RECENT INTERPRETATIONS OF THE COMMODITIES CLAUSE OF THE HEPBURN ACT

DIGEST—NOTE.

(United States v. Reading Co., 226 Fed. 229.)

In the recent case of *United States v. Reading Co.*, 226 Fed. 229, the question presented to the court was whether a holding company which held all the stock of a railroad company and of a mining company was such a combination as would violate the "Commodities Clause" of the *Hepburn Act*, 34 Stat. at L. 585, Chap. 3591, Comp. Stat. 1913, par. 8563.

The court held, that such an agreement was lawful, provided that the railroad company does not use the power thus obtained to obliterate the distinction between the two organizations, and to commingle the affairs of both and thus cause the corporation to be one for all purposes, and it must not destroy the entity of the mining or producing company and thus make the two virtually one.

The court found the facts to be that the railroad company had dealt with the mining company at arm's length; their operating officers and departments had been entirely distinct.

In the case of *United States v. Delaware, Lackawana and Western Railroad Company*, 238 U. S. 516,* the court laid down the rule that was followed in the decision of *United States v. Reading, supra.* In that case it was contended, on behalf of the government, that it would be illegal for a railroad to own any stock in a producing company, but this contention was overruled and the court adopted the rule that a railroad may organize and own the stock of a producing company provided it separate the two companies as soon as the organization is completed.

In *United States v. Reading C., supra,* the fact that there was fraud or collusion in the organization of the holding company was considered. There was no attempt to commingle the affairs of the producing company with the railroad company under the guise of a lawful combination.

---

*See also note in St. Louis Law Review, Vol. I, p. 59, discussing the development of the Commodities Clause of the Hepburn Act through the Delaware, Lackawana and Western case.