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CASES ADJUDGED
IN THE
SUPREME COURT OF THE UNITED STATES,
AT
OCTOBER TERM, 1894.

UNITED STATES *v.* E. C. KNIGHT COMPANY
APPEAL FROM THE CIRCUIT COURT OF APPEALS FOR THE THIRD
CIRCUIT.

No. 675. Argued October 24, 1894. — Decided January 21, 1895.

The monopoly and restraint denounced by the act of July 2, 1890, c. 647, 26 Stat. 209, "to protect trade and commerce against unlawful restraints and monopolies," are a monopoly in interstate and international trade or commerce, and not a monopoly in the manufacture of a necessary of life.

The American Sugar Refining Company, a corporation existing under the laws of the State of New Jersey, being in control of a large majority of the manufactories of refined sugar in the United States, acquired, through the purchase of stock in four Philadelphia refineries, such disposition over those manufactories throughout the United States as gave it a practical monopoly of the business. *Held*, that the result of the transaction was the creation of a monopoly in the manufacture of a necessary of life, which could not be suppressed under the provisions of the act of July 2, 1890, c. 647, 26 Stat. 209, "to protect trade and commerce against unlawful restraints and monopolies," in the mode attempted in this suit; and that the acquisition of Philadelphia refineries by a New Jersey corporation, and the business of sugar refining in Pennsylvania, bear no direct relation to commerce between the States or with foreign nations.

Statement of the Case.

THIS was a bill filed by the United States against E. C. Knight Company and others, in the Circuit Court of the United States for the Eastern District of Pennsylvania, charging that the defendants had violated the provisions of an act of Congress approved July 2, 1890, c. 647, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," 26 Stat. 209, "providing that every contract, combination in the form of trust, or otherwise, or conspiracy in restraint of trade and commerce among the several States is illegal, and that persons who shall monopolize or shall attempt to monopolize, or combine or conspire with other persons to monopolize trade and commerce among the several States, shall be guilty of a misdemeanor." The bill alleged that the defendant, the American Sugar Refining Company, was incorporated under and by virtue of the laws of New Jersey, whose certificate of incorporation named the places in New Jersey and New York at which its principal business was to be transacted, and several other States in which it proposed to carry on operations, and stated that the objects for which said company was formed were "the purchase, manufacture, refining, and sale of sugar, molasses, and melads, and all lawful business incidental thereto," that the defendant, E. C. Knight Company, was incorporated under the laws of Pennsylvania "for the purpose of importing, manufacturing, refining and dealing in sugars and molasses," at the city of Philadelphia, that the defendant, the Franklin Sugar Company, was incorporated under the laws of Pennsylvania "for the purpose of the manufacture of sugar and the purchase of raw material for that purpose," at Philadelphia, that the defendant, Spreckels Sugar Refining Company, was incorporated under the laws of Pennsylvania "for the purpose of refining sugar, which will involve the buying of the raw material therefor and selling the manufactured product, and of doing whatever else shall be incidental to the said business of refining," at the city of Philadelphia, that the defendant, the Delaware Sugar House, was incorporated under the laws of Pennsylvania "for the purpose of the manufacture of sugar and syrups, and preparing the same for

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market, and the transaction of such work or business as may be necessary or proper for the proper management of the business of manufacture.”

It was further averred that the four defendants last named were independently engaged in the manufacture and sale of sugar until on or about March 4, 1892, that the product of their refineries amounted to thirty-three per cent of the sugar refined in the United States, that they were competitors with the American Sugar Refining Company, that the products of their several refineries were distributed among the several States of the United States, and that all the companies were engaged in trade or commerce with the several States and with foreign nations, that the American Sugar Refining Company had, on or prior to March 4, 1892, obtained the control of all the sugar refineries of the United States with the exception of the Revere of Boston, and the refineries of the four defendants above mentioned, that the Revere produced annually about two per cent of the total amount of sugar refined.

The bill then alleged that in order that the American Sugar Refining Company might obtain complete control of the price of sugar in the United States, that company, and John E. Searles, Jr., acting for it, entered into an unlawful and fraudulent scheme to purchase the stock, machinery, and real estate of the other four corporations defendant, by which they attempted to control all the sugar refineries for the purpose of restraining the trade thereof with other States as theretofore carried on independently by said defendants, that in pursuance of this scheme, on or about March 4, 1892, Searles entered into a contract with the defendant Knight Company and individual stockholders named, for the purchase of all the stock of that company, and subsequently delivered to the defendants therefor in exchange shares of the American Sugar Refining Company, that on or about the same date Searles entered into a similar contract with the Spreckels Company and individual stockholders, and with the Franklin Company and stockholders, and with the Delaware Sugar House and stockholders. It was further averred that the American Sugar Refining Company monopolized the manufacture and

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sale of refined sugar in the United States, and controlled the price of sugar, that in making the contracts, Searles and the American Sugar Refining Company combined and conspired with the other defendants to restrain trade and commerce in refined sugar among the several States and foreign nations, and that the said contracts were made with the intent to enable the American Sugar Refining Company to restrain the sale of refined sugar in Pennsylvania and among the several States, and to increase the regular price at which refined sugar was sold, and thereby to exact and secure large sums of money from the State of Pennsylvania, and from the other States of the United States, and from all other purchasers, and that the same was unlawful and contrary to the said act.

The bill called for answers under oath, and prayed —

“1. That all and each of the said unlawful agreements made and entered into by and between the said defendants, on or about the fourth day of March, 1892, shall be delivered up, cancelled, and declared to be void, and that the said defendants, the American Sugar Refining Company and John E. Searles, Jr., be ordered to deliver to the other said defendants respectively the shares of stock received by them in performance of the said contracts, and that the other said defendants be ordered to deliver to the said defendants, the American Sugar Refining Company and John E. Searles, Jr., the shares of stock received by them respectively in performance of the said contracts.

“2. That an injunction issue preliminary until the final determination of this cause, and perpetual thereafter, preventing and restraining the said defendants from the further performance of the terms and conditions of the said unlawful agreements.

“3. That an injunction may issue preventing and restraining the said defendants from further and continued violations of the said act of Congress, approved July 2, 1890.

“4. Such other and further relief as equity and justice may require in the premises.”

Answers were filed and evidence taken, which was thus

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sufficiently summarized by Judge Butler in his opinion in the Circuit Court

“The material facts proved are that the American Sugar Refining Co., one of the defendants, is incorporated under the laws of New Jersey, and has authority to purchase, refine, and sell sugar, that the Franklin Sugar Refinery, the E. C. Knight Co., the Spreckels Sugar Refinery, and the Delaware Sugar House, were incorporated under the laws of Pennsylvania, and authorized to purchase, refine, and sell sugar, that the four latter Pennsylvania companies were located in Philadelphia, and prior to March, 1892, produced about thirty-three per cent of the total amount of sugar refined in the United States, and were in active competition with the American Sugar Refining Co., and with each other, selling their product wherever demand was found for it throughout the United States, that prior to March, 1892, the American Sugar Refining Co. had obtained control of all refineries in the United States, excepting the four located in Philadelphia, and that of the Revere Co. in Boston, the latter producing about two per cent of the amount refined in this country, that in March, 1892, the American Sugar Refining Co. entered into contracts (on different dates) with the stockholders of each of the Philadelphia corporations named, whereby it purchased their stock, paying therefor by transfers of stock in its company, that the American Sugar Refining Co. thus obtained possession of the Philadelphia refineries and their business, that each of the purchases was made subject to the American Sugar Refining Co. obtaining authority to increase its stock \$25,000,000, that this assent was subsequently obtained and the increase made, that there was no understanding or concert of action between the stockholders of the several Philadelphia companies respecting the sales, but that those of each company acted independently of those of the others, and in ignorance of what was being done by such others, that the stockholders of each company acted in concert with each other, understanding and intending that all the stock and property of the company should be sold, that the contract of sale in each instance left the sellers free to establish other refineries

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and continue the business if they should see fit to do so, and contained no provision respecting trade or commerce in sugar, and that no arrangement or provision on this subject has been made since, that since the purchase the Delaware Sugar House Refinery has been operated in conjunction with the Spreckels Refinery, and the E. C. Knight Refinery in connection with the Franklin, this combination being made apparently for reasons of economy in conducting the business, that the amount of sugar refined in Philadelphia has been increased since the purchases, that the price has been slightly advanced since that event, but is still lower than it had been for some years before, and up to within a few months of the sales, that about ten per cent of the sugar refined and sold in the United States is refined in other refineries than those controlled by the American Sugar Refining Co., that some additional sugar is produced in Louisiana and some is brought from Europe, but the amount is not large in either instance.

“The object in purchasing the Philadelphia refineries was to obtain a greater influence or more perfect control over the business of refining and selling sugar in this country”

The Circuit Court held that the facts did not show a contract, combination, or conspiracy to restrain or monopolize trade or commerce “among the several States or with foreign nations,” and dismissed the bill. 60 Fed. Rep. 306. The cause was taken to the Circuit Court of Appeals for the Third Circuit, and the decree affirmed. 60 Fed. Rep. 934. This appeal was then prosecuted. The act of Congress of July 2, 1890, c. 647, is as follows

“An act to protect trade and commerce against unlawful restraints and monopolies.

“Sec. 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. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one

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year, or by both said punishments, in the discretion of the court.

“SEC. 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 the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

“SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

“SEC. 4. The several Circuit Courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case, and pending such petition and before final decree, the court may at any time make such temporary

Counsel for Appellees.

restraining order or prohibition as shall be deemed just in the premises.

“SEC. 5. Whenever it shall appear to the court before which any proceeding under section four of this act may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

“SEC. 6. Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section one of this act, and being in the course of transportation from one State to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law

“SEC. 7. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any Circuit Court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

“SEC. 8. That the word ‘person,’ or ‘persons,’ wherever used in this act, shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country” 26 Stat. 209, c. 647.

Mr Solicitor General and *Mr S. F Phillips*, (with whom was *Mr Attorney General* on the brief,) for appellants.

Mr John G Johnson, (with whom was *Mr John E. Parsons* on the brief,) for appellees.

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MR. CHIEF JUSTICE FULLER, after stating the case, delivered the opinion of the court.

By the purchase of the stock of the four Philadelphia refineries, with shares of its own stock, the American Sugar Refining Company acquired nearly complete control of the manufacture of refined sugar within the United States. The bill charged that the contracts under which these purchases were made constituted combinations in restraint of trade, and that in entering into them the defendants combined and conspired to restrain the trade and commerce in refined sugar among the several States and with foreign nations, contrary to the act of Congress of July 2, 1890.

The relief sought was the cancellation of the agreements under which the stock was transferred, the redelivery of the stock to the parties respectively, and an injunction against the further performance of the agreements and further violations of the act. As usual, there was a prayer for general relief, but only such relief could be afforded under that prayer as would be agreeable to the case made by the bill and consistent with that specifically prayed. And as to the injunction asked, that relief was ancillary to and in aid of the primary equity, or ground of suit, and, if that failed, would fall with it. That ground here was the existence of contracts to monopolize interstate or international trade or commerce, and to restrain such trade or commerce, which, by the provisions of the act, could be rescinded, or operations thereunder arrested.

In commenting upon the statute, 21 Jac. 1, c. 3, at the commencement of chapter 85 of the third Institute, entitled "Against Monopolists, Propounders, and Projectors," Lord Coke, in language often quoted, said

"It appeareth by the preamble of this act (as a judgment in Parliament) that all grants of monopolies are against the ancient and fundamentall laws of this Kingdome. And therefore it is necessary to define what a monopoly is.

"A monopoly is an institution, or allowance by the King by his grant, commission, or otherwise to any person or persons, bodies politique, or corporate, of or for the sole

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buying, selling, making, working, or using of anything, whereby any person or persons, bodies politique, or corporate, are sought to be restrained of any freedom or liberty that they had before, or hindered in their lawful trade.

“For the word monopoly, *dicitur απο τὸ μονὸς*, (i. solo,) καὶ πωλεῖσθαι, (i. vendere,) *quod est cum unus solus aliquod genus mercaturæ univrsam vendit, ut solus vendat, pretium ad suum libitum statuens* hereof you may read more at large in that case. Trin. 44 Eliz. Lib. 11, f. 84, 85, *le case de monopolies.*” 3 Inst. 181.

Counsel contend that this definition, as explained by the derivation of the word, may be applied to all cases in which “one person sells alone the whole of any kind of marketable thing, so that only he can continue to sell it, fixing the price at his own pleasure,” whether by virtue of legislative grant or agreement, that the monopolization referred to in the act of Congress is not confined to the common law sense of the term as implying an exclusive control, by authority, of one branch of industry without legal right of any other person to interfere therewith by competition or otherwise, but that it includes engrossing as well, and covers controlling the market by contracts securing the advantage of selling alone or exclusively all, or some considerable portion, of a particular kind of merchandise or commodity to the detriment of the public, and that such contracts amount to that restraint of trade or commerce declared to be illegal. But the monopoly and restraint denounced by the act are the monopoly and restraint of interstate and international trade or commerce, while the conclusion to be assumed on this record is that the result of the transaction complained of was the creation of a monopoly in the manufacture of a necessary of life.

In the view which we take of the case, we need not discuss whether because the tentacles which drew the outlying refineries into the dominant corporation were separately put out, therefore there was no combination to monopolize, or, because, according to political economists, aggregations of capital may reduce prices, therefore the objection to concentration of power is relieved, or, because others were theoretically left

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free to go into the business of refining sugar, and the original stockholders of the Philadelphia refineries after becoming stockholders of the American Company might go into competition with themselves, or, parting with that stock, might set up again for themselves, therefore no objectionable restraint was imposed.

The fundamental question is, whether conceding that the existence of a monopoly in manufacture is established by the evidence, that monopoly can be directly suppressed under the act of Congress in the mode attempted by this bill.

It cannot be denied that the power of a State to protect the lives, health, and property of its citizens, and to preserve good order and the public morals, "the power to govern men and things within the limits of its dominion," is a power originally and always belonging to the States, not surrendered by them to the general government, nor directly restrained by the Constitution of the United States, and essentially exclusive. The relief of the citizens of each State from the burden of monopoly and the evils resulting from the restraint of trade among such citizens was left with the States to deal with, and this court has recognized their possession of that power even to the extent of holding that an employment or business carried on by private individuals, when it becomes a matter of such public interest and importance as to create a common charge or burden upon the citizen, in other words, when it becomes a practical monopoly, to which the citizen is compelled to resort and by means of which a tribute can be exacted from the community, is subject to regulation by state legislative power. On the other hand, the power of Congress to regulate commerce among the several States is also exclusive. The Constitution does not provide that interstate commerce shall be free, but, by the grant of this exclusive power to regulate it, it was left free except as Congress might impose restraints. Therefore it has been determined that the failure of Congress to exercise this exclusive power in any case is an expression of its will that the subject shall be free from restrictions or impositions upon it by the several States, and if a law passed by a State in the exercise of its acknowledged powers comes into conflict

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with that will, the Congress and the State cannot occupy the position of equal opposing sovereignties, because the Constitution declares its supremacy and that of the laws passed in pursuance thereof, and that which is not supreme must yield to that which is supreme. "Commerce, undoubtedly, is traffic," said Chief Justice Marshall, "but it is something more, it is intercourse. It describes the commercial intercourse between nations and parts of nations in all its branches, and is regulated by prescribing rules for carrying on that intercourse." That which belongs to commerce is within the jurisdiction of the United States, but that which does not belong to commerce is within the jurisdiction of the police power of the State. *Gibbons v Ogden*, 9 Wheat. 1, 189, 210 *Brown v Maryland*, 12 Wheat. 419, 448, *The License Cases*, 5 How 504, 599; *Mobile v Kimball*, 102 U. S. 691, *Bowman v Chicago & N W Railway*, 125 U. S. 465, *Leisy v Hardin*, 135 U. S. 100, *In re Rahrer*, 140 U. S. 545, 555.

The argument is that the power to control the manufacture of refined sugar is a monopoly over a necessary of life, to the enjoyment of which by a large part of the population of the United States interstate commerce is indispensable, and that, therefore, the general government in the exercise of the power to regulate commerce may repress such monopoly directly and set aside the instruments which have created it. But this argument cannot be confined to necessaries of life merely, and must include all articles of general consumption. Doubtless the power to control the manufacture of a given thing involves in a certain sense the control of its disposition, but this is a secondary and not the primary sense, and although the exercise of that power may result in bringing the operation of commerce into play, it does not control it, and affects it only incidentally and indirectly. Commerce succeeds to manufacture, and is not a part of it. The power to regulate commerce is the power to prescribe the rule by which commerce shall be governed, and is a power independent of the power to suppress monopoly. But it may operate in repression of monopoly whenever that comes within the rules by which commerce is governed or whenever the transaction is itself a monopoly of commerce.

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It is vital that the independence of the commercial power and of the police power, and the delimitation between them, however sometimes perplexing, should always be recognized and observed, for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the States as required by our dual form of government, and acknowledged evils, however grave and urgent they may appear to be, had better be borne, than the risk be run, in the effort to suppress them, of more serious consequences by resort to expedients of even doubtful constitutionality.

It will be perceived how far-reaching the proposition is that the power of dealing with a monopoly directly may be exercised by the general government whenever interstate or international commerce may be ultimately affected. The regulation of commerce applies to the subjects of commerce and not to matters of internal police. Contracts to buy, sell, or exchange goods to be transported among the several States, the transportation and its instrumentalities, and articles bought, sold, or exchanged for the purposes of such transit among the States, or put in the way of transit, may be regulated, but this is because they form part of interstate trade or commerce. The fact that an article is manufactured for export, to another State does not of itself make it an article of interstate commerce, and the intent of the manufacturer does not determine the time when the article or product passes from the control of the State and belongs to commerce. This was so ruled in *Coe v. Errol*, 116 U. S. 517, 525, in which the question before the court was whether certain logs cut at a place in New Hampshire and hauled to a river town for the purpose of transportation to the State of Maine were liable to be taxed like other property in the State of New Hampshire. Mr. Justice Bradley, delivering the opinion of the court, said "Does the owner's state of mind in relation to the goods, that is, his intent to export them, and his partial preparation to do so, exempt them from taxation?" This is the precise question for solution. There must be a point of time when they cease to be governed exclusively by the domestic.

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law and begin to be governed and protected by the national law of commercial regulation, and that moment seems to us to be a legitimate one for this purpose, in which they commence their final movement from the State of their origin to that of their destination.”

And again, in *Kidd v Pearson*, 128 U. S. 1, 20, 21, 22, where the question was discussed whether the right of a State to enact a statute prohibiting within its limits the manufacture of intoxicating liquors, except for certain purposes, could be overthrown by the fact that the manufacturer intended to export the liquors when made, it was held that the intent of the manufacturer did not determine the time when the article or product passed from the control of the State and belonged to commerce, and that, therefore, the statute, in omitting to except from its operation the manufacture of intoxicating liquors within the limits of the State for export, did not constitute an unauthorized interference with the right of Congress to regulate commerce. And Mr. Justice Lamar remarked “No distinction is more popular to the common mind, or more clearly expressed in economic and political literature, than that between manufacture and commerce. Manufacture is transformation—the fashioning of raw materials into a change of form for use. The functions of commerce are different. The buying and selling and the transportation incidental thereto constitute commerce, and the regulation of commerce in the constitutional sense embraces the regulation at least of such transportation.

If it be held that the term includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the States, with the power to regulate, not only manufactures, but also agriculture, horticulture, stock raising, domestic fisheries, mining—in short, every branch of human industry. For is there one of them that does not contemplate, more or less clearly, an interstate or foreign market? Does not the wheat grower of the Northwest or the cotton planter of the

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South, plant, cultivate, and harvest his crop with an eye on the prices at Liverpool, New York, and Chicago² The power being vested in Congress and denied to the States, it would follow as an inevitable result that the duty would devolve on Congress to regulate all of these delicate, multiform and vital interests — interests which in their nature are and must be local in all the details of their successful management.

The demands of such a supervision would require, not uniform legislation generally applicable throughout the United States, but a swarm of statutes only locally applicable and utterly inconsistent. Any movement toward the establishment of rules of production in this vast country, with its many different climates and opportunities, could only be at the sacrifice of the peculiar advantages of a large part of the localities in it, if not of every one of them. On the other hand, any movement toward the local, detailed and incongruous legislation required by such interpretation would be about the widest possible departure from the declared object of the clause in question. Nor this alone. Even in the exercise of the power contended for, Congress would be confined to the regulation, not of certain branches of industry, however numerous, but to those instances in each and every branch where the producer contemplated an interstate market. These instances would be almost infinite, as we have seen, but still there would always remain the possibility, and often it would be the case, that the producer contemplated a domestic market. In that case the supervisory power must be executed by the State, and the interminable trouble would be presented, that whether the one power or the other should exercise the authority in question would be determined, not by any general or intelligible rule, but by the secret and changeable intention of the producer in each and every act of production. A situation more paralyzing to the state governments, and more provocative of conflicts between the general government and the States, and less likely to have been what the framers of the Constitution intended, it would be difficult to imagine.” And see *Veazie v Moor*, 14 How. 568, 574.

In *Gibbons v Ogden*, *Brown v Maryland*, and other cases

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often cited, the state laws, which were held inoperative, were instances of direct interference with, or regulations of, interstate or international commerce, yet in *Kidd v Pearson* the refusal of a State to allow articles to be manufactured within her borders even for export was held not to directly affect external commerce, and state legislation which, in a great variety of ways, affected interstate commerce and persons engaged in it, has been frequently sustained because the interference was not direct.

Contracts, combinations, or conspiracies to control domestic enterprise in manufacture, agriculture, mining, production in all its forms, or to raise or lower prices or wages, might unquestionably tend to restrain external as well as domestic trade, but the restraint would be an indirect result, however inevitable and whatever its extent, and such result would not necessarily determine the object of the contract, combination, or conspiracy.

Again, all the authorities agree that in order to vitiate a contract or combination it is not essential that its result should be a complete monopoly, it is sufficient if it really tends to that end and to deprive the public of the advantages which flow from free competition. Slight reflection will show that if the national power extends to all contracts and combinations in manufacture, agriculture, mining, and other productive industries, whose ultimate result may affect external commerce, comparatively little of business operations and affairs would be left for state control.

It was in the light of well-settled principles that the act of July 2, 1890, was framed. Congress did not attempt thereby to assert the power to deal with monopoly directly as such, or to limit and restrict the rights of corporations created by the States or the citizens of the States in the acquisition, control, or disposition of property, or to regulate or prescribe the price or prices at which such property or the products thereof should be sold, or to make criminal the acts of persons in the acquisition and control of property which the States of their residence or creation sanctioned or permitted. Aside from the provisions applicable where Congress might exercise mu-

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municipal power, what the law struck at was combinations, contracts, and conspiracies to monopolize trade and commerce among the several States or with foreign nations, but the contracts and acts of the defendants related exclusively to the acquisition of the Philadelphia refineries and the business of sugar refining in Pennsylvania, and bore no direct relation to commerce between the States or with foreign nations. The object was manifestly private gain in the manufacture of the commodity, but not through the control of interstate or foreign commerce. It is true that the bill alleged that the products of these refineries were sold and distributed among the several States, and that all the companies were engaged in trade or commerce with the several States and with foreign nations, but this was no more than to say that trade and commerce served manufacture to fulfil its function. Sugar was refined for sale, and sales were probably made at Philadelphia for consumption, and undoubtedly for resale by the first purchasers throughout Pennsylvania and other States, and refined sugar was also forwarded by the companies to other States for sale. Nevertheless it does not follow that an attempt to monopolize, or the actual monopoly of, the manufacture was an attempt, whether executory or consummated, to monopolize commerce, even though, in order to dispose of the product, the instrumentality of commerce was necessarily invoked. There was nothing in the proofs to indicate any intention to put a restraint upon trade or commerce, and the fact, as we have seen, that trade or commerce might be indirectly affected was not enough to entitle complainants to a decree. The subject-matter of the sale was shares of manufacturing stock, and the relief sought was the surrender of property which had already passed and the suppression of the alleged monopoly in manufacture by the restoration of the *status quo* before the transfers, yet the act of Congress only authorized the Circuit Courts to proceed by way of preventing and restraining violations of the act in respect of contracts, combinations, or conspiracies in restraint of interstate or international trade or commerce.

The Circuit Court declined, upon the pleadings and proofs,

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to grant the relief prayed, and dismissed the bill, and we are of opinion that the Circuit Court of Appeals did not err in affirming that decree.

Decree affirmed.

MR. JUSTICE HARLAN, dissenting.

Prior to the 4th day of March, 1892, the American Sugar Refining Company, a corporation organized under a general statute of New Jersey for the purpose of buying, manufacturing, refining, and *selling sugar in different parts of the country*, had obtained the control of *all* the sugar refineries in the United States except five, of which four were owned and operated by Pennsylvania corporations — the E. C. Knight Company, the Franklin Sugar Refining Company, Spreckels' Sugar Refining Company, and the Delaware Sugar House — and the other, by the Revere Sugar Refinery of Boston. These five corporations were all in active competition with the American Sugar Refining Company and with each other. The product of the Pennsylvania companies was about thirty-three per cent, and that of the Boston company about two per cent, of the entire quantity of sugar refined in the United States.

In March, 1892, by means of contracts or arrangements with stockholders of the four Pennsylvania companies, the New Jersey corporation — using for that purpose its own stock — purchased the stock of those companies, and thus obtained absolute control of the entire business of sugar refining in the United States except that done by the Boston company which is too small in amount to be regarded in this discussion.

“The object,” the court below said, “in purchasing the Philadelphia refineries was to obtain a greater influence or *more perfect control over the business of refining and selling sugar in this country.*” This characterization of the object for which this stupendous combination was formed is properly accepted in the opinion of the court as justified by the proof. I need not therefore analyze the evidence upon this point. In its consideration of the important constitutional question presented, this court assumes on the record before us