

# “An Appreciative Sketch of Frank B. Kellogg”

By

George F. Longsdorf

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Foreword

By

Douglas A. Hedin

Editor, MLHP

Frank Kellogg’s reputation as a trust-busting trial lawyer was at its zenith in February 1912, when George Foster Longsdorf’s glowing portrait appeared in *Case and Comment*. Representing the government as Special Assistant to the Attorney General, he dismantled the Paper Trust in 1906. Acting in the same capacity, he and colleagues then challenged the Standard Oil Company, controlled by John D. Rockefeller, on antitrust grounds. On May 15, 1911, the Supreme Court held that the company was an “unreasonable” combination in restraint of trade in violation of the Sherman Antitrust Act, and affirmed the lower court’s order dissolving the company.<sup>1</sup> Meanwhile, as Longsdorf noted, another antitrust prosecution in which he was lead attorney for the government was pending before the Supreme Court. On December 2, 1912, the Court held that the Union Pacific Railroad Company, controlled by Edward H. Harriman, created a combination in restraint of trade in violation of the Sherman Act, when it bought controlling interest in the Southern Pacific Corporation, a competing railroad.<sup>2</sup>

As a result of these courtroom victories, Kellogg became the subject of flattering articles in newspapers and magazines. “Kellogg the Trust-Buster” appeared in

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<sup>1</sup> *Standard Oil Co. of New Jersey v. United States*, 211 U. S. 1 (1911).

<sup>2</sup> *United States v. Union Pacific Railroad Co.*, 226 U. S. 61 (1912), *later opinion after remand*, 226 U. S. 470 (1913)(rejecting proposal that stock of the Southern Pacific held by the Union Pacific be distributed to the latter’s shareholders).

the October 1911 issue of *Current Literature* and is posted in the Appendix. The author, who is not identified, quotes another journalist on Kellogg: “There is no lawyer in the whole country whom the criminal wealth more fears today.”

The author speculates on Kellogg’s political ambitions. Five years later, in November 1916, he was elected to the U. S. Senate. He was defeated in 1922 by Henrik Shipstead, the Farmer-Labor candidate. In the early 1920s he was ambassador to Great Britain; from 1925 to 1929, he was Secretary of State, and from 1930 to 1935, a member of the World Court. He was awarded the Nobel Peace Prize in 1929.

Chapters in the Paper Trust case are also posted in the Appendix. They include excerpts from the Supreme Court’s decision affirming a lower court’s order that the defendants turn over documents to the government, an article in the *New York Tribune* on the defendants’ abrupt “surrender” on May 11, 1906, and Judge Walter Sanborn’s decree dissolving the trust and enjoining the paper companies from violating the antitrust laws entered the following month.

George F. Longsdorf was practicing law in St. Paul when he published this profile of Kellogg. His article on the Minnesota Supreme Court appeared in the June 1912 issue of *Case and Comment*. It is posted separately on the MLHP.

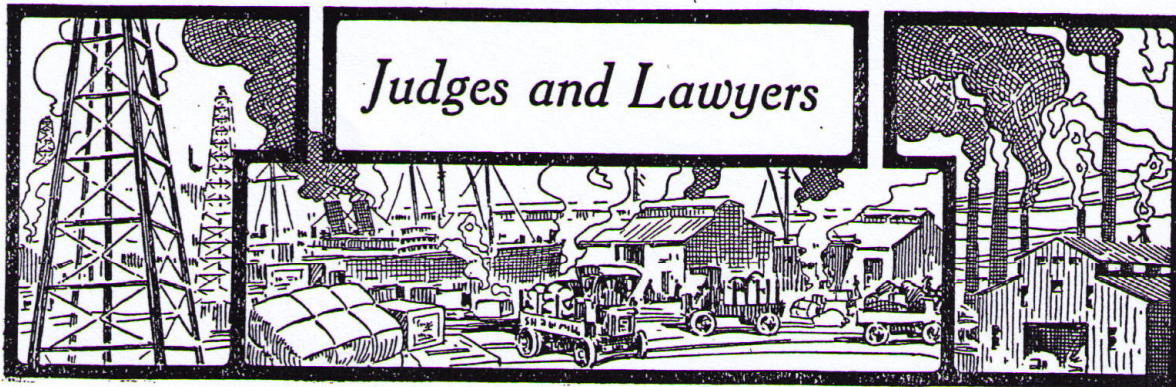
# CASE AND COMMENT



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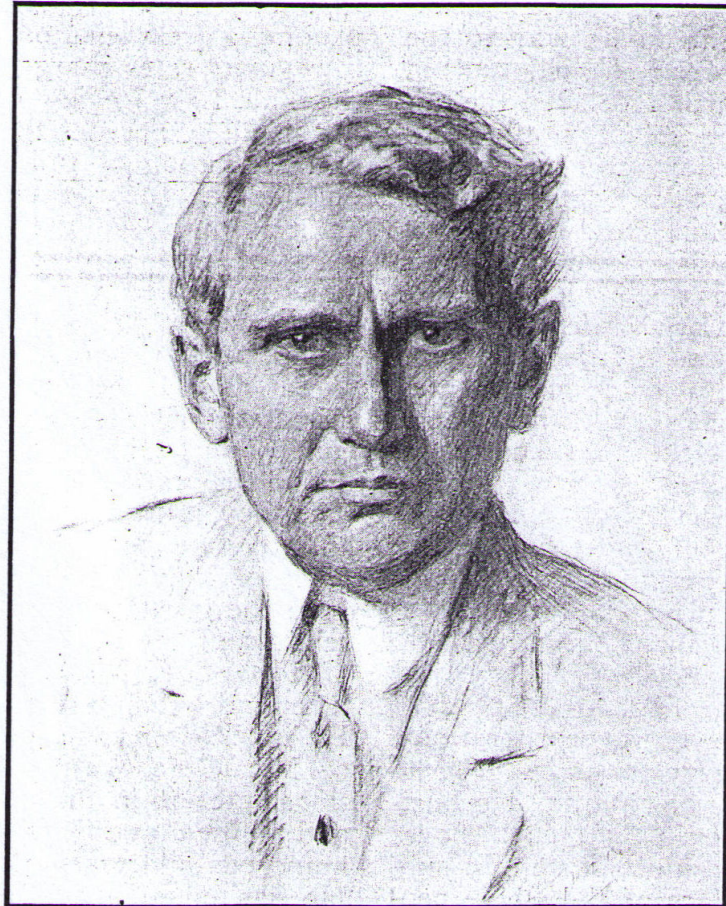


## *An Appreciative Sketch of Frank B. Kellogg*

By GEORGE F. LONGSDORF, of the St. Paul Bar

In the minds of the American people the successful prosecution of the suit to dissolve the Standard Oil Company is the greatest legal victory won in many years. By it the counsel for the government became justly accredited as a lawyer of foremost genius and talent. Already of national eminence in his profession, he thereby became of national eminence with the people. Yet this distinction was not won by the arts or the virtues of the professional public man. It was a lawyer's achievement, pure and simple, won by the supremest skill in advocacy. The vast planning and foresight that entered into the Standard Oil Company, its bewildering interwoven interests and minutiae of details, made victory over it impossible to any man who did not bring the quickest and most profound insight into facts in the mass, along with a mind for details in their finest divisions. These two diverse qualities united in the mind of Frank B. Kellogg. He brought to the task a third quality, a huge capacity for hard work. It is a coincidence that about the time that Standard Oil began to emerge from the ranks of its competitors, he took up the study of the law in a part of the land remote from its activities. Thirty-six or thirty-seven years ago this was. He lived in Olmsted county, in Southern Minnesota, and had such preliminary education as the country schools of the region afforded, and such fibre in his slight frame as a farm life, clean air, and wholesome living provide. His equipment therefore was about balanced;

bodily strength he had and education he added abundantly. His ancestors were English in the remote generations and of New England in later ones, while his parents were residents of Potsdam, St. Lawrence county, New York, when Mr. Kellogg was born, in 1856. They came to Minnesota in 1865 and settled near Rochester and there he lived his boyhood years.



*From Drawing by Bohnen*  
FRANK B. KELLOGG

His legal studies were carried on in the office of H. E. Eckholdt and afterwards with Honorable R. A. Jones, and after due preparation he was admitted to the bar. A partnership with Burt W. Eaton was soon formed, and he and Mr. Kellogg continued it in Rochester till 1887, when the firm of Davis, Kellogg, & Severance was formed, which caused Mr. Kellogg's removal to St. Paul. This firm was composed of Cushman K. Davis, Frank B. Kellogg, and Cordenio A. Severance, and almost at once it took the acknowledged leadership of the bar of Minnesota and the Northwest. Mr. Kellogg and Mr. Severance of the original firm survive and retain the firm name, Davis, Kellogg, & Severance, having some years ago admitted Mr. Robert E. Olds to the partnership. The union of personalities in the original firm was a remarkable one. The head of the firm was the brilliant,

profound and masterful Davis, a Senator of the United States and one of the world's great international lawyers and treaty makers, but to the junior members naturally fell the large burden of the details of the practice. Whether this was the opportunity for the peculiar genius of Mr. Kellogg to reveal itself, or whether that genius was developed out of Kellogg's enormous capacity for the hard work imposed on him, or whether each was the cause of the other, is an idle speculation. The men who know him best say that his chief talents are his ability to understand and grasp instantly complex situations and details, and his great capacity for exhaustive consideration and research. Both of these talents found full opportunity for their exercise in the government cases conducted by him as special counsel, notably in the investigation of the Harriman Lines and in the Standard Oil Case.

In the examination of Mr. Harriman and other witnesses the technical rules of evidence were waived to avoid the swelling of the record to impossible dimensions. The examination was thus unburdened of many impediments and proceeded with great rapidity and brilliancy. Mr. Harriman, a very artful witness and a man of wonderfully keen and quick perception, was pitted against Mr. Kellogg. Each was eager to anticipate the other's thought, but eventually Mr. Harriman was driven to refuge behind a refusal to answer. In the Standard Oil Case, Mr. Kellogg's capacity for detailed investigation was tested, and the result cannot be stated better than in the words of Chief Justice White, who described the prosecution's attack as one conducted "with relentless pertinacity and minuteness of analysis."

It was these two cases, and especially the latter, that introduced him familiarly to the mass of the American people, but it was by the successful conduct of the Paper Trust cases, begun in 1904, that his talent for this class of prosecution was revealed. In these cases was established the duty of the paper trust officers to testify as witnesses and to produce the corporate books and papers for use in evidence. This litigation was concluded in 1906, and in July of the same year the preparation of the papers in the Standard Oil suit was begun, and the bill was filed in November 15th, 1906. In this latter case there was an attack on the jurisdiction of the court over the defendants, and, after that, dilatory pleadings delayed the suit on its way to the United States Supreme Court, and in that court death further delayed the announcement of the result until 1911.<sup>3</sup>

Meanwhile Mr. Kellogg and his partner Mr. Severance had been engaged in the Harriman Investigation, and out of that grew their retainer as special counsel of

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<sup>3</sup> This refers to the death of Justice David J. Brewer on March 28, 1910, two weeks after the case was first argued March 14-16, 1910; it was reargued January 12-17, 1911, after Charles Evans Hughes joined the Court.

the government in the Union Pacific-Southern Pacific Case under the antitrust acts. This was decided in favor of the defendants, in the United States circuit court of appeals, and is now pending on appeal to the Supreme Court. In all of these cases the people of the nation were the beneficiaries of a zeal and devotion and an ability quite beyond the power of any retainer to command.

As counsel for private interests, Mr. Kellogg has served many large interests and corporations, and his practice has ranged over all the field of civil litigation. He is a lawyer for corporations, and makes no apology for it. Indeed he believes in corporations and in "big business," but he believes that big business must be honest and must be kept in subjection to the welfare of the whole people. This has been the theme of numerous addresses, some political and others not. Take an extract from the one delivered to his old friends and neighbors of Olmsted county,—“but the day when men can, by means that are questionable, suddenly amass great fortunes, has, I believe, passed, and certain it is that such fortunes are not conducive to the welfare, the happiness, and the prosperity of the American people. . . The greatest danger to the American Republic today is its enormous wealth and its trend to dissolute luxury.” Then, this from an address to the Minneapolis Transportation Club: “in, my judgment more has been secured to the people through the result of reasonably active competition between railway lines than by any other factor,” and, further on, he expresses the opinion that the ownership by a railway line of stocks or interests in any competing rail or steamship line ought to be prohibited, and that governmental regulation was necessary to prevent such abuses. This was pretty plain talk to a gathering of railroad men, especially in a region where there is pending a great legal battle over the right to regulate rates charged by carriers.

In the Yale Law Review of January, 1911, Mr. Kellogg pursues the subject of Federal regulation of railroads in an essay on Federal Incorporation and Control. In it is discussed the constitutional aspects of that subject, and the conclusion is reached that the Congress has full power to provide for such incorporation, and to supersede the state power so far as may be necessary, even as to intrastate business activities which are convenient to the successful operation of the incorporations so formed; provided that they must in fact be such as have an interstate commercial function to perform, or which they are about to assume.

In the great problems involved in the relation of the corporation to the people of the State, Mr. Kellogg has always taken more than a mere lawyer's interest. He is a citizen, one of the chief citizens of Minnesota, with a citizen's conscientious interest in this and all other civic and political questions, and has delivered numerous addresses on public questions. He has taken much interest in politics, though he has never held an office, except that he was for a time, in his earlier

practice, the city attorney of Rochester and the county attorney for Olmsted county. In 1904 he was a delegate to the convention that nominated President Roosevelt, and also to that of 1908 that nominated President Taft. For eight years he has been Republican national committeeman from Minnesota.

So much for the achievements. What about the man? If you were in the business district of St. Paul some morning you might see Mr. Kellogg, slight of figure and average in height, walking to his office. He is energy on foot, real energy, and he radiates it. No wonder that a warm friendship sprang up between him and the strenuous Colonel Roosevelt. In the afternoon if you passed the Town and Country Club, out on the bluffs above the Mississippi, you might see Mr. Kellogg playing golf just as hard as he worked earlier in the day. He is a man who has time to play. In the evening you might find him, so it is said, in the splendid library of his home, away across on another high bluff overlooking the valley of the river. He is a man of broad culture and general scholarship. "How does he work?" I asked an associate. "Tremendously; he devours all possible authorities, exhausting every phase of the question,"—was the answer. He has earned his high standing. By his clear and independent judgment, never subservient to that of his clients, he has come to command the respect of the great moneyed and corporate clients, and yet firmly to hold the confidence of the people. They believe that he vindicates the essential honesty and justice of the law. ▪



## APPENDIX

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# CURRENT LITERATURE

October 1911

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## KELLOGG THE TRUST-BUSTER

ON THE closing day of August the last dealings which Wall street is likely to witness in the stocks of the Standard Oil "trust"—that is to say Standard Oil Company of New Jersey—took place on the curb. Hereafter there will be dealings in the stocks of thirty odd oil companies scattered all over the Union and, presumably, competing with each other. But the Standard Oil trust is, legally, no longer existent. It has sold its last share of stock, transacted its last business, cut its last "melon," issued its last order, fought its last battle. How much better the new scheme of things will be for the public, how much actual competition will ensue, is for the future to determine. But the federal courts are not to be fooled with, and there is no doubt that something important, something very important has happened.

No one man has made this thing happen; but the man who has had to do most of the hard work, fight most of the pitched battles, incur most of the personal responsibility for success or failure, is Frank Billings Kellogg, who because of his rather diminutive size and the colossal proportions of the enemy he has overthrown, has been dubbed a modern "Jack the Giant-Killer."

He hails from Minnesota, but he was born in, Potsdam, New York. He became a corporation attorney before he became a trust-buster. He was at one time counsel for the United States Steel Company, and the story is told, on authority that is not very good, that he had a quarrel with Morgan because the latter ordered him to do some lobbying work in the legislatures in the Northwest in behalf of the Hill railroads. Whatever the circumstances may have been, it is certain that Kellogg for some reason changed his client from the steel corporation to Uncle Sam, and he has been giving nearly all his time as special counsel for the department of justice in Washington. In that capacity he prosecuted the "western paper trust" and broke up the combination. In that capacity he examined Harriman for the interstate commerce commission, laying bare the facts about the



Chicago & Alton deal. In that capacity he has done the major part of the legal work in the Standard Oil case. He believes the decision in this last case will be efficacious. He believes that the Standard Oil has fought its last battle—and lost. “There is no lawyer in the whole country,” says one of the muckrakers, speaking of Kellogg, “whom criminal wealth more fears today.”

Here is one newspaper writer’s description of Kellogg as he sat in the court-room during one of these legal contests: “The man who sat there in the court-room did not appear to be out of the ordinary type of attorneys that one may see any day. He is considerably below the average height; his figure is slender, but as supple as an athlete’s. His hair, which is white, falls half neglected about his well-formed head. His eyes are gray and kindly, and there is a general air of quietness about his expression that might mislead one as to his motives.” Not a formidable-looking man evidently. From another writer we get the details that he is only five feet seven in height and weighs about 135 pounds. He is restless and energetic and finds it hard to keep quiet even when there is no occasion for action. He is “doing something all the time,” his body as well as his mind moving quickly. After he has run his hand a few times through his wavy white hair, his head looks “like the snow-white pad on the top of a Georgia cotton bush.” His hair is prematurely white. The man is but fifty-five years old.

The legislature of Minnesota has a United States Senator to elect this winter.<sup>4</sup> The term of Moses E. Clapp expires this year. Clapp is one of the most formidable of the Republican “insurgents” and for two years the talk has been of running Kellogg for the position of Senator, as an administration candidate. Two years ago, when his name was first mentioned in this connection, it was said that nearly every Republican paper in Minnesota was ready to come out in Kellogg’s favor. But he refused to give the signal. What he will do now that his great contest with the Standard Oil has come to a successful termination is an interesting question among politicians everywhere. His trust-busting record would do much to strengthen the administration in its contest for endorsement in the middle West,

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<sup>4</sup> This is not accurate. This article was likely written in late 1910 or early 1911. Moses Clapp (1851-1929) was elected by the Minnesota legislature to the U. S. Senate on January 23, 1901, to complete the term of Cushman Kellogg Davis, who died in late 1900. Clapp was re-elected by the legislature on January 17, 1905, and again on January 18, 1911, for a term beginning March 4. In 1913 the Seventeenth Amendment, requiring popular election of senators, was ratified. In 1916, with Republican Party endorsement, Kellogg, was elected to the Senate. Clapp left office in January 1917. Kellogg was defeated in his bid for a second term in 1922.

and there is no doubt President Taft would gladly see Kellogg in the seat now occupied by Clapp.



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TO BE OR NOT TO BE A SENATOR

Frank Billings Kellogg has had it said of him that there is no other lawyer in the country so greatly feared by "criminal wealth." He has been the government's special counsel in the Standard Oil and other big cases, and there is a strong hope on the part of administration Republicans that he will authorize a movement to make him a Senator from Minnesota.

After his historic prosecutions for violation of the Sherman law, Kellogg's view of that law itself should be worth recording. He does not believe that it should be that materially altered. "After having given, the law a thoro study and analysis," he says, "since its introduction, and more especially since its enactment, I feel absolutely assured that the Sherman anti-trust act, without amendment sufficient to accomplish what the govern and the people demand—the dissolution of combinations in restraint of trade and suppression of monopolies." The worst thing about an industrial monopoly, he thinks, is the blasting effect upon individual initiative. "Competitive forces," he once remarked, "have developed our American industries as well as our American manhood." Monopoly is a moral as well as an industrial curse. ▪



## THE PAPER TRUST CASE

The Paper Trust case came before the U. S. Supreme Court in *Nelson v. United States*, 201 U. S. 92 (1906), and *Alexander v. United States*, 201 U. S. 117 (1906). Kellogg and James M. Beck, both Special Assistants to the Attorney General, and Attorney General William H. Moody represented the government. The question on appeal was whether the defendants were required to produce documents requested by the government and whether their executives must testify about their operations. Writing for the full court in *Nelson*, Justice Joseph McKenna quoted an excerpt from Kellogg's examination of Benjamin F. Nelson, the president of defendant Hennepin Paper Company:

*Q.* Do the books, journals, or ledgers of the Hennepin Paper Company show any agreement or arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the Hennepin Paper Company upon various grades of paper manufactured by it and sold by or through the defendant the General Paper Company are and have been, since the 5th day of July, 1900, equalized, or the profits arising from

the sale of such paper distributed or apportioned, as between the defendants?

Mr. Flanders: All objections renewed, and I give the witness the same advice.

(No answer.)

Q. Do you refuse, Mr. Nelson, to produce the books?

Mr. Flanders: As I said before, you may assume for the purposes of these questions that the books and all the papers called for are present in court; but, on behalf of the Hennepin Paper Company and the witness and the General Paper Company, I decline to submit those to the inspection of the government counsel.

Mr. Kellogg: Or to allow them or any part of them to be put in evidence, Mr. Flanders?

Mr. Flanders: Yes.

McKenna goes on to discuss the defendants' recalcitrance:

It must not be overlooked that not only an inspection of the books was refused, but questions directed to ascertain the contents of the books were objected to, not answered. We have given one illustration; we will give another. Counsel for defendant corporations stated at the examination: 'That for the purpose of any questions the government counsel see fit to ask, it may be assumed that all the books, papers, and documents' described in the subpoena 'are present here in court, and we decline to submit them to the inspection of the government counsel.' The following then took place:

Q. State whether those books show the amounts, kinds, or grades of paper manufactured by the defendant Northwest Paper Company and sold by or through the defendant General Paper Company, as the exclusive sales agent of the defendant Northwest Paper Company since the 8th day of April, 1902, or since about the 1st of May, 1902 if that is the date the business commenced.

Same objections by defendants, and the witness given the same advice.

Q. You decline to answer?

A. I decline on advice of attorney.

Q. Do the books also show where the said paper so manufactured was sold and into what states and territories it was shipped since the 8th day of April, 1902, or the 1st day of May, 1902?

Mr. Flanders: I wish to make the same objections, and I give the witness the same advice.

A. Same answer.

And counsel for the United States, not only as to the matters expressed in the foregoing questions, but as to other matters which the bill charged against the companies and which had been inquired about, said that he desired to use the books and offer them in evidence to show such matters. An inspection of the books was refused, and all evidence of their contents withheld.

In a unanimous opinion on March 12, 1906, the Court affirmed the lower court's ruling that the defendants' books must be turned over to the government and their executives testify about their contents. On May 11, 1906, the defendants capitulated, withdrew their answers, and a default judgment was entered against them. The *New York Tribune* reported the surprising events:

## PAPER TRUST DEFEATED

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Middle West Combination Surrenders Unconditionally.

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St. Paul, Minn. May 11.—The United States government to-day obtained an unconditional surrender of the so-called Paper Trust in the United States Circuit Court before Judge Sanborn. The Attorney General began a suit on December 27, 1904, to dissolve an alleged combination between the General Paper Company and twenty-three other defendants, on the ground that an agreement had been entered into in restraint of interstate commerce.

Attorney Kellogg, for the government, and Attorney Flanders, for the defendants, appeared before Judge Sanborn, sitting as a Circuit judge, and Mr. Kellogg moved that the mandate from the United

States Supreme Court, affirming the order that the witness must testify, be filed. Judge Sanborn so ordered. The witnesses then appeared before the United States examiners and offered to testify. The defendants withdrew their answers. Mr. Kellogg announced that the government did not care to examine the witnesses and moved for a decree in favor of the government. Judge Sanborn ordered the decree entered for the government for the relief prayed and that it should be settled on June 16. The proceedings before the court and the examiner were then adjourned.

The three witnesses who refused to testify — C. L. McNair, of the Northwestern Paper Company; A. C. Bossard, of the Itasca Paper Company and B. F. Nelson, of the Hennepin Paper Company — paid the \$100 fine assessed against them for contempt in refusing to answer questions at a former hearing.

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Washington. May 11.—Attorney General Moody, questioned concerning the significance of the defendants' action in withdrawing their answers to the government's bill, said:

“Frank B. Kellogg, of St. Paul, special assistant to the Attorney General, telegraphed the department this morning that the defendants in the Paper Trust case appeared to-day before the United States Circuit Court for the District of Minnesota and asked leave to withdraw their answer in that case. The court having allowed the motion, the government immediately moved for a decree of injunction against each of the defendants, as prayed for in the bill of complaint, and the attorneys for the government were requested to prepare the decree to be entered. This action on the part of the constituent companies of the Paper Trust terminates the litigation by the entry of a judgment for all the government demanded in its bill, and a complete victory for the United States.

“This suit was originally instituted by direction of the Attorney General in the United States Circuit Court for the District of Minnesota against the General Paper Company and the following named independent paper manufacturing companies: the Itasca Paper Company, the Hennepin Paper company, the Wolf River Paper and Fiber Company, the Atlas Paper Company, the Kimberly & Clark Company, the Riverside Fiber and Paper Company, the Wausau Paper Mills Company, the Centralia Pulp and Water Power

Company, the Combined Locks Paper Company, the Dells Paper and Pulp Company, the Grand Rapids Pulp and Paper Company, the Manasha Paper Company, the C. W. Howard Company, the Nekoosa Paper Company, the Falls Manufacturing Company, the Flambeau Paper Company, the John Edwards Manufacturing Company, the Wisconsin River Paper and Pulp Company, the Tomahawk Pulp and Paper Company, the Northwest Paper Company, the Consolidated Water Power and Paper Company, the Manufacturers' Paper Company, the Petoskey Fiber Paper Company and the Rhinelander Paper Company.

"The bill alleges that they had combined, confederated and agreed together to restrain trade and commerce in the manufacture and sale of paper in violation of the Sherman Anti-Trust act and that they had organized the General Paper Company as the exclusive selling agent of each and all of the several defendant companies. The manufacturing companies above named are the owners of plants situated in the states of Wisconsin, Minnesota and Michigan and they manufacture substantially the sole supply of news print and fibre paper for the district west of Chicago and east of the Rocky Mountains.

"For the purpose of making an investigation preliminary to the beginning of this suit the Attorney General retained as special counsel for the government Frank B. Kellogg, of St. Paul, and James M. Beck, of New York, and the suit which was to-day brought to a successful termination was carried by such special counsel through the Supreme Court of the United States.

"During the summer and autumn of 1905 a large amount of testimony was taken which tended to show the existence of the illegal combination, as charged in the bill. During the taking of testimony certain of the defendant corporations refused to exhibit their books and answer questions, on the ground that such evidence was immaterial and that it would tend to incriminate them. Proceedings were thereupon instituted in the United States Circuit Court for the Eastern District of Wisconsin and in the United States Circuit Court for the District of Minnesota to punish for contempt for refusing to produce books and answer questions. These cases were argued in the Supreme Court of the United States on January 2, 1906, with the case of Hale agt. Henkel, commonly known as the "Tobacco Trust case." The same questions were involved in the Paper

Trust case that were involved in the Tobacco Trust case, and the decisions of the Supreme Court in the two cases were rendered at the same time. These decisions practically disposed of the defence in the Paper Trust case and resulted in the proceedings in the Circuit Court in St. Paul this morning, by which final judgment has been ordered in favor of the government.

“It is stated on reliable authority that since the institution of this suit against the Paper Trust the price of paper to the consumer has been reduced substantially 30 per cent.”<sup>5</sup>

Judge Walter H. Sanborn entered the following decree on June 16, 1906, dissolving the trust and enjoining further violations of the Sherman Act.<sup>6</sup>

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<sup>5</sup> *New York Tribune*, May 12, 1906, at 2. See also *Minneapolis Journal*, May 12, 1906, at 1 (“Declares Paper Trust ‘Busted’”), quoting executives of paper companies disagreeing over the future of the industry in the Midwest; most thought the trust dead, but a few predicted that General Paper Company would be reorganized while others predicted that paper prices would rise.

<sup>6</sup> Roger Shale, ed., *Decrees and Judgments in Federal Anti-Trust Cases, June 2, 1890 – January 1, 1918* 76-79 (Government Printing Office, 1918).



**UNITED STATES v. GENERAL PAPER CO.**

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**IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE  
DISTRICT OF MINNESOTA. THIRD DIVISION.**

**UNITED STATES OF AMERICA, COMPLAINANT,**

**vs.**

**GENERAL PAPER COMPANY ET AL., DEFENDANTS.**

This cause this day coming to be heard before the United States Circuit Court for the District of Minnesota, Third Division, upon motion of the complainant for an injunction in accordance with the prayer of the bill of complaint heretofore filed herein, and the defendants, General Paper Company, The Itasca Paper Company, Hennepin Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fiber and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water Power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, appearing by their solicitors, and the court being duly advised in the premises, it is ORDERED, ADJUDGED AND DECREED as follows:

1. That the defendants, The Itasca Paper Company, Hennepin Paper Company, Wolf River Paper and Fibre Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills

Company, Centralia Pulp and Water-Power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, and the Rhinelander Paper Company, did, as alleged in the bill of complaint, in violation of the provisions of Sections 1 and 2 respectively, of the Act of Congress approved July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," enter into an agreement, combination and conspiracy with one another to restrain the trade and commerce among the several states, and to control, regulate and monopolize said trade and commerce in the manufacture of news print, manilla, fibre, and other papers, and in the distribution, sale and shipment thereof, among the several states, as is more particularly alleged in the bill of complaint, and that in pursuance of said combination and conspiracy in restraint of trade and to monopolize said trade and commerce, as aforesaid, the said defendants caused to be organized under the laws of the state of Wisconsin a corporation, to-wit: The General Paper Company, defendant, with a capital stock of \$100,000, divided into 1000 shares of \$100 each, which were, pursuant to said common understanding, distributed among the defendants upon a basis of the estimated relative productions of such kinds and grades of paper made by the respective defendants, and that the said stock was owned by said defendants respectively, and that each of said defendants by a contract created the said General Paper Company its exclusive selling agent for any and all box lining, hanging, novel, print and manilla paper manufactured by each of said defendants respectively, and conferred upon the said General Paper Company absolute power to control and restrict the output of each of them, and to fix the price at which all paper manufactured by said defendants should be sold throughout the states of Illinois, Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Montana, Utah,

Colorado, Kansas, Nebraska, and other states, and to determine to whom, and the terms and conditions upon which said paper should be sold, into what states and places it should be shipped, and what publishers and other customers the mill of each of the said defendants should supply. That the said General Paper Company was and is controlled and governed by a board of directors, upon which board each of the defendants other than the General Paper Company was and is represented by one of its principal officers, and that the number of said board has been from time to time increased as new manufacturing corporations have entered into contracts with the said General Paper Company making it their exclusive selling agent as aforesaid, so as to permit representation thereon by said new corporation. That the said combination is hereby adjudged and decreed to be unlawful and in derogation of the common rights of the people of the United States and in violation of the Act of Congress of July 2nd, 1890, as aforesaid; and that the said defendants and each and all of them, and all and each of their respective directors, officers, agents, servants and employees, and all persons acting under or through them or in their behalf, or claiming so to act, be, and they and each of them are hereby perpetually enjoined, restrained and prohibited from doing any act in pursuance of or for the purpose of carrying out the said combination, conspiracy and agreement in restraint of trade and commerce, as aforesaid, and from monopolizing said trade and commerce as aforesaid.

2. That the defendant, the General Paper Company, its officers, agents, servants and employees be, and hereby are enjoined from acting as the sales agent of said defendants and from selling or fixing the price at which news print, manilla, fibre, and other papers, of the various defendant corporations shall be sold and into what states it shall be shipped and sold, and all contracts, agreements and understandings by which the General Paper Company was and is acting as the general sales agent of the defendants and each and every of them be, and hereby are declared unlawful and cancelled, annulled, and set aside, and they and each of them are hereby enjoined and restrained from making, executing or carrying out any such contract, agreement or understanding in the future.

3. That each and every of the defendants, their officers, agents, servants and employees be and hereby are jointly and severally restrained and enjoined from continuing the agreements made between each of the said defendants and the said General Paper Company, and all agreements heretofore made whereby the General Paper Company was and is constituted the sales agent of any and all news print, manilla, fibre, and other papers, and all contracts and agreements and understandings by which the said General Paper Company was and is so constituted the selling agent of the said defendants, are hereby declared to be unlawful and are hereby cancelled and annulled, and they and each of them are hereby enjoined and restrained from making, executing or carrying out any such contract, agreement or understanding in the future, and from authorizing the said General Paper Company to sell, fix the price of, and terms of sale of the products of, or to control or regulate the output of, each of the defendants' mills and manufactories, or to dictate and determine the persons, corporations or newspapers to which it shall be sold, or the states into which the same shall be shipped and sold.

4. That the defendants and each of them, and all and each of their respective directors, officers, agents, servants and employees, and all persons acting under or through them or any of them, or in their behalf, or claiming so to act, be, and they and each of them are hereby enjoined, restrained and prohibited from entering into, taking part in, or performing any contract, combination or conspiracy, the purpose or effect of which will be, as to trade and commerce in news print, manilla, fibre and other papers manufactured by the defendants, between and among the several states and territories and the District of Columbia, a restraint of trade, or a monopolization of, or an attempt to monopolize trade, in violation of the provisions of the Act of Congress approved July 2, 1890, entitled "An Act to Protect Trade and Commerce against unlawful Restraints and Monopolies", and the acts amendatory thereof, either by agreeing or contracting together or with one another, expressly or impliedly, directly or indirectly, with respect to the manufacture, price, sale, shipment, and disposition of news print, manilla, fibre, and other papers manufactured, sold and distributed by the said

defendants or any of them, or by contracting and agreeing together or with one another expressly or impliedly, directly or indirectly, as to the prices at which the said paper or any part or grade thereof shall be sold, as to the persons or corporations to whom it shall be sold, as to the territory in which any of such paper shall be shipped, sold, or otherwise disposed of, or as to the amount or quantity of such paper or any grade thereof which shall be manufactured, sold or distributed by the defendants or by any of them, or by agreeing or contracting together or with one another with a view to the imposition of any burden or condition upon the manufacture, sale or disposition of such paper manufactured by the defendants or any of them.

5. It is further ordered, adjudged and decreed that a writ of Injunction issue out of this court, enjoining the said defendants, their directors, officers, agents, servants and employees, as hereinabove directed and stated.

6. It is further ordered, adjudged and decreed that the plaintiff have and recover of the defendants its costs and disbursements, to be fixed and allowed by the Clerk pursuant to the rules of equity.

WALTER H. SANBORN,  
*U. S. Circuit Judge.*

Filed June 16th, 1906.

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