

# The Beef Trust

The arguments in the United States supreme court in the beef trust were concluded January 9. The Associated Press report of the proceedings says:

Attorney General Moody said: "In the seventh paragraph of the petition it appears that the defendants have agreed upon this device: In pursuance of the conspiracy among themselves their agents bid up the price of live stock at certain selected times to an abnormal point. This naturally induces the shipment from other states of live stock to the points where the price is bid up in quantities much larger than under normal conditions. Then, taking advantage of this congestion of the markets, they refrain from bidding against each other in the purchase of live stock, with the result that the producers and owners of the stock are forced to sell at ruinous prices. Thus, unlawful conspiracy to refrain from bidding against each other is made doubly profitable, and the great profits which come from the transaction in turn increase the power of the combination and tend to fasten upon the people a monopoly. The con-

spiracy in this case is an auxiliary to the conspiracy to refrain from bidding and to the creation of the monopoly which this whole case discloses.

"It is alleged in the eighth paragraph that for the purpose of aiding in the raising, lowering, fixing and maintaining of uniform prices for fresh meat, the defendants collusively restricted and curtailed shipments of meats to the various markets throughout the country. The word 'collusively,' fairly interpreted, means that they curtailed shipments by agreements with each other. Doubtless such a transaction sometimes may be entirely legitimate. This consideration is recognized in the decree, which exempts the curtailing of shipments made in good faith to prevent the congestion of markets.

"In paragraph eight penalties are imposed against each other by defendants for all deviations from the prices fixed, which needs no special comment.

"These defendants are engaged in interstate commerce. The petition shows a typical case of interstate commerce. If the business which they do, exclusive of manufacture, is not interstate commerce, there can be no such thing outside of transportation. They buy their raw material, which is gathered together from all the cattle raising states and territories of the union and sent to the great live stock markets of the country. After they have transferred that material into the finished product, they sell it throughout the United States. The combination which they have entered into is designed to restrain all their business transactions, exclusive of manufacture, by the suppression of all competition therein, both in their purchases and their sales, both the fixing and maintaining of uniform prices for their product, and, so far as possible, uniform prices for their raw material, by obtaining such unlawful advantages as tend to create a monopoly in a necessity of life. They can not be permitted ingeniously to separate the various steps of their undertaking and so deal with them that they can be regarded as interstate transactions. The court met and answered such a device as this in the case of Montague & Co. versus Lowery, 193 United States 38."

In beginning his argument today where he left off last Friday Mr. Moody said none of the agreements or acts complained of related to manufacture or production but to commerce—commerce as distinguished from manufacture or production. They do not accomplish fusion of property interests, he said, but are on the contrary simply agreements between strangers to each other's business affecting their freedom of action in certain respects. Thus, he said, the inquiry is narrowed down to only two questions for the determination of the court.

Whether the commerce in the case was commerce among the states, and if so, whether the agreements constitute a monopoly or any part of it.

Mr. Moody said that the following state of facts is clearly shown:

"Persons owning live stock in other states and territories than those where the stock yards are situated, were accustomed to send such stock to the various stock yards named for the purpose of sale there. The defendants, who were severally engaged in the business of buying such live stock, for the purpose of slaughtering and converting it into fresh meat, entered into an agreement with each other to refrain from bidding against each other, except colorably, in the pursuance of such live stock, with the purpose and result of suppressing all competition in such purchases."

An agreement having been thus

clearly alleged he said the question arose as to whether the agreement relates to interstate commerce and proceeded to argue that proposition.

Referring to the allegation in paragraph 10, Mr. Moody said: "From this it appears that the defendants are all engaged in the common effort to obtain unlawful rates, which they subsequently share or pool among themselves, and that their scheme contemplates not only the pooling of these unlawful rates but the exclusion of all outside competitors from obtaining them. There is set forth, perhaps inartificially, a combination upon this subject.

"No competition can long endure against those who are secretly and in defiance of the law enjoying rates for the transportation of their property in interstate commerce which constitute a preference over all others in the same business. No more fruitful source of monopoly can be found than the enjoyment of preferential rates. The history of the country demonstrates this."

Mr. Moody concluded at 3 o'clock and was followed by Mr. Miller, who closed the case for the packers.

Mr. Miller took up the charge of rebates and said the facts must be set up in some way before the court could take cognizance of them. There was no specification, and as a consequence the defendants could properly respond only by demurrer.

"Suppose," asked Justice Harlan, "the combinations alleged were confined to domestic commerce in the state of Illinois, would you consider it a restraint of trade?"

Mr. Miller replied in the negative.

Justice Harlan asked how it would be if there was a combination by coal mine owners to control the price of coal.

Mr. Miller replied that it would depend largely upon the extent of the combination and also upon whether there were state anti-trust laws. The present case, he argued, presents no analogy to the Addystone-Pipe case, for in that case there was a division

of territory among manufacturers. No such attempt was made in the case of the packers.

Taking up another line, he said cattle remain in the yards until sold, and accordingly was the property of the state for taxation and other state issues. Hence the purchase must be considered an act of domestic commerce. No commerce between the states was involved.

Justice White asked a question as to the effect of an agreement to fix the price of meat in another state, but Mr. Miller contended that the charge in the pending case did not go so far as that. With reference to the charge that the packers bid up prices at certain places in order to cause increased shipments, Mr. Miller said if this was true it was evident that cattle growers would send to more desirable markets and thus cheat the packers of the end sought.

### Degenerate

One day in the cloakroom of the senate, apropos of a discussion whether, from an intellectual standpoint, statesmen of the present fall below the standard set by those of the past, one of the members told the following story, says Harper's Weekly:

"There lived in Lee county, Ky., a local sage by the name of Jesse Cole. Jesse entertained the notion that the present day type of lawyer was not to be compared with the jurists of the old days.

"One day as he was entering the court house at Beattyville he noticed a group of lawyers who were discussing the points of a case that was to come up that day. Cole, disgusted by their conversation, stepped up to them, and said:

"Gentlemen, thirty or forty years ago the lawyers in this state were men—great, big, immense men, wearing fur hats as big as bushel baskets. But now, gentlemen, I honestly believe that a fellow could without the least difficulty draw a tomato can over the head of any one of you!"

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