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IN THE UNITED STATES CIRCUIT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK.

Equity No. 1-216.

THE UNITED STATES OF AMERICA, PETITIONER,  
VS.  
THE AMERICAN TOBACCO COMPANY AND OTHERS,  
DEFENDANTS.

DECREE ON THE MANDATE FROM THE SUPREME COURT  
OF THE UNITED STATES.

In the above-entitled cause a final decree was pronounced by this court and regularly entered on the minutes December 15, 1908. Cross-appeals therefrom to the Supreme Court of the United States were duly prayed, perfected and prosecuted therein, and were disposed of in an opinion and judgment of that court handed down on the 29th day of May, 1911.

The said Supreme Court adjudged and decreed that the combination assailed in the petition "in all its aspects—that is to say, whether it be looked at from the point of view of stock ownership or from the standpoint of the principal corporation and the accessory of subsidiary corporations viewed independently, including the foreign corporations in so far as by the contracts made by them they became cooperators in the combination—comes within the prohibitions of the first and second sections of the antitrust act" (act of Congress July 2, 1890, 26 Stat., 209), "that the combination as a whole, involving all its cooperating or associated parts, in whatever form clothed, constitutes a restraint of trade within the first section, and an attempt to monopolize or a monopolization within the second section of the antitrust act;" "that the court below clearly erred in dismissing the individual defendants, the United Cigar Stores Company and the foreign corporations and their subsidiary corporations;" and that the final action of this court in the premises be reversed and the cause remanded with directions "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 the Supreme Court further directed:

1. That this court "here the parties by evidence or otherwise as it may deem proper for the purpose of as-

certaining 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 honestly in harmony with and not repugnant to the law, but without unnecessary injury to the public or the rights of private property.”

2. That for accomplishing these purposes the period ending with the 30th day of December, 1911, be allowed, with the right in this court to extend the same not exceeding sixty days if in its judgment the necessities of the situation so require.

3. 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 a consequence of its action in determining an issue on the subject or in accepting a plan agreed upon, this court, either by way of injunction restraining the movement of the products of the combination in the channels of interstate or foreign commerce or by the appointment of a receiver, must give effect to the requirements of the statute.

A mandate from the Supreme Court in proper form directing further proceedings in harmony with its opinion and judgment was duly filed here June 30th, 1911.

Wherefore, upon motion of the United States, it is now ordered as follows:

First. That the final decree entered herein on December 15, 1908, be set aside and the cause restored to the docket to be proceeded with as directed by the Supreme Court.

Second. That all the defendants—except Welford C. Reed, who died before the final hearing—heretofore became parties to and engaged in the combination assailed in the pleadings which “in and of itself, as well as each and all of the elements composing it, whether corporate or individual, whether considered collectively or separately,” is “in restraint of trade and an attempt to monopolize, and a monopolization within the first and second sections of the antitrust act,” and which should be dissolved and a new condition brought about in harmony with and not repugnant to the law, either as a consequence of the action

of this court in determining an issue or in accepting a plan agreed upon.

Third. In the event that the combination assailed in the pleadings is not dissolved and 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 accepting a plan agreed upon, prior to the expiration of six months from June 30th, 1911, or such later time not more than sixty days thereafter as may be designated if in the judgment of the court the necessities of the situation require an extension, this court will, by issuing an injunction restraining the movement of the products of the combination in the channels of interstate commerce or by the appointment of a receiver, give effect to the requirements of the statute. And leave is granted counsel to apply for more specific directions in this regard.

Fourth. Pending the dissolution of the combination and the re-creation from the elements now composing it of a new condition honestly in harmony with the law under the direction of this court, all the defendants, their agents and servants, are hereby restrained and enjoined from doing any act which might further extend or enlarge the power of the combination by any means or devices whatsoever.

Fifth. Leave is granted to any party to apply to the court from time to time for relief which may seem proper and in conformity with the opinion and judgment of the Supreme Court and the terms of this decree.

August 3rd, 1911.

WALTER C. NOYES,  
H. G. WARD,  
E. HENRY LACOMBE,

(Indorsed:) U. S. Circuit Court, Southern District  
New York. Filed August , 1911. John A. Shields, clerk.

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