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LAWFUL RESTRAINT OF TRADE.

According to the appellate division of the New York Supreme Court, all contracts in restraint of trade are not unlawful. That tribunal maintains that agreements, which have for their purpose the realization of a fair price for product manufactured and sold, do not contravene any rule of public policy even though they operate in restraint of trade. In view of the rigid interpretation given by the United States Supreme Court in the Trans-Missouri Freight Association case, this is an important ruling; and while, of course, it fixes the law only so far as New York State is concerned, it has, as a matter of fact, a very much wider application. It is also all the more significant because the case in question had previously been twice before this particular court, albeit in two different departments, none of the judges being the same; but the decision in each instance was identical.

The controversy was in connection with the manufacturing of envelopes, and it appeared that a number of such industries had combined and formed the Standard Envelope Company, which acted as a clearing-house for the goods manufactured by all the concerns interested. This company made the prices and agreed to take from the manufacturers all of their output up to a stated amount, above which they, the manufacturers, were able to dispose of at the stipulated price. It was also provided that if the manufacturers sold more than the stipulated amount they were to pay the governing company a stated sum per thousand for the excess. The manufacturers on their part obligated themselves to pay a designated sum per thousand on all sales made in violation of the contract price in addition to the value of the goods thus sold; and also to protect the governing company, manufacturers bound themselves to retain control of their plants and not to engage directly or otherwise, in the manufacture of envelopes through the medium of any other plant. Suit was brought by one of the manufactures to compel the governing company, which disbanded before the expiration of the contract, to pay the agreed price on the excess remaining unsold, and which resulted in a verdict for the plaintiff.

Here, then, was a contract, which, on its face and in its operations plainly constituted a restraint of trade, but the court held that so long as the price on the article was not unduly enhanced by the contract it was not unlawful. Competition that destroys trade is as needful of restraint as is combination that permits imposition upon the public; and conversely, combination that promotes trade and protects the public should be permitted, as much as competition that encourages activity in trade. The one is as necessary as the other, for as the court states "Producers, consumers, and laborers are alike benefited by healthful conditions of trade."—Railway and Engineering Review.

JOHN MACKAY

Public Accountant, Auditor, Receiver
and Trustee

Bank of Commerce Bldg., Toronto
Cable Address: CAPITAL. Tel. No. 3732.

THE INSOLVENCY AND LIQUIDATION
DEPARTMENT OF THE

Western Loan and Trust Company, Limited,

IS OPERATED BY

W. Barclay Stephens

Manager of the Company.

Under the laws of the Province of Quebec the Company cannot be appointed directly to trusts, such as assignees, etc. Therefore, Mr. Stephens will act on behalf of the Company in all such cases, the Company assuming all responsibility and reliability in regard to any trusts which may be placed in his hands.

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