

THE POLICY OF THE UNITED STATES  
TOWARDS INDUSTRIAL MONOPOLY

BY  
OSWALD WHITMAN KNAUTH, B. A.,  
*Instructor in Economics, Princeton University*

SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF DOCTOR OF PHILOSOPHY  
IN THE  
FACULTY OF POLITICAL SCIENCE  
COLUMBIA UNIVERSITY



NEW YORK  
1913

Dhananjayrao Gadgil Library



GIPE-PUNE-047678

THE POLICY OF THE UNITED STATES  
TOWARDS INDUSTRIAL MONOPOLY

BY  
OSWALD WHITMAN KNAUTH, B. A.,  
*Instructor in Economics, Princeton University*

*Vo. 138 in the "Studies in History, Economics  
and Public Law" of Columbia University.*

SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF DOCTOR OF PHILOSOPHY  
IN THE  
FACULTY OF POLITICAL SCIENCE  
COLUMBIA UNIVERSITY

NEW YORK  
1913

X:517.73.N1

E3

47678

COPYRIGHT, 1913

BY

OSWALD WHITMAN KNAUTH

To  
THE MEMORY OF MY FATHER  
PERCIVAL KNAUTH  
THIS MONOGRAPH  
IS REVERENTLY DEDICATED

## PREFACE

THE policy of the United States is determined by three agencies: by Congress, in the enactment of laws; by the Executive, in the administration of these laws, and in the advice it gives to Congress; and by the Supreme Court, in the interpretation of the laws. Behind, and overshadowing these, is that vague but powerful force known as public opinion; that, however, must be expressed in acts through one of the three agencies.

Towards the formation of a policy in regard to industrial monopoly, each of these branches of the government has exerted an influence. The present work describes the history of the policy of each of these branches, and then analyzes them as a whole, with a view to explaining what has been, and what is, the policy of the United States towards a number of specific questions relating to industrial monopoly.

No attempt is made at this time to analyze the problem presented by industrial monopoly. The important practical question to-day is the attitude of the government towards monopoly, and it has been deemed wisest to interpret it, as far as possible, in a purely objective manner.

For the reason that no policies have been announced since the beginning of the administration of President Wilson, and because the administration of President Taft may now be viewed as a whole, this study ends with his term of office, on March 4th, 1913.

It seems probable that several governmental policies may undergo changes in the near future. Should this book give the reader a clearer understanding, in the light of history, of the policies to be adopted during the present administration, its purpose will be accomplished.

I acknowledge with gratitude the help received from many kind friends, and from many who are strangers. Especially am I indebted to Professor Henry R. Seager, of Columbia University, who has aided and criticised the work at every stage; to Professor Edwin R. A. Seligman, of Columbia University; to Professor David R. McCabe, of Princeton University; and to my uncle, Mr. Antonio Knauth. To my brother, Arnold W. Knauth, my thanks are due for much help in the preparation of the manuscript and in the proof-reading.

O. W. K.

NEW YORK CITY, *October 4th, 1913.*

# TABLE OF CONTENTS

---

## CHAPTER I

PAGE

### THE FORMATION OF A POLICY

1. Conditions prior to 1890 . . . . .	13
2. Early investigations . . . . .	17
3. The original Sherman Bill in the Senate . . . . .	19
4. The Reagan Substitute . . . . .	25
5. The Final Sherman Bill in the Senate . . . . .	30
6. Debate in the House . . . . .	33
7. The Joint Conferences . . . . .	39
8. Final Passage . . . . .	42

## CHAPTER II

### THE HISTORY OF ANTI-TRUST LEGISLATION IN CONGRESS, 1890 TO 1913

1. The Period of Neglect, 1890 to 1899 . . . . .	43
2. The Fruitless Debates of 1900 and 1901 . . . . .	45
3. The Creation of the Bureau of Corporations, 1903 . . . . .	56
4. Spasmodic Agitation, 1904 to 1913 . . . . .	57

## CHAPTER III

### THE VIEWS AND POLICIES OF THE ADMINISTRATIONS

1. President Harrison, 1889-1893 . . . . .	66
2. President Cleveland, 1893-1897 . . . . .	66
3. President McKinley, 1897-1901 . . . . .	70
4. President Roosevelt, 1901-1909 . . . . .	72
5. President Taft, 1909-1913 . . . . .	86



## CHAPTER IV

PAGE

## THE DECISIONS OF THE SUPREME COURT

1. United States <i>v.</i> E. C. Knight Co. . . . .	93
2. <i>In re</i> Debs . . . . .	96
3. United States <i>v.</i> Trans-Missouri Freight Association . . . . .	99
4. United States <i>v.</i> Joint Traffic Association . . . . .	105
5. Hopkins <i>v.</i> United States . . . . .	108
6. Anderson <i>v.</i> United States . . . . .	112
7. Addyston Pipe and Steel Co. <i>v.</i> United States . . . . .	113
8. Connolly <i>v.</i> Union Sewer Pipe Co. . . . .	117
9. Bement <i>v.</i> National Harrow Co. . . . .	119
10. Montague <i>v.</i> Lowry . . . . .	121
11. Northern Securities Co. <i>v.</i> United States . . . . .	122
12. Minnesota <i>v.</i> Northern Securities Co. . . . .	129
13. Field <i>v.</i> Barber Asphalt Co. . . . .	130
14. Swift and Co. <i>v.</i> United States . . . . .	131
15. Harriman <i>v.</i> Northern Securities Co. . . . .	133
16. Board of Trade <i>v.</i> Christie Grain and Stock Co. . . . .	135
17. Hale <i>v.</i> Henkel. . . . .	135
18. McAllister <i>v.</i> Henkel, U. S. Marshal . . . . .	135
19. Nelson <i>v.</i> United States . . . . .	135
20. Alexander <i>v.</i> United States . . . . .	136
21. Chattanooga Foundry and Pipe Works <i>v.</i> City of Atlanta. . . . .	136
22. Loewe <i>v.</i> Lawlor . . . . .	137
23. Shawnee Compress Co. <i>v.</i> Anderson. . . . .	138
24. Continental Wall Paper Co. <i>v.</i> Louis Voight & Sons. . . . .	139
25. American Banana Co. <i>v.</i> United Fruit Co. . . . .	141
26. United States <i>v.</i> Kissel and Harned . . . . .	141
27. The Dr. Miles Medical Co. <i>v.</i> John D. Park & Sons. . . . .	142
28. Standard Oil Co. of N. J. <i>v.</i> United States. . . . .	144
29. American Tobacco Co. <i>v.</i> United States . . . . .	153
30. United States <i>v.</i> St. Louis Terminal Association . . . . .	158
31. United States <i>v.</i> Standard Sanitary Manufacturing Co. . . . .	159
32. United States <i>v.</i> Union Pacific Railroad Co. . . . .	160
33. United States <i>v.</i> The Reading Company, <i>et al.</i> . . . . .	162
34. United States <i>v.</i> James A. Patten . . . . .	164
35. United States <i>v.</i> Union Pacific Railroad Co., on motion as to form of mandate . . . . .	166
36. United States <i>v.</i> Sidney W. Winslow, <i>et al.</i> . . . . .	167
37. Cases pending before the Courts . . . . .	168

CHAPTER V

PAGE

AN ANALYSIS OF THE GOVERNMENT POLICIES

Introduction . . . . . 170

*Part I. Why Combinations have been Forbidden, and what Kind of Combinations have been Forbidden*

- 1. The Policy in regard to Competition and Monopoly . . . . . 172
- 2. The Reasons which have caused the Formation of Combinations. 177
- 3. The Policy in regard to the Condemnation of Certain Acts, or of Monopoly as Such . . . . . 181
- 4. The Policy in regard to the Classification of Monopolies. . . . 188
- 5. The Standard which should be applied in testing the Legality of a Restraint of Trade . . . . . 197
- 6. Conclusions . . . . . 206

*Part II. The Methods of Treating Combinations*

- 1. The Policy in regard to the State or National Scope of the Trust Problem . . . . . 208
- 2. The Method by which Prices should be Fixed. . . . . 214
- 3. The Relation of Large Size to Monopoly . . . . . 220
- 4. The Policy in regard to the Enforcement of Publicity . . . . . 224
- 5. Conclusions . . . . . 229
- Index . . . . . 231

## INDEX

### A

Addyston Pipe and Steel Co. v. U. S.,  
113-117, 174, 179, 183, 200, 216, 222  
Addyston Pipe Combination, 136  
Aldrich, Senator, 28  
Alexander v. U. S., 136  
Allison, Senator, 24  
Amer. Banana Co. v. United Fruit Co.,  
141  
Amer. Feder. of Labor, 137  
Amer. Smelting & Refining Co., 64  
American Sugar Co. (see Sugar Trust)  
Amer. Tobacco Co. v. U. S., 153-158,  
175, 205, 222  
Anderson, Representative, 41  
Anderson v. U. S., 112-113, 191, 199

### B

Bartlett, Representative, 61  
Beef Trust, 18, 35, 79  
Bement v. Nat. Harrow Co., 119-121,  
174, 200  
Berry, Senator, 55  
Bland, Representative, 34, 38, 39, 41  
Blodgett, Senator, 33  
Board of Trade of Chicago v. Christie G.  
& S. Co., 135  
Bonaparte, Attorney-General, 84, 86  
Boston and Maine R. R., 89, 214  
Brewer, Justice, 96, 123, 128, 135, 139  
Brown, Justice, 123  
Butler, B. F., 15, 16  
Butler, Senator, 52  
Butterworth, Representative, 35  
Bureau of Corporations, 56, 73, 80, 212,  
225 ff

### C

Cannon, Representative, 38  
Chattanooga F. & P. Works v. Atlanta,  
136-137, 185, 217  
Cleveland, President, 17, 44, 66, 69, 70,  
171, 209, 211

405]

Coffee Trust, 62  
Coke, Senator, 27, 30  
Conant, Commissioner, 226  
Connolly v. Union Sewer Pipe Co., 117-  
119, 140, 183, 192, 217  
Continental Wall Paper Co. v. Voight,  
139-140, 185, 217  
Cotton Exchange (N. Y.), 164  
Cottonseed Oil Trust, 18  
Culberson, Representative, 34, 35, 36,  
41, 42, 215, 221  
Cummins, Senator, 61

### D

Day, Justice, 123, 130, 135, 161, 162,  
166  
Debs, *in re*, 96-99, 189  
Dr. Miles Med. Co. v. Park, 142-144,  
175, 195, 203, 218

### E

Edmunds, Senator, 29, 30, 33, 40, 41, 42,  
172, 215  
Evarts, Senator, 30

### F

Fairbanks, Senator, 55  
Field, Justice, 100, 111, 124, 137, 210  
Field v. Barber Asphalt Co., 130  
Finch, J. A., 93  
Fithian, Representative, 38, 215  
Fuller, Chief Justice, 94, 133, 136

### G

Garfield, Commissioner, 226  
George, Senator, 19, 21, 22, 26, 30, 33,  
214, 221  
Gray, Justice, 100, 105, 118, 119  
Gray, Senator, 33  
Great Northern Ry. Co., 122 ff, 129, 133  
Greene, *in re*, 67

231

Griggs, Attorney-General, 71, 211  
Guntton, G., 14

## H

Hale v. Henkel, 135-136  
Harlan, Justice, 94, 109, 112, 118, 119,  
122, 129, 135, 139, 144, 153, 179  
Harron, Attorney-General, 44, 67, 68  
Harriman, E. H., 133  
Harriman v. Nor. Sec. Co., 133-134, 175  
Harrison, President, 17, 66, 170  
Harvester Trust, 64, 82, 202  
Heard, Representative, 38  
Henderson, Representative, 36  
Hill, J. J., 122, 133  
Hill, Representative, 41  
Hiscock, Senator, 24, 26  
Hoar, Senator, 26, 27, 30, 33, 39, 40, 41,  
42, 55, 75  
Holmes, Justice, 124, 125, 131, 135, 136,  
139, 141, 142, 158, 165, 167, 185, 103,  
203  
Hopkins v. U. S., 108-112, 190, 199,  
210  
Hughes, Justice, 142, 162, 203

## I

Ingalls, Senator, 27, 30  
International Harvester Co. (see Har-  
vester Trust)

## J

James, Representative, 60

## K

Kenna, Senator, 33  
Knox, Attorney-General, 74 ff

## L

La Follette, Senator, 62, 187  
Lamar, Justice, 95  
Lexow Commission, 211  
Littlefield, Representative, 53, 54, 225  
Live Stock Cases (see Hopkins v. U. S.  
and Anderson v. U. S.)  
Lloyd, H. D., 13  
Loewe v. Lawlor, 137-138, 193, 201  
Lott, J. L., 43  
Lurion, Justice, 142-158, 162, 165

## M

Mann, Representative, 52  
Mason, Representative, 17  
McAllister v. Henkel, U. S. Marshal,  
135-136  
McK. ana, Justice, 105, 109, 112, 118,  
123, 138, 160  
McKenna, Attorney-General, 71  
Miller, Attorney-General, 66  
Minn. v. Nor. Sec. Co., 129-130  
Money Trust, 64  
Montague v. Lowry, 121-122, 184, 201,  
222  
Moody, Attorney-General, 79, 80, 81  
Morgan, Senator, 27  
Morgan, J. P., 122, 133

## N

Nelson v. U. S., 135-136  
New York, New Haven & Hartford  
R. R. Co., 89, 214  
Northern Pacific Ry. Co., 122 ff, 129,  
131, 175  
Northern Sec. Co. v. U. S., 122-129,  
133, 174, 179, 184, 193, 201, 211

## O

Olney, Attorney-General, 66, 67  
Oregon Short Line, 160

## P

Paper Trust, 60  
Peckham, Justice, 18, 100, 105, 109, 112,  
114, (1), 121, 124, 136, 139, 215, 222  
Penn Sugar Co., 141  
Perkins, G. W., 82  
Pettigrew, Senator, 52  
Pitney, Justice, 162  
Platt, Senator, 27, 29  
Pugh, Senator, 25, 26, 30

## R

Reagan, Senator, 24, 25, 26, 27, 32, 33  
Rogers, Representative, 38  
Roosevelt, President, 53, 72, 76 ff, 86,  
171, 201, 212, 225, 228

## S

Sands v. Manistee R. Improvement Co.,  
111, 210  
Sayers, Representative, 37

ta, 188  
 Express Co. v. Anderson, 159, 175, 179, 202  
 Smerman, Senator, 19, 20, 21, 22, 24, 26, 27, 28, 32, 172, 177, 182, 198, 229  
 Shiras, Justice, 100, 105  
 Smith, H. K., 82, 226  
 Southern Pacific Co., 160, 166  
 Spooner, Senator, 28  
 Standard Oil Co., 18, 35, 89  
 Standard Oil Co. v. U. S., 144-153, 175, 179, 186, 192, 195, 204, 218, 222  
 Stanley Committee, 224  
 Steel Rail Combination, 24  
 Steel Trust, 62, 64, 224  
 Stewart, Representative, 41, 42  
 Stewart, Senator, 25, 27, 173  
 Sugar Refineries Company, 18  
 Sugar Trust, 15, 24, 38, 61, 64  
 Sulzer, Representative, 56  
 Swift & Co. v. U. S., 131-132, 185

## T

Taft, President, 60, 86, 87, 88, 89, 92, 171, 181, 194, 203, 213, 222, 228  
 Taft, W. H., Judge, 115, 200, 217  
 Taylor, Representative, 37, 38, 42, 178  
 Teller, Senator, 24, 26  
 Temple Iron Co., 162  
 Tobacco Trust, 62, 63, 89  
 Turpie, Senator, 25

## U

Union Pacific R. R., 134, 175  
 United Hatters Union, 137

United Shoe Machinery Co., 64, 167  
 U. S. v. E. C. Knight Co., 67, 93-96, 183, 189, 192, 198, 209, 215, 221  
 U. S. v. Joint Traffic Ass., 68, 71, 105-107, 173, 178, 183, 186  
 U. S. v. Kissel and Harned, 141-142  
 U. S. v. Patten, 164-165, 176, 187, 196, 205, 219  
 U. S. v. Reading Co., 162-164, 186  
 U. S. v. St. Louis Term. Ass., 158-159  
 U. S. v. Standard Sanitary Mfg. Co., 159-160  
 U. S. v. Trans. Mo. Frt. Ass., 68, 71, 90-105, 173, 190, 198, 210, 216, 221  
 U. S. v. Union Pacific R. R. Co., 160-162, 166-167, 176, 186, 196, 219, 223  
 U. S. v. Winslow, 167-168

## V

Vandeventer, Justice, 161, 165, 205  
 Vest, Senator, 23, 26, 30, 40-42

## W

Walker, A. H., 30  
 Walthall, Senator, 29  
 Warner, Senator, 58  
 Whiskey Trust, 18, 34  
 White, Justice, and later Chief Justice, 100, 105, 119, 124, 139, 144, 153, 165, 204, 206  
 Wickersham, Attorney-General, 88, 91, 214  
 Wilson, President, 187, 194  
 Wilson, Representative, 36, 38, 178  
 Wilson, Senator, 26, 30  
 Wilson Tariff Act, 43, 63

## VITA

---

OSWALD WHITMAN KNAUTH was born in New York City, June 3, 1887. In 1905 he entered Harvard College, and was graduated in 1908 with the degree of B. A. For the next two years he was employed in the Ottawa factory of the American Bank Note Company. In 1910 and 1913 he pursued graduate studies in the Department of Political Science at Columbia University. He took courses under Professors E. R. A. Seligman, H. R. Seager, V. G. Simkovich, H. R. Mussey and W. C. Mitchell in Economics; under Professors F. H. Giddings and A. A. Tenney in Sociology; under Professors H. L. Moore and R. E. Chad-dock in Statistics; under Professors S. M. Lindsay and E. T. Devine in Social Economics; and under Professor C. A. Beard in Public Law. He attended the seminar of Professors Seligman and Seager. For the year 1912-1913, he was instructor in the Department of Economics and Social Institutions at Princeton University.

~~CHECKED~~  
~~800306~~