THE STANDARD OIL COMPANY

and

THE DEVELOPMENT OF CORPORATIONS.

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A Thesis in Business Administration.

OREGON AGRICULTURAL COLLEGE.

1909.
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DEVELOPMENT OF BUSINESS ORGANIZATION.

As far back as History goes we have conclusive proof that man has traded commodities with his fellow-men. At first these exchanges were in the form of barter, a man would trade something which he had and did not care much for, with another man who had something he desired more. It was necessary then in order to trade that there be a double coincidence, that is a man who has something to dispose of meet another man who wishes the commodity which the first has and in turn has something that the first man desires. It is very difficult to transact business under these circumstances. People who come in contact with some of the primitive tribes of today find it necessary to have on hand constantly a stock of cheap gaudy goods to exchange for food and needed articles. A savage will bring fish and meat but if he cannot secure what he wishes for it he will take back to his abode regardless of what else is offered to him.

Another serious drawback is the fact that it is so difficult to gauge the exchange value of goods when there is no set standard. For instance, it would be necessary to state the value of a bushel of corn in bushels of wheat, pounds of meat, and rice, and a certain measure in commodity which any trader happens to have. With a list of 100 articles there would be 4950 values. It is impossible therefore to do extensive trading in this manner.
As time went on man began to use a medium of exchange. If in an agricultural country corn or wheat soon became the standard value and the value of goods would be determined by the number of bushels of grain they would buy. This simplified matters to a great extent as they then had a standard by which to gauge the prices of any goods which they wished to buy or sell. In countries where hunting was the chief means of securing a livelihood furs became the standard medium of exchange.

It is apparent that a medium of exchange is absolutely necessary for the carrying on of trade. Silver and gold have been used for this for many years. The Bible mentions the fact that Abraham purchased the field of Ephron for 400 shekels in silver. According to Jewish history this happened 1900 years before the birth of Christ. In Egypt, where Abraham lived, rings of gold and silver were used as money but if these were stamped as to fineness and weight is not known.

In the Homeric and Hesiodic times of Greece coined money was unknown. Pheidon first coined money in Aegena at the time of the eight Olympiad. He also established a scale of weights and measurements. In Sparta Lycurgus forbade the use of gold or silver as money. In order to discourage the love of finery he sanctioned the use iron money. This had not much value and therefore the people did not care to amass it. This nearly destroyed trade with other countries as they did not wish to take their pay in iron money.
In studying history we find records of where very ancient countries carried on quite extensive commerce. In the early days of Carthage she had a large trade with the people of interior Africa. Cheap finery, colored beads, trinkets and salt were the chief mediums of exchange. In return the Carthaginians received gold, ivory and slaves. From excavations in Russia we have secured evidence of a commerce between that country and those of the Orient. The evidence is in the form of gold and silver objects, glass, false pearls and Oriental coins. In Japan rice was the standard value for many centuries and even taxes were paid in this grain. They had also a system of paper money and it may be mentioned that no mints were established in this country till 1620 A.D.

The first organized effort at trade was in the form of markets or fairs. At first these were in the form of social gatherings but they gradually developed into places for buying and selling. To these the people brought their products and either sold or exchanged them with their friends or tribesmen. These markets, as they may be called, are used to some extent today although at present we have an excellent medium of exchange, goods are not usually exchanged but bought and sold. Though we read of the wealth of the ancient merchant princes, we know little of the business methods they employed.

A study of the Roman legal system gives us an insight into the methods which they used in their commercial intercourse. Their business was largely local, however, and their
commercial organization was virtually destroyed by the great German invasion.

In the eleventh century commerce began to revive and manufacturing industries grew up in the cities and mercantile establishments were created. Fairs were held in France and Germany, and in fact in all the European countries. These markets were the meeting places of merchants who often came to attend them. The merchants sent ships to distant ports and caravans crossed the country from one fair to the other. At the end of the 15th century the business organization had become quite complex.

At this time business was dominated by one form of organization and this was the gild. A set of men would form a gild for the manufacture of certain goods or for trade in certain commodities. They then framed the rules for manufacture or marketing and thereby had extensive control over business. Under this system manufacture or commerce grew rapidly. The names of the merchant princes of those days are as familiar to us as are the names of the kings and emperors.

As business grew, larger capital became necessary and investments in distant countries became common. The partnership system which had been in vogue to a certain extent up to this time was found inadequate and a more elastic method had to be devised. A system by which a man could invest his money into an enterprise and feel sure that it was used right without his personal supervision was desired.
This was first accomplished in England by the formation of joint stock companies. The East India Tea Co. and the Hudson Bay Co. are the oldest of these and were formed prior to 1692. In 1692 three of these corporations were in existence and similar companies are still doing business. These earlier organizations were formed for the purpose of carrying on business in newly discovered countries. They were empowered with the administration of public affairs within the territory granted them by the government.

At the end of the seventeenth century the advantages of corporations for business purposes were fully realized and charters for the conduct of business were frequently sought. In 1720 two hundred of these corporations existed in England alone. In 1776 Blackstone cited public improvement and municipal water supply as legitimate field of corporate activity.

It will readily be seen that methods of conducting business have improved very much in the last few decades and the brief synopsis of the several stages through which they have gone shows us that the most rapid progress has been made in the last twenty years.

Originally when a man went into business it was alone when he desired his trade and his own capital was too limited he naturally went into partnership with someone who also had capital and with their combined strength they
were able to cope with financial problems that neither one could have met successfully alone. As commerce expanded to foreign lands and required capital in many portions of the world, the partnership plan was found inadequate and the next system was the joint stock company. These proved very efficient as the investors placed their money in one of them and could be quite sure of returns and yet have the knowledge that their money was safe without direct personal participation in the doings of the company.

The forms of corporations have gradually improved untill at the present time they are almost ideal in their forms of administration and their methods of conducting business. The pioneer in the work of consolidation is the Standard Oil Company and it may well be taken as the model of the modern business corporation. This company will be the subject of this paper and an attempt will be made to show in a brief manner some of the methods by which it has advanced, in spite of enormous competition, from a concern with a capitalization of $1,000,000. and controlling four per cent of the refined oil in this country in 1870, until today when it has a capitalization of a $110,000,000. and controls over 80% of the oil sold in this country and 90% of the export trade. Its good will and earning power as represented by the market value of its stock aggregates $650,000,000.
THE STANDARD OIL COMPANY.

In 1859 Colonel E. L. Drake discovered oil near Titusville, Pennsylvania, which is about eighteen miles from the Allegheny River. Before this time it had been necessary to distill the petroleum from coal before refining it into kerosene. After Colonel Drakes's discovery oil became much cheaper and when consumers began to realize the magnitude of the fields they were encouraged to an increase use of oil in its various forms. The demand for petroleum grew so rapidly that in 1865 the existing refineries proved inadequate to the business which confronted them. But the difficulties were only such as could be surmounted by increase of capital.

As before mentioned the first well was about eighteen miles from the river, on the tributary known as Oil Creek. The oil was from that time until the production reached a 1000 barrels developed along Oil Creek. The method used in getting it to the market in those days was to load it in boats, building temporary dams, cutting these, thus making an artificial flood upon which the boats floated to the river to Pittsburg, where the existing refineries were located. The first pipeline was built in 1865 or 1866. It ran from Pithole down Oil Creek about five miles to the Allegheny River, for the purpose of transporting oil to the river, to be there loaded in boats and sent to the market. From this time pipelines began to be used quite extensively.

In 1860, John D. Rockefeller became interested in the oil business in co-partnership with Morris James, Richard
Clark and Samuel Andrews under the firm name of Andrews Clark & Co. They owned the small refinery at Cleveland Ohio, and continued in business until 1866 when the partnership was dissolved, Mr. Rockefeller buying the business and reorganizing it under the name of Rockefeller & Andrews. The business steadily increased and a change was soon made under which the firm in 1866 became known as William Rockefeller & Co., in which the "Company" was John D. Rockefeller and Andrews. Later another company was organized in New York under the name of William Rockefeller & Co. with the same members as the Cleveland firm.

Before Judge Landis Mr. Rockefeller stated that each member of the above firm devoted his entire time and attention to the promoting of the company's growth and that none of them had any other business.

Under these circumstances it is only natural that the firm should grow rapidly and business increase. In 1867 all the properties of William Rockefeller & Co., Rockefeller & Andrews, Rockefeller & Co., S. V. Harkness, and H. M. Flegler were taken over in the name of Rockefeller, Andrews, & Flegler. As Mr. Flegler was a man of large business experience he was a valuable addition to the firm. A large amount of capital was put into this firm and it engaged in the refining of oil which was sold in this country and abroad.

In 1866 a more efficient still was invented, casing and torpedos came into use, the old flat cars with wooden tubs were replaced by tank cars and pipe lines became a nec
essity as many wells were far from the railroad and river. To secure these economies in production large capital was necessary and no man realized this better than Mr. Rockefeller and consequently the reason for consolidating the companies becomes apparent. Mr. Rockefeller has stated that "The cause leading to its, new firm, formation was the desire to unite our skill and capital in order to carry on a business of some magnitude and importance in place of the small business that each heretofore had carried on separately. As time elapsed and the possibilities of the business became apparent we found further capital to be necessary, obtained the required persons and capital and organized the Standard Oil Company."

In 1870 they became reorganized under the name of the Standard Oil Co. of Ohio with a capital of $1,000,000. According to the sworn statement of Mr. Flegler the capacity of their refineries was 600 barrels of crude oil per day. As the total production of the country in 1870 was 1600 barrels, this would give the Standard Oil Co. about 4% of the refining business at that time. There were in existence in 1870 more than 250 refineries. The growth since 1862 when it commenced business with a capital of $4,000 until 1870 when it had $1,000,000 in capital stock shows as nothing else can do the business sagacity of the men who are behind Standard Oil and this is only further proven by the gigantic strides the organization has made since then.
The formation of this consolidation forms a new period in the oil business. Up to this time there had been no discrimination of rates, no company had tried to secure control of pipe lines for their exclusive use and all competition had been clean and above board. Competition had been mainly in cheapening production and improving quality of oil.

Competition after this period was, almost entirely, in reducing the cost and transportation of the oil but however, there was considerable advance in refining and tended some to cheapen the cost of production. More durable machinery, tanks and pumps were constructed and a better illuminant was produced at less cost. Because of the fact that it spared nothing in its endeavor to improve the efficiencies of the works under its control, the Standard Oil Co. was in 1870 larger than most of its competitors.

It may be well to go back and review transportation in the oil regions and also its growth in order that we may get an insight into the causes that led to the discrimination of rates. As the first oil was discovered thirty miles from railroad it was necessary to transport it by teams or barges and flatboats to the centers of transportation. At the close of 1860 there were fully 500 teams employed in transporting the oil from the fields and the movement of supplies in addition to about 100 flatboats or barges on the river.

As barrels were used to contain the oil the demand for these grew very great and owners who had barrels to sell were in a position to negotiate for the best prices.
the making of barrels for whale oil which at that time proved rather unprofitable on account of extended voyages and hardships, found employment in the oil regions. The inequality of the size of barrels was at first a great drawback but was finally settled at 42 gallons.

In January 1862 the cost of sending a barrel of oil from the producing field to New York was $7.45; to Pittsburgh $2.00, but there little demand for oil at the wells where it sold for ten cents a barrel. During this year a charter granted by the legislature of the state of Pennsylvania to the Oil Creek Transportation Co. to build a pipe line from the upper oil farms to the mouth of Oil Creek, to carry oil in pipes or tubes from any point on Oil Creek to the mouth of that stream, or to any point on the Erie Canal. But for some reason the line was not built.

During this year Mr. J. M. Barrows built the first successful pipe line in the oil regions. It was constructed to convey from the Densmore wells to his refineries at a distance of 1000 ft. A little a pipe line two and a half miles long was built from the Tarr farm to the Humboldt refinery. Cast iron pipes with lead joints were used. In this case the loss by leakage through lead joints proved greater than the case of transportation by teams and the enterprise was abandoned. No further attempts at pipe line were tried until about two and a half years later.

Railroads were being built to the oil regions by means of which Cleveland received its first great impulse in the
refining business, Cleveland was the only place to which oil could be shipped without trans-shipment, this city had the advantage which later made its trade position almost impregnable. Transportation by boats and teams received its first effective blow by the completion of the Atlantic and Great Western Railway to Franklin and the Oil Creek Road from Corry to Titusville.

The first successful pipe line was completed in 1865. It ran from the Miller Farm to the railroad five miles away and used force pumps to deliver the oil. About the same time the Pennsylvania Tubing Co. completed a gravity system from Pithole to Olearolis. Both were successful and well patronized. The effect of these lines was to reduce the cost of delivering oil to a shipping from two to three dollars, according to the condition of the roads, to a uniform rate of one dollar per barrel. Within a year five pipe lines centered in Pithole competing for the business which scarcely sufficient for one, namely, the Miller Farm pipeline, the Pennsylvania Tubing Transportation Co., Pickett and Sherman's pipe line to Henry's Bend, and Smiley and Coutants gathering line about Pithole. This gathering line was afterwards sold to the Titusville Pipe Line Co. During this year refined oil was successfully transported a distance of three miles by John Warren and Brothers. In 1866 Vandergrift & Froman's pipe line was constructed making a total of six competing for the Pithole business. These lines were all short that is none of them exceeded five miles in length, and at
first did not connect directly to the wells but to storage tanks to which the producer had to haul his oil. But the practice of connecting directly to the wells was soon established. These pipelines entered the business primarily to transport oil but they began to buy and sell it.

The first attempt to combine pipelines was made by W.H. Abbot and Henry Harley. They commenced in 1866 and in 1869 they had a capital of nearly $2,000,000 and 500 miles of pipeline. In 1866 they purchased the Miller Farm line and the Avery and Hedder line. In 1867 they came into control of the Western Transportation Company and under its charter they combined their own two companies and the Western as the Allegheny Transportation Company. Harley effected a combination and reorganized the Allegheny and Commonwealth as the Pennsylvania Transportation Company with a capital of almost $2,000,000. This enterprise absorbed a number of smaller lines and was considered the acme of pipeline achievement.

The over-capacity of the pipelines had become so excessive and the competition so strenuous that by 1874 most of them had absorbed by Vandergrift & Froman, the Pennsylvania Transportation Company, The Columbia Conduit Company, or the American Transfer Company. This is about the time that Standard Oil became interested in the pipeline business. During this year the Vandergrift & Froman Company was reorganized and its name changed to The United Pipe-Line Company; president, Mr. Vandergrift, and the board of directors contained
six officials of the Standard "alliance". In the same year five great pipelines agreed upon a uniform charge for transportation, and their patrons were allowed special discriminations by the railroads who had entered into contracts with the pipelines in regard to a special rate to the sea-board or from the refineries to their termini.

By 1871 the New York Central, the Erie, and the Pennsylvania railroads had completed connections with Chicago and the great struggle for the traffic of the west set in. The roads were poor were so poor and the necessity for revenue so great that rate wars had begun as early as 1869. With the entrance of the Erie and in 1874 of the Baltimore and Ohio into Chicago, the competition for traffic became more embittered. During the years from 1869 to 1873 the agents of the roads met annually to agree upon rates, and in order to get traffic they regularly broke their agreements. Every year during this period the rates on fourth class freight fell from eighty cents per one hundred pounds in December to twenty-five cents in August and September. This competition was of course extended to the oil fields. As the roads all had different lengths of haul to bring the oil to the sea-board they met and agreed upon a certain rate from Oil City to the Atlantic Coast. This was not at all pleasing to the refiners at Pittsburgh as it robbed them of the advantage of their geographical position because it made it possible for the Cleveland refiners, among which was the Standard Oil Company, to ship oil 750 miles for the same as they paid to ship 450 miles. The competition the railroads was so great
that there was no other way of adjusting the matter. These "group rates", a form of discrimination, have been in vogue since 1869 in which year the representatives of the railroads companies met and made the rates uniform from all points, that is competitive points between Chicago and New York uniform.

The railroads made these agreements in order to save themselves from insolvency and in furtherance of the same protective policy they agreed with one another and with the shippers to divide the traffic and pool on a certain agreed percentage of the freight earnings. As the Standard was the most conspicuous group of shippers in the trade they were generally made the eveners, and in return for these services they secured such concessions as made them, in 1879, the controllers of 95% of the refining business of the country.

About this time the South Improvement Company came into existence. This company was a combination of the railroads and certain refiners. It had its conception with certain Philadelphian and Pittsburg refiners, with the agreement of co-operation of some of the refiners of Cleveland. However, in the opinion of many people it had its origin with the railroad interests. It was deprived of its charter by the legislature of Pennsylvania before it had any chance to do business. Its purpose seems to have been to crush out competition in the oil fields and give its members a clear field. Prominent members of the Standard disapproved very much the signing of this contract.

The great competition between the railroads began in
1869 and the result of the war was personal discrimination which killed the refineries which were not in the best financial condition. Overproduction threatened to ruin both the larger as well as the smaller refiners. The railroads according to the custom of the times, began to look about for the strongest refiners that they might ally themselves with them for self protection. Of course, the Standard Oil "alliance" was the strongest and the result was the South Improvement Company. The following list of stockholders and the amount each held will show the reason for the influence which the Standard Oil had;

John D. Rockefeller.......... president.............. 180 shares
W. R. Rockefeller......................... 180 "
H. M. Flagler........................................ 180 "
J. A. Bostick........................................ 180 "
W. G. Warden........................................ 475 "
P. H. Watson........................................ 180 "
O. F. Waring.......................................... 100 "
R. S. Waring........................................ 475 "
Charles Lockhart.................. 10 "
William Frew.......................... 10 "
J. P. Logan.............................. 10 "
W. P. Logan.............................. 10 "

It may be well to notice that the first six of these were directors of the Standard Oil Company. The company was capitalized at $200,000 divided into 2,000 shares at $100 each.
The panic caused by the publishing of the contract of the South Improvement Company seemed to make the situation worse. The small refiners were forced into insolvency or to sell to their larger competitors. The depressions in the price of oil and the railroad discriminations helped the Standard Oil Company very materially in their endeavors to secure a monopoly. To profit by these circumstances the Standard Oil Company, in 1872, increased its capitalization to $2,500,000 and in the same year the Standard "alliance", more correctly the "Central Association of Refiners"; those interested being the Standard Oil Company of Ohio, the Standard Oil Company of Pittsburgh, the Cleveland Refining Company, the Pittsburgh Refinery, the Atlantic Refining Company of Philadelphia, and Charles Pratt & Company of New York. Ten years later this was to be the basis of the Standard Oil Trust.

Mr. Dodd says that this was a union of stockholders and not of corporations. Competition did not take the form of underselling but of seeing who could show the best results in the betterment of the products and the cheapening of production.

By methods too extended to discuss in this paper the Standard Oil Company in 1879 owned or controlled every transportation agent in the oil regions.

In 1882 the Standard Oil Trust was formed, a form afterward followed by many other corporations. The form is substantially thus; the stockholders of each of the separate companies assign to a certain number of trustees their stock and these issue certificates to the owners showing the amount of each
owners interest in the stock so held in trust. They also surrender the power of attorney with their stock to these trustees which allows the latter to vote the stock as they see fit. The dividends are divided upon the certificates which are issued and it is immaterial to the separate owner whether they operate his factory or not as the dividends are pooled and all share alike. The trust's character is simply a common ownership in various companies. In the case of the Standard Oil the trust did not change the character of the association previously existing. The trustees by having in their hands the voting power can elect what officers they choose and direct the affairs of the separate companies as they deem wise.

The parties to the Standard Oil Trust agreement embraced three classes as follows; first, all the stock-holders and members of the Standard Oil "alliance"; second, all the important officers of the companies in the alliance; and thirdly, a portion of the stock-holders and members of some additional corporations and limited partnerships.

The stock was to be entrusted to the trustees and they in turn were to issue "trust certificates" equal in amount and in par value of the stock of the several companies of the Standard Oil, the values to be established, and on the appraised value of the stock delivered to the trustees of all other companies. In the Standard Oil Trust there were nine trustees provided for. They were: John D. Rockefeller, O. N. Payne and William Rockefeller elected to hold office till 1885; J. A. Bowman, H. M. Flagler and W. G. Warden to hold office till 1884;
and Charles Pratt, Ben Brewster and John D. ARCHBOLD, to hold office till 1885. At each annual meeting three trustees were elected to hold office for the three next years.

In the case of the People of the State of New York vs. The North Sugar Refining Company it was decided that the act of a corporation in thus putting its stock into the hands of trustees and abdicating its own independant power of self direction was ultra vires. This, with much adverse legislation in other states caused the Trusts to abandon this form of organization and reorganize. In some companies the certificate holders became stockholders in the new corporation which owned all the plants that had been owned by the trust and by the individual companies before the trust. There was no material change in the management, the trustees becoming the directors of the corporation and the other officers remaining the same. It was a change in legal form and in name but not as regards management and control.

The Standard Oil Trust followed a different plan. It so happened that the nine trustees of the trust owned and controlled the large majority of the trust certificates, and when the trust dissolved the trustees owned a majority of the stock in each of the twenty different corporations as the trust certificates were divided pro rata. They were therefore able to control affairs of all these corporations in perfect harmony just as efficiently as they had done before while acting as trustees. Here was also a change in form but instead of becoming one corporation it became twenty with the same men at
the head of affairs and all working in unity.

The Standard Oil people have changed their method some in the last few years. The New Jersey corporation has increased its stock and has made arrangements to purchase the other twenty corporations. The stock of the other corporations is being gradually exchanged for those of the New Jersey company. The management will then be one in every sense of the word, practically, technically and legally, it is practically a return to the trust in every respect except in name.

At the present time the position of the Standard Oil Company is a prosperous and powerful one. But the power is only such as accompanies a large aggregation of wealth, and is not misused by the company because its welfare rests entirely upon the use it makes of its power. If it misuses it, public opinion will soon be aroused and the existence of the Standard Oil Company will be a thing of the past.
EVILS IN INDUSTRIAL CORPORATIONS.

While combination has many advantages it also has evils which do much to counteract the real good it does. One of these is the evil of monopoly which enables a combination, in many cases, to determine the selling price of its products and the buying price of its raw materials. The Standard Oil Company controls about 85% of the refined oil; the whisky trust controls about 95% of the distillery business; The International Paper Company controls 65% of the newspaper and many other combinations control a corresponding per cent of the materials which they manufacture. It is quite evident they therefore can set the prices and their weaker competitors must follow.

In some lines of industries monopoly is impossible and consequently the only way the combinations in these businesses can keep down competition is to sell their goods on such a margin as will not encourage competition.

Another saving which some regard as an evil which the combinations have affected is that from the use fewer workmen and salesmen. The president of the Traveling Men's Association has estimated that the trusts have thrown out of employment 35,000 salesmen and reduced one third the salaries of 25,000 more. Of course in the advancement of industrial progress the workmen who are not indispensable must suffer, which is only an economic law.

From the report of the industrial commission it is seen
that the trusts are not nor have they been unreasonable in their dealings with labor. The Standard Oil Company which employs over 35,000 men has never had a strike and pays its men standard wages. Taken as a whole the question of labor and combination cannot be regarded as a serious evil. Of course a combination can "blacklist" a man but if it is done it is generally best for the trade as a whole, Because no man of good moral or intellectual standing will ever be blacklisted.

Some claim that lack of competition is the ruination of the younger men and that it saps the vitality of the nation. They say it takes away ambition and gives men only routine work. It makes men who were once independent business men and manufacturers hirelings of the combination and therefore causes them to lose interest in the building up trade. But the heads of corporations do not live forever and there is always room at the top for those who are worthy of places and who are not afraid to prove it, so in reality there is not much sound logic in the statements. It may be granted that a young man in business for himself would naturally strive harder for success than if he were in the employ of a corporation in which he were only an insignificant member of a whole working.

The methods of competition have been spoken of as a most disastrous evil of the present day corporation but as there have been passed in the near past many anti-trust laws against these, they will probably not be such an important
factor in the future. These methods of competition consisted in the lowering of prices in any local market where competitors were in business and either forcing them to sell out or quit business. It is a policy however, that is followed by nearly all large business houses and is one purity of business. While it may not be fair, to denounce as an evil this common practice of trade would be to attack the basis of commercial order.

L. J. Bowen, a prominent English jurist, in the case of Mogul Steamship Company says the following in regard to this subject: "We are told that competition ceases to be the lawful exercise of trade and so to be the lawful excuse for what will harm another, if carried to a length not fair or reasonable. The offering of reduced rates by the defendants in the present case is said to be unfair. This assumes that apart from fraud, intimidation, molestation, or obstruction of some natural standard of fairness or reasonableness (to be determined by the internal consciousness of judges and juries) beyond competition ought not in law to go. There seems to be no authority, and I think, with submission, that there no sufficient reason for such a proposition. It would impose a novel fetter upon trade. The defendants, we are told by the plaintiffs' counsel, might lawfully lower rates provided they did not lower them beyond a 'fair freight', whatever that may mean. But were is it established that there is any such restriction upon commerce? And what is to be a definition of a 'fair freight'? It is said that it ought to be a
normal rate of freight such as is reasonably remunerative to the shipowner. But over what period of time is this average of reasonable remunerativeness to be calculated? All commercial men of capital are acquainted with the ordinary expedient of sowing one year a crop of apparently unfruitful prices, in order by driving competition away to reap a fuller harvest of profit in the future; and until the present argument at the bar, it may be doubted whether shipowners or merchants were ever deemed by law to conform to some imaginary normal standard of freights or prices, or that law courts have the right to say to them, in respect to their competitive tariffs, 'thus far shalt thou go and no farther'. To attempt to limit the English competition in this way would probably as hopeless an endeavor as the experiment of King Canute. But on ordinary principles of law no such fetter on freedom of trade can in my opinion be warranted."
ADVANTAGES OF INDUSTRIAL COMBINATION

It is an assured fact that industrial combination have done much good both for their stock-holders and for the people; it will therefore be interesting to examine some of the good features of the modern business corporation and its methods. Before the Industrial Commission Kohn D. Rockefeller, in speaking of the benefits of combination in the oil business said in answer to the question; "What are in your opinion the chief advantages from industrial combination?; "All the advantages which can be derived from the co-operation of persons and aggregation of wealth. Much that one man can not do alone two can do together, and once admit the fact that co-operation, or, what is the same thing, combination, is necessary on a small scale the limits depends solely upon the necessities of the business. Two persons in partnership may be a sufficiently combination for a small business, but if the business grows, or can be made to grow, more persons and more capital must be taken in. The business may grow so large that the partnership ceases to be the proper instrumentality for its purpose, and then a combination becomes a necessity. In most countries, as in England, this industrial combination is sufficient for a business co-extensive with the mother country, but it is not so in this country. Our federal form of government making every corporation created by a state foreign to every other state, renders it necessary for persons doing business through corporate agencies to organize corporations in some or many states in which their business
is located. Instead of doing business through the agency of one corporation they must do business through the agencies of several corporations. The business is extended to foreign countries — and Americans are today not satisfied with home markets alone — it will be found helpful and possibly necessary to organize corporations in such countries for Europeans are prejudiced against foreign corporations as are the people of many of our States. These different corporations thus becoming co-operating agencies in the same business, and being held together by the common ownership of stock.

It is too late to argue about the advantages of industrial combinations. They are a necessity. And if Americans are to have the privilege of extending their business in all the States of the Union, and into foreign countries as well, they are a necessity on a large scale and require the agency of more than one corporation. Their chief advantages are:

1. Command of necessary capital.
2. Extension of limits of business.
3. Economy in business.
4. Improvements and economies which are derived from the knowledge of many interested persons of wide experience.
5. Increase of number of persons interested in the business.
6. Power to give the public improved products at less prices and still make a profit for stock-holders.
7. Permanent work and good wages for laborers."

Before the same commission Mr. S. C. T. Dodd, solicitor for the Standard Oil Company, in speaking of the benefits of indu-
trial combinations as exemplified by his company said the following;" They have cheapened transportation, both local and to the seaboarded by perfecting and extending the pipeline system; by constructing and supplying cars by which the oil is shipped in bulk; by building tanks for the storage of oil in bulk; by purchasing and perfecting terminal facilities for receiving, handling, and reshipping oils; by purchasing and building ocean steamers for carrying oil in bulk, and by employing in foreign countries the same special methods for storing and transporting oils in bulk, by which means alone the markets of Europe are held today for American oil against Russian competition.

3. By uniting the capital, skill and acts and the various processes and patents of a number of persons, as well as their secret processes, and by building up manufactories on a more extensive and perfect scale, with improved machinery and appliances, and by locating them near the centers of trade they are intended to reach, the manufacture of oil has been improved and cheapened.

3. By uniting with the business of transporting and refining, businesses which are necessarily collateral thereto, to-wit, the manufacture of barrels, tin cans, boxes for enclosing cans, paints, glue, sulphuric acid, etc., and by a union of capital and skill, obtaining the best machinery, they have cheapened these products.

4. They have obtained and utilized the best scientific skill in investigating and experimenting upon the obtaining
of new and useful products from petroleum, and have cheapened illuminating oil and otherwise benefited mankind by the utilization of these by-products.

5. They have used their united capital in opening up the markets of the world for American petroleum, and have held these markets against the fiercest competition. This was rendered possible only by the employment of millions of capital, in the cheapening of transportation at home, across the ocean, and in foreign lands, and by the best and cheapest methods of manufacture.

It may be asked whether all this could have been accomplished without combination. It could if one man could have commanded the necessary capital and employed the proper means and persons. But that was manifestly impossible. It could have been accomplished by one corporation instead of many, but no charter could be obtained authorizing a corporation at once to produce, manufacture, transport, by pipeline, car or steamer, and deal in oils, and also in the manufacture of packages, acids, acids, etc. "

Combination of wealth has enabled the Standard Oil Company to utilize and sell all the by-products of the oil refineries which would be impossible if it were not for the great aggregation of capital which it has in its reach to put into improved processes.

Combination has allowed the Standard Oil Company considerable advantage over its competitors by virtue of the fact that it has enabled them to locate refineries in many places and
therefore supply the customer from the nearest point and thereby make a great saving in transportation while the owner of a single refinery can not do this.

By purchasing large quantities of the materials which it requires in the refining of oil and the manufacture of by-products the Standard Oil Company can get the most reasonable rates and in some cases can even dictate the price which it wishes to pay.

The Standard Oil Company has been able to equalize the demand and supply of the products of petroleum by stimulating the demand. This policy of enlarging the business and demand has had the effect of lowering prices. Some combinations have lowered the cost of production but not the selling price, and the consumer is none the wiser as long as he can buy at the old price.

Combination has had the effect of reducing to a great extent the number of bad debts which were a source of great loss. It has also effected a great saving in the sale of goods as fewer salesmen are required and advertising can be concentrated where it will do the most good.

In dealing with the labor question combination gives the employers a great advantage as in case of a strike they can transfer the work from the mills or factories where the trouble is to other parts of the country and thereby easily break a strike. There is no competition between employers of labor and therefore labor must come to the terms offered by the combination. In some cases where the men were only employed a part of
of the time, combination has made it possible to give employment the full year.

The large combinations derive great advantage from their alliance or association with the large banks of the country. It is claimed that the Standard Oil Company through their control of the National City Bank of New York, influence $108,000,000 of banking capital, $474,000,000 of deposits, and $323,000,000 of loans. It will readily be seen that this gives a combination tremendous power in the financial world.

In some industries combination has enabled the companies interested to run at full capacity their best mills and either close down or dismantle their poorer ones, in this quite a saving is effected. Where a combination manufactures products of various sizes and shapes, they limit each mill to a certain size and shape and thereby save much time as no changes are necessary in the equipment of the mill.

John Burton Phillips gives the following as some of the sociological effects of combinations:

"It has increased competition among the employees."

"It has eliminated the rule of the stubborn man who hindered progress."

"It has created new and higher class opportunities for specially gifted men."

"It has brought about a great saving of social energy and a greater degree of specialization."

"It has taught the world to do great things."
In order to consider the question of corporations in an intelligent manner it will be well to first ascertain what the word itself means in the sight of the law. In a general way a corporation is an association of persons, who with their successors, have been formed by the Sovereign or the State into an artificial body constituting a legal entity for the purpose of conducting business. Clark and Marshall in their work on Private Corporations give the following definition of a corporation; "A corporation is a body or artificial person, consisting of one or more individuals and sometimes of individuals and other corporations, created by law, and invested by the law with certain legal capacities, as the capacity of succession, and the capacity to sue and be sued, to make contracts, to take hold and convey property, to commit torts and crimes and do other acts however numerous its members may be, like a single individual!

The following enumeration of the phases which a corporation may assume is taken from the same work; "A corporation, therefore, when it consists of more than one member, which is universally the case, may be regarded, according as the one view or the other may be necessary, either

"1. As a legal body or entity in which the existence of the natural persons who compose it are merged, or,

"2. As a collection or association of natural persons vested with the capacity of existing and acting as a body."
"1. As a body or legal entity, it is distinct from the members who compose it and as such has:

"a. The power of succession, which is the capacity to exist as the same body for any length of time, notwithstanding the death withdrawal or change of the members.

"b. The capacity to enter into contracts in its corporate name like an individual.

"c. The capacity to take, hold and convey property in its corporate name like an individual.

"d. The capacity to commit crimes and torts with some exceptions like an individual.

"e. The capacity to sue and be sued in its corporate name like an individual.

"3. It is merely by a fiction of the law that a corporation is thus a legal entity distinct from its members. In reality it is a collection or association of natural persons who are created into a body for the purposes above enumerated and it will be thus treated as such both in equity and law, whenever the fiction is urged to an intent and purpose which is not within reason its policy.

The following are some extracts from the writings of Mr. Brice and are interesting; "A corporation is a person which exists in the contemplation of the law only and not physically. It is a collection of many individuals united in one body under a special denomination having perpetual succession, under an artificial form, and vested by the policy of law with the capacity of taking and granting property,
of contracting obligations and of suing and being sued, of enjoying privileges and immunities in common and of exercising a variety of political rights, more or less extensive, according to the design of its institution, or the powers conferred upon it at the time of its existence. This is the description set forth by Kyd and is fairly accurate description of the general nature of a corporation aggregate, but sufficient stress is not laid upon that which is its real characteristic in the eye of the law, viz, its existence separate and distinct from the individual or individuals composing it."

"It is a fiction, a nonentity, a shade, but a reality for legal purposes. A corporation is only in abstracto - it is invisible, immortal and rests only in the contemplation of the law", is the definition given by Coke.

The next phase of the question will be a study of the rights and powers of a corporation. The scope of power is the charter given to it by the State or the Sovereign power, and therefore it will be seen that it can only possess powers, rights, immunities and privileges which the creating power gave, and which it had a right and power to give. In the enumeration of the powers of a corporation we find the following the most general;

a- To act as an artificial person,
b- To continue in succession,
c- To make contracts and be bound thereby,
d- To buy and sell property.
e- To sue and be sued,

f- To govern corporate affairs within itself.

There are many powers that corporations have, but to enumerate them all would be beyond the scope of this paper.

Below are presented abstracts of what some of the most prominent jurists have said on the subject. Judge Locke of the North Carolina Supreme Court thus enumerates the powers of a corporation:

1st- To have perpetual succession; and therefore all aggregate corporations have necessarily, the power of electing members in the room of those that die, to sue and be sued, and to do all other acts as natural persons.

2nd- To make by-laws for the better government of the corporation. These corporations cannot commit crimes, although they may in their individual capacity; the duties of these bodies consist in acting up to the design for which they were instituted.

3d- To purchase lands and hold them for the benefit of themselves and successors.

4th- To have a common seal.

The powers of corporations are defined as follows by Chief Justice Black of the Pennsylvania Supreme Court: "that which a company is authorized to do by its act of incorporation it may do; beyond that its acts are illegal, and power must be given it in plain words or by necessary implication. In speaking of "implications" Judge Cooley says;" Corporations have an implied power to make such contracts as are usual...
and necessary for carrying into effect the purposes for which they were created."

In Angel and Ames on Corporations we find the following; "To enable it to answer the purposes of its creation, every aggregate corporation has, incidentally, at common law, a right to take, hold and convey or transmit in succession, property real and personal, to an unlimited extent or amount.

The old law that corporations can do no harm on account of their restricted powers is no longer sustained in the courts of law. A corporation may, as is well established by authorities, be made responsible in an action and a case for tort and even in the act of trespass if it through its manager or other authorized representative commands or knowingly sanctions the act. In Addison on Torts, we find briefly stated that a corporation may lay itself liable for an action of tort. An action for a wrong lays against a corporation under the same circumstances as it does an individual. He further says; "A corporation may become liable for damages in the improper construction and management of dangerous premises and dangerous machinery."; again, he says"It would seem to be settled by authorities that trespass will lie against a corporation; in reason and on principle if a man is injured by a tortious act of a corporation done by its authority, he ought to have his remedy by action against them as much as against a natural person". In Brices "Ultra Vires" he says; "It appears fully established in all the states that the liability of a corporation for fraud is precisely analogous
to that of a private person, and the results are precisely the same". Chancellor Harrington of Delaware has granted his opinion in the following manner: "Corporations are the creatures of the legislature, created for public objects, and for useful objects, and are often the only means of effecting those objects. Their charter and extent, their obligations and immunities, as well as their duties and obligations, are just as the legislature wishes to make them; but when made, like natural persons, they are capable of making contracts even with the power that creates them, or with subsequent legislatures, and their contracts when made are under the same protection as other contracts".

It is evident then that a corporation is liable for misdeeds as though it were an individual and can be sued in the same manner. The corporations with we are dealing at present may be divided into two separate classes, purely business corporations and those of a public or quasi-public nature. The latter generally receive some franchise or power from the sovereign authority and are therefore placed under obligation to perform certain duties.

A corporation does not exist until the acceptance of its charter which is an instrument granted to it by the sovereign power creating it and clothing it with certain and sundry powers, rights, privileges and immunities. In speaking of the corporate charter three terms are used in connection with it; the "charter" which is defined above; the "franchise which is often spoken of as the charter but incorrectly; and the cer-
tificate of incorporation". A charter is more or less a con- 
tract between the sovereign power granting it and the corpor- 
ation receiveing it. The corporation is granted certain rights 
and priveleges and in turn it must fulfil the obligations 
placeed upon it. Being a contract it cannot be legally res- 
cinded by the act of one party without the consent of the 
other. In granting a charter a time limit is sometimes spec- 
ified but if such is not the case the charter is forever irr- 
pealable. The legislative body granting the charter, in some 
cases reserve the right to revoke it at any time at which it 
sees fit, so that the corporation is not beyond the public 
control. If the power to repeal be reserved its exercise is 
merely carrying out the contract according to its terms and 
the State is using her own rights, not forfeiting those of the 
corporation. Sometimes the power to repeal is reserved abso- 
lutely, in which case the legislature can repeal the charter 
at any time it sees fit; in other cases the right is reserved 
conditionally, to be exercised only in case a certain event 
shall happen. The charter is then repealable even if the event 
is beyond control of the corporation. Judge Davis of the Uni- 
ted States Supreme Court says; "It has often been decided by 
this court that a charter of incorporation granted by the 
state creates a contract between the State and the corpora- 
tors which the State cannot violate".

From Harvey's Handbook on Corporation Law the following 
is abstracted; "The most important privelege and highest imm- 
unity which a corporation can enjoy is that of holding its
franchise by a tenure above the reach of the law-making power that regulates everything else in the State. When this immunity is bestowed on certain conditions the conditions cannot be changed without changing the charter and no such change can be made except by the express and plain words of the legislature. But the corporation itself cannot add anything to the charter nor can it do so even with the assistance of the executive and the judiciary."

The Supreme Court of the State of New York has decided that: "A corporation for a specific object has no rights except such as are expressly granted and those that are necessary to carry into effect the powers granted. Many powers and capacities are tacitly annexed to a corporation duly created but they are such only as are necessary to carry into effect the purposes for which it was established."

Angel and Ames announce the general rule to be that a corporation" has power to make such contracts as are necessary and usual in the course of business, as a means to enable it to attain the object for which it was created, and none other".

In the case of Charlebois et al. vs. Delaps et al. (Canadian Supreme Court, 1895) J. King said "A company incorporated for definite purposes has no power to pursue objects other than those expressed in the act or charter, or such as are reasonably incidental thereto."

In regard to the changing of a charter many jurists have recognized the incapacity of the majority to alter fundamentally
the charter against even a single corporator.

In the case of Smead vs. J.T. & C.R. Co. (Indiana) it was decided that: "Although the right to amend the charter of a private corporation may be expressly reserved, that the right does not confer upon the legislature, the power thus to take the control of the corporate property from the corporators; nor does it authorize the legislature to change the object of the charter by taking the elective franchise from those stockholders having the right to elect officers under the charter, and placing it in the hands of those whose stock, by reason of the increased voting-power conferred by the amendment, will be able in the future to control the corporation."

In corporate life by-laws are not absolutely necessary but are very useful. The authority to enact and enforce by-laws is one of the implied powers which all corporations possess to promote orderly transaction of business. A by-law is according to the definition of Spelling: "A rule of permanent character adopted by a corporation for its internal government, obligatory upon all its members and also upon others who are acquainted with the methods of the corporation in doing business." Waterman defines a by-law as follows; "A by-law is a rule or law of a corporation for its government or for the government of its members and officers in the management of its affairs. It is a legislative act of the corporation, so to speak, and in enacting it the solemnities and sanctions imposed by the charter must be observed."

In Potter on the Law of Corporations he states that "A
corporation cannot, even by legislative authority, make the by-laws to contravene, repeal or in any wise change the statutory or common laws of the land", also "The great function of by-laws is to regulate, control, and manage the affairs of the corporation. They create a kind of contract between the members on the one part and the corporation on the other, generally directed to the conduct, and to define the duties of the officers and the members of the corporation between themselves. They are not intended to interfere with the rights or privileges of third parties or strangers, nor could they be made binding upon them. They are binding as rules in the transfer of stock, to secure a lien upon the holder for his indebtedness to the corporation, to which any purchaser must take it subject, but to effect these by-laws they must be entered on the books of the corporation."

In England in the case of Norris vs Staps we find that;: Corporations have the power to make reasonable by-laws without an express grant of such power" also "It is implied in the charter of every private corporation that a majority shall have power to make reasonable rules, regulations or by-laws for the government of the company and the validity of such by-laws depends upon the agreement of all the stockholders--and therefore any by-law properly enacted by a majority is as binding upon the members of the corporation as the provisions in the charter itself."

In regard to judicial interference with the by-laws of a corporation the opinion of J. Edwards and the unanimous opinion
of the court in the case of Burden vs. Burden (New York) is as follows;" Whatever may have been the common law practice in respect to the courts over by-laws enacted by corporations as one of their incidental powers, I cannot conceive how, under this statute, the court can pursue further than to enquire whether it is 'inconsistent with the laws of the State'. The question of the wisdom or expediency of a by-law is quite foreign to a proper judicial inquiry. The by-law may perhaps be no more than the due exercise of the power of internal administration, and so long as they act in good faith and do not go beyond the capacities of the corporation, as fixed by its charter, the minority must consent; the courts do not interfere unless the corporation, or a majority, may be about to do some act outside of the scope of its authority or in disobedience to its charter."

We find that a corporation has the power by implication even when not conferred in express terms, to make such by-laws as may be reasonably necessary or proper for the purpose of prescribing rules for its government and regulating the conduct and defining the duties of its members and to alter and amend or repeal the same. But the power is subject to the following limitations;

First- They must not be inconsistent with the charter, the enabling act or the articles of incorporation.

Second- They must be reasonable and not contrary to law.

Fourth- The power must be exercised by the authority and
in the mode prescribed by the charter of the corporation or the general law. (Clark and Marshall on Private Corporations)

In regard to the corporate home of a corporation much can be said and only a few opinions of some of the most prominent jurists will be given here. As the corporation may be considered as a resident of the State under whose laws it is created it is entitled to the privileges and rights of citizenship in said State.

Spelling says; "A corporation, like a natural person, can have but one legal residence, and in the Federal courts no averment or proof to its citizenship elsewhere is permitted."

"A corporation cannot change its residence or its citizenship. It can have its legal home only at the place where it is located by or under the authority of its charter; but it may by its agents transact business elsewhere, unless prohibited by its charter or excluded by local law", is the opinion of Chief Justice Waite.

The New York Court of Appeals has established the following points:

(a) That a corporation has a domicile and residence within the bounds of the State or Sovereignty which created it.

(b) That such corporation is not capable of being, and be, present or exist beyond or outside of such bounds, although, as will be seen, business may be carried on without such bounds through agents or representatives.

(c) That a corporation possesses the right to be called and treated as a "citizen" by means of the fiction above des-
There are three terms used in connection with corporation which it may be well to define at the present time: resident, domestic, and foreign. A "resident" corporation is one that is domiciled in the state which created it. A "domestic" corporation is one that is domiciled in some other state or possession of the United States. A "foreign" corporation is one domiciled without the United States.

However, in the popular usage of these words in some localities the word "foreign" is used in the same sense as the word "domestic" is defined above, and in some of the following cases which are quoted verbatim, they must be used interchangeably as we will not treat of the purely foreign corporation in the true sense of the word.

In Story on the Conflict of Laws the following appears which seems to define the powers of "foreign corporations" in an excellent manner: "The power of a corporation to act in a foreign country depends both on the laws of the country where it is created and on the law of the land where it assumes to act. It has only such powers as were given it by the authority which created it. It cannot do any act by virtue of these powers in any country where the laws forbid it so to act. It follows that every country may impose conditions and restrictions upon foreign corporations which transact business within its limits.

The life of a corporation may cease in two distinct ways that is to say it may cease by limitation or it may cease
by judicial action. In some cases the charter is granted for a certain number of years and on expiration of this time the corporation ceases to exist. Time is given of course for the winding up of affairs after dissolution. The corporation may cease to exist by judicial action in case it does not perform its part of the contract or franchise in good faith, by judgement or decree of the court of competent jurisdiction, by surrendering its charter to the creator, or by the dissolution by a compliance with the State laws in regard to the latter act. Formerly the death of all members was a valid excuse for the dissolution but this is not considered so any longer.