

The Burger Court Opinion Writing Database

United States v. Armour & Co.

398 U.S. 268 (1970)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



BY
TRF
ADW

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

April 30, 1970

Re: No. 103 - U. S. v. Armour

Dear Thurgood:

I join your opinion.


W. E. B.

Mr. Justice Marshall

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U. S. SUPREME COURT RECORDS

To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan ✓
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Fortas
Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

No. 103.—OCTOBER TERM, 1969

From: Douglas, J.

Circulated: 4/27/70

United States, Appellant, }
 v. } On Appeal from the United
 } States District Court for
Armour & Company et al. } the Northern District of
 } Illinois.

[March —, 1970]

MR. JUSTICE DOUGLAS, dissenting.

In an historic consent decree, which the Court approved in *Swift & Co. v. United States*, 276 U. S. 311, the giant meatpackers were separated in a complete and continuing way from the general food business, the District Court retaining in the customary way the power to grant additional relief at the foot of the decree. Later Armour and other meatpacker defendants, claiming that conditions in the food business had changed, sought modifications of the decree to relieve them from the structural bars against engaging in various aspects of the general food and retail meat business. That effort was unsuccessful. *United States v. Swift & Co.*, 286 U. S. 106. Later, another attempt was made to obtain similar relief and it too failed. *United States v. Swift & Co.*, 189 F. Supp. 885, aff'd 367 U. S. 909.

Armour is now the second largest meatpacker in the Nation. General Host is engaged in the food products business; it operates some 380 grocery stores, and some lodges, restaurants, and coffee shops. It is, in other words, engaged in lines of business from which Armour, as a party to the decree, would be barred, whether it did so directly or through stock ownership.

Against the resistance of Armour, General Host which held about 16½% of Armour's outstanding stock undertook to acquire at least 51% of it. The United States

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The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
~~Mr. Justice Douglas~~
Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

No. 103.—OCTOBER TERM, 1969

om: Douglas, J.

rculated: _____

United States, Appellant, } On Appeal from the United States District Court for the Northern District of Illinois.
v. }
Armour & Company et al. }

rculated: 4-29

[May —, 1970]

MR. JUSTICE DOUGLAS, dissenting.

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To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan ✓
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall

3

SUPREME COURT OF THE UNITED STATES

No. 103.—OCTOBER TERM, 1969

From: Douglas, J.

Circulated: _____

United States, Appellant, } On Appeal from the United
v. } States District Court
Armour & Company et al. } the Northern District of
Illinois.

Revised: _____
Circulated: 5-4

[May —, 1970]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE WHITE
concur, dissenting.

In an historic consent decree the giant meatpackers were separated in a complete and continuing way from the general food business, the District Court retaining in the customary way the power to grant additional relief at the foot of the decree. Some years later motions to vacate the decree were made; and a judgment overruling them was affirmed by this Court. *Swift & Co. v. United States*, 276 U. S. 311. Later Armour and other meatpacker defendants, claiming that conditions in the food business had changed, sought modifications of the decree to relieve them from the structural bars against engaging in various aspects of the general food and retail meat business. That effort was also unsuccessful. *United States v. Swift & Co.*, 286 U. S. 106. Later, another attempt was made to obtain similar relief and it too failed. *United States v. Swift & Co.*, 189 F. Supp. 885, aff'd 367 U. S. 909.

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Mr. Justice Stewart
Mr. Justice White
Mr. Justice Fortas
Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

No. 103.—OCTOBER TERM, 1969

From: Douglas, J.

Circulated: 5/6/70
Recirculated:

United States, Appellant, } On Appeal from the United
v. } States District Court for
Armour & Company et al. } the Northern District of
Illinois.

[May —, 1970]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN and MR. JUSTICE WHITE concur, dissenting.

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To: The Chief Justice
Mr. Justice Black ✓
Mr. Justice Harlan ✓
Mr. Justice Brennan ✓
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

SUPREME COURT OF THE UNITED STATES as. J.

No. 103.—OCTOBER TERM, 1969

5/28/70

United States, Appellant, } On Appeal from the United
v. } States District Court for
Armour & Company et al. } the Northern District of
Illinois.

[June —, 1970]

MR. JUSTICE DOUGLAS, dissenting.

I dissent from a dismissal of the case as moot.

In an historic consent decree the giant meatpackers were separated in a complete and continuing way from the general food business, the District Court retaining in the customary way the power to grant additional relief at the foot of the decree. Some years later motions to vacate the decree were made; and a judgment overruling them was affirmed by this Court. *Swift & Co. v. United States*, 276 U. S. 311. Later Armour and other meatpacker defendants, claiming that conditions in the food business had changed, sought modifications of the decree to relieve them from the structural bars against engaging in various aspects of the general food and retail meat business. That effort was also unsuccessful. *United States v. Swift & Co.*, 286 U. S. 106. Later, another attempt was made to obtain similar relief and it too failed. *United States v. Swift & Co.*, 189 F. Supp. 885, aff'd 367 U. S. 909.

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN M. HARLAN

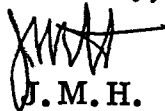
April 4, 1970

Re: No. 103 - United States v. Armour

Dear Thurgood:

I am glad to join your opinion.

Sincerely,


J. M. H.

Mr. Justice Marshall

CC: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

Dr
Tee
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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 5, 1970

RE: No. 103 - United States v. Armour
& Company, et al.

Dear Bill:

Please join me.

Sincerely,

Bill
W. J. B. Jr.

Mr. Justice Douglas

cc: The Conference

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BY
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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

April 28, 1970

No. 103 - U. S. v. Armour & Co.

Dear Thurgood,

I am glad to join your opinion for
the Court in this case.

Sincerely yours,

P.S.

Mr. Justice Marshall

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. SUPREME COURT ARCHIVES

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Fortas

1

SUPREME COURT OF THE UNITED STATES

From: Marshall, J.

No. 103.—OCTOBER TERM, 1969

Circulated: 4/27/70

United States, Appellant, } On Appeal from the Northern
v. } States District Court for
Armour & Company et al. } the Northern District of
Illinois.

Circulated: _____

[May —, 1970]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

This case involves the construction of the Meat Packers Consent Decree of 1920, which prohibits Armour & Company from dealing directly or indirectly in many grocery commodities, and from having any interest in a corporation dealing in such commodities. The question here is whether that decree will support a supplementary order prohibiting General Host Corporation, which is in the grocery business, from taking over Armour against the resistance of Armour's management.

On February 27, 1920, the United States filed a bill in equity against the Nation's five largest meatpackers, including Armour, and against their subsidiary corporations and controlling stockholders, charging conspiratorial and individual attempts to monopolize a substantial part of the Nation's food supply. The bill alleged that the packers, from their initial position of power in the slaughtering and packing business, had acquired control of the Nation's stockyards, stockyard terminal rail lines, refrigerated rolling stock, and cold storage facilities, and that they had used predatory practices to eliminate competition in the food business.

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To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Fortas

SUPREME COURT OF THE UNITED STATES

From: Marshall, J.

No. 103.—OCTOBER TERM, 1969

Circulated: _____

Recirculated: MAY 1 1970

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[May —, 1970]

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