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Voting Trusts in Corporations

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VOTING TRUSTS IN CORPORATIONS

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VOTING TRUSTS.

in Corporations.

Introduction.

The manner, as it now exists in which the stockholders of a corporation may surrender their voting power was practically unknown to the common law. Even the mere giving of a proxy was regarded as creating a scintilla of fraud as respecting other members of the corporation.

At the present time nearly all the states have passed statutes regulating the right of voting by proxy. How far the modern custom irrespective of any express authority, has altered the common law in regard to voting by proxy is still a query, but it seems there has been more or less a tendency in that direction.

Owing to the growth of the financial and commercial condition of this country a new form of association has been devised, a significant movement in the direction of the management of corporations which is
the most prominent and vital feature of the present
decade.

What previously through the inconvenience of
appearing in propria persona and voting at every election
is now arranged so that the vote of each member may be con-
centrated into the hands of a committee or other third
party designated in the agreement, who may direct the casting
of such votes from time to time as they may see fit in
the best interests of all concerned.
FORMATION OF A VOTING TRUST.

In forming a trust of this character we are met by a dilemma of not knowing a good definition. It seems that the courts have hesitated in attempting to frame definitions of trusts and voting trusts being such a modern device text writers, it is believed, have not found it necessary to frame a definition. Cook on Stock and Stock-holders (sec. 503) defines trusts as follows: "The word 'trust' was first used to mean an agreement between many stock-holders in many corporations to place their stock in the hands of trustees and to receive therefore trust certificates from the trustees". Mr. S. C. Dodd, the general solicitor and originator of the Standard Oil Trust, defines a trust as "an arrangement by which the stock-holders of the various corporations place their stock in the hands of certain trustees and take in lieu thereof certificates showing each share-holders equitable interest in the stock so held. The result is two-fold. The stock-holder, thereby be-
comes interested in all the corporations whose stock is thus held. The trustees elect the directors of the several corporations. From these definitions we may deduce the following definition that the most common and ordinary voting trust is an arrangement by which the stock of each stock-holder is placed in the hands of a trustee separating therefrom the voting power and lodging it under the control of a committee, whose policy will therefore be to guide the trustees or board of directors, so that the corporate interests of all may be governed without each member voting.

One of the best illustrations of a voting trust, and one which has been in successful operation for a number of years, is the Wisconsin Central Voting Trust. The main outline of the trust is as follows: A majority of the rail roads known as the Wisconsin Central Association Line, were transferred to trustees who became invested with the absolute legal title, receiving at the same time from the stock-holders the perpetual right to vote on the stock as its legal owner, with a discretion to nominate their own successors subject to the approval of the majority of the holders of the trust certificates.
The trust certificates that they issue are said to be a personal contract between each certificate holder and the trustee and no other certificate holder be privy to it. The only relation is between the trustees and the cestui que trust and is limited to the single purpose declared in the trust certificate. The shares are transferable only upon the surrender of the certificates together with a conveyance in writing signed by the certificate holder, or his attorney duly authorized, and recorded in the trustee books, and every person accepting any transfer must declare in so doing that he receives the shares subject to the trust. It is intended that the beneficial interest in the stock, minus the voting power, shall remain where it was before, that the stock may be greatly enhanced by having the control in a responsible board rather than in the individual stock holders, who vote with an eye to their own pecuniary interest, and with no feeling of responsibility for or to anyone else, and although the stock-holders sacrifice their voting power the advantage in the end is more profitable to them, as the mere right to vote which, as corporate elections usually go, is more often a burden t
than a benefit. Mr. C. F. Beach, Jr., says "that the only practicable voting trust, that is to say, the only one yet devised that the courts and the politicians will not undo, is one created by the absolute transfer of the stock to the trustees in exchange for a trustees certificate in the nature of a declaration of trust. This may be perpetual or for a term. This trust as between each stock-holder and the trustees may be personal, and there need be no other contract between trustees and cestui que trust than that set forth in the trust certificate. Each stock-holder enters into the contract for himself alone without reference to any other stockholder. If one such trust agreement is valid, twenty thousand are equally so, such standing by itself and being the voluntary deed of each stock-holder, for himself. The legal ownership of the stock by the trustees after the issue of the trust certificate, consists solely in the right to vote, the trust certificate reconveying to the share-owner all the beneficial interest in the stock."

In treating of this subject, it falls naturally into two branches; first, the effect of such trusts as
to persons or parties entering into them; second, the
relation of such trusts to public policy and, as to their
legality and probable future interpretation by the courts
and legislature.

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Functions of the Trustees.

In treating of the office of the trustees we
should note that an arrangement by which the stock is
placed in the hands of a depositary with instructions to
vote it as directed by a committee appointed by the
stock-holders and subject to their control, was held in an
Ohio case, that it did not appear that the ownership of
the stock and its voting power was separated by the agree-
ment, consequently the court regarded it as not creating
a voting trust but only a convenient way of voting by
proxy. We can readily speculate that under such cir-
cumstances the officers would only be responsible to the
same degree as ordinary directors. But such an agree-
ment differs radically from an agreement whereby the
stock is placed in the hands of trustees who are investi-
ed with the power of voting it as their interests may dictate irrespective of the wishes or directions of the owners (a). Now the trustees to whom the stock is thus entrusted, issue to the stock-holder from whom they receive it, trust certificates which represent the pecuniary value of the stock, minus the voting power. The trustees, says Mr. Beach, Jr., "are then subject only to the rules of equity which govern trusts. They should be chosen because of their fitness for such a steward, and should be absolutely beyond the influence of the certificate holders. They cannot elect themselves to office nor vote themselves remuneration. They ought to have the power of appointing their successors possibly with the assent of the certificate holders. They would elect the board of directors which is all that the stock-holders acting for themselves ever can do, and their visitorial would amount to something, while that of the stock-holders amounts to nothing. The trustees would be responsible for good management and would be under every motive which actuates men of honor to secure it".

The case of Smith vs Anderson (b) states fully

(a) Railway Co. vs. State, 49 Ohio St., 668.
(b) 15 L.R., 247.
the distinction between trustees and directors. The distinction amounts to this, that the office of director is one of delegated authority and that of trustee a personal office. A trustee acts as owner of the property in his hands subject to the equitable obligations to account to his cestui que trust, although there might not be such a distinction between an ordinary director and a trustee of a voting trust, still so great a confidence being reposed in such a device should intensify the duty on the part of the trustees to exercise the utmost good faith in all dealings in which they represent the stockholders.

Agreements of this kind are modern inventions, and cases arising under them are novel in many of their features and will probably call for the application of equitable principles and doctrines such as are adapted to work out justice and prevent wrong. An endeavor will be made in the next chapter to treat the application of these equitable principles as regards the share-holders of the corporation.
Effect of Voting Trust upon the Share-holders.

Now let us consider the legal effect of the voting trust as among the members and between the members and the trustees. Will the courts regard such a trust as creating a partnership as between the individual members and the trustees or even as between the members and each other who are not trustees? In a partnership each member is agent of all the others for all ordinary purposes in all acts done for the benefit of the firm. It makes no difference in the legal principle that he is in the minority on any question. His power as a partner is not impaired thereby. But let this same firm become incorporated, his power to act for the firm ceases, and as a member he can only cast a vote towards the election of a board to whose hands all the ordinary business of the firm is transferred. In a voting trust one half of the stock plus one share can elect the committee to control the board, and half the stock minus one share gives no right either of control
or voice in the board, consequently the entire control for a term of years may be secured by one or more stockholders by simply securing the voting power of a majority part of the stock. A very striking illustration of how a majority stockholder may secure the control of a corporation may be seen in the case of Barnes vs Brown(a) wherein it was held that an agreement made by one who is president and largest stock-holder of a corporation with those to whom he sells the stock that he will resign as officer and director and procure other directors to resign to make room for persons to be selected by such purchaser of the stock, violates no rule of public policy and is not void. The Court of Appeals in an opinion by Earle, J., after adverting to the fact that plaintiff held a majority of the stock and a right to control the same, says: "It is the general rule sanctioned by the law that those who have the largest interest in the corporation may control them as they have the greatest interest that they shall be well managed. When Brown and Seligman succeeded to the interest of the plaintiff holding a majority of the stock then issued, it was perfectly proper that they should have the control of the cor-

(a) Barnes vs Brown, 80 N.Y. 528.
poration and it was not improper or illegal for the plaintiff to surrender the control to them. There is no proof that in obtaining the resignation of the plaintiff and other directors and in filing the vacancies any fraud was intended upon the corporation, or that any of the stock-holders objected to what was done in this respect. It was simply the mode of transferring the control, who by the policy of the law ought to have it, and I am unable to see how any policy of the law was violated or wrong was thereby done to any one. It seems therefore to be no reason why the holders of a majority of the stock of a corporation may not legally control the company's business, make themselves its agents, and take reasonable compensation for their services, but at the same time their powers should be limited, that is to say, in assuming the control they should also take upon themselves the correlative duty of good faith and diligence and should not unlawfully manipulate the company's business in their own interests to the injury of the minority stock-holders. The court held in Havemeyer vs. Havemeyer (a) that an agreement between stock-holders of

(a) 43 Sup.Ct., J.& S. 506.
a corporation who together own a majority of the capital stock to unite for the purpose of electing directors is not to conflict with the law or its policy. There is nothing in it tending to frustrate with the legal right of the majority of stock-holders to delegate to directors of its own choice the management of the affairs of the company. This case was followed by Griffith vs. Jewett, et al., (a) which laid down the doctrine that seems to be the law at the present time, that an agreement by which a stock-holder surrenders his voting power, may be revoked at any time notwithstanding it is in terms irrevocable. The language of Judge Peck in this case is noteworthy: "We can perceive no reason why any number of shareholders either by means of a proxy or by vesting the legal title in another may not authorize him to vote upon their stock and as such is the substance of the case we consider it not illegal; so long as the parties to it or their successors in interest are satisfied with it, no other person may complain, and the irrevocable clause does not affect the rights of any one. But if the equitable owner elects to withdraw

the legal title from the holder thereof, the case assumes a different aspect. As we have heretofore seen, it is a dry trust; the trustees have no interest to set up in its favor of continuance, but the parties have agreed that the power to vote vested in the trustees shall be irrevocable. Can this provision be sustained as against the demand of certificate holders that they be permitted to revoke? If such demand be not complied with the party holding the beneficial interest in the stock cannot cast the vote thereof for it may be voted upon by one having no interest in it or in the company, and so it may come to pass that the ownership of a majority of stock of the company may be vested in one set of persons and the control of the company irrevocably vested in others. It seems clear that such a state of appears would be intolerable, and is not contemplated by the law the universal policy of which is that the control of stock companies shall be and remain with the owners of stock and cannot exist apart from it. The owners of the trust certificate are in our opinion the equitable owners of the shares of stock which they represent and being such the incident right to vote upon the stock naturally pertains to them. They may
permit the trustees as holders of the legal title to vote in their stead, but when they elect to exercise the power themselves the law will not permit the trustees to refuse it to them". In this case the court held the agreement illegal in so far as it attempts to confer an irrevocable right to vote upon the trustees. In the case of Zimmerman vs. Jewett which was head with the case of Griffith vs. Jewett above cited, and involves the same facts with the exception that the plaintiff sued as owner of stock of the company which was not included in the trust agreement, the court held that the attempted irrevocable character of the arrangement be separable, the arrangement was legal as assenting stock-holders did not object; and the power to revoke could only be exercised by those who had assented. But we should distinguish these cases from those where the object and purposes of the trust is to work out some scheme which is illegal in itself. One of the first cases in which the validity of a voting trust which had been constituted in aid of the organization, or to set an embarrased company on its feet again in the interests of all concerned, came in question, was that of Hafer vs. New
York, Lake Erie and Western R.R. Co., (a). A controlling interest in the stock of the Cincinnati Hamburg and Dayton R.R. Co., another corporation, was bought up in 1882, and placed in the name of H.J. Jewett, who was then president of the New York, L.E. & W.R.R. Co., under an agreement that he should give an irrevocable proxy to such persons as the Erie should appoint from time to time to vote upon the stock, that his stock certificates should be left in the hands of trustees; and that they should issue to their respective owners of the stock trust or pool certificates equal to their respective interests; on all stock thus pooled, the Erie agreed to grant a certain dividend.

After three years had passed, one, Hafer, who owned stock not in the pool, brought an equitable action claiming the pooling control to be illegal and void, and asking that Jewett be enjoined from delivering any future proxy to the Erie. The Erie filed a cross-bill demanding the proxy, or if the contract should be decided illegal, that it be rescinded and Jewett enjoined against voting on the stock at any time. The court, in an

(a) 14 Cin. Law Bul. 68.
able opinion from which the following quotation is made, sustained the motion for temporary injunction, and held the trust contract illegal on two grounds; one, that it put the control of the Ohio corporation in the hands of the New York Corporation (the Erie), and the other, that the stock-holders who united to make it, thereby violated their duty to their fellow stock-holders. "Here a large number of stock-holders for a valuable consideration, have attempted to confer their right to vote upon the directors of another corporation. The law has confided the care of the franchises and property of this company to the stock-holders and it is the duty of each stock-holder to vote for directors of the company with an eye singly to its best interests."

In Guernsey vs. Cook (a), the court said "that a sale by a stock-holder of the power to vote upon his shares, is illegal for very much the same reason that a sale of his vote by a citizen at the polls or by a director of the corporation at a meeting of the board, is illegal. Each is a violation of duty in effect if not in purpose a betrayal of trust."

Now, what are the principle rights of certifi-

(a) 120 Mass. 501.
Holders of stock have the following principal rights and privileges; they may participate in the dividends of a company and on the winding up thereof receive a proportionate share of the assets; they may assign or sell their stock and, as is laid down in Hawes vs. Oakland (a), the right to sue where the directors of a corporation are guilty of fraud or breach of trust, or are creating for their own interest, or where the majority of the shareholders are oppressively or illegally pursuing a course in the name of the corporation which is in violation of the rights of other shareholders, and which can only be restrained by a court of equity. In other words the holders of trust certificates have the same rights and privileges as any ordinary shareholder with the exception of the right to vote and it may be said that this power may be revoked at any time by anyone of the certificate holders notwithstanding it is in terms irrevocable.

One of the most recent cases which involves these doctrines was decided in the court of Chancery of New Jersey. The majority of the shares of the Up-

(a) 104 U.S. 457.
per Delaware Transportation Co., had been put under an irrevocable power of attorney into the control of a small stock-holder to vote on for five years for the promotion of the best interests of said company and to secure the election of directors who should make and keep one of the constituent stock-holders in the office of 'manager' at a salary of $2500. during the five years, provided he so long faithfully discharged his duty. Some of the stock-holders revoked this power and an injunction was granted at their instance. Vice-Chancellor Pitney in his opinion says: "the theory upon which the capital of numerous persons is associated in various proportions in the shape of a trading corporation to be managed by a committee of the stock-holder is that such committee shall truly represent and be subject to the will of the majority in the interest of the stock-holders. The security of the small stock-holders is found in the natural disposition of each stock-holder to promote the best interest of all in order to promote his individual interest. A member of an ordinary partnership has an additional security in the personal character of each of his partners and may decline to be
associated with any he does not know or approve. But a stockholder in a corporation cannot control the personnel of his associates and must rely upon their self interest alone" It has been argued that such transactions are executed illegal contracts, that the parties are in pari diletto and for that reason the courts will not interfere(a). It is obvious however that this rule cannot always be applied to plaintiffs for where public interests require that the relief should be given, it is given to the public through that party(b). The mischiefs felt or feared from these trusts may not alone effect the interests of stock holders, but also imperil the rights of creditors(e).

(a) Hooker v De Palo, 28 O.S. 251.
(b) 1 Pom. Eq.
(c) Shirley vs Ferris, 3 P.Wms. 77; 1 Pom. Eq. sec. 433
Rights of Creditors.

It is a general principle of law that the funds of a corporation are held in trust for its creditors. This is the only basis on which the creditor has a right to interfere with the management of the corporate affairs. If the corporate funds are being applied to purposes beyond the scope of the corporate objects in such a way as to incur the insolvency of the corporation and imperil the lien of creditors on its funds a creditor can restrain the misapplication(a). It is obvious however that all voting trusts are not formed to imperil the solvency of the corporation but to guaranty the control of the corporation to creditors who would not otherwise extend their credit but for such control. In Burgess vs Seligman(b) one Seligman, a creditor of the corporation, received stock from it as collateral security. The law sanctioned his right to vote on it notwithstanding the real ownership remained in the corporation.

(a) Conro vs Gray, 4 How.Pr.166.

(b) 107 U.S. 20.
Here the pledgee has a power coupled with an interest, the stockholder not objecting to such an agreement. Some of the earlier trusts of this kind were designed like that in Seligman's case to guarantee the control of the corporation to creditors. On the reorganization of a foreclosed railroad for instance, holders of bonds might be willing to accept some similar security provided they could have a controlling voice in the election of directors. The whole scheme of putting an embarrassed corporation upon a solid basis may depend upon the consideration for the temporary relinquishment of the stockholder's vote in favor of the principal creditors. A striking illustration of what I have just said was seen when the Reading voting trust was formed. While the Reading railroad was under a position of great financial embarrassment in 1887, such a voting trust was devised under an agreement between the principal creditors and stockholders. Their bonds and stock were put under the control of the reconstruction board, with power to adjust securities, reduce interest rates, create or exchange liens and transfer stock. The stock was to be

(a) Ervin vs P. & R.R.R. Co., 7 R. & Corp. L.J., 87
ultimately held by five representatives of the different interests concerned and the majority of these dictated the stock vote. They in turn issued trust certificates to the original stockholders stating that they owned the beneficial interest in the share which they had contributed devoid of the right to vote.

Three years afterwards a holder of one of these trust certificates applied for a temporary injunction to prevent the execution of a voting trust at a coming meeting of the company and the case was fully argued on both sides before the Court of Common Pleas at Philadelphia. Judge Hare in delivering the opinion while resting the denial of an injunction primarily on the ground that the case was not clear enough to warrant such preliminary relief, discussed the question as to the rights of creditors "we think that this view errs in looking solely towards the stockholders. They are not the only persons beneficially interested in the railroad. The lien creditors are also owners and if harmony be not preserved may possess the whole. It is therefore necessary to have some arbiter to reconcile interests which were jarring and might diverge, and the
want was supplied by the voting trust. To decide that the election must be held exclusively on behalf of the holders of the stock certificates would frustrate rather than give effect to the principle that the votes should be cast by those who have an interest in the result. It is not easy to discern how the position of the members of a trust differs from that of an individual to whom stock is transferred as security for a debt to a third person. The only duty of such a holder is to keep the certificate safely until the debtor pays or is in default, and then hand it over to whichever party is equitably entitled. Had the duties of the Reconstruction Board and Voting Trust been confided to a single body with the authority to secure the creditors by executing mortgages and then hold the stock with the right to vote in the best way calculated to promote the common good, it could hardly have been said that there were no active duties to uphold the trust or that it came to an end when the mortgages were executed. If this would have been the rule in the circumstances above supposed it does not think vary the case that the end was sought to be obtained through the close relating boards, one supplementing and operating as a restraint upon the other.
Without pronouncing an opinion on a point which remains open for consideration on the final hearing, it is enough to say that the case is not sufficiently clear to warrant a preliminary injunction that will prevent an election on the day named in the charter and might cause irreparable injury if such remedies are given to them."
Legality of a Voting Trust.

The legal theory of the relation between the state and those who receive from it the corporate franchise is said to rest on personal confidence. Thus when discretionary power of any kind is delegated to incorporators by the statute the law requires of them the personal exercise of that discretion. It was said in Taylor vs Griswold (a) the obligation and duty of incorporators to attend in person and execute the trusts and franchise reposed in or granted to them is implied in and forms a part of every constitution of every charter when the contrary is not expressed. At the present time nearly all the states have passed statutes authorising the right to vote by proxy. Can the courts of those states now say that it is against the policy of the law that the power to vote which is incident to the ownership of stock, shall be separated from the true owner; in other words, does it amount to a breach of that personal confidence which is given for the consideration of the

(a) 14 N.J. Law, 322.
corporate franchise? If we can consider that it is not a breach of the corporate franchise then the trust must be defensible if formed for a legitimate purpose.

The law is clear that every kind of valuable property both real and personal that can be assigned at law and may be the subject matter of a trust. The formation of a trust for the carrying on of business under the management of trustees is legal and allowable, both at common law and under the statutes. In Gott vs Gar-land the chancellor said the revised statutes have not attempted to define the objects for which express trusts of personal property may be created; such trusts therefore may be created for any purpose not illegal.

It was decided in Vowell vs Thompson that a pledgor of stock which stands on the books of the corporation in the name of the pledgee may by a suit of equity compel a transfer to him or oblige the pledgee to give him a proxy to vote. In a Pennsylvania case the court said: we think that the trust agreement is absolutely void as contrary to public policy and because it sub-

(a) Perry on Trusts, 667.
(b) 10 Vesey, 110.
(c) 7 Page, 521.
(d) 79 N.Y. 602.
(e) 3 Cranch Cir.Ct. 423.
stantially amounts to a repeal of our act of assembly in regard to the right to vote incident to the ownership of stock. It is doubted in that court whether the trust agreement would have been upheld anyway in the absence of an act to the contrary, for the learned judge said that the trust not only gave the vote to the trustees but cast upon them to control the organization and policy of the said company, that it is common sense and common law that the power or authority of the agent cannot be greater than that of the principal. This case however was never appealed for the parties agreed to a settlement between themselves.

It is thought that it may be said with accuracy that separating the voting power from the ownership for less than a year is not by itself illegal or against public policy and the courts when impeaching this agreement usually find some breach of correlative duty which is itself against public policy either being opposed to the relation of mutual trust and confidence which is deemed by law to exist between the parties interested in the corporation or void as an unlawful restraint up-
on alienation (a) One of the leading cases involving the question of public policy was decided by the Superior Court of Connecticut in 1891, Starbuck vs Mercantile Trust Co (b). The majority of the shares of the Shepaug, Litchfield and Northern Railroad Co., had been placed in a mercantile trust company in New York on a five year voting trust and certificates had been issued by the company. The plaintiff bought some of these certificates with notice of course of the trust and then notified the company that they revoked the trust so far as their interests were concerned and demanded a transfer of their stock. This being refused and an election being soon to occur, suit was brought and judgment rendered for an injunction, and a transfer of the stock to the certificate holders according to their respective interests. In the elaborate opinion by Judge Robinson, the question now under consideration was referred to as follows: "It is the policy of our law that an untrammelled power to vote shall be incident to the ownership of stock, and a contract by which the real

(a) Fremont vs Stone, 42 Barb. 169; Fisher vs. Bush, 35 Hun, 641.
(b) 60 Conn. 553.
owner's power is handicapped by a provision therein, that he shall vote just as somebody else dictates, is objectionable. I think it is against the policy of the law of the state for a stockholder to contract that his stock shall be voted just as someone who has no beneficial interest or title in the stock directs saving to him simply the title, the right to dividends and perhaps the right to cast the vote directed, willing or unwilling, whether it be for his interest or for the interests of other stockholders or for the interest of the corporation or otherwise. This I conceive to be against public policy whether the power so to vote be for five years, or for all time. It is the policy of the law of our state that ownership of stock shall control the property and the management of the corporation, and this cannot be accomplished and this good policy is defeated if stockholders are permitted to surrender all their discretion and will in the important matter of voting, and suffer themselves to be mere passive instruments in the hands of some agent who has no interest in the stock equitable or legal. The learned judge also said that this was not entirely for the protection of stockholders
but to compel the compliance of duty which each stockholder owes his fellow stockholder. To a certain extent at least a stockholder stands in a fiduciary relationship to his fellow stockholders. For these reasons he held the trust agreement void as against public policy.

In treating of the future interpretation of what we may term the ordinary voting trust where full control is left to the board, the writer is beset with the difficulty that no case, it is believed, turning upon this point has come in the reports of last resort, and all that we can rely upon are the opinions which are reported in the ordinary trial courts. However, we can readily see that if a case should arise in New York to test the legality of a voting trust which is formed for the purpose of buying up stock in another corporation and getting control of its management without authority of law, or to create a partnership between two or more corporations, the case would probably turn on the same ground as the sugar refining case, that the object of such a trust is illegal on the ground that the corporation

(b) People v North River Sugar Co., 121 N.Y. 582.
Sumner v Masey, 3 W. & M. 105; Shepaugs Voting Trust Cases, 60 Conn. 553.
has exceeded its powers and that such excuse or abuse threatens or harms the public welfare. A voting trust formed for the purpose of running a single corporation involves only the interests of the shareholders and creditors. If the shareholders have agreed to the voting trust and have acquiesced in the same, why should they not be bound by the trust agreement, if otherwise not fraudulent or against public policy. Now the principles that have thus far been laid down by the courts in which they seem to be in harmony, are as follows: first, a stockholder cannot irrevocably divest himself of the power to vote on the stock and his agreement to that end does not bind him. Second, a combination among shareholders by which they transfer their votes to a committee subject to the control of the shareholders is not illegal per se but amounts only to the giving of so many proxies. Third, a holder of stock, not in the trust agreement, cannot enjoin the trustees from voting unless the object of the agreement is illegal. Fourth, if the object is illegal, as for instance conferring the voting power upon the trustees in order to get control of
the stock of another corporation, the contract is illegal
and any stockholder may enjoin the execution thereof.

The present tendency of the American Government seems to be towards greater care in guarding the interests of the minorities, This is noticeable by the numerous statutory provisions which are passed regulating the right of voting and introducing the principle of cumulative voting. It is just to allow the majority to rule for they have the greatest interest in seeing the corporation well managed. But it has happened and it may happen under a voting trust, that after the majority have obtained control, they might sell or assign their stock and still at the same time retain their power and be the minority in interest. Therefore the true rule would seem to be that the majority in power must it seems at least once a year be the majority in interest.