

MRS. EMERSON GETS DIVORCE.

HUSBAND DESEITED HER AFTER FURTHER DISAGREEMENT IN 1904.

Alimony Settlement Provides That Capt. Emerson Shall Give Her \$25,000 a Year and Shall Pay Her Lawyers \$5,000 Each—She Also Gets Home.

BALTIMORE, May 29.—An order was granted by Judge Heuser in the Circuit Court to-day granting to Mrs. Emelie A. Emerson an absolute divorce from Capt. Isaac E. Emerson, the drug manufacturer, under the cross bill filed by Mrs. Emerson late in March.

Under the order Mrs. Emerson will receive \$25,000 a year alimony, in monthly installments, the first installment to be paid to-day and on the same day of each month. Her lawyers, William Shepard Bryan, Jr., and George Whitlock, get counsel fees of \$5,000 each.

The divorce was granted on the ground of desertion. According to the testimony and the special report of Alexander H. Robertson, auditor and master in chancery, the reasons for divorce were that Capt. and Mrs. Emerson had not lived together as husband and wife since 1904, although they often occupied the same residence.

Their separation came in 1904 when they had a serious disagreement, the nature of which Mrs. Emerson refused to disclose or allow to be on record because she said it might involve some innocent persons who are very dear to her.

It is shown that after the disagreement Capt. Emerson left the Emerson mansion at 2500 Eutaw place, and went to live at Irvington-on-the-Hudson with his daughter, Mrs. Smith Hollins McKim. Afterward he travelled in the South and in Europe with Mrs. McKim and Mrs. McCormack of Irvington-on-the-Hudson.

The court found that there would be no necessity for taking testimony as to alimony, because Capt. Emerson had signed the alimony agreement.

The alimony must be paid monthly during the life of Mrs. Emerson, irrespective of whether or not Mrs. Emerson survives the captain. The decree as to the payment of alimony is not to be a lien on the property of the defendant except as to each instalment of alimony as may be overdue or unpaid.

In addition Capt. Emerson must deposit with Joseph F. Hindes and James McVickar, trustees, 600 shares of common stock of the Emerson Drug Company standing in the name of the captain and duly indorsed by him to insure the payment of the alimony. In the event of default of payment of any instalment of alimony the trustees must transfer the certificate of the 600 shares of stock to their own names and pay from these shares the dividends to Mrs. Emerson. At the same time Capt. Emerson will remain personally liable for the alimony, notwithstanding the transfer of the stock.

All the furniture in the mansion at 2500 Eutaw place must remain the property of Mrs. Emerson except one-third of the bound books in the library to be selected by Capt. Emerson, Mrs. McKim's oil painting and a few curios purchased by him. As long as Mrs. Emerson remains at the old home in the Italian garden that has been one of the features of the home she must retain the right to use either Mrs. Emerson or Capt. Emerson's name. Mrs. Emerson shall have the right, under the court order, to use and enjoy the garden as long as she retains the home. If she declines to do so she must give the captain the right to purchase the garden at the price of \$45,000.

The report of the auditor and master shows that Mrs. Emerson and her husband were married on October 23, 1870, by the Rev. Robert Smith in the parsonage of St. Michael and All Angels Church of this city. There was a child born to the couple, Mrs. Smith Hollins McKim of New York.

The auditor says that the grounds for the decree were that in 1904 they had a serious disagreement, and that the source of the trouble is not to be disclosed. "This unfortunate incident," says the report, "was not the fault of the complainant."

The report recites that the testimony disclosed that Capt. Emerson went to live with Mrs. McKim at Irvington-on-the-Hudson, going later to Palm Beach in Europe, sometimes spending part of his time at the latter place, but at no time living with Mrs. Emerson as her husband. He spent only two or three days at a time in Baltimore, and then here and there in the States. On May 13, 1904, he luncheoned down town and dined alone on Eutaw place, except when company was present at which time he and Mrs. Emerson would appear at the luncheon.

The report further discloses that the husband shared apartments with Mrs. Emerson after 1904. His attitude toward her was that of a stranger, and he never visited her at the house, and he gave no directions to the servants of the house. Nelson on "Marriage and Separation," section 70, is given as one of the authorities showing that this kind of desertion is sufficient to constitute desertion. "Whether authorities are quoted in the report.

The witnesses included Mrs. Emerson, her daughters by a first marriage, Mrs. Daisy Taylor, wife of James McKim of New York, and the servants. All of the household force testified that there had been a disagreement in 1904 and that from that time on Mrs. Emerson did not occupy the same apartments.

In her testimony Mrs. Emerson recited that Capt. Emerson was a poor man when she was married, and that she worked in a drug store and she said that she worked in the store day after day until 11 and 12 o'clock at night keeping his books and performing other duties. She said that she was a devoted wife and that their relations were congenial, each having full confidence in the other until the trouble of 1904, that time, she continued, "we had a serious, very serious, misunderstanding, I was in New York and I heard something which gave me a great deal of trouble, sorrow and unhappiness. It was some one that I believed and still believe and of which I do not wish to disclose the nature because it might involve innocent people who are dear to me. I would not care to have it recorded."

Mrs. Emerson says that she came home from New York and called Dr. Hundley. The disagreement was continued at home until Capt. Emerson then declared his wife was to be his only friend. She then went to Irvington-on-the-Hudson with her daughter, Mrs. McKim. Capt. Emerson went to the home of Mrs. McKim at Irvington-on-the-Hudson, and she stayed at the Waldorf. At Irvington-on-the-Hudson, the home of Mrs. McKim, Mrs. Emerson slept in the room with Mrs. McKim and Capt. Emerson. The room was the last witness, and she explained that she was a daughter of Mrs. Emerson by her first marriage. The report of the disagreement at her mother and her father, who they had lived in separate rooms in their own

Archie Restaurant. DINNER 6 TO 9.30 P. M. A LA CARTE OR IF DESIRED AT FIXED PRICE, \$1.25

CONNEAU AND GARROS AT NICE

DAY OF SMALL MISHAPS AND GOOD FLYING IN BIG RACE.

Hard Luck Clings to Weymann, the American Competitor in Paris-Rome-Turin Air Race of the Petit Journal ended with two of the competitors at Nice. The French navy lieutenant, Conneau, who flies under the name of Beaumont, was the first to arrive there at 7:20 o'clock, while Roland Garros followed at 8:00. Nice is the end of the first stage of the race.

Garros was using a machine borrowed from Kuhlung, who has been flying at Avignon. It is likely that he will be disqualified for this, as change of machines is forbidden by the rules of the contest. Kimmerling, who is third in the race, is reported at Brignoles, where he landed at 5:15 this afternoon because his motor was acting badly.

Vidart while nearing Lyon missed his way and landed at Grenoble. The citizens of Lyon tried to attract his attention by exploding bombs as he passed, but he mistook the meaning. After he had passed the city Legagneux and Henriot mounted monoplane and, pursuing him, overtook him. They then conducted him to Lyon, where he was compelled to descend.

Word comes that Weymann's machine turned turtle at Crozes, but the American aviator was not hurt. Frey is at Avignon. On the whole all the airmen made good progress to-day in the race of 1,300 miles. One of the aviators who started in the \$100,000 race from Buc yesterday withdrew when he reached Lyon. This was Gaget, who abandoned the contest when he reached Dijon, the first compulsory stop. A new competitor, Landron, ascended at Buc at 9:02 o'clock this morning.

Several of the contestants have met with accidents, but so far no one has been hurt. Lieut. Conneau had motor trouble at Brignoles and was compelled to descend. Roland Garros, who was unfortunate in the first stage of the Paris to Madrid race, fell between Malleot and Penas at 5:36 o'clock this morning. He escaped injury, but his machine was damaged. He was first away yesterday and reached Dijon at 11:40 o'clock in good shape and continued on to Avignon, 408 miles from the start, where he stopped for the night.

It was thought that Garros would be out of the race. He was able, however, to make repairs after several hours work so as to make another start. Conneau also succeeded in making repairs, but a heavy rainstorm prevented him from resending. Conneau, who was the second to get away from Buc yesterday, reached Dijon, 100 miles away, at 11:21 o'clock. He reached Lyon, 105 miles further from the start, at 8:25 o'clock and landed at Avignon at 8:47 last night. He left there at 3:36 this morning, but soon developed trouble with his motor.

Frey, who got away from Buc just before Weymann, who is flying the Stars and Stripes, reached Dijon at 7:15 o'clock yesterday. He went up at 4:18 this morning and reached Lyon at 7:45. He started again at 8:45 o'clock. Kimmerling arrived at Dijon at 8:21 this morning and left at 6:01. He reached Lyon at 8:16 and went up again at 9:05. Frey and Kimmerling arrived at Avignon at 12:05 and 12:08 P. M. respectively. Kimmerling gained seventeen minutes on Frey in the flight from Lyon to Avignon, as he ascended at the former place twenty minutes later.

Weymann, who is registered for this race with Charles as a front name, though he has hitherto been called Henry in the newspapers, met with an accident at Troyes yesterday, but he made temporary repairs and proceeded as far as Saint Lyons, which he reached at 10 o'clock this morning. He arranged to complete his repairs there and make another start in the afternoon. Vidart arrived at Dijon at 7:31 o'clock this morning and resended at 9:10 o'clock. Molla, who arrived at Dijon at 6:51 o'clock yesterday, restarted at 6:00 o'clock. He smashed a wing of his machine at Vauzenon.

Other competitors who got away yesterday had to descend by reason of minor troubles before they had gone very far. Several of them in landing splined their engines, or fractured or bent their planes, but in air alights they merely "broke wood," which signifies nothing very serious. The managers of the race have received word that great storms are raging in Italy and aviators are warned to be careful.

New Portuguese Assembly. LISBON, May 29.—The complete results of the elections have not yet been given out, but it is known that the republicans made practically a clean sweep. Only one independent is known to have been elected and that was in the province of Braganza. He is believed to be a monarchist.

KIDNAPPED IN MACEDONIA. Prof. Richter of Berlin in the Hands of Greek Brigands. SALONICA, May 29.—Prof. Eduard Richter, the German engineer and archaeologist, has been kidnapped by Greek brigands. BRCELIN, May 29.—Dr. Richter, who has been kidnapped by brigands in Turkey, is an engineer in the service of Carl Zeiss of Jena. He was travelling for the geographical societies of Berlin and Jena.

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DRAMATIST'S ART COLLECTION.

A Fortune Being Realized on Works Owned by Pierre Decourcelle.

Special Cable Dispatch to THE SUN. PARIS, May 29.—The art collection of Pierre Decourcelle, who is better known as a writer of melodramas than as a collector or as the author of "Two Little Vagabonds," was sold in part at auction to-day. A total of \$207,850 was realized for 125 numbers of the catalogue. This constitutes a little more than half of the collection.

The highest price of the sale thus far was \$85,000, which was brought for a terra cotta bust of Mme. du Barry by Augustin Pajou. Following this a plaster bust of his daughter Claudine by Houdon sold for \$6,000. Other sales were as follows: Painting by Chardin of a cat eating oysters, \$3,000. Portrait of the Marquis de Pastoret by Delacroix, \$6,000. Portrait of a woman by Dureau, \$5,000. Screen painted by Fragonard, \$1,000. Francisco Goya's painting of the Plaza of St. Mark, Venice, \$7,000. Pierre-Adolphe Hall's portrait of a young woman, \$5,250. Two pictures by Nicolas Lavreance, one entitled "Diane Tte a Tte," \$3,000. Portrait by Elizabeth LeBrun, \$2,000. Terra cotta statuette of Leda and the Swan, by Claude-Miche. Clodion, \$4,000. "Innocence," a terra cotta statuette by the same artist, \$3,000. Terra cotta bust by Antoine Coysevox, of Jacques-Josseau, \$2,400. Small terra cotta bust by Jean-Louis Cousanon of a young girl, \$5,000. Bust, presumed to be a portrait in white terra cotta of the Princess de la Beune-Sully, by Jean de Fermat, \$5,100. Plaster bust by Houdon of one of his children, \$4,000. Plaster bust of Anne-Ange Houdon, by Houdon, \$4,200. Terra cotta bust by Jean-Baptiste Lemoine of Prosper Jolyot de Crebillon, \$2,000. Plaster bust of Mme. Dubarry, by Augustin Pajou, \$2,250. Table of the period of Louis XV., \$4,500. Clock of the epoch of Louis XVI., \$2,300. Screen of the period of Louis XVI., \$4,200.

SHORT LIVED PIRACY. Spaniards Left the Swift Schooner's Captain Out of Their Reckoning. BELIZE, British Honduras, May 29.—José Ulloa and Carlos Gonzalez, Central American Spaniards cherished an ambition to become pirates. They thought they saw a nice opening in the pirate business along the Honduran coast and decided that the schooner, Briton, plying between Belize and Stann Creek, would exactly supply their need for a speedy craft.

They tried to capture her, but reckoned without Capt. Albert Henry, so they lie in jail here sore from the fight they had and from the day they spent tied up to a mast. Capt. Henry having superintended the tying of the knots. One of the schooner's crew is in the hospital with a deep gash in his breast. Others of the crew nurse minor injuries and Capt. Henry, hero of the occasion, is minus two fingers.

The Spaniards were passengers from here. Ten miles out they approached Capt. Henry and demanded that he turn the vessel over to them. He thought them intoxicated and paid no attention until they attacked him with razors. With some assistance from the crew the Spaniards were overcome and trussed up to the masts until the schooner's return here.

Ulloa has turned evidence for the crown and says the plot was to murder captain, crew and passengers, take the vessel to Spanish Honduras waters and be pirates. Capt. Henry was formerly with the Colonial police.

PORTUGAL GRIEVES THE POPE. Encyclical Condemns Separation Law, Secular Schools and Divorce. ROME, May 29.—The encyclical of the Pope in regard to the Church and State separation law in Portugal, which had been expected for some time past, was published to-day. It deplores the anticlerical policy of the new republic, the expulsion of members of religious orders, the abolition of religious instruction and the introduction of a divorce law.

The encyclical points out that under the circumstances it is impossible for the Holy See to maintain a patient attitude. The law of separation is particularly offensive to the sovereign Pontiff. He declares that it is not separation but spoliation and tyranny and was intended to corrupt the clergy and disunite Portugal and the Vatican.

The encyclical condemns the law and declares it to be null and void so far as the Holy See is concerned. It praises the refusal of the Roman Catholic clergy in Portugal to accept it and their continued unity with the Holy See.

LET UP ON THE FLYERS. Churchill Willing to Make Concessions in Air Regulation Bill. LONDON, May 29.—In the House of Commons to-day Home Secretary Winston Churchill in seconding a motion to refer to a committee of the whole the bill to regulate aviation in Great Britain said that he not only had not the slightest wish to retard the development of the art of flying, but would be willing to have the penalties as projected modified in committee as well as to grant other concessions.

KAISER'S SON HURT ON PARADE. Prince Joachim's Horse Stumbled—Maiden By His Bedside. BERLIN, May 29.—Prince Joachim, the youngest son of the Kaiser, met with an accident during the military manoeuvres at Dohrbitz to-day. During the parade before the Kaiser his horse stumbled and the Prince injured his leg. His mother, the Kaiserin, spent the afternoon at his bedside.

Mr. Harjes's Golden Wedding. PARIS, May 29.—In honor of his golden wedding, which was celebrated to-day, John T. Harjes, head of the Paris branch of the banking house of Morgan, Harjes & Co., gave a dinner to his staff of employees. Mr. Harjes received many telegrams of congratulation from the leading bankers of the world.

THE REMEDY TO BE APPLIED. In regard to the remedy to be applied the court said: "Our conclusion being that the combination was a violation of the Sherman act, we think so far as the permanent remedy, constituted a restraint of trade within the first section and an attempt to monopolize or a monopolization within the second section of the anti-trust act. It follows that the relief which we are to afford must be wider than that awarded by the lower court, since that court merely decreed that certain individuals, the defendants constituted combinations in violation of the first section of the act because of the fact that they were formed by the union of previously competing concerns and that the other defendants had been dismissed from the action were parties to such combinations or promoted their purposes.

It is hence, in determining the relief proper to be given, may not model our action upon that granted by the court below, but in order to enable us to award relief continuous with the ultimate redress of the wrongs which we find to exist we must approach the subject of relief from an original point of view. Such subject necessarily takes a two-fold aspect, the character of the permanent relief required and the nature of the temporary relief essential to be applied pending the working out of permanent relief in the event that it be found that it is impossible under the facts of the case to exist to at once rectify such existing wrongful conditions.

In considering the subject from both of these aspects the permanent relief must guide our action: (1) The duty of giving complete and efficacious effect to the prohibitions of the statute, (2) The accomplishing of this result with a minimum of injury to the public interest of the general public, and (3) A proper regard for the vast interests of private property which may have become vested in individuals as a result of the acquisition, either by way of stock ownership or otherwise, of interests in the stock or securities of the combination without any guilty intent or intent in any way to become actors or participants in the wrongs which we find to have inspired and dominated the combination from the beginning. Mindful of these considerations and the relief which we find to be demanded by the application, we say at the outset, without stopping to amplify the reasons which lead us to that conclusion, we think that the individuals who are charged with the commission of the offense under the United Cigar Stores Company and the foreign corporations and their subsidiary corporations.

Difficulty in Applying Remedies. "Looking at the situation as we have hitherto pointed it out it involves difficulties in the application of remedies greater than have been presented by any case involving the application of law which has been hitherto considered by this court. The fact that in this case it is obvious that a mere decree forbidding stock ownership by individuals as a condition in another part or entity thereof would afford no adequate measure of relief, since different ingredients of the offense would be worked out by the law and by the very nature and character of their organization would be able to continue the wrongful situation which it is our duty to destroy.

It is second because the methods of apparent ownership by which the wrongful intent was in part carried out and the subtle devices which, as we have seen, were used to carry out the intent of accomplishing the wrong contemplated by way of ownership or otherwise are of such a character that it is difficult if not impossible to formulate a remedy which would restore in their entirety the prior lawful conditions.

Third, because the methods devised by the defendants to carry out the intent of the statute in the successful operation of the tobacco business from any particular aspect have been so separated under various subordinate combinations, yet so unified by the control of the defendants by the scheme here condemned, are so involved that any specific form of relief which we might now order in substance and effect would be likely to injure the public and, it may be, to perpetuate the wrong. Doubtless it was the presence of these difficulties which caused the United States in its prayer for relief to tentatively suggest whether there should be a demand for definite and precise remedies. We might at once resort to one or the other of two general remedies: (1) The allowance of cause, permanent injunction restraining combination as a universality and all the individuals and corporations which form a part of or cooperate in it in any manner or form from continuing to engage in interstate commerce until the illegal situation is cured, a measure of relief which would accord in substantial effect with that which we have suggested below, and which we find would not be repugnant to the prohibitions of the act. But having regard to the principles which we have said must control our action, we do not think we can now direct the immediate application of either of these remedies. We consider as to the first because in view of the extent of the combination, the fact that it covers the all-embracing character of its activities concerning tobacco and its products to at once stay the movement in interstate commerce of the products which the combination or its cooperating forces produce or control might inflict infinite injury upon the public by leading to a stoppage of supply and a great enhancement of price. The second because the extensive power which would result from at once resorting to a receivership might not only do grievous injury to the public by a stoppage of supply, but perhaps irreparable loss to many innocent people. Under these circum-

stances, taking into mind the complexity of the situation in all of its aspects and giving weight to the many sided considerations which must control our judgment, we think so far as the permanent relief to be awarded is concerned we should decree as follows:

Judgment of the Court. "First—That the combination in and of itself, as well as each and all of the elements composing it, whether corporate or individual, whether considered collectively or separately, be decreed to be in restraint of trade within the second section of the act and a monopolization within the first and second sections of the anti-trust act.

"Second—That the court below, in order to give effective force to our decree in this regard, be directed to hear the parties by evidence or otherwise, as may be deemed proper, for the purpose of ascertaining and determining upon some plan or method of dissolving the combination and of recreating out of the elements now composing it a new condition which shall be in harmony with and not repugnant to the law.

"Third—That for the accomplishment of these purposes, taking into view the difficulty of the situation, a period of six months is allowed from the receipt of our mandate, with leave, however, in the event if in the judgment of the court be, in any necessary case, to extend such period to a further time not to exceed sixty days.

"Fourth, that in the event before the expiration of the period thus fixed a condition of disintegration in harmony with the law is not brought about, either as the consequence of the action of the court in determining an issue on the subject or in accepting a plan agreed upon, it shall be the duty of the court either by way of an injunction restraining the movement of the products of interstate or foreign commerce or by the exercise of the control over the effect to the requirements of the statute.

"Fifth, that the bringing about of the result just stated each and all of the elements of the combination, whether corporations should be restrained from doing any act which might further extend or enlarge the powers of the combination by any means or device whatsoever. In view of the considerations we have stated we leave the matter to the court below to work out a compliance with the law and without unnecessary injury to the public or the rights of private property.

"While in many substantial respects our conclusion is in accord with that reached by the court below, and while we are relieved which we think should be awarded in some respects is coincident with that which the court granted, in order to prevent any complication and to clearly define the situation we think instead of affirming and modifying our decree, in view of the broad nature of our conclusions, should be one of reversal and remanding, the costs in this court to be borne by the defendants. We have directed to the court below to enter a decree in conformity with this opinion and to take such further steps as may be necessary to fully carry out the directions which we have given. And it is so ordered.

WICKERSHAM'S COMMENTS. Says the Decision in a Sweeping Manner Sustains the Government's Position. WASHINGTON, May 29.—Attorney-General Wickersham to-night issued this statement in regard to the Supreme Court decision in the tobacco trust case: "The Attorney-General said that the decision in the tobacco case in the most comprehensive and sweeping manner sustains the position taken by the Government with respect to the decree below. It reverses the action of the Circuit Court in dismissing from the bill the individual defendants the British-American Tobacco Company, Ltd., the Imperial Tobacco Company, Ltd., and the United Cigar Stores Company, holding that they are all parties to the unlawful combination which is condemned by the decree.

"The court gives an interpretation of its decision in the Standard Oil case, saying that it was there held: "That in view of the general language of the statute and the public policy which it manifested there was no possibility to escape by any indirect means of the prohibition of the statute." "It then holds that the history of the tobacco combination is replete with the doing of acts which it was the obvious purpose of the statute to forbid, so demonstrative of the existence from the beginning of a purpose to acquire dominion and control of the tobacco trade not by the mere exertion of the ordinary right

TOBACCO TRUST

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It is our plain duty to apply its prohibitions. In stating summarily, as we have done, the conclusions which in our opinion are plainly deducible from the undisputed facts, we have not paused to give the reasons why we consider after giving the one great consideration that the elaborate arguments advanced to give a different complexion to the case are wholly devoid of merit. We do not for the sake of civility, moreover, stop to examine and discuss the various propositions urged in the argument at bar for the purpose of demonstrating that the subject matter of the combination which we find to exist and the combination itself are not within the scope of the anti-trust law when, because rightly considered, they are merely matters of interstate commerce and therefore subject alone to State control. We have done this because the weight of merit in all the arguments advanced on such subjects is so completely established by the prior decisions of this court, as pointed out in the Standard Oil case, as not to require restatement.

"Looking as this does to the conclusion that the assailed combination in all its aspects, that is to say, whether be looked at from the point of view of stock ownership or from the standpoint of the principal corporation and the accessory or subsidiary corporation viewed independently, including the individual defendants named as by the contracts made by them they became cooperators in the combination—comes within the prohibition of the first and second sections of the anti-trust act, it remains only finally to consider the remedy which it is our duty to apply to the situation thus found to exist.

The Remedy to Be Applied. In regard to the remedy to be applied the court said: "Our conclusion being that the combination was a violation of the Sherman act, we think so far as the permanent remedy, constituted a restraint of trade within the first section and an attempt to monopolize or a monopolization within the second section of the anti-trust act. It follows that the relief which we are to afford must be wider than that awarded by the lower court, since that court merely decreed that certain individuals, the defendants constituted combinations in violation of the first section of the act because of the fact that they were formed by the union of previously competing concerns and that the other defendants had been dismissed from the action were parties to such combinations or promoted their purposes.

It is hence, in determining the relief proper to be given, may not model our action upon that granted by the court below, but in order to enable us to award relief continuous with the ultimate redress of the wrongs which we find to exist we must approach the subject of relief from an original point of view. Such subject necessarily takes a two-fold aspect, the character of the permanent relief required and the nature of the temporary relief essential to be applied pending the working out of permanent relief in the event that it be found that it is impossible under the facts of the case to exist to at once rectify such existing wrongful conditions.

In considering the subject from both of these aspects the permanent relief must guide our action: (1) The duty of giving complete and efficacious effect to the prohibitions of the statute, (2) The accomplishing of this result with a minimum of injury to the public interest of the general public, and (3) A proper regard for the vast interests of private property which may have become vested in individuals as a result of the acquisition, either by way of stock ownership or otherwise, of interests in the stock or securities of the combination without any guilty intent or intent in any way to become actors or participants in the wrongs which we find to have inspired and dominated the combination from the beginning. Mindful of these considerations and the relief which we find to be demanded by the application, we say at the outset, without stopping to amplify the reasons which lead us to that conclusion, we think that the individuals who are charged with the commission of the offense under the United Cigar Stores Company and the foreign corporations and their subsidiary corporations.

Difficulty in Applying Remedies. "Looking at the situation as we have hitherto pointed it out it involves difficulties in the application of remedies greater than have been presented by any case involving the application of law which has been hitherto considered by this court. The fact that in this case it is obvious that a mere decree forbidding stock ownership by individuals as a condition in another part or entity thereof would afford no adequate measure of relief, since different ingredients of the offense would be worked out by the law and by the very nature and character of their organization would be able to continue the wrongful situation which it is our duty to destroy.

It is second because the methods of apparent ownership by which the wrongful intent was in part carried out and the subtle devices which, as we have seen, were used to carry out the intent of accomplishing the wrong contemplated by way of ownership or otherwise are of such a character that it is difficult if not impossible to formulate a remedy which would restore in their entirety the prior lawful conditions.

Third, because the methods devised by the defendants to carry out the intent of the statute in the successful operation of the tobacco business from any particular aspect have been so separated under various subordinate combinations, yet so unified by the control of the defendants by the scheme here condemned, are so involved that any specific form of relief which we might now order in substance and effect would be likely to injure the public and, it may be, to perpetuate the wrong. Doubtless it was the presence of these difficulties which caused the United States in its prayer for relief to tentatively suggest whether there should be a demand for definite and precise remedies. We might at once resort to one or the other of two general remedies: (1) The allowance of cause, permanent injunction restraining combination as a universality and all the individuals and corporations which form a part of or cooperate in it in any manner or form from continuing to engage in interstate commerce until the illegal situation is cured, a measure of relief which would accord in substantial effect with that which we have suggested below, and which we find would not be repugnant to the prohibitions of the act. But having regard to the principles which we have said must control our action, we do not think we can now direct the immediate application of either of these remedies. We consider as to the first because in view of the extent of the combination, the fact that it covers the all-embracing character of its activities concerning tobacco and its products to at once stay the movement in interstate commerce of the products which the combination or its cooperating forces produce or control might inflict infinite injury upon the public by leading to a stoppage of supply and a great enhancement of price. The second because the extensive power which would result from at once resorting to a receivership might not only do grievous injury to the public by a stoppage of supply, but perhaps irreparable loss to many innocent people. Under these circum-

stances, taking into mind the complexity of the situation in all of its aspects and giving weight to the many sided considerations which must control our judgment, we think so far as the permanent relief to be awarded is concerned we should decree as follows:

Judgment of the Court. "First—That the combination in and of itself, as well as each and all of the elements composing it, whether corporate or individual, whether considered collectively or separately, be decreed to be in restraint of trade within the second section of the act and a monopolization within the first and second sections of the anti-trust act.

"Second—That the court below, in order to give effective force to our decree in this regard, be directed to hear the parties by evidence or otherwise, as may be deemed proper, for the purpose of ascertaining and determining upon some plan or method of dissolving the combination and of recreating out of the elements now composing it a new condition which shall be in harmony with and not repugnant to the law.

"Third—That for the accomplishment of these purposes, taking into view the difficulty of the situation, a period of six months is allowed from the receipt of our mandate, with leave, however, in the event if in the judgment of the court be, in any necessary case, to extend such period to a further time not to exceed sixty days.

"Fourth, that in the event before the expiration of the period thus fixed a condition of disintegration in harmony with the law is not brought about, either as the consequence of the action of the court in determining an issue on the subject or in accepting a plan agreed upon, it shall be the duty of the court either by way of an injunction restraining the movement of the products of interstate or foreign commerce or by the exercise of the control over the effect to the requirements of the statute.

"Fifth, that the bringing about of the result just stated each and all of the elements of the combination, whether corporations should be restrained from doing any act which might further extend or enlarge the powers of the combination by any means or device whatsoever. In view of the considerations we have stated we leave the matter to the court below to work out a compliance with the law and without unnecessary injury to the public or the rights of private property.

"While in many substantial respects our conclusion is in accord with that reached by the court below, and while we are relieved which we think should be awarded in some respects is coincident with that which the court granted, in order to prevent any complication and to clearly define the situation we think instead of affirming and modifying our decree, in view of the broad nature of our conclusions, should be one of reversal and remanding, the costs in this court to be borne by the defendants. We have directed to the court below to enter a decree in conformity with this opinion and to take such further steps as may be necessary to fully carry out the directions which we have given. And it is so ordered.