

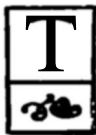


TYPICAL SCENE IN THE OHIO OIL FIELDS.

The History of the Standard Oil Company in Ohio

By Hon. Wade H. Ellis, Attorney General of Ohio

The present article is not an impassioned arraignment of the Standard Oil Company. It is a simple recital of the basic facts touching the inception of that monopoly in the State of its origin and of the subsequent methods by which its present prestige in the world of industry and business was achieved. It is a plain statement of contemporaneous history with which the people ought to be familiar, related without prejudice, without argument and with a view only to disclose important truths in justice to all interests, past, present and future. It is needless to say that its author is one entirely competent to deal with the subject, and any candid perusal of its treatment at his hands will convince the reader that he has done so with justice to all.



THE editor of THE OHIO MAGAZINE wants to present to his readers a plain, succinct story of the rise of the Standard Oil Trust, of the cause of the present litigation against that company, and of what it has done or is doing, that has occasioned all this agitation.

Despite the publicity that has been given to the many suits of the states and the Federal Government against the Standard Oil Company or some of its subsidiary corporations, it is doubtful whether the people generally know what the matter is all about. Certain it is that they ought to know. These prosecutions, whether civil or criminal, and whether brought by a state or by the Federal Government, are presumably instituted solely in the public interest and for the enforcement of laws

intended to protect the general welfare. If the public interest is not served by such litigation, and if the things complained of do not constitute a violation of law, there is no justification for the present suits.

What is it that this combination has done; what is it that it is now doing; what law is it violating, and what public benefit would result from its dissolution? These are natural and appropriate questions, and I am glad of the opportunity to give them a fair answer.

The original Standard Oil Company was born in Ohio. Its earliest promoters were shrewd, able, far-seeing Ohioans. From the day when petroleum was discovered in the region about Lake Erie, in the period of the Civil War, down to the present mo-

ment, when every branch of the oil industry of the country is in the hands of one

combination, the plans of developing the fields, of improving the methods of transporting, refining and marketing the product and of consolidating rival interests for mutual protection, have been conceived and perfected in this State.

The Standard Oil Trust had an humble beginning. In that respect its marvelous success has been typically American. All great accomplishments in this country owe their origin to the pluck and perseverance

day. It was a wise foresight that brought this man and his early associates to Cleveland. That city had the great trunk railroads, the lake and the canal, and the first problem in the development of the oil industry was transportation.

Thousands of acres of land in Ohio, New York and northwestern Pennsylvania had been acquired following the discovery of petroleum. Wells were going down along the streams, on the hills and in the



JOHN D. ROCKEFELLER IN 1880

Photo by Sarony.

of men whose first endeavors were unaided by the fortuitous agency of wealth or power, and the Standard Oil trust, without regard to the right or the wrong of its existence, is a great accomplishment.

It began with a little partnership at Cleveland for the refining of petroleum and the young men who started it had probably not twenty-five thousand dollars among them. The master spirit was John D. Rockefeller, dominant in the planting then, as he is dominant in the harvest to-

valleys throughout the region in which had been found this treasure of the miser Earth. Hundreds of independent enterprises were set on foot. Many companies were formed and individuals without number began the search for wealth. The chief concern of all was to get the crude product to the refinery. First it was hauled to the railroads by teams, while flat-boats loaded with barrels were used wherever the streams were navigable. The geographical advantage of Cleveland,

as well as its transportation facilities, made it easily the most available place for refining and marketing the oil. So the little plant of Rockefeller and his partners grew rapidly. A second refinery was started under the name of William A. Rockefeller; Henry M. Flagler was taken into the business, and an office was opened in New York.

There have been three successive plans pursued by the promoters of the Standard Oil Trust in effecting their monopoly.

made, taking in practically every corporation, firm and individual in this country, including all the chief refineries, tank and pipe lines, operating and selling companies. The second device was far shrewder than the first. There were thirty-nine separate corporations or enterprises under one name or another brought into control. The plan was this: All the stockholders, except enough to maintain a nominal directorate in each of the thirty-nine concerns, transferred their stock to nine trust-



FIVE BARREL STILL USED IN THE FIFTIES IN DISTILLING CRUDE OIL AS A LUMINANT.

First, in 1870, there was the combination of all the companies in which John D. Rockefeller and his associates, under one name or another, were interested. The new company, combining all the others, was called the Standard Oil Company and was chartered by the State of Ohio in June of that year with a capital stock of one million dollars. Two years later this was increased to two and a half millions, and in March, 1873, it was made three and a half millions.

Second, in 1882, a new combination was

tees. The names of these trustees are now familiar to the world. They were John D. Rockefeller, O. H. Payne, William Rockefeller, J. A. Bostwick, H. M. Flagler, W. G. Warden, Charles Pratt, Benjamin Brewster and John D. Archbold. To each of the stockholders in the thirty-nine concerns the trustees issued trust certificates equal in par value to the stock transferred to them. From that time on the individual investors had nothing further to do with the business, except to draw their dividends from the joint operation of

all the various companies by the nine trustees.

Then came the first suit to break up the Standard Oil trust. It was brought by Mr. D. K. Watson, Attorney General of Ohio, and decided by the Supreme Court of this State in 1892, ten years after the second combine had been effected. The suit was against the Standard Oil Company of Ohio, one of the thirty-nine concerns whose stockholders had transferred their stock to the nine trustees, and was designed to have the combination de-

stock and operating the business of the various separate companies through a corporation instead of through themselves as individuals. Thus came about the Standard Oil Company of New Jersey. Its capital stock was made one hundred and ten millions, and the nine trustees became the nine directors. Then the stock which they had obtained from all the stockholders in all the companies was turned over to the New Jersey corporation, and that corporation, instead of issuing trust certificates, as the trustees had done, simply issued its stock



PRIMITIVE WOODEN TANKS FOR STORING OIL.

From Miss Tarbell's "The History of the Standard Oil Company": McClure, Phillips & Co., New York.

clared unlawful and the Ohio company separated from the trust. The court, in effect, ordered the trust dissolved.

But this was never done. The organizers simply shifted their ground and adopted an entirely new plan, of which we will now speak. They were seven years, however, in doing this, and during all that time they were simply delaying obedience to the judgment of the court.

Third, in 1899, the final and present combination was made. These nine trustees, after pursuing various temporary devices, adopted the plan of holding the

to the stockholders of the constituent companies in return for their holdings in such companies. This is the present plan of organization, differing in no particular except in name from the combination which had already been condemned by the Supreme Court of Ohio.

Now is it wrong to prosecute the Standard Oil Trust? Some very sincere and conscientious people believe that all these suits are simply an attack upon wealth and are prompted by envy and prejudice or a demagogic desire for popular favor. This charge must have a brave and honest

answer. It comes from three classes of people; first, those who, in ignorance of the real issue, believe that it is an effort to destroy great riches in this country and that great riches ought to be destroyed; second, those who, understanding that the question is simply one of law enforcement, do not believe the Standard Oil trust is unlawful; and third, those who know the acts complained of are unlawful but who, as beneficiaries of similar wrongs, seek to discredit the enforcement of law by shouting the dangers to the business interests of the country.

Now let us have done with all this confusion. First, as to these prosecutions being an attack upon wealth. Such a charge could be dismissed as unworthy of reply if it were not for the encouragement which its reiteration gives to the enemies of social order. If there are any people anywhere who believe that the suits instituted by the Federal and state governments against the Standard Oil trust are simply a design to injure rich men or confiscate private property, the sooner they realize their blunder the better it will be for their happiness. If this is the purpose, or one of the purposes, of the civil actions now pending against the oil trust, those actions will fail and they ought to fail. If the only wrong which the Standard Oil Company has committed is the offense of prosperity, then the government at Washington and the people of Ohio and Missouri and Texas will be defeated and they ought to be defeated.

Private property is still inviolate in this country, and it cannot be taken even by the people themselves or by their government without compensation. The Constitution of the United States was not written just for the poor. It protects the rich as well. And it applies even to the Standard Oil Company of New Jersey. No suit, civil or criminal, can be maintained against that corporation simply because its dividends amount to forty million dollars a year, nor because its assets have increased from two hundred and fifty millions to three hundred and seventy-one millions, nor because its profits have amounted to nearly half a billion during the past seven years. There is no cause of

action in the fact that it is the richest business enterprise in the world, nor that its ships ply every ocean and carry its commodities to every land, nor that it has scores of refineries, hundreds of miles of pipe lines and thousands of employes.

To attack it for this reason would be not only unjust but cowardly. It would not only deny that equal protection of the law which is the one safeguard of us all, but it would be using the advantage of prejudice to help a despicable cause. It is no offense to make money. It is honorable and praiseworthy. It is not unlawful to develop a great industry, to devise improved methods for manufacturing and selling a product of universal need and



OLD WOODEN TANKS ON CARS.

From Miss Tarbell's "The History of the Standard Oil Company": McClure, Phillips & Co., New York.

to take and keep the profits that result. It is a useful and reputable pursuit. The courts cannot equalize money making; they can only equalize opportunity.

The only fair question to be asked is this: Has the Standard Oil Company done, or is it doing, anything unlawful? If it has, it ought to be prosecuted, whatever the consequences. If it has not, it ought to be let alone, whatever the consequences. What is the offense with which it is charged? Its members made an agreement in 1882 by which they could fix and control all the prices to be charged in the production, transportation, refining and sale of one of the chief commodities of the country. The question of the lawfulness of that agreement was tested in

the highest court of the State where it was formed, and in a final judgment, unmodified and unreversed, the acts complained of were found to be contrary to common law. Since that judgment was rendered the Congress of the United States and the legislatures of most of the states, including that one in which the case was tried, have enacted statutes expressly forbidding the very thing that was done; and, notwithstanding this judgment and these suits, the Standard Oil trust has

the common law by the Supreme Court of Ohio in 1892.

The Sherman act of Congress and the anti-trust statutes of the states are little more than declarations of the common law, and yet to disobey them is even a more flagrant wrong than to violate those principles of public policy as declared in the decisions of the courts. Under the anti-trust laws today the device of a holding company, if used to restrain competition, is as much condemned as an agree-



AN OIL REFINERY.

continued the same organization by another method, producing the same result. It ought not to be necessary, in discussing the question as to whether or not the practices of the oil trust are unlawful, to say more than that that question has already been determined. But the present organization of the trust, changed in form only, and the present methods of the organization, though similar to those already condemned by the courts, offend far more obviously against the express statutes today than did those which were held to violate

ment between otherwise independent corporations. No one doubts this since the decision in the Northern Securities case. If it is unlawful for two or more corporations to agree about the price at which they will sell their product, the agreement does not become lawful by taking the form of a transfer of the corporate functions of all the corporations to some one of them, even though this is accomplished by the deposit or transfer of the stock. If it is unlawful for two or more corporations to make an agreement in restraint of trade,

it does not become lawful for one of the corporations to force that agreement by buying a majority of the stock of the others. The truth of the matter is that a combination among corporations, formed by a transfer of their stock, is a more grievous offense against business morality, a more dangerous method of monopolizing the industry and a more manifest violation of the anti-trust statutes than if there were no transfer of stock.

The reason for this is equally plain to the lawyer and the business man. A combination of corporations through stock ownership is more effective than a mere agreement, because an agreement may be broken, while control of the stock insures performance of the contract. Corporations do not die, while individuals do. A combination of corporations manipulated through a stockholding company is cheaper than the organization of one operating company and the purchase of the tangible property of all the corporations whose business is sought to be consolidated. It requires a far smaller investment to secure the control of competing corporations by the acquisition of stock than by the purchase of property. And this is the whole secret of the favoritism which trust promoters show toward the use of the corporate entity in monopolizing industry.

The Standard Oil Trust would never have been able to control the commerce in which it is engaged, if Mr. Rockefeller and his associates had been obliged to operate as individuals, paying cash for every new refinery they bought, the pipe lines they extended or the oil territory they leased, or had been obliged to operate as one corporation, purchasing outright, as they went along, every new piece of property necessary to the development of their business.

There is no inherent right in one corporation to own the stock of another corporation, whether it is engaged in the same business or not. It is an old principle of law, well recognized in the decisions of nearly every American state, that a private corporation has those powers and those only which are granted in its charter. It must keep to the business for which it was created. If it is engaged in

a manufacturing business, its duty is to manufacture the goods it was organized to make. It has no right to run a bank. If it is a railroad company, it must operate a railroad. It has no right to run a coal mine.

So the manufacturing company cannot lawfully buy the stock of a bank, and so the railroad company cannot buy the stock of a coal company. And the reason for this is not alone that the businesses are unrelated, but that the purchase of stock is not one of the powers of a corporation. Wherever the holding of stock in other corporations is made a corporate power, it is done so by express statute. The State of New Jersey has authorized the Stand-



THE DRAKE WELL IN 1869.

From Miss Tarbell's "The History of the Standard Oil Company": McClure, Phillips & Co., New York.

ard Oil Company of New Jersey to own and hold the stock of other corporations, but the State of Ohio, and most of the other states in the Union which have authorized corporations to deal in stock at all, have limited them to the ownership of stock in other kindred but not competing corporations. Thus, whatever its powers in New Jersey may be, if the Standard Oil Company of that state holds the stock of corporations in Ohio or Missouri or Texas, it holds such stock subject to the laws of those states and cannot project into those states the powers it possesses in New Jersey. Further, if the laws of those states forbid one corporation to own the stock of another, such stock, so owned, cannot lawfully be voted, and though the foreign corporation may or may not be

within the jurisdiction of the state courts, the domestic corporation can be restrained from recognizing such unlawful ownership of its stock.

This constitutes briefly the law questions involved in the actions now pending in the state and Federal courts against the Standard Oil trust, in so far as they concern the organization of that monopoly. Its methods and practices I will not stop to discuss. The acceptance of rebates from the railroads; the use of pipe line companies for its own product alone, although such companies enjoy the privilege of eminent domain and are declared by the

acts of injustice, oppression and law-breaking complained of in the management of the Trust, are beyond the scope of this paper.

But it is said that whether the Standard Oil trust is lawful or unlawful, vested rights will be injured and the business interests of the country will be impaired by these attacks in the courts. My answer is that there is no vested right to violate the law, and that no business interest is safe if its security or insecurity is to be determined not by what the law is but by considerations which affect those charged with the duty of its enforcement. A great



THE GREAT SPECTACLE OF A BURNING OIL TANK.

laws to be common carriers; the maintenance of decoy corporations to drive competition from the field; the operation of professedly independent companies, such as the Manhattan in Ohio, for the sole purpose of buying crude oil above the market price and selling it to the Standard at the market price, in order to destroy the Standard's competitors without affecting the Standard's price; the fraud and deceit practiced upon communities by the operation of bogus concerns at the market end of the industry; the system of discrimination by which the Trust controls the sale of lubricating oil to all the transportation companies, and all the various

English newspaper recently said: "A man who is for the law but against its enforcement is a national disgrace and a national danger."

It is not mere folly, it is something far worse, to suggest that the laws of this country ought not to be enforced. If the anti-trust statutes are working a hardship, let us repeal them or modify their terms, but let us never risk the danger of submitting our lives and our property to some authority higher than the law. Among the last of those who would make such a plea ought to be found the man of large wealth or business interests. He has the most to lose, if some other protection is

relied on by the citizen. The safest advice is that of Lincoln, who declared that "reverence for law should be the political religion of the Nation."

What will be the effect on the oil business or the investors in it, if the Standard trust is dissolved? Manifestly, the wells, the tanks, the pipe lines, the stations and the refineries will not be destroyed. There will be as much oil as there was before. There will be as much demand for it. The property will be preserved and business will go on. How will the value of the individual investor's interest be affected? Will it be reduced below that value which it would have had if the trust had not been formed? Of course it is unfortunate that those stockholders who are innocent of any wrong-doing themselves should suffer a pecuniary loss by the unlawful acts of other stockholders who are in control of the business and responsible for its management. But can even the innocent stockholder complain, if he retain all that he would have had if the law had not been broken? Is any one, whether consciously or unconsciously, a party to a forbidden act, seriously aggrieved if all he loses by it is that which he has unlawfully gained?

It would be hard to find any law-breaker, big or little, who, when detected, would not be willing to compromise on these terms. Put the Standard Oil stockholders will not even lose this. They will have the benefit of the growth of the industry during all these years of illegal management; and the only loss, aside from the temporary depreciation in the value of their holding during the period of readjustment, will be the power to continue the accumulation of profits earned by unlawful methods. Suppose the Standard Oil trust is again found to be unlawful, and the New Jersey corporation is forbidden to longer control the subsidiary companies, what will happen if the holding company cannot retain its ownership of the stock or interest in all these seventy or more concerns? That stock or interest will have to be sold. If it is sold, who will get the proceeds of the sale? Manifestly, the stockholders of the Standard Oil Company of New Jersey. What will

the proceeds be? It will be cash or a pro rata interest in some of the constituent companies, under some lawful plan to be devised by those who are most concerned. There is no purpose or desire on the part either of the Federal or state authorities to destroy property, or to work any injury whatever beyond that which is absolutely unavoidable in vindicating the supremacy of the law.

There is a battle fairly drawn in this



OIL WELL FLOWING AFTER BEING TORPEDOED.

country between those who would enslave and those who would free industry. It will have to be fought out to a finish. It need not be attended by business disturbances. It need not alarm any legitimate business interests. Indeed, the result will be the salvation of business.

The people of America may be trusted to neither encourage nor support any envious or vindictive attack upon commercial enterprises. They care nothing about how rich any man may get or how much trade any corporation may acquire. They

are concerned only in securing a fair field and no favor. They want to break up secret agreements in restraint of trade, unlawful combinations among corporations, in order to restore equal opportunity to all.

The union of either capital or labor for legitimate and appropriate purposes must be and will be protected, for experience is teaching us that no other system is in harmony with the trend of human achievement. Men will put their interests together, and no statute can legislate this instinct out of human nature. But corporations which do not come out into the open and run their business in their own name, but seek through combinations with other corporations, either by means of agreements to control prices or by stock ownership of subsidiary companies which

profess independence and make a show of competition where none exists, will never be safe until their practices are abandoned.

This is the whole trouble with the Standard Oil trust. This is its one great offense. It has not been frank or fair; it has always worn a mask; it has never operated openly and bravely in its own name, but has invariably used the device of other corporations, under other names, to make a pretense of competition in order to discourage actual competition while it controlled the industry. In pursuing these ends it has persistently and flagrantly violated the law, and those who would save its vast properties from that destruction which no sincere man really wants to see, must adjust themselves to this fact.