

5 In the Circuit Court of the United States for the Northern District of Illinois, Northern Division.

THE UNITED STATES OF AMERICA

vs.

SWIFT AND COMPANY, THE CUDAHY PACKING COMPANY, The Hammond Packing Company, and Armour and Company, Corporations under the Laws of Illinois; The Armour Packing Company, The G. H. Hammond Company, Schwartzchild and Sulzberger Company, Corporations under the Laws of New Jersey, Michigan, and New York, Respectively; Nelson Morris, Edward Morris, and Ira N. Morris, Copartners as Nelson Morris and Company; J. Ogden Armour, Patrick A. Valentine, Calvin M. Favorite, Arthur Moeker, Thomas J. Conners, Charles F. Langdon, Michael Cudahy, Edward A. Cudahy, Patrick Cudahy, Albert F. Borchert, Gustavus F. Swift, Louis F. Swift, Lawrence A. Carton, D. Edwin Hartwell, Jesse P. Lyman, Frank E. Vogel, Louis Pfaelzer, William Russell, Albert H. Veeder, and Henry Veeder, Citizens of Illinois; Edward C. Swift, a Citizen of Massachusetts, and Ferdinand Sulzberger and W. H. Noyes, Citizens of the State of New York.

26291.

6 Be it remembered that on this day to-wit: the tenth day of May, 1902, came the United States of America by Mr. S. H. Bethea, United States attorney, Mr. Philander C. Knox, Attorney General of the United States, Mr. John K. Richards, solicitor general of the United States and Mr. W. A. Day, special assistant attorney general and filed in the clerk's office of said court in the above entitled cause a certain petition in the words and figures following to-wit:

7 In the Circuit Court of the United States for the Northern District of Illinois, Northern Division.

THE UNITED STATES OF AMERICA }

v.

SWIFT AND COMPANY and Others. }

*Petition.*

To the honorable the judges of the circuit court of the United States of America for the northern district of Illinois, northern division, sitting in equity:

Your petitioner, The United States of America, by S. H. Bethea, its attorney for the northern district of Illinois, acting by and under

the direction of Philander C. Knox, its Attorney-General, brings this, its bill of complaint, against Swift and Company, the Cudahy Packing Company, the Hammond Packing Company, and Armour and Company, corporations organized and existing under and by virtue of the laws of the State of Illinois; the Armour Packing Company, the G. H. Hammond Company, Schwartzchild and Sulzberger Company corporations organized and existing under and by virtue, respectively, of the laws of the States of New Jersey, Michigan, and

8 New York; Nelson Morris, Edward Morris, and Ira N. Morris, copartners under the name of Nelson Morris and Company, doing business at Chicago, Illinois, East St. Louis, Illinois, and South St. Joseph, Missouri, J. Ogden Armour, Patrick A. Valentine, Calvin M. Favorite, Arthur Meeker, Thomas J. Conners, Charles F. Langdon, Michael Cudahy, Edward A. Cudahy, Patrick Cudahy, Albert F. Borchert, Gustavus F. Swift, Louis F. Swift, Lawrence A. Carton, D. Edwin Hartwell, Jesse P. Lyman, Frank E. Vogel, Louis Pfaelzer, William Russel, Albert H. Veeder, and Henry Veeder, citizens, respectively, of the State of Illinois, residing at Chicago, Edward C. Swift, a citizen of the State of Massachusetts, residing at Boston, and Ferdinand Sulzberger and W. H. Noyes, citizens of the State of New York, residing at the city of New York in that State, and on information and belief, alleges and respectfully shows to your honors:

First. That said corporations, partnership, and persons for many years last past have been and now are engaged in the business of buying live stock, to wit, cattle, sheep, and hogs, at divers points throughout the said United States where stock yards and such like open and competitive markets for the sale of live stock exist—at Chicago, in the State of Illinois; Omaha, in the State of Nebraska; Sioux City, in the State of Iowa; St. Joseph, in the State of Missouri; Kansas City, in the State of Missouri; East St. Louis, in the State of Illinois, and St. Paul, in the State of Minnesota—and slaughtering such live stock at the several extensive plants for that purpose maintained by certain of the said defendants, respectively, to wit, the plants of Armour and Company, at 9 the city of Chicago in the State of Illinois; at the city of East St. Louis, in the State of Illinois; at the city of Kansas City, in the State of Missouri; at the city of South Omaha, in the State of Nebraska, and at the city of Sioux City, in the State of Iowa, the plants of the Cudahy Packing Company at South Omaha, Kansas City, and Sioux City, aforesaid, and at Cudahy, in the State of Wisconsin; the plants of the Hammond Packing Company at Chicago and Omaha, aforesaid, Hammond, in the State of Indiana, and South St. Joseph, in the State of Missouri; the plants of Nelson Morris and Company at Chicago, East St. Louis, and South St. Joseph, aforesaid; the plants of the Schwartzchild and Sulzberger Company at Chicago and Kansas City, aforesaid, and the plants of Swift and Company at Chicago, East St. Louis, South St. Joseph, Kansas City, and South Omaha, aforesaid, and St. Paul, in the State

of Minnesota, and at the said several plants converting the said live stock into fresh meat for human consumption.

Second. That the said defendants for many years last past have been and now are also engaged in the business of selling such fresh meats, at the several places where they are so prepared, to dealers and consumers in divers States and Territories of the said United States other than those wherein the said meats are so prepared and sold as aforesaid, and in the District of Columbia, and in foreign countries, and shipping the same meats, when so sold from  
10 the said places of their preparation, over the several lines of transportation of the several railroad companies serving as common carriers, to such dealers and consumers, pursuant to such sales; and in so doing have been and are engaged in trade and commerce among the several States and Territories of the United States and the District of Columbia, and with foreign nations.

Third. That the said defendants for many years last past have been and now are also engaged in the business of shipping such fresh meats from the said several points where the same are so prepared for consumption, over the several lines of transportation of the several railroad companies serving the same as common carriers, to their respective agents located at and near the principal markets for such meats in other States and Territories than those wherein the said fresh meats are so prepared for consumption as aforesaid, and in the District of Columbia, and in foreign countries, for sale by those agents in those markets and in such other States and Territories and the District of Columbia, and in foreign countries, to dealers and consumers; and have been and are through those agents selling the same in those markets, and in so doing have been and are engaged in trade and commerce among the several States and Territories of the United States and the District of Columbia, and with foreign nations.

Fourth. That of the total volume of trade and commerce among the said States and Territories and District of Columbia in fresh meats the said defendants together control about sixty per  
11 cent., having during the year 1901 purchased and slaughtered as aforesaid, and sold and shipped in the form of fresh meats as aforesaid, four million cattle, five million sheep, and six million hogs.

Fifth. That as to such trade and commerce among the several States and Territories and District of Columbia and with foreign nations in fresh meats the said defendants should, and but for the acts hereinafter complained of would, be and remain in free and unrestrained competition with each other.

Sixth. That the said defendants, in violation of the provisions of an act of Congress, approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," and in order to restrain competition among themselves (which would otherwise exist) as to the purchase of live stock necessary to the production of the meats produced by them, have engaged in and

intend to continue an unlawful combination and conspiracy between themselves for directing and requiring their respective purchasing agents at the said several stock yards and open and competitive markets where they customarily purchase such live stock, to wit, Kansas City and St. Joseph, Missouri; Omaha, Nebraska; Sioux City, Iowa; St. Paul, Minnesota; East St. Louis and Chicago, Illinois, aforesaid (the same being live stock produced and owned principally in other States and Territories of the United States, and shipped by the owners thereof to such stock yards and open markets

for competitive sale to persons and corporations engaged in producing and dealing in fresh meats in the manner aforesaid) to refrain from bidding against each other, except perfunctorily and without good faith when making purchases of such live stock on behalf of the said defendants respectively, and by this means inducing and compelling such owners of such live stock to part with the same at such stock yards and open markets at prices less than they would there receive if such bidding were really competitive as between the said purchasing agents of the said defendants; and the said defendants have caused and are causing their agents respectively to refrain from bidding accordingly, and have induced and are inducing each other and will, unless restrained by this honorable court, continue in pursuance of such conspiracy, to induce each other to refrain from bidding as aforesaid, which aforesaid combination and conspiracy is one in restraint of trade and commerce among the several States and Territories of the said United States and the District of Columbia and with foreign countries.

Seventh. That the said defendants, in further violation of the provisions of the said act of Congress approved July 2, 1890, and in order to further restrain competition among themselves, which would otherwise exist, as to the purchase of live stock necessary to the production of the meats produced by them, and to obtain for themselves and each other undue advantage over the owners and shippers thereof in the buying of the same at the said several stock yards and open markets, have engaged in and intend to continue an

13 unlawful combination and conspiracy among themselves for bidding up, through their respective purchasing agents, the prices of live stock for a few days at a time at the said stock yards and open markets, so that the market reports will show prices much higher than the state of the trade will warrant, and thereby inducing owners of such live stock in divers other of the said States and Territories to simultaneously make large shipments of such live stock from such other States and Territories to such stock yards and open markets, instead of shipping the same to more natural and advantageous markets and at more natural and advantageous times in the due and proper course of such trade and business, and by this means and by reason of the resulting large offerings there of such live stock (and by thereupon refraining from bidding against each other for the same), obtaining such live stock at prices much less than it would bring in the regular way of trade if such combination and conspir-

acy were not so engaged in and continued; and have been and are now from time to time through their said agents so fraudulently bidding up the prices of such stock, and will, unless restrained by this honorable court, continue to do so; which said combination and conspiracy last aforesaid is also one in restraint of trade and commerce among the several States and Territories of the said United States and the District of Columbia and with foreign countries.

Eighth. That the said defendants, in violation of the provisions of the act of Congress of the said United States, approved July 2, 14 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," and in order to restrain and destroy competition among themselves as to such trade and commerce, and monopolize such trade and commerce, have engaged in and intend to continue an unlawful combination and conspiracy to arbitrarily from time to time raise, lower, and fix prices, and to maintain uniform prices at which they will sell, directly or through their respective agents, such fresh meats to dealers and consumers throughout the said States and Territories and the District of Columbia and foreign countries; and that the arbitrary raising, lowering, fixing, and maintaining of such prices, in pursuance of the said combination and conspiracy, is being and is to be effected through the action of divers of their agents and attorneys to your petitioner unknown, in secretly holding periodical meetings at some place or places to your petitioner unknown, and there agreeing upon the prices to be adopted by the said defendants, respectively, in such trade and commerce, to be enforced by them until at a subsequent meeting the same may be changed; which said prices are notified by letters and telegrams in plain language and divers codes and ciphers; and they have been and are maintained by said defendants by adhering to the same in their sales made directly, and, among other ways, by collusively restricting and curtailing the quantities of such meats shipped by them in such trade and commerce to the markets aforesaid, whenever necessary or conducive to the maintaining of the prices so  
15 fixed; by imposing against each other divers penalties for any and all deviations by the said defendants or any of them from the prices so fixed; by establishing a uniform rule for the giving of credits to dealers throughout the said States and Territories and District of Columbia and foreign countries, and for the conduct of the business of such dealers, with penalties as between the said defendants for violations thereof; by notifying each other of the delinquencies of the said dealers, and keeping what is commonly known as a "black list" of such delinquents, and refusing to sell such meats to any of such delinquents; which said combination and conspiracy above set forth is one in restraint and monopoly of commerce among the several States and Territories of the said United States and the District of Columbia and with foreign countries.

Ninth. And the said defendants, in violation of the provisions of the said act of Congress approved July 2, 1890, have engaged in and intend to continue an unlawful combination and conspiracy to direct

and require their respective agents at and near many of the markets for such fresh meats throughout the said several States and Territories and the District of Columbia to arbitrarily make and impose uniform charges for cartage for the delivery, upon making sales to dealers and consumers in those markets, of the meats shipped to them through the said agents by the said defendants, respectively, from their said several points of preparation of the same, when no such charges have been or are customary in such trade and  
 16 commerce, or would be made but for said combination and conspiracy, thereby increasing the charges for such meats to said dealers and consumers in such markets and preventing the purchase of the same by those who are unable or unwilling to pay more than the price of the meats themselves without such additional charge; which said combination is also in restraint of such trade and commerce aforesaid.

Tenth. That notwithstanding the common carriers by railroad subject to the provisions of the laws of the United States for the regulation of commerce have established and published, and do now and will establish and publish, respectively, their schedules of rates, fares, and charges for the transportation of live stock to the places of its conversion into such meats as aforesaid, and for the transportation of such meats as aforesaid, and notwithstanding such rates were, and are, and will be the only lawful rates for the transportation as aforesaid of such articles, the said defendants, intending thereby to monopolize and attempt to monopolize the commerce aforesaid and prevent competition therein, have all and each engaged in and will continue arrangements and agreements with divers officers and agents of such common carriers, whereby said defendants were to receive and have received and will continue to receive, by means of rebates and other devices, unlawful rates for such transportation, much less than the said lawful rates, and were to exclusively enjoy and  
 17 share said unlawful advantage to the exclusion of competitors and would-be competitors and the general public, and have accordingly so enjoyed and shared them, and will, unless restrained by this honorable court, continue to do so; and by force of the consequent inability of competitors and would-be competitors to engage or continue in such commerce without ruinous loss have monopolized and are monopolizing and will continue to monopolize the said commerce, and have attempted and are attempting and will attempt to monopolize such commerce in live stock and fresh meats among the States and Territories and the District of Columbia and with foreign countries; which scheme to monopolize is also a combination and conspiracy in restraint of trade and commerce among the States and Territories and the District of Columbia and with foreign countries.

Eleventh. That the said defendants now are and for years past have been in combination and conspiracy with each other and with the railroad companies and others to complainant unknown, to obtain a monopoly of the supply and distribution of fresh meats

throughout the United States and its Territories and shipments thereof to foreign countries.

To that end the defendants do and will artificially restrain such commerce and put in force abnormal, unreasonable, and arbitrary regulations for the conduct of their own and each other's business, affecting the same from the shipment of the live stock from the plains to the final distribution of the meats to the consumer, all to the manifest injury of the people of the United States and in defiance of law.

18 Wherefore, may it please your honors to forthwith grant a writ of injunction directed to the said defendants, their agents, attorneys, and all other persons acting, or claiming or assuming to act, under their authority, or that of any of them, enjoining them and each of them, and each of their agents, attorneys, and the other persons aforesaid, from continuing each and any of the unlawful proceedings aforesaid, and from attempting to monopolize, in the manner aforesaid or in any other manner, and by any other means and devices, the commerce aforesaid, or any part thereof, or any part of the trade or commerce among the States and Territories, and District of Columbia, and with foreign nations, and especially from refraining and instructing their respective purchasing agents to refrain from bidding against each other except perfunctorily and without good faith in making purchases of live stock, and from inducing each other to so refrain, and from engaging in any combination or conspiracy, understanding or arrangement, for the purpose of bringing about such refraining from competitive bidding, and from bidding up the prices of live stock at the stock yards and open markets higher than the state of the trade will warrant, and from arbitrarily raising, lowering, fixing, and maintaining prices of their and each other's products, and from maintaining prices so fixed and uniform prices by adhering to the same in their sales, or by restricting the quantities of meats shipped, or by imposing penalties upon themselves and each other, or

19 by making uniform rules for credits to dealers, or by making and keeping what is commonly known as a "black list" of delinquent dealers, or by refusing to sell meats to such delinquents, or by any other method or device; and from agreeing with each other and acting in concert, with a view to fixing prices or terms for the sale or delivery of said meat products so sold, in such manner as to prevent free competition in, and restrain or monopolize, such commerce; and from imposing a charge for cartage for the delivery of their products upon making sales to dealers and consumers; and from asking and receiving, by means of rebates or otherwise, from railroad companies, less than the established and published rates for the transportation of their live stock and meat products, until such time as your honors shall appoint and direct for a final hearing herein, and upon such final hearing to make such injunction perpetual—

And your orator further prays discovery of the books, papers,

accounts, letters, telegrams, records, and documents whatsoever of the defendants relating in any manner, directly or indirectly, to the purchase or shipment of live stock by them or their agents, or to the sale or shipment or delivery of fresh meats by them or their agents;

And may it please your honors to grant such other and further relief as equity may require, and to your honors may seem meet;

And your orator prays that a writ of subpoena may issue to the said defendants, Swift and Company, The Cudahy Packing Company, The Hammond Packing Company, Armour and Company,

20 The Armour Packing Company, The G. H. Hammond Company, Schwartzchild and Sulzberger Company, corporations and Nelson Morris, Edward Morris and Ira N. Morris, copartners as Nelson Morris and Company, J. Ogden Armour, Patrick A. Valentine, Calvin M. Favorite, Arthur Meeker, Thomas J. Conners, Charles F. Langdon, Michael Cudahy, Edward A. Cudahy, Patrick Cudahy, Albert F. Borchert, Gustavus F. Swift, Louis F. Swift, Lawrence A. Carton, D. Edwin Hartwell, Jesse P. Lyman, Frank E. Vogel, Louis Pfaelzer, William Russel, Albert H. Veeder and Henry Veeder, Edward C. Swift, Ferdinand Sulzberger, and W. H. Noyes, and each of them, requiring them and each of them, under a penalty and at a time and place to be therein stated, to appear and answer under oath all and singular the matters hereinbefore stated and charged, and abide by and perform such orders as the court may make in the premises.

And your orator will ever pray.:

S. H. BETHEA,

*United States Attorney, Northern District of Illinois.*

PHILANDER C. KNOX,  
*Attorney-General of the United States.*

JOHN K. RICHARDS,  
*Solicitor-General of the United States.*

W. A. DAY,  
*Special Assistant Attorney-General.*

PHILANDER C. KNOX,  
*Att'y General of the United States.*

JOHN K. RICHARDS,  
*Solicitor General of U. S.*

W. A. DAY,  
*Special Assistant Attorney General.*

21 STATE OF ILLINOIS, }  
County of Cook. }

Oliver E. Pagin, being duly sworn, on his oath, states that he has read the foregoing bill by him subscribed, and that the statements



therein are true, except as to such matters as are stated on information and belief, and as to those, he believes them to be true.

OLIVER E. PAGIN.

Subscribed and sworn to before me this 10th day of May, 1902.

MARSHALL E. SAMPSELL,  
*Clerk Circuit Court United States for the Northern  
District of Illinois.*

(Endorsed:) Filed May 10, 1903 Marshall E. Sampsell clerk.

22 And on to-wit: the 14th day of May, 1902, a writ of subpoena issued out of the clerk's office of said court directed to the marshal of said district to execute, which said subpoena together with the memorandum thereto attached and the marshal's return thereon endorsed is in the words and figures following to-wit:

FORM No. 186.

23 UNITED STATES OF AMERICA, } ss:  
*Northern District of Illinois, Northern Division,*

The United States of America to Swift and Company, the Cudaby Packing Company, the Hammond Packing Company, Armour and Company, the Armour Packing Company, the G. H. Hammond Company, Schwartzchild and Sulzberger Company, corporations, and Nelson Morris, Edward Morris, and Ira N. Morris, co-partners as Nelson Morris and Company; J. Ogden Armour, Patrick A. Valentine, Calvin M. Favorite, Arthur Meeker, Thomas J. Conners, Charles F. Langdon, Michael Cudaby, Edward A. Cudaby, Patrick Cudaby, Albert F. Borchert, Gustavus F. Swift, Louis F. Swift, Lawrence A. Carton, D. Edwin Hartwell, Jesse P. Lyman, Frank E. Vogel, Louis Pfaelzer, William Russel, Albert H. Veeder, and Henry Veeder, Edward C. Swift, Ferdinand Sulzberger, and W. H. Noyes, Greeting:

We command you and every of you, that you appear before our judges of our circuit court of the United States of America, for the northern district of Illinois, at Chicago, in the northern division of said district, on the first Monday in the month of July next, to answer the petition of the United States of America, filed May 10, 1902, in the clerk's office of said court, in said city of Chicago, then and there to receive and abide by such judgment and decree as shall then or thereafter be made, upon pain of judgment being pronounced against you by default.

To the marshal of the northern district of Illinois to execute.  
Witness the Hon. Melville W. Fuller, Chief Justice of the United States of America, at Chicago aforesaid, this fourteenth day of May,