

Comment by the Editor

IN EQUITY

In an atmosphere of thick fog the Lord Chancellor sat on the bench of the High Court of Chancery at Westminster Hall, apparently listening to solicitors and advocates mistily engaged with interminable briefs, tripping each other up on slippery precedents, and groping knee-deep in technicalities. Before them lay innumerable bundles of bills of complaint, cross-bills, rejoinders, demurrers, injunctions, pleas, answers, and affidavits — “mountains of costly nonsense” — compiled in the name of equity and justice. The case of Jarndyce and Jarndyce, “a monument of Chancery practice” representing every contingency, legal fiction, and form of procedure known to equity, was before the court. Some trivial progress was to be made.

Jarndyce and Jarndyce, begun by a remote kinsman of John Jarndyce of Bleak House, was a suit over a contested will. It had been in process so long and had become so complicated that the original issue was inaccessible in the maze of legal formalities, even if any one knew what it was. Lawyers could not talk five minutes without disagreeing on all of the premises. Children had been born into the suit, young people had married into it, and old

people had died out of it. But Jarndyce and Jarndyce dragged on, perennially hopeless, blighting the lives of the principals. It became a Cause. Authority for every conceivable action could be found in it, the lawyers had all been counsel in it for somebody or other, and the clerks had used it to sharpen their legal wit. The heartsick parties to the suit would have gladly compromised if they could; but the case could not be got of, or through, Chancery. Such and such a thing might happen, people said, when the sky rained potatoes or when Jarndyce and Jarndyce was finished. Fortunes were squandered by this litigation which finally ended when the court costs had consumed the entire proceeds of the will.

The Jones County Calf Case, like Jarndyce and Jarndyce, has become a tradition — a monument to judicial delays in Iowa which pervert the meaning of equity. As Charles Dickens satirized English “equity” in fiction, so the story of the calf case is truly eloquent of the injustice and expense of American legal practice. *Johnson vs. Martin* probably enriched the law of malicious prosecution with many precedents, but it also brought financial ruin to the litigants and warped their lives. The determined of right in a dispute over the sale of four calves cost twenty years of bitter strife and more than seventy-five thousand dollars. And in the end, one man regained his good name; but the whole truth was never revealed.

J. E. B.