

# TRUST GETS A BLOW.

## STATE WINS A FIRST POINT OVER THE WHISKY COMBINATION.

**Judge Tuley Sustains the Attorney-General's Petition and Places the Burden of Proof Upon the Peoria Corporation—Will Have to Show Why Writ of Ouster Should Not Be Served—Arguments of the Attorneys—Bids Received for the \$1,000,000 Bonds.**

Judge Tuley sustained the petition of Attorney-General Moloney in the quo warranto proceedings instituted against the Distilling and Cattle Feeding company yesterday and granted leave to the State to file an information. This is regarded as a knock-out for the whisky trust, as the burden of proof now rests upon the corporation to show why a writ of ouster should not be issued.

There was more or less sparring on the part of the attorneys before this result was reached. Attorney-General Moloney, with his counsel, ex-Judge Thomas A. Moran and Levy Mayer, appeared for the State, and John S. Stevens of Peoria and William Burry of Runnells & Burry appeared for the whisky trust. President Greenhut was an interested spectator.

Mr. Stevens moved that the court dismiss the petition filed by the Attorney-General. He held that the petition had been improperly filed in Cook County. He also held it was directed against the wrong party. He said that the headquarters of the Distilling and Cattle Feeding company were in Peoria County and that if it had violated the law it was in that county. In addition to this he claimed that a quo warranto proceeding was a criminal proceeding. It was to wipe out the franchise and the records of the company and said that these records were kept in Peoria. He also held that the Attorney-General in bringing an action against the company admitted its existence as a company.

Ex-Judge Moran replied that a corporation could be sued where it was found doing business. "This is where the crime is being committed," continued Judge Moran. "There is no attempt to show the company was not doing business here. Would the gentleman hold that the defendant could not be indicted here." As to the other point he said the life of the corporation could not be taken without making it a party to the action.

After considerable argument on the part of the attorneys, and after several cases had been cited, Judge Tuley announced that it did not seem to him that the first point was well taken; as to the second point he said he had never heard it raised before. He held that if the information would not lie against the company it would not lie against the officers. He then overruled the motion.

Mr. Stevens then filed a demurrer and answer to the petition without leave. Mr. Moran held this could not be done and moved to strike them from the file. He said the defendant could not demur to part and answer part. Mr. Burry said the first part of the petition dealt with matters they knew nothing about. The Attorney-General answered that the petition was really a motion.

The court finally granted the motion to strike the demurrer and answer from the files but without prejudice. The attorneys for the defendant then filed an affidavit made by the direction of the company, but afterward withdrew it, refiled it, and withdrew it again. The rule to file the information was then made absolute. Attorney-General Moloney announced he was ready to file the information and the court gave the defendant twenty days to answer and fifteen days to present its bill of exceptions.

The demurrer and answer filed without leave, in reply to the petition of the Attorney-General, set up the claim that the corporation purchased the property of the various companies and individuals in the corporation and that it assumed the payment of certain indebtedness and the discharge of certain obligations, but denied that it assumed the obligation of the former owners of the stock of the various plants. The respondent claimed it has nothing to do with the existence or non-existence of the various corporations referred to in the petition; that it has never at any time owned any stock of the companies, nor does it have any control over the organization. The respondent denied that it has resorted to any other means to secure and retain trade than the rebates and rebate vouchers, and denied that it exercised or had attempted any control over the manufacture of spirits, alcohol, and highwines, and also that it had not at any time attempted to prevent others from entering into the business.

In the affidavit made by J. B. Greenhut, John Beggs, P. J. Hennessy, W. N. Hobart, Lewis H. Green, J. Walter Freiberg, and Nelson Morris it was set forth that none of the parties named were interested as directors or otherwise in any other corporation organized under the laws of Illinois for the purpose of manufacturing and selling highwines, spirits, alcohol, and other products of distillation; and that the price of these products with the rebates allowed was lower than the price of like commodities in this country for ten years or more prior to the formation of the company.

It was learned from some one close to the Attorney-General that he was prepared, by original documents signed by Mr. Greenhut himself, to disprove certain important denials made in his affidavit. It is said that some of those documents will show that the State has full knowledge of the secret and inner workings of the trust.

President Greenhut said last evening that a number of bids had been received for the bonds advertised. "I believe that by this time tomorrow night they will have been sold," he said. "I cannot give the names of the bidders or the amounts bid. We will do the best we can for the company and have been diligent in our efforts to sell the bonds. We may not get par, but as we must have the money we shall make the sale. Had the directors agreed with me a few months ago before the scare we should have sold all the bonds at par." In reference to the \$8,000,000 mortgage filed here and in Peoria yesterday Mr. Greenhut said it was to secure the bonds and had to be filed before the bonds were sold.