic cases, and because every one of those cases applied the rule of reason for the purpose of determining whether the subject before the court was within the statute. The second is also true, since, as we have already pointed out, guided by the light of reason, it is impossible to understand how the statute may in the future be enforced and the public policy which it establishes be made efficacious."

Applies Law to Facts.

The Chief Justice next took up the facts and the application of the statute to them. As a matter of fact, the court found that the result of enlarging the capital stock of the Standard Oil Company of New Jersey and the acquisition by that company of the shares of the stock of the other corporations in exchange for its certificates gave to the corporation an enlarged and more perfect sway and control over the trade and commerce in petroleum and its products. The effect of this, Chief Justice White said the lower court held, was to destroy "the potentiality of competition," which otherwise would have existed to such an extent as to be a combination or conspiracy in restraint of trade in violation of the first section of the act and also be an attempt to monopolize and a monopolization bringing about perennial violation of the second section.

"We see no cause to doubt the correctness of these conclusions," said the Chief Justice, "considering the subject from every aspect, that is, both in view of the facts established by the record and the necessary operation and effect of the law as we have construed it upon the inferences deducible from the facts for the following reasons:

a. Because the unification of power and control over petroleum and its products, which was the inevitable result of the combining in the New Jersey corporation by the increase of its stock and the transfer to it of the stocks of so many other corporations aggregating so vast a capital, gives rise, in and of itself, in the absence of countervailing circumstances, to say the least, to the prima facie presumption of intent and purpose to maintain the dominancy over the oil industry, not as a result of normal methods of industrial development, but by new means of combination which were resorted to in order that greater power might be added than would otherwise have arisen had normal methods been followed, the whole with the purpose of excluding others from the trade and thus centralizing in the combination a perpetual control of the movements of petroleum and its products in the channels of interstate commerce.

b. Because the prima facie presumption of intent to restrain trade, to monopolize and to bring about monopolization, resulting from the act of expanding the stock of the New Jersey corporation and vesting it with such vast control of the oil industry, is made conclusive by considering: 1. The conduct of the persons or corporations who were mainly instrumental in bringing about the extension of power in the New Jersey corporation before the consummation of that result and prior to the formation of the trust agreements of 1879 and 1882; 2. By considering the proof as to what was done under those agreements and the acts which immediately preceded the vesting of power in the New Jersey corporation as well as by weighing the modes in which the power vested in that corporation has been exerted and the results which have arisen from it.

Standard Oil Methods Denounced.

In subjecting to scrutiny the acts of the Standard Oil Company in the long distant past for the purpose of getting assistance in discovering intent and purpose, Chief Justice White made a cutting remark. He said:

We think no disinterested mind can survey the period in question without being irresistibly driven to the conclusion that the very genius for commercial development and organization which it would seem was manifested from the beginning soon begot an intent and purpose to exclude others, which was frequently manifested by acts and dealings wholly inconsistent with the theory that they were made with the single conception of advancing the development of business power by usual methods, but which, on the contrary, necessarily involved the intent to drive others from the field and to exclude them from their right to trade, and thus accomplish the mastery, which was the end in view.

And, considering the period from the date of the trust agreements of 1879 and 1882, up to the time of the expansion of the New Jersey corporation, the gradual extension of the power over the commerce in oil which ensued, the decision of the Supreme Court of Ohio, the tardiness or reluctance in conforming to the commands of that decision, the method first adopted, and that which finally culminated in the plan of the New Jersey corporation, all additionally serve to make manifest the continued existence of the intent which we have previously indicated, and which among other things impelled the expansion of the New Jersey corporation.

The exercise of the power which resulted from that organization fortifies the foregoing conclusions, since the development which came, the acquisition here and there which ensued of every efficient means by which competition could have been asserted, the slow but resistless methods which followed by which means of transportation were absorbed and brought under control, the system of marketing which was adopted, by which the country was divided into districts and the trade in each district in oil was turned over to a designated corporation within the combination and all others were excluded, all lead the mind up to a conviction of a purpose and intent which we think is so certain as practically to cause the subject not to be within the domain of reasonable contention.

The inference that no attempt to monopolize could have been intended, and that no monopolization resulted from the acts complained of, since it is established that a very small percentage of the crude oil produced was controlled by the combination, is unwarranted. As substantial power over the crude product was the inevitable result of the absolute control which existed over the refined product, the monopolization of the one carried with it the power to control the other, and if the inference which this situation suggests were developed, which we deem it unnecessary to do, this might well serve to add additional cogency to the presumption of intent to monopolize which we have found arises from the unquestioned proof on other subjects.

The Chief Justice at one point in his opinion took up some of the contentions of the defendants, particularly that based on the famous Knight case, criticised last fall by President Roosevelt. This contention was that the Sherman anti-trust law could not be applied to the Standard Oil, because to do so would be to extend the power of Congress to subjects beyond the reach of its authority to regulate interstate commerce by enabling that body to deal with mere questions of production of commodities within the states.

The Chief Justice said that this contention as to the holding of the Knight case was unsound, and required no express notice beyond that given it in cases already decided.

The court then considered the arguments that the statute could not be applied under the facts in the case without impairing the rights of property and destroying the freedom of contract of trade which is essentially necessary to the well-being of society.

"But the ultimate foundation of all these arguments," said the Chief Justice, "is the assumption that reason may not be resorted to in interpreting and applying the statute, and therefore that the statute unreasonably restricts the right to contract and unreasonably operates upon the right to acquire and hold property. As the premise is demonstrated to be unsound by the construction we have given the statute, of course the propositions which rest upon that premise need not be further noticed."

Applying the Remedy.

Finally, the Chief Justice came to apply the remedy. He said that ordinarily where violations of the act were found to have been committed it would suffice to enjoin further violations. In a case, however, where a monopolization or attempt to monopolize was established, or the existence of a combination is proved, the continuance of which was a perennial violation of the statute, further relief was called for.

The lower court, he pointed out, had, first, enjoined the combination and in effect directed its dissolution; second, forbidden the New Jersey corporation from exercising any control by virtue of its stock ownership over the subsidiary corporations and enjoined those corporations from recognizing in any manner the authority or power of the New Jersey corporation by virtue of such ownership; third, enjoined in the sixth section of the decree the subsidiary corporations, after the dissolution, from doing any act which could create a like illegal combination; fourth, enjoined the New Jersey corporation and all the subsidiary corporations from doing any business in interstate commerce pending the dissolution of the combination by the accomplishment of the transfer of stocks which the decree in its essence required, and, fifth, gave thirty days to carry out the directions of the court.

Modifications of Decree.

The court said this decree was right and should be affirmed, except as to what it termed "minor matters." One of these was the extension of the time the decree should be put into effect from one month to six months. The other modification was more important, and had to do with the sixth section of the decree, which forbade the formation by the subsidiary corporations or their stockholders of like combinations.

"We construe the sixth paragraph of the decree," said the Chief Justice, "not as depriving the stockholder or corporation of the right to exist, to live under the law of the land, but as compelling obedience to that law."

He said it did not follow, because an illegal restraint of trade or an attempt to monopolize or a monopolization resulted from the combination of the corporations in the New Jersey corporation that a like restraint or attempt to monopolize or monopolization would necessarily arise from agreements between one or more of the subsidiary corporations after the transfer of the stock by the New Jersey corporation.

"For illustration," said he, "take the pipe lines. By the effect of the transfer of the stock the pipe lines would come under the control of various corporations, instead of being subjected to a uniform control. If various corporations owning the lines determined in the public interests to so combine as to make a continuous line, such agreement or combination would not be repugnant to the act, and yet it might be restrained by the decree. As another example, take the Union Tank Line Company, one of the subsidiary corporations, the owner practically of all the tank cars in use by the combination. If no possibility existed of agreements for the distribution of these cars among the subsidiary corporations, the most serious detriment to the public interest might result."

Chief Justice White's opinion in printed form contained more than twenty thousand words. For nearly an hour he discussed the case from the bench, going over most of the points in the printed opinion, but not once referring to it to refresh his memory.

Before him sat a distinguished audience of the best known men of the country. Senators and Representatives left their respective chambers in the Capitol to listen to the epoch making decision. Most eager to hear were Attorney General Wickersham and Frank B. Kellogg, special counsel of the government, who had conducted the great fight against the Standard Oil Company. None of the brilliant array of counsel for the corporations or individual defendants was present.

To-day, as on previous decision days for months past, rival brokers' agents, with messengers in line to the telephone and telegraph instruments throughout the Capitol, were on hand, but to their dismay the announcement of the decision was not begun until an hour after the stock market had closed.

DECISION GRATIFIES HADLEY

Jefferson City, Mo., May 15.—"Since the greatest combination of money and power that the world has ever known has been defeated in its contest for existence, all other combinations must of necessity submit," is the view taken of the Standard Oil decision by Governor Herbert S. Hadley, who, as Attorney General of Missouri, obtained the ouster of the Standard Oil Company of Indiana from Missouri.

"The effect of this decision," he said, "will depend on how vigorously the government enforces the decree, but the greatest importance and value of the decision is that it establishes for all time and beyond all question the subserviency of corporate interests to the law of the land."

HOW STANDARD OIL VIOLATES LAW

The two broad reasons for holding that the Standard Oil Company violated the Sherman anti-trust law were stated by Chief Justice White as follows:

"(A)—Because the unification of power and control over petroleum and its products, which was the inevitable result of the combining in the New Jersey corporation, by the increase of its stock and the transfer to it of the stocks of so many other corporations, aggregating so vast a capital, gives rise in and of itself in the absence of countervailing circumstances, to say the least, to the prima facie presumption of intent and purpose to maintain the dominancy over the oil industry, not as a result of normal methods of industrial development, but by new means of combination which were resorted to in order that greater power might be added than would otherwise have arisen had normal methods been followed, the whole with the purpose of excluding others from the trade, and thus centralizing in the combination a perpetual control of the movements of petroleum and its products in the channels of interstate commerce.

"(B)—Because the prima facie presumption of intent to restrain trade, to monopolize and to bring about monopolization, resulting from the act of expanding the stock of the New Jersey corporation and vesting it with such vast control of the oil industry, is made conclusive by considering (1) the conduct of the persons or corporations who are mainly instrumental in bringing about the extension of power in the New Jersey corporation before the consummation of that result and prior to the formation of the trust agreements of 1879 and 1882; (2) by considering the proof as to what was done under those agreements and the acts which immediately preceded the vesting of power in the New Jersey corporation, as well as by weighing the modes in which the power vested in that corporation has been exerted and the results which have arisen from it."

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IT PLEASES JUDGE GARY

Decision Should Have Good Effect on Business, Steel Man Says.

VOICES GENERAL FEELING

1,000 Combinations Must Plan Reorganization, A. H. Walker Says—Government to Act.

Ex-Judge E. H. Gary, chairman of the board of directors of the United States Steel Corporation, was in consultation with Washington over the long distance telephone yesterday after the Supreme Court handed down its decision in the Standard Oil case. He talked with several lawyers who were present in the courtroom when the decision was read.

"The public has been waiting with great anxiety for this decision," Judge Gary said. "The fact that the case has been disposed of should be of great value and benefit. From information received, the language employed by the court should have a good effect. In the comparatively near future business conditions will be improved as a result."

Not only Judge Gary, but many other officers and managers of big corporations and their attorneys were in anxious consultation with Washington yesterday afternoon and evening. The general feeling was one of pleasure at the language used by the court, as reported over the telephone by those who heard the decision read.

"As we understand the decision from the reports we have received," said the representative of one large corporation, "the language shows that it is intended to apply to corporations and combinations that have purposely endeavored to restrain trade. Judge Lacombe in his decision said that if the Sherman law were strictly construed according to its language, there would be no choice but to force the large corporations and combinations to dissolve."

"The Supreme Court does not seem to have taken this attitude. From the reports we have received of the language of the court, corporations that have endeavored to conduct their affairs in such a way that there would be no complaint from the public or from the officers of the government need not fear that their business will be disturbed.

"It is my opinion that the decision was an eminently fair one and just what was needed in the case. If the reports I have received are correct, I would not change a word if I could have the writing of the opinion myself. It should do a great deal of good. There should be a great improvement in business. It may not be sudden. I do not think there will be any sudden improvement in business, but there should be a gradual improvement that before long will make itself felt all over the country.

Reorganizations Not Numerous.

"I do not agree with the opinion that a large number of corporations will have to reorganize. There are some, of course, that will have to change their methods of doing business, but those that have not been going contrary to public opinion and public policy need not fear that they will be disturbed.

"Attorney General Wickersham has been trying to make for himself a record as a public officer who saw the enforcement of the law as his sole duty, but I do not think he intends or that it is the government policy to proceed from this decision to a general attack on corporations."

Albert H. Walker, a lawyer, who is regarded an authority on the Sherman anti-trust law, said last night that the decision of the Supreme Court would mean the necessary dissolution of about one thousand different combinations throughout the country. He asserted that although not all of the priciples propounded in the decision of the highest court applied to the United States Steel Corporation, enough grounds were established to cause the disorganization of that and other large combinations.

"The practical operation of the decree will be as follows," said Mr. Walker. "At present the Standard Oil Company of New Jersey owns all the stock of all the other Standard Oil companies throughout the United States, which number more than one hundred. The stock in each of those subordinate companies will have to be distributed among all the stockholders in the Standard Oil Company of New Jersey.

Work for Boards of Directors.

"Afterward these numerous persons will have to manage each of the companies in which they hold stock independently of all other companies in which they also hold stock. They can accomplish this legal result by electing a separate board of directors for each of the companies, and then permitting each of these boards of directors to manage its own particular company, independently of all the other companies.

"But if John D. Rockefeller and the other members of the Standard Oil group were to use their ownership of a majority of all the stock in each one of the legally independent oil companies to cause those companies to combine their operation, they would be violating the decree affirmed by the Supreme Court, and would be liable to heavy punishment.

"The decree will not deprive John D. Rockefeller and his particular friends of the ownership of a majority of the stock in the more than one hundred oil companies, but it will deprive that cluster of men of all power to manage these oil companies in combination with each other as one consolidated interest.

"The principles established by the Supreme Court do not all apply to the United States Steel Corporation, or to many other great combinations. But enough of those principles apply to about one thousand different combinations in the United States to necessitate their disorganization.

"Men who are connected with combinations which they may know or may fear to be illegal under the decision of the Supreme Court will now naturally and advisedly compare that decision with the facts of their respective cases to ascertain whether they are or are not violating the Sherman law.

"I know it to be the expectation of Attorney General Wickersham that men who find they are violating the Sherman law will voluntarily dissolve their combination without being prosecuted by the government.

"But I also know it to be the purpose of the government to go promptly forward with the work of enforcing the Sherman law against combinations which do not soon take steps to disorganize."

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On view: private, June 10; public, June 11.