By Mr. IRWIN: Paper to accompany House bill for the relief of J. B. Jones—to the Committee on Claims.

By Mr. LACEY: Petition of the National Live Stock Association in favor of a public-land commission—to the Committee on the Public Lands.

Also, protest of the same against the passage of House bill 15008, called the "land exchange" bill—to the Committee on the Public Lands.

Also, resolutions of the same in favor of preserving the pasturage on the public domain—to the Committee on the Public Lands.

By Mr. LIVINGSTON: Paper to accompany bill for the relief of the heirs of Hartwell Jones—to the Committee on War Claims.

Also, paper to accompany bill for the relief of Malitta Long—to the Committee on War Claims.

By Mr. MOODY of Oregon: Petition of Grand Prairie Grange, No. 10, of Albany, Oreg., for the passage of a bill to forbid the sale of intoxicating liquors in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. ROBINSON of Indiana: Petition of G. M. McBride, of Ashley, Ind., against the repeal of the now existing canteen law and in favor of an antipolygamy amendment—to the Committee on the Judiciary.

By Mr. RYAN: Papers to accompany House bill for increase of pension of William K. Fowler—to the Committee on Invalid Pensions.

By Mr. SHERMAN: Papers to accompany House bill for the relief of William Gardner—to the Committee on Military Affairs.

By Mr. SKILES: Petition of the Woman's Christian Temperance Union of Norwalk, Ohio, for the passage of a bill to forbid the sale of intoxicating liquors in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. SNOOK: Paper to accompany House bill granting an increase of pension to John Elston, of Mandall, Ohio—to the Committee on Invalid Pensions.

By Mr. SULZER: Protest of New Kurlander Lodge, No. 95, Order of B'rith Abraham, New York City, against the exclusion of Jewish immigrants at the port of New York—to the Committee on Immigration and Naturalization.

Also, petition of the executive committee of the Interstate Commerce Law Convention, Milwaukee, Wis., in relation to House bill 15592—to the Committee on Interstate and Foreign Commerce.

By Mr. WARNOCK: Petition of Woman's Christian Temperance Union of Plain City, Ohio, in favor of legislation in restraint of the liquor traffic—to the Committee on Alcoholic Liquor Traffic.

SENATE.

FRIDAY, *February 6, 1903.*

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. If there be no objection, the Journal will stand approved. The Chair hears none, and it is approved.

EFFICIENCY OF THE ARMY.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 15449) to increase the efficiency of the Army and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PROCTOR. I move that the Senate insist upon its amendments and agree to the conference asked by the House.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. COCKRELL, Mr. QUARLES, and Mr. FORAKER were appointed.

PUBLIC BUILDINGS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting for the information of the proper committees of the Senate copies of reports made in regard to the limit of cost of certain public buildings; which, with the accompanying paper, was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the preamble to the bill (H. R. 15747) directing the issue of a check in lieu of a lost check drawn by George A. Bartlett, disbursing clerk, in favor of Fannie T. Sayles, executrix, and others.

The message also announced that the House had passed with amendments the bill (S. 6773) to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," "An act to regulate commerce," approved February 4, 1887, or any other act having a like purpose that may hereafter be enacted, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H. R. 16990) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1904, and for other purposes; in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4850) to increase the pensions of those who have lost limbs in the military or naval service of the United States, or are totally disabled in the same; further insists upon its disagreement to the amendments of the Senate numbered 1, 2, 3, 6, and 8 to the bill upon which the committee of conference have been unable to agree; asks a further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SULLOWAY, Mr. CALDERHEAD, and Mr. MIERS of Indiana managers at the conference on the part of the House.

The message further communicated to the Senate the intelligence of the death of Hon. JAMES MONTRAVILLE MOODY, late a Representative from the State of North Carolina, and transmitted resolutions of the House thereon.

The message also announced that the Speaker of the House had appointed Mr. KLUTTZ of North Carolina, Mr. BLACKBURN of North Carolina, Mr. CLAUDE KITCHIN of North Carolina, Mr. BROWNLOW of Tennessee, Mr. GIBSON of Tennessee, Mr. TATE of GEORGIA, Mr. FINLEY of South Carolina, Mr. JOHNSON of South Carolina, Mr. LAMB of Virginia, Mr. HAUGEN of Iowa, Mr. HENRY of Connecticut, Mr. RANDELL of Texas, Mr. COONEY of Missouri, Mr. POU of North Carolina, Mr. SMALL of North Carolina, Mr. CLARK of Missouri, Mr. WRIGHT of Pennsylvania, and Mr. COCHRAN of Missouri members of the committee on the part of the House to attend the funeral of the deceased Representative.

PETITIONS AND MEMORIALS.

Mr. HOAR. I present a petition signed by 5 college presidents and 39 college professors in aid of sundry others signed by college presidents and professors, presented heretofore, in regard to the prosecution of the inquiry into the conditions in the Philippine Islands. I move that the petition be referred to the Committee on the Philippines.

The motion was agreed to.

Mr. GAMBLE presented a petition of the Bonesteel Commercial Club, of Bonesteel, S. Dak., praying for the ratification of the agreement entered into between the United States and the Rosebud Indians for the cession of that part of the reservation within the limits of Gregory County, S. Dak.; which was referred to the Committee on Indian Affairs.

He also presented a petition of the American Mining Congress, praying for the establishment of a department of mines and mining; which was referred to the Committee on Mines and Mining.

Mr. PERKINS presented petitions of the International Union of Flour and Cereal Mill Employees, Local Union No. 15, of Stockton; of Typographical Union of San Jose, and of Local Union No. 227, of San Francisco, all of the American Federation of Labor, in the State of California, praying for the passage of the so-called eight-hour bill; which were ordered to lie on the table.

Mr. SCOTT presented petitions of sundry citizens of Ravenswood, Sutton, Wellsburg, and South Buckhannon, all in the State of West Virginia, praying for the enactment of legislation granting to the States power to deal with the intoxicating liquors which may be shipped into their territory from other States; which were referred to the Committee on Interstate Commerce.

Mr. QUARLES presented a petition of the South Side Christian Endeavor Society, of Stevens Point, Wis., praying for the enactment of legislation to prohibit the sale of intoxicating liquors on property owned by the United States Government; which was referred to the Committee on Public Buildings and Grounds.

He also presented a memorial of the South Side Christian Endeavor Society, of Stevens Point, Wis., remonstrating against the repeal of the present anticanteen law; which was referred to the Committee on Military Affairs.

He also presented a petition of the Federated Trades Council, American Federation of Labor, of Madison, Wis., praying for the repeal of the desert-land law and the commutation clause of the homestead act; which was referred to the Committee on Public Lands.

Mr. CULLOM presented a petition of the National Live Stock Association, of Chicago, Ill., praying for the enactment of legislation relative to the interstate transportation of live stock; which was referred to the Committee on Interstate Commerce.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

He also presented a petition of Garden City Lodge, No. 75, Order of B'rith Abraham, of Chicago, Ill., praying for the enactment of legislation to modify the methods and practice pursued by the immigration officers at the port of New York; which was referred to the Committee on Immigration.

He also presented a petition of Journeymen Tailors' Local Union, No. 169, American Federation of Labor, of Galesburg, Ill., and a petition of Woodworkers' Local Union, No. 73, American Federation of Labor, of Quincy, Ill., praying for the passage of the so-called eight-hour bill; which were ordered to lie on the table.

Mr. CLAY presented a petition of the Georgia Bankers' Association, praying for the repeal of the bankruptcy law; which was referred to the Committee on the Judiciary.

Mr. FRYE presented a petition of the American Mining Congress, praying for the establishment of a department of mines and mining; which was referred to the Committee on Mines and Mining.

MISSOURI RIVER BRIDGE.

Mr. BERRY. I am directed by the Committee on Commerce, to whom was referred the bill (S. 6961) to authorize the construction of a bridge across the Missouri River between the city of Chamberlain, in Brule County, and Lyman County, in the State of North Dakota, to report it favorably, with amendments.

Mr. GAMBLE. I ask unanimous consent for the present consideration of the bill just reported by the Senator from Arkansas.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The first amendment of the committee was, in section 2 on page 2, line 2, after the word "structure," to insert:

And shall be recognized and known as a post route upon which no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States than the rate per mile paid for the transportation over the railroad or public highway leading to said bridge. The United States shall also have the right to construct, without charge therefor, telegraph and telephone lines across and upon said bridge, and equal privileges in the use of said bridge shall be granted to all telegraph and telephone companies.

The amendment was agreed to.

The next amendment was, in section 3, page 2, line 5, after the word "than," to strike out "one" and insert "three," and in the same line, after the word "hundred," to strike out "and fifty;" so as to read:

That said bridge shall be constructed as a pontoon bridge and shall contain a drawspan giving a clear opening of not less than 300 feet in length, etc.

The amendment was agreed to.

The next amendment was to add as a new section the following:

SEC. 4. That no bridge shall be commenced or built under this act until the location thereof and the plans for its construction, with such maps as shall be necessary for a full understanding of the regimen of the river for a distance of 1 mile above and one-half mile below the proposed site of said bridge, shall have been submitted to and approved by the Secretary of War, and any subsequent change in the plans, construction, or location of said bridge shall be subject to like approval.

The amendment was agreed to.

The next amendment was to add as a new section the following:

SEC. 5. That this act shall be null and void unless the bridge herein authorized be commenced within one year and completed within three years from the date hereof.

The amendment was agreed to.

The next amendment was to add as a new section the following:

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendment was agreed to.

Mr. HALE. Is this a part of the morning business?

The PRESIDENT pro tempore. It is a bill just reported from the Committee on Commerce, a bridge bill.

Mr. HALE. After this I think I will object to anything except the routine morning business, and I shall ask that it may go on without the consideration of bills.

Mr. QUAY. Did I understand the Senator to say that he would object to the passage of bills to-day by unanimous consent, or merely pending the order of morning business?

Mr. HALE. During the routine business of the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the construction of a bridge across the Missouri River between the city of Chamberlain, in Brule County, and Lyman County, in the State of South Dakota."

REPORTS OF COMMITTEES.

Mr. MARTIN, from the Committee on the District of Columbia, to whom was referred the amendment submitted by himself on the 3d instant, proposing to appropriate $35,000 for the extension of the present contract to collect and dispose of ashes and miscellaneous refuse from all business places in the District of Columbia, intended to be proposed to the District of Columbia appropriation bill, reported favorably thereon, and moved that it be printed, and, with the accompanying paper, referred to the Committee on Appropriations; which was agreed to.

Mr. WETMORE, from the Committee on the Library, to whom was referred the bill (H. R. 16) to provide for the erection at Washington, D. C., of bronze equestrian statues to the memory of the late Brig. Gen. Count Casimir Pulaski and Baron Steuben, reported it with amendments, and submitted a report thereon.

Mr. DEBOE, from the Committee on Pensions, to whom was referred the bill (H. R. 15673) granting a pension to Annie E. Doss, reported it without amendment, and submitted a report thereon.

Mr. PETTUS. By direction of the Committee on Military Affairs I report back favorably without amendment the bill (S. 6895) to authorize the promotion of Maj. William Crawford Gorgas, surgeon in the Army of the United States, and submit a report thereon.

I shall ask the unanimous consent of the Senate for the immediate consideration of this bill. It is earnestly recommended by the Surgeon-General, by the Secretary of War, and by Brigadier-General Wood, under whom eminent services were performed by Major Gorgas.

Mr. HALE. I am sorry to interfere with the Senator from Alabama, but a few moments ago I gave notice that I would object to any bill being passed during the morning business, and I am obliged to insist upon the point on this bill.

The PRESIDENT pro tempore. Objection is made, and the bill goes to the Calendar.

Mr. BATE, from the Committee on Military Affairs, to whom was referred the bill (H. R. 2557) for the relief of Henry L. McCalla, reported it with an amendment, and submitted a report thereon.

Mr. FAIRBANKS, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 7263) to provide for the purchase of a site and the erection of a building thereon, to be used for a laundry and stable for the Bureau of Engraving and Printing, and to provide for the erection of an addition to the Bureau of Engraving and Printing building on the ground now occupied by the laundry building and stable, and for other purposes, reported it without amendment, and submitted a report thereon.

Mr. ALGER, from the Committee on Military Affairs, to whom was referred the bill (S. 5219) to grant an honorable discharge from the military service to Robert C. Gregg, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 7) authorizing the Secretary of War to cause to be erected monuments and markers on the battlefield of Gettysburg, Pa., to commemorate the valorous deeds of certain regiments and batteries of the United States Army, reported it without amendment, and submitted a report thereon.

Mr. GALLINGER, from the Committee on Pensions, to whom was referred the bill (H. R. 16591) granting an increase of pension to James Mattingly, reported it without amendment, and submitted a report thereon.

Mr. SCOTT, from the Committee on Pensions, to whom was referred the bill (H. R. 15550) granting a pension to Mary A. Hinkle, reported it without amendment, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 16053) granting an increase of pension to Henry P. Reynolds; and

A bill (H. R. 15206) granting a pension to Mary P. Everton.

Mr. PLATT of Connecticut, from the Committee on Relations with Cuba, to whom was referred the amendment submitted by himself on the 19th ultimo, proposing to appropriate $39,795.34 to pay the claim of the Cuban Submarine Telegraph Company, Limited, for expenses incurred in repairing damage done to its cables and property by United States war vessels during the war with Spain, intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be printed and, with the accompanying papers, referred to the Committee on Appropriations; which was agreed to.

CONSIDERATION OF PENSION BILLS.

Mr. GALLINGER. Mr. President, I should like to make a request. It is that on Saturday, after the routine morning business has been concluded, one hour be given to the consideration of unobjected pension bills.

The PRESIDENT pro tempore. The Senator from New Hampshire asks unanimous consent that on Saturday next, after the completion of the routine morning business, one hour be given to the consideration of unobjected pension cases. Is there objection?

Mr. HALE. Why does not the Senator, instead of breaking

into each day, obtain consent to consider the Pension Calendar of unobjected cases?

Mr. GALLINGER. That is what I have asked.

Mr. HALE. You have asked for an hour.

Mr. GALLINGER. Yes; we can finish them in an hour.

Mr. HALE. If the Senator thinks we can finish all of them in an hour, I have no objection.

The PRESIDENT pro tempore. The request is for to-morrow?

Mr. GALLINGER. For to-morrow.

The PRESIDENT pro tempore. The Chair hears no objection, and the order is made.

BILLS INTRODUCED.

Mr. PENROSE introduced a bill (S. 7279) granting an increase of pension to Henry G. Blayney; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 7280) to provide an American register for the cable-repairing ship *Scotia*, and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 7281) making it a misdemeanor for persons to unlawfully use or wear the insignia or button of the Spanish-American War Veterans, the insignia or rosette of the Military and Naval Order of the Spanish-American War, or the official decorations of Spanish-American war societies; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. GALLINGER introduced a bill (S. 7282) for the establishment of public-convenience stations and bath houses; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 7283) to amend an act entitled "An act to permit the Pintsch Compressing Company to lay pipes in certain streets in the city of Washington," approved May 19, 1896; which was read twice by its title, and referred to the Committee on the District of Columbia.

OMNIBUS CLAIMS BILL.

Mr. GALLINGER submitted an amendment intended to be proposed by him to the bill (S. 7142) for the allowance of certain claims reported by the Court of Claims, and for other purposes; which was referred to the Committee on Claims, and ordered to be printed.

WASHINGTON MONUMENT.

Mr. GALLINGER. Mr. President, I have here several valuable papers relating to the history of the Washington Monument, some of which are now out of print. They have been compiled by the secretary of the Washington Monument Association under the direction of that body, and I feel sure will be of great public interest. I ask that they be printed as a document.

Mr. HOAR. I should like to ask the Senator from New Hampshire whether the proposed publication contains, and, if not, whether it should not contain, Mr. Winthrop's two very interesting orations, one at the laying of the corner stone and the other on the completion of the Monument?

Mr. GALLINGER. I do not know, but, agreeing with the Senator that the document ought to contain those orations, I will say that I will have the matter looked up and have them included.

Mr. HOAR. Very well. It is then understood that they may be added. Mr. Winthrop, Mr. President, did what never happened to any other person except Mr. Webster. He delivered the oration at the foundation of the Washington Monument and then, some thirty years after, I think, was the orator at the time of its completion, as you very well recollect. He was unwell, so that he was not able to deliver it in person, and it was read before the two Houses of Congress by Governor Long, then a member of the House. Mr. Webster had the same experience in regard to the Bunker Hill Monument. He delivered the oration at the laying of the corner stone and again, seventeen years after, on the completion of the monument. Those four orations stand in the literature of the world, as it seems to me, unrivaled in that department of oratory.

Mr. Winthrop's first oration is hardly accessible at all anywhere, and the second one is in the documents published by the two Houses at the time. If there is to be a history of the Washington Monument to be printed, it seems to me eminently fitting that those two very eloquent and able addresses should be included in the document.

Mr. FAIRBANKS. I will ask the Senator whether the document should not also contain the oration of Senator DANIEL?

Mr. HOAR. Oh, certainly.

Mr. FAIRBANKS. It seems to me that it should include that as well as the oration of Mr. Winthrop.

The PRESIDENT pro tempore. The Senator from New Hampshire asks unanimous consent that the papers in relation to the Washington Monument be printed as a document and that there be included with the papers the oration of Mr. Winthrop at the laying of the corner stone and his oration at the completion of the Monument.

Mr. GALLINGER. And also Senator DANIEL'S oration.

Mr. FAIRBANKS. And also the oration of Senator DANIEL at the time of the completion of the Monument. As I understand it, Mr. Winthrop and Senator DANIEL were the orators on the occasion of the celebration of the completion of the Monument.

The PRESIDENT pro tempore. There is also included in the request the oration of Senator DANIEL made at the time of the completion of the Monument. Is there objection? The Chair hears none, and it is so ordered.

INVESTIGATION BY COMMITTEE ON INDIAN AFFAIRS.

Mr. STEWART. I ask unanimous consent that the resolution proposing an investigation by the Committee on Indian Affairs be taken up.

The PRESIDENT pro tempore. Resolutions have not yet been reached.

Mr. HALE. Let us have the regular order.

The PRESIDENT pro tempore. Concurrent or other resolutions are in order.

Mr. STEWART. I ask unanimous consent that the resolution which was before the Senate yesterday may be taken up. I desire to offer a substitute for it.

The PRESIDENT pro tempore. The resolution to which the Senator refers is on the Calendar. It was reported yesterday and it can only be taken up at this time by unanimous consent.

Mr. STEWART. I ask unanimous consent to call it up.

Mr. HALE. Mr. President, I have insisted that the regular order shall proceed until it is exhausted. After that, if Senators can get unanimous consent for the consideration of bills, etc., I have no objection, but I ask that the regular order be completed.

Mr. STEWART. I will wait until the regular order is completed.

IMPROVEMENT OF DELAWARE RIVER AT PHILADELPHIA.

Mr. PENROSE submitted the following concurrent resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he hereby is, authorized and directed to cause to be made an examination and survey of the Delaware River at Philadelphia, with a view to extending the improvement thereof above Christian street as far as Allegheny avenue, and to submit plans and estimates for such improvement, the cost of the work herein directed to be paid from the amount available for the improvement of said river below Christian street.

JOHN H. LAWSON.

Mr. BATE. The bill (H. R. 7864) to pay John H. Lawson $237.96 balance due him for services as United States mail carrier was referred to the Committee on Claims. I move that the committee be discharged from the further consideration of the bill and that it be referred to the Committee on Post-Offices and Post-Roads.

The motion was agreed to.

HOUSE BILL REFERRED.

The bill (H. R. 16990) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1904, and for other purposes, was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

COURTS-MARTIAL IN THE PHILIPPINES.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day, submitted by the Senator from Utah [Mr. RAWLINS].

Mr. HALE. Let it go over, holding its place.

The PRESIDENT pro tempore. The Senator from Maine asks that the resolution may go over, retaining its place on the table. The Chair hears no objection, and that order is made.

MILITARY OCCUPATION OF PANAMA AND COLON, ETC.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution submitted yesterday by Mr. MORGAN, as follows:

Resolved, That the Secretary of the Navy is directed to send to the Senate copies of all reports and of all correspondence in the Navy Department, with naval or other officers of the United States, on duty in the bays of Panama and Colon since April, 1902, which relate to the military occupation of said bays and the region between them, and the cities of Colon and Panama, by the forces of the United States; or that relate to the operation of military or police forces of Colombia, or of any insurgents that were in arms against the Government of Colombia in that region of country since April, 1902; or that relate to any measures of any officers of the United States to bring about the pacification of that region or any intervention by such officers to that end; or that relate to the terms and conditions of the surrender of insurgent forces in that quarter to the forces or authorities of the Republic of Colombia.

Mr. HALE. I move that the resolution be referred to the Committee on Naval Affairs.

The PRESIDENT pro tempore. The Senator from Maine moves that the resolution be referred to the Committee on Naval Affairs.

Mr. MORGAN. Mr. President, I feel constrained to state the purpose of the resolution in reply to the motion of the Senator

from Maine. It has no reference at all to the operations in the future of the Navy or the Army. It has reference alone to a treaty which is before the Senate and which has been published by authority of this body.

The purpose of the resolution is to acquire from the Navy Department the reports of officials and the correspondence which has taken place between the officers of the Government of the United States in that region and the Navy Department, which will show the condition of the people in that part of the country, and which will show, probably, their political relations toward each other and toward the United States—whether they are hostile or whether they are friendly.

It will show, also, no doubt, the operations of the insurrectionary party in Panama, during the last year, after the month of April. It will show how that insurrection was settled, if it ever has been settled, and whether that part of the country is still in insurrection or whether other departments of the Republic of Colombia are in insurrection. It will show, as I suppose, either the proof or the disproof of allegations which were made in the Colombian papers published at Baranquilla, and also in the papers of the United States, at the time of the settlement or the proposed settlement of that insurrection, that the Government of Colombia offered the insurrectos that they would pay them $3,000,000 for peace, and would pay it out of the money that was to be obtained from the United States for the sale of concessions relating to the canal.

These statements were made in the Colombian papers, Mr. President, and quoted and copied in the papers of New York and elsewhere in the United States. I saw them at the time. Authentic copies of those papers are not in my reach at the present moment, but I state in my place that those newspapers made the statements to which I refer, that is to say, that the Colombian Government, which means President Marroquin, for there is no government there but that of a dictatorship, proposed to the insurrectos of Panama to settle with them, not with the whole of the insurrectionary party in the 15 different departments of Colombia, but this one department, by paying them, as I have said, $3,000,000 out of the money to be obtained from the United States.

Now, in looking over the papers which have been reported to the Senate, coming from the State Department, we will find in the report upon the bill introduced by the senior Senator from Massachusetts [Mr. HOAR] a statement of an agreement between the Secretary of State, by order of the President, and Mr. Concha, the minister from Colombia, by the order, as he stated, of his Government.

I will read the correspondence that took place between these two plenipotentiaries to show what the situation was at the time of the passage of what is called the canal bill, on the 28th of June, 1902. I will remark, however, that at the time of the passage of that bill propositions in the form of treaties had been submitted to the Secretary of State and were communicated to Congress which showed that Nicaragua and Costa Rica together offered to sell the concessions to the United States for $7,000,000, and Colombia offered to sell her concession to the United States for the same amount of money—$7,000,000, so that at the time we were considering that bill the offers of the three Governments balanced each other precisely, and there was no question for discussion, of course, as to the cost of the canal based upon a difference in the offers of the respective Governments.

In the communication of the treaty proposed by Colombia at that time to the United States Mr. Concha had addresssd a letter to Mr. Hay, which Mr. Hay communicated to me as chairman of the Committee on Interoceanic Canals, on May 15, 1902. I will not read the letter addressed to myself, but I will ask leave to insert it in my remarks, unless some Senator wants to hear it read, and also the entire correspondence on that subject, reported to the Senate in May, 1902, which includes a copy of the treaty agreed upon between Mr. Hay and Mr. Concha as the plenipotentiaries of the two Governments. I will discuss these papers, or the parts of them that are pertinent to this resolution I have offered, leaving the Senate to consider other questions suggested by them.

DEPARTMENT OF STATE,
Washington, May 15, 1902.

Hon. JOHN T. MORGAN,
Chairman Committee on Interoceanic Canals, United States Senate.

SIR: I have the honor to inclose copies of letters from the Colombian minister, dated the 31st of March and the 18th and 23d of April, accompanied by the letter of exposition and the letter of William Nelson Cromwell, both dated the 31st of March, referred to in the minister's letter of that date, and also a memorandum of a convention which the Government of Colombia is ready to sign with that of the United States of America respecting the completion, maintenance, control, and protection of an interoceanic canal over the Isthmus of Panama. I also inclose a copy of a letter which I addressed to the minister of Colombia on the 21st of April, announcing that I am directed by the President to inform him that I shall be ready to sign with him the proposed convention as soon as the Congress of the United States shall have authorized the President to enter into such an agreement and the law officers of this Government shall have decided upon the question of the title which the New Panama Canal Company is able to give of all the properties and rights claimed by it and pertaining to a canal across the Isthmus, and covered by the pending proposal.

I inclose, also, a project of a treaty presented to me this day by the minister of Nicaragua in behalf of his Government. I have not yet received a definite proposition from the Government of Costa Rica, but am informed by the Costa Rican minister that his Government is ready to enter into any satisfactory arrangement with that of the United States on the basis of the protocol of December 1, 1900, but that, as set forth in the recent message of President Eglesias, an extract from which I inclose, it will be necessary that the Government of Costa Rica should, before entering into positive negotiations with that of the United States of America, adopt a constitutional amendment authorizing the necessary concessions for the construction of an interoceanic canal, or to have the matter referred to public opinion in some other way by calling a constituent assembly for the purpose. I am assured by the Costa Rican Government that these steps will be taken as soon as the Congress of the United States shall decide the question of the route of the canal. I also inclose, in accordance with the request of the Nicaraguan minister, a copy of the protocol entered into between this Government and those of Nicaragua and Costa Rica December 1, 1900.

I have the honor to submit all these documents to your committee, with the hope that this definite information as to the purposes and intentions of the Nicaraguan, Colombian, and Costa Rican Governments may be of service to you in determining the question of the route of the proposed interoceanic canal.

In view of the great interests involved, the President wishes me to express to you and to the committee of which you are chairman his earnest hope that there may be as little delay as possible in the legislation which will authorize the beginning of this work, which he regards as so important and so beneficent to this country and the world.

I am, sir, very truly, your obedient servant, JOHN HAY.

The papers inclosed to me and reported to the Senate in connection with the bill of the Senator from Massachusetts were as follows:

LEGACION DE COLOMBIA,
Washington, D. C., March 31, 1902.

I have the honor to hand your excellency the proposal of the Republic of Colombia for a concessionary convention or treaty between the Republic of Colombia and the United States of America respecting the completion, maintenance, operation, control, and protection of the interoceanic canal over the Isthmus of Panama.

I soon shall hand you a letter of exposition and also have requested Mr. William Nelson Cromwell, general counsel of the New Panama Canal Company, to present you a statement which I have approved.

Please accept these additional communications in connection with the proposed treaty.

I avail myself of this opportunity to renew to your excellency the assurance of my high consideration.

JOSE VICENTE CONCHA.

Hon. JOHN HAY,
Secretary of State of the United States.

[Translation.]

LEGATION OF COLOMBIA,
Washington, D. C., March 31, 1902.

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Colombia, has the honor to supplement the note which he had the honor to hand to the honorable Secretary of State, together with the memorandum setting forth the bases of a treaty between Colombia and the United States for the purpose of securing the authorization of Colombia for the New Panama Canal Company to transfer its rights and privileges to the American Government and of regulating the relations between the contracting parties in respect of this enterprise.

The bases have been formulated after a serious and mature consideration of those which were submitted to the legation on the subject by the president of the Isthmian Canal Commission, which had been intrusted by the honorable Secretary of State with the discussion of the question. The intent of these bases has been to condense the most liberal terms that could be granted by Colombia in the matter.

The Republic that I represent realizes the importance of the contemplated interoceanic waterway for the civilization and progress of the world, and since nature has placed the shortest and most expeditious route within the territory of the Republic, Colombia widely and generously opens her doors so that the grand work may be achieved within the shortest possible time.

If the people of the United States evince an earnest desire that their Government apply its energies and treasure to the completion of the canal, Colombia not only will not place any obstacle whatever in the way of such a purpose or keep her concessions within the bounds of those previously conceded to private enterprise, but will enlarge those concessions to such an extent as to renounce a demand for the ownership after the lapse of a number of years of operation, as stipulated in the French company's contract; she will grant the use of a much more extensive zone than that originally conceded for the execution of the work; extend facilities in all the ports of the Republic for cooperation in the work of the enterprise; relinquish her proprietary and usufructuary rights in the Panama Railway, and, lastly, forego a fixed participation in the proceeds of the canal, confining her demands to a fee of annuity for the price of the zone, the revenues of the railway, and the heavier expenses put upon the public administration in the Isthmus by the increase of population and the traffic consequent to the work on the canal itself.

Thus does Colombia give fresh evidence of her long-standing and cordial sentiments of friendship toward the United States, and evinces in a clear and sincere manner the gratification with which she will receive the industrious and intelligent citizens of your Republic in her territory.

Colombia has no lust of unwise lucre through the construction of the canal in her territory, and a final convention on this subject will not be hampered by pecuniary considerations. Her pride in the matter is bent on having the neutral waterway between the two oceans, that ideal of universal peace and progress, become a reality on her territory, and under the protection of her sovereignty. The compensations asked by Colombia have special importance only in that they will imply a practical and constant recognition of her sovereignty.

The undersigned has no doubt that the mere perusal of the memorandum will bring forward the justice and equity of the propositions, which, if accepted, would be perfected in the same spirit.

The undersigned embraces this opportunity to reiterate to the honorable Secretary the assurance of his highest and most distinguished consideration.

JOSE VICENTE CONCHA.

Hon. JOHN HAY,
Secretary of State of the United States.

[The New Willard, Washington, D. C., Sullivan & Cromwell, 49 and 51 Wall street.]

NEW YORK, *March 31, 1902.*

Hon. JOHN HAY,
Secretary of State, Washington, D. C.

SIR: In connection with the presentation by Señor Jose Vicente Concha, minister plenipotentiary and envoy extraordinary from the Republic of Colombia, of a proposed concessionary convention or treaty between the United States and Colombia to further the completion, operation, control, and protection of the Panama Canal by the United States, I have been requested by the minister, in view of my relation to the subject as general counsel of the Panama Canal Company, and of my knowledge of the minister's views derived from our daily conferences in the preparation of the treaty, to submit the following reflections:

Colombia welcomes the United States to its territory, and will facilitate in every way reasonable within its power the consummation of the desires and needs of the United States for the completion, operation, maintenance, control, and protection of the interoceanic canal across its domain, subject, of course, to the sovereignty of Colombia, and a reasonable and just convention between the two nations.

Colombia views with admiration, as does the rest of the world, the splendid magnanimity, the far-seeing statesmanship, the virile and comprehensive policy which moves this people to construct the greatest undertaking which has ever engaged the attention of mankind, not for its own benefit alone, nor with selfish preference to its own commerce, but for the common benefit upon equal terms and under universal neutrality in times of peace for all the peoples of the earth.

History does not furnish another instance of such national generosity, patriotism, and wisdom.

This could not but call out from Colombia the warmest response; and that nation takes pride in associating herself with an affair conducted upon such an elevated plane of national and international duty and concern.

The Isthmian Canal Commission, a most distinguished and able body, selected with such care by President McKinley to consider all possible isthmian canal routes and to determine which of them it is most to the interest of the United States to acquire, has reported unanimously that the Panama route is the most practicable and feasible route for an isthmian canal to be under the control, management, and ownership of the United States. Therefore the solution of the problem only involves two other conditions:

1. The sale by the New Panama Canal Company to the United States of the concession, property, and rights of the canal, with the shares of the Panama Railroad Company; and,

2. A new concessionary convention or treaty with Colombia.

The first of these two conditions already has been made easy of fulfillment in the formal acceptance by the New Panama Canal Company of the valuation fixed by the Isthmian Canal Commission—$40,000,000—and by its duly authorized proposal to the United States for a sale of the property at that price, subject, of course, to a satisfactory convention being arrived at between the United States and Colombia.

The sole remaining condition, then, is the determination of the concessionary and treaty relations of the United States to a zone of territory across the Isthmus of Panama necessary for the consummation of the undertaking.

There has not been a moment in which Colombia has not entertained the keenest desire to further the design of the United States, and this sentiment has prevailed under each succeeding administration in Colombia and alike in both of the great national parties who alternately have ruled in that country.

This sentiment is neither new born nor inspired by hope of pecuniary gain. The two nations are old friends, and this feeling assumed practical form in 1846, when the treaty of that year was made, which expressly provided for the construction of this canal, in furtherance of which Colombia guaranteed to the United States the free transit of the Isthmus and granted extraordinary concessions to the people and commerce of the United States upon terms of perfect equality with its own citizens, while the United States, in turn, guaranteed the neutrality of the Isthmus and of the canal to be constructed upon it, as well as the sovereignty of Colombia over that territory.

It is a significant fact that this treaty of 1846-1848, assuring to the United States special rights and privileges upon the Isthmus of Panama in connection with any interoceanic canal or railroad across the Isthmus of Panama, antedates the Clayton-Bulwer treaty. The treaty of 1846-1848 is in full force, as it has continued to be without change from the date of its execution.

Colombia has never made a treaty with any other nation upon the subject of an isthmian canal, although it was at liberty to do so.

These treaty ties cemented their joint designs for the construction of a new highway for the world have held the two nations together in common interests and unbroken friendship for more than a half century.

By granting the concessions now owned by the New Panama Canal Company and by furthering the construction of the canal to its present advanced stage of completion by the Old and New Panama Canal companies, Colombia initiated the great work which now, happily, the United States may consummate.

While the minister of Colombia was in Washington for more than a year waiting for the moment when the subject could be seriously and attentively discussed, it is only since January 4, 1902, that anything could be definitely said or done, since then, and then only, was a definite proposal of sale made by the canal company. Immediately thereupon, however, the Government of Colombia, requiring the services of its then minister in other important fields, designated its minister of war, Señor Concha, as minister plenipotentiary and envoy extraordinary, to come at once from Bogota to Washington, charged with its ripest views and amplest instructions, to confer with the executive authorities of the United States, and, after exchange of information and opinions, to reach a satisfactory convention.

Minister Concha has devoted himself, since his arrival a few weeks ago, absorbingly to this task, and is prepared to reach a conclusion with the executive officers of the Government.

He is fully empowered to negotiate and sign a treaty, subject only to the ratification of the Colombian Congress, as in like cases with all nations.

But Colombia is in the dark as to the precise desires and needs of the United States upon the subject, and Minister Concha can not, of course, anticipate in his first statement all the reasonable requirements of this Government. He wishes, however, to manifest in the most hearty manner the desire of his Government to facilitate the purposes of the United States, and this disposition is manifested by the comprehensive convention which he has this day submitted to you, but not as an ultimatum. The establishment of a canal convention involves, as you are so well aware, besides the utilization of a canal zone for the construction, operation, maintenance, control, and protection of a canal, railroad, and auxiliary works, as well as a grant renewable perpetually and a consent to the sale by the New Panama Canal Company (all of which Colombia concedes in the convention submitted), but also numerous other grave questions relating to judicial procedure, punishment of crimes, the capture of criminals, sanitary and police regulations of Panama and Colon, proper regard to the vested interests upon the Isthmus, exemption of the United States from all forms of taxes, port charges, or other dues, etc.

Quite aside from pecuniary matters, these are subjects which only can be examined and negotiated directly with you in person, and are impossible of negotiation with the Houses of Congress.

Permit me to call attention to the facts that a canal convention in respect of the Isthmus of Panama necessarily involves considerations which do not relate to a section where there is but a wilderness, uninhabited by man, and producing no income to the nation. The convention respecting the Panama route covers a zone which has been the pathway of commerce across the continent for four hundred years, with important cities at its termini, with villages along the route, with a settled population, with considerable property, and with important vested interests to be taken into consideration.

All this represents an increment of value in civilizing influences, in means of protection, in expenditures of national funds for improvement and development, as well as in certitude of engineering plans, of all which the United States now may derive the benefit.

It would be neither in order nor fitting for the canal company or myself to express any views, one way or the other, upon any of the provisions of the proposed treaty, and our reserve in that regard will be noted. However, I beg to refer, by special request of the minister, to Article XXV of his proposed treaty, and which article relates to the pecuniary terms. Colombia is prepared to discuss, negotiate, and decide upon the precise sum or sums which may be reasonable for the United States to pay and for Colombia to ask, but as the subject is in the hands of Congress, and it seems impracticable at the moment to secure a definite expression of the views of the United States upon the subject, Colombia manifests its good faith and reasonableness by proposing that the annuity shall be only such sum as mutually may be agreed upon between the nations, or, failing in such agreement, such fair and reasonable amount as may be determined by a high commission presided over by the president of the International Peace Tribunal of The Hague, the remaining members being nominated in equal number by the two nations.

Such annuity would only be fixed once in a hundred years. The national requirements of Colombia make a payment of $7,000,000 desirable, and you will note the provisions on that head; but I also ask you to note that Colombia waives the annuity for the first fourteen years. This method insures to the United States the concessionary rights which it requires and which can not be affected or interrupted by any difference or delay respecting the ascertainment of the annuity. The United States is only required to pay such sum as it may agree upon or as so may be determined to be fair and reasonable. Colombia does not ask more than what may be determined to be fair and reasonable, and surely the United States does not wish to do less than that.

I have the honor to be, Mr. Secretary, your obedient servant,

WM. NELSON CROMWELL,
General Counsel New Panama Canal Company.

LEGACION DE COLOMBIA,
Washington, D. C., April 18, 1902.

SIR: Concerning the conclusions reached as the result of the conference held between yourself and Mr. Cromwell, and adopting, as far as practicable, your valuable suggestions, I beg leave to hand you the concessionary convention or treaty (in Spanish and in English), embodying the amendments agreed upon in the conference referred to.

My previous communication of March 31, 1902, proposing the concessionary convention or treaty in behalf of my Government, and the expository communications of myself and Mr. Cromwell, under the same date, apply equally to the inclosures.

Awaiting the pleasure of your excellency, I have the honor to renew the assurances of my high consideration.

J. V. CONCHA.

Hon. JOHN HAY,
Secretary of State of the United States,
Department of State.

Then follows the full text of the treaty that Mr. Concha submitted to the Government of the United States as being a treaty that he was authorized to make by the President of Colombia and would make and was ready to sign, as follows, and then the letter of Mr. Hay accepting the same, and the concluding letter of Mr. Concha, which completed the treaty and closed the negotiations.

The agreement between the Governments, through their plenipotentiaries, was completed by their respective notes, which were duly interchanged. Nothing remained to be done but the formality of signing the copies, one for each Government, in order to identify them and not to add anything to their legal or moral obligation; any added stipulation would be a new negotiation. We had a right to demand that the price of the concession was agreed upon, at $7,000,000. If we have lost that right, it must be because we have given it away to Colombia.

LEGACION DE COLOMBIA, WASHINGTON, D. C.

Memorandum of points to be embodied in a convention between the Republic of Colombia and the United States of America for the construction of an interoceanic canal by the Panama route and the management of the railroad over said Isthmus, in furtherance of article 35 of the treaty of 1845-1848, existing between said nations; presented by the undersigned envoy extraordinary and minister plenipotentiary of the Republic of Colombia.

ARTICLE I.

The Government of Colombia authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties, and concessions, as well as the Panama Railroad and all the shares or part of the shares of that company, with the exception of the public lands situated outside of the zone hereinafter specified now corresponding to the concessions to both said enterprises, which public lands shall revert to the Republic of Colombia.

But it is understood that Colombia reserves all its rights to the special shares in the capital of the New Panama Canal Company, to which reference is made in Article IV of the contract of December 10, 1890, which shares shall be paid their full nominal value at least.

The railroad company (and the United States as owner of the enterprise) shall be free from the obligations imposed by the railroad concession, excepting as to the payment at maturity by the railroad company of the outstanding bonds issued by said railroad company.

ARTICLE II.

The United States shall have the exclusive right to excavate, construct, maintain, operate, control, and protect a maritime canal from the Atlantic to the Pacific Ocean, to and across the territory of Colombia, such canal to be of sufficient depth and capacity for vessels of the largest tonnage and greatest draft now engaged in commerce; and also the same rights for the construction, maintenance, operation, control, and protection of railway, telegraph, and telephone lines, canals, dikes, dams, reservoirs, and such other

auxiliary works as may be necessary and convenient for the construction, maintenance, protection, and operation of the canal.

ARTICLE III.

To enable the United States to exercise the rights and privileges granted by the foregoing articles, the Republic of Colombia grants to that Government the use of a zone of territory along the route of the canal to be opened, 5 kilometers in width on either side thereof, measured from its center line, excluding the cities of Panama and Colon. So far as necessary for the construction, maintenance, and operation of the canal, the United States shall have the use and occupation of the group of small islands in the Bay of Panama, named Perico, Naos, and Flamenco, together with 10 fathoms of water in the Bay of Limon in extension of the canal, but the same shall not be construed as being within the zone herein defined, nor governed by the special provisions applicable to the zone. This concession shall be for the term of one hundred years, renewable at the option of the United States for periods of similar duration and subject to the payment of the amount hereinafter expressed.

This grant shall in no manner invalidate the titles of rights of private landholders in the said zone of territory, nor shall it interfere with the rights of way over the public roads of the department.

All the stipulations contained in article 35 of the treaty of 1846-1848 between the contracting parties shall continue and apply in full force to the cities of Panama and Colon and to the accessory community lands within the said zone, and the territory thereon shall be neutral territory, and the United States shall continue to guarantee the neutrality thereof and the sovereignty of Colombia thereover in conformity with the above-mentioned article 35 of said treaty.

In furtherance of this provision, there shall be created a joint commission by the Governments of Colombia and the United States that shall establish and enforce sanitary and police regulations.

ARTICLE IV.

The rights and privileges granted to the United States by the terms of this convention shall not affect the sovereignty of the Republic of Colombia over the territory within whose boundaries such rights and privileges are to be exercised.

The United States freely acknowledges and recognizes this sovereignty and disavows any intention to impair it in any way whatever, or to increase its territory at the expense of Colombia or of any of the sister republics in Central or South America, but, on the contrary, it desires to strengthen the power of the republics on this continent, and to promote, develop, and maintain their prosperity and independence.

ARTICLE V.

The Republic of Colombia authorizes the United States to construct and maintain at each entrance and terminus of the proposed canal a port for vessels using the same, with suitable light-houses and other aids to navigation; and the United States is authorized to use and occupy within the limits of the zone fixed by this convention such parts of the coast line and of the lands and islands adjacent thereto as are necessary for this purpose, including the construction and maintenance of breakwaters, dikes, jetties, embankments, coaling stations, docks, and other appropriate works. And the United States undertakes the construction and maintenance of such works and will bear all the expense thereof. The ports, when established, shall be declared free, and their demarcations shall be clearly and definitely defined.

To give effect to this article, the United States will give special attention and care to the maintenance of works of drainage, sanitary, and healthful purposes along the line of the canal and its dependencies, in order to prevent the invasion of epidemics, or of securing their prompt suppression, should they appear. With this end in view the United States will organize hospitals along the line of the canal and will suitably supply the towns of Panama and Colon with the necessary aqueducts and drainage works, in order to prevent their becoming centers of infection on account of their proximity to the canal.

The Government of Colombia will secure the possession of the land that may be required in the towns of Panama and Colon to effect the improvements above referred to, and the Government of the United States shall be authorized to impose and collect equitable water rates previously agreed upon with the Government of Colombia during fifty years for the service rendered; but on the expiration of said term, the use of the water shall be free for the inhabitants of Panama and Colon, except to the extent that may be necessary for the maintenance of said aqueducts.

ARTICLE VI.

The Republic of Colombia agrees that it will not cede or lease to any foreign government any of its islands or harbors within or adjacent to the Bay of Panama, nor on the Atlantic coast of Colombia between the Atrato River and the western boundary of the department of Panama for the purpose of establishing fortifications, naval or coaling stations, military posts, docks, or other works that might interfere with the construction, maintenance, operation, protection, safety, and free use of the canal and auxiliary works. In order to enable Colombia to comply with this stipulation, the Government of the United States agrees to give Colombia the material support that may be required, in order to prevent the occupation of said islands and ports, guaranteeing there the sovereignty, independence, and integrity of Colombia.

ARTICLE VII.

The Republic of Colombia includes in the foregoing grant the right, without obstacle, cost, or impediment, to the free navigation and use of the waters of the Chagres River and other streams, lakes, and lagoons, and of all waterways, natural and artificial, within the jurisdiction and under the dominion of the Republic of Colombia in the department of Panama, that may be necessary or desirable for the construction, maintenance, and operation of the canal and its auxiliary works, including the right to raise and lower the levels of the waters and to deflect them, and to rectify and navigate any and all streams, lakes, and lagoons. All damages caused to private landowners by inundation, or by the deviation of water courses, or in other ways, arising out of the construction or operation of the canal, shall in each case be appraised and settled by a joint commission appointed by the Governments of Colombia and the United States, but the cost of the indemnities so agreed upon shall be borne solely by the United States.

ARTICLE VIII.

The Government of Colombia declares free for all time the ports at either entrance to the canal and the waters thereof in such a manner that there shall not be collected by the Government of Colombia custom-house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues, nor any other charges or taxes of any kind shall be levied or imposed by the Government of Colombia upon any vessel using or passing through the canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, and operation of the main work or its auxiliaries or upon the cargo, officers, crew, or passengers of any such vessel, it being the intent of this convention that all vessels and their cargoes, crews, and passengers shall be permitted to use and pass through the canal and the ports leading thereto, subject to no other demands or impositions than such tolls and charges as may be imposed by the United States for the use of the canal and other works, it being understood that such tolls and charges shall be equal for vessels of all nations.

The ports leading to the canal shall also be free to the commerce of the world, and no duties or taxes shall be imposed, except upon merchandise destined to be introduced for the consumption of the rest of the Republic of Colombia, or the department of Panama, and upon vessels touching at the ports of Colon and Panama, and which did not cross the canal. Though the said ports shall be free and open to all, the Government of Colombia may establish in them such custom-houses and guards as Colombia may deem necessary to collect duties on importations destined to other portions of Colombia and to prevent contraband trade. The United States shall have the right to make use of the ports at the two extremities of the canal as places of anchorage, in order to make repairs for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the canal.

ARTICLE IX.

There shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the canal, the vessels that may use it, tugs and other vessels employed in the service of the canal, the railways and auxiliary works, storehouses, workshops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property and effects appertaining to the canal or railroad, or that may be necessary for the service of the canal or railroad and their dependencies, whether situated within the cities of Panama and Colon, or any other place authorized by the provision of this convention.

Nor shall there be imposed contributions or charges of a personal character of whatever species upon officers, employees, laborers, and other individuals in the service of the canal and its dependencies.

ARTICLE X.

It is agreed that telegraph and telephone lines, when established for canal purposes, may also, under suitable regulations, be used for public and private business in connection with the systems of Colombia and the other American Republics, and with the lines of cable companies authorized to enter the ports and territories of these Republics; but the official dispatches of the Government of Colombia and the authorities of the Department of Panama shall not pay for such service higher tolls than those required from the officials in the service of the United States.

ARTICLE XI.

The Government of Colombia shall permit the immigration and free access to the lands and workshops of the canal enterprises of all employees and workmen of whatever nationality under contract to work upon the said canal and its dependencies, with their respective families, and all such persons should be free and exempt from the military service of the Republic of Colombia.

ARTICLE XII.

The United States may import at any time into the said zone, free of customs duties, imposts, taxes, or other charges, and without any restriction, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, and operation of the canal and auxiliary works; also all provisions, medicines, clothing, supplies, and other things necessary and convenient for the officers, employees, workmen, and laborers in the service and employ of the United States within the said zone and for their families. If any such articles are disposed of for use without the zone and within the territory of the Republic, they shall be subject to the same import or other duties as like articles under the laws of Colombia, or the ordinances of the department of Panama.

ARTICLE XIII.

The United States shall have authority within the said zone to protect and make secure the canal, as well as railroads and other auxiliary works, and to preserve order and discipline among the laborers and other persons who may congregate in that region in consequence of the proposed work.

The Governments of Colombia and the United States shall agree upon the regulations necessary for said purpose, as well as to the capture and delivery of criminals to the respective authorities. Special regulations also shall be agreed upon, in the manner aforesaid, for the establishment of laws and jurisdiction to decide controversies that may arise respecting contracts relative to the construction and management of the canal and its dependencies, as well as to the trial and punishment of crimes that may be committed within the said zone of the canal.

ARTICLE XIV.

The works of the canal, the railways, and their auxiliaries shall be declared of public utility, and in consequence all areas of land and water necessary for the construction, maintenance, and operation of the canal and the other specified works may be expropriated in conformity with the laws of Colombia, except that the indemnity shall be conclusively determined, without appeal, by a joint commission appointed by the Governments of Colombia and the United States.

The indemnities awarded by the commission for such expropriation shall be borne by the United States, but the appraisal of said lands and the assessment of damages shall be based upon their value before the commencement of the work upon the canal.

ARTICLE XV.

The Republic of Colombia grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the canal enterprise, and for all vessels in distress having the right to pass through the canal and wishing to anchor in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of Colombia.

ARTICLE XVI.

The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be open upon equal terms to the vessels of all nations at uniform tonnage and other rates that may be imposed in virtue of the stipulations of this convention and in conformity with the stipulations of the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901, and known as the Hay-Pauncefote treaty.

ARTICLE XVII.

The Government of Colombia shall have the right to transport over the canal its vessels, troops, and munitions of war at all times, without paying charges of any kind. This exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Colombia or of the department of Panama, or of the police force charged with the preservation of public order, as well as to their baggage, munitions of war, and supplies.

ARTICLE XVIII.

The United States shall have full power and authority to establish and enforce regulations for the use of the canal, railways, and the entering ports and auxiliary works, and to fix rates of tolls and charges thereof, subject to the limitations stated in the Article XVI.

ARTICLE XIX.

The rights and privileges granted to the United States by this convention shall not affect the sovereignty of the Republic of Colombia over the real estate that may be acquired by the United States by reason of the transfer of the rights of the New Panama Canal Company and the Panama Railroad Company lying outside of the said canal zone.

ARTICLE XX.

If, by virtue of an existing treaty between the Republic of Colombia and any third power, there may be privileges or concessions relative to an interoceanic means of communication which especially favors such third power and which in any of its terms may be incompatible with the terms of the present convention, the Republic of Colombia agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting their involuntary annulment, the Republic of Colombia agrees to procure its modification or annulment in such form that there shall not exist any conflicts with the stipulations of the present convention.

ARTICLE XXI.

The rights and privileges granted by the Republic of Colombia to the United States in the preceding articles are understood to be free of all anterior concessions or privileges to other governments, corporations, syndicates, or individuals, and consequently if there should arise any claims on account of the present concessions and privileges the claimants shall resort to the Government of Colombia and not to the United States for any indemnity or compromise which may be required.

ARTICLE XXII.

The Government of Colombia renounces the participation to which it might be entitled in the future earnings of the canal under Article XV of the contract with the "Universal Panama Canal Company;" and it likewise renounces now and hereafter all the rights reserved in the said concession which shall belong to Colombia at the expiration of the term of ninety-nine years of the concession granted to the above-mentioned company.

ARTICLE XXIII.

If it should become necessary at any time to employ armed forces for the safety or protection of the canal, or of the ships that make use of the same, or the railways and other works, the Republic of Colombia agrees to provide the forces necessary for such purpose, according to the circumstances of the case, but if the Government of Colombia can not effectively comply with this obligation, then, with the consent of or at the request of Colombia, or of her minister at Washington, or of the local authorities, civil or military, the United States shall employ such force as may be necessary for that sole purpose, and as soon as the necessity shall have ceased will withdraw the forces so employed. Under exceptional circumstances, however, on account of unforeseen or imminent danger to said canal, railways, and other works, or to the lives and property of the persons employed upon the canal, railways, and other works, the Government of the United States is authorized to act in the interest of their protection, without the necessity of obtaining the consent beforehand of the Government of Colombia; and it shall give immediate advice of the measures adopted for the purpose stated, and as soon as sufficient Colombian forces shall arrive to attend to the indicated purpose those of the United States shall retire.

ARTICLE XXIV.

The Government of the United States agrees to complete the construction of the preliminary works necessary, together with all the auxiliary works, in the shortest time possible; and within two years from the date of the exchange of ratification of this convention the main works of this canal proper shall be commenced, and it shall be opened to the traffic between the two oceans within twelve years after such period of two years. In case, however, that any difficulties or obstacles should arise in the construction of the canal, which are at present impossible to foresee, in consideration of the good faith with which the Government of the United States shall have proceeded and the large amount of money expended so far on the works and the nature of the difficulties which may have arisen, the Government of Colombia will prolong the terms stipulated in this article up to twelve years more for the completion of the work of the canal.

ARTICLE XXV.

As the price or compensation for the right to use the zone granted in this convention by Colombia to the United States for the construction of a canal, together with the proprietary right over the Panama Railroad, and for the annuity of $250,000, gold, which Colombia ceases to receive from the said railroad, as well as in compensation for other rights, privileges, and exemptions granted to the United States; and in consideration of the increase in the administrative expenses of the department of Panama consequent upon the construction of the said canal, the Government of the United States binds itself to pay Colombia the amount of $7,000,000 in American gold on the exchange of the ratification of this convention, after its approval by the legislative bodies by both countries, and fourteen years after the date aforesaid a fair and reasonable annuity that shall be agreed upon by the contracting Governments, three years before the expiration of the above-mentioned term of fourteen years.

In fixing this fair and reasonable annuity there shall be taken into consideration the present price of the usufruct of the railway as well as the compensation that is to be stipulated for the use of the zone and for the additional administrative expenses that the construction of the canal will impose upon Colombia; and also the advanced payment of $7,000,000 and the comparative cost and conditions upon which the United States reasonably could have expected to acquire concessions satisfactory to it in respect of any other canal route.

Three years before the expiration of each term of one hundred years the annuity for the following term shall be fixed in a similar manner.

But in the event that the parties are unable to come to an understanding within the periods above referred to as to such fair and reasonable annuity, then before the second year prior to the termination of the periods above referred to the contracting parties shall proceed to constitute a high commission, to be composed of five members, of whom two shall be appointed by Colombia, two by the United States, and the fifth (who shall be the president of such high commission) shall be the president for the time being of the International Peace Tribunal of The Hague, and the determination reached by said commission, by a majority vote, concerning such fair and reasonable annuity that is to be paid to Colombia by the United States in conformity with this article shall be binding upon the contracting parties.

But no delay nor difference of opinion in fixing such amount shall affect nor interrupt the full operation and effect of this convention in all other respects.

ARTICLE XXVI.

If after the lapse of five years from the date of this convention the necessary works for the opening of the canal should not have been commenced by the United States, or if after the expiration of the twelve years stipulated for the completion of the work, and the extension of twelve years referred to in Article XXIV, the canal should not be opened to commerce, all the concessions granted by this convention shall be forfeited and all the works, principal and accessory, machinery, and properties of the canal, shall become the property of the Republic of Colombia, and the same Republic shall recover its actual rights over the Panama Railroad without any obligation to return any of the sums that it may have received in conformity with this convention.

ARTICLE XXVII.

This convention, when signed by the contracting parties, shall be submitted for legislative approval, and shall be exchanged within a term of eight months from this date.

Article XXV fixes the price of the concession at $7,000,000, and nothing is stated in the present treaty as a reason for raising the price to $10,000,000.

Mr. Hay, in reply to Mr. Concha's note, says this:

DEPARTMENT OF STATE,
Washington, April 21, 1902.

SIR: I have the honor to acknowledge the receipt at your hands of a communication dated the 31st of March, 1902, and another of the 18th of April, inclosing a proposal of the Republic of Colombia for a concessionary convention or treaty between the Republic of Colombia and that of the United States of America respecting the completion, maintenance, operation, control, and protection of an interoceanic canal over the Isthmus of Panama.

I am directed by the President to inform you that I shall be ready to sign with you the proposed convention as soon as—

First. The Congress of the United States shall have authorized the President to enter into such an agreement; and

Second. As soon as the law officers of this Government shall have decided upon the question of the title which the New Panama Canal Company is able to give to all the properties and rights claimed by it and pertaining to a canal across the Isthmus and covered by the pending proposal.

Accept, sir, the renewed assurances of my highest consideration.

JOHN HAY.

Señor DON JOSE VICENTE CONCHA, etc.

Mr. Concha replied to that note as follows:

[Translation.]

LEGATION OF COLOMBIA,
Washington, D. C., April 23, 1902.

SIR: I have the honor to acknowledge the reception of your excellency's communication of the 21st instant, by which you are pleased to inform me that you are authorized by the President of the United States to sign with the Republic of Colombia the treaty relative to the opening of the Panama Canal, and the other details connected with the said work, in accordance with the draft I submitted to the Government of the United States on the 18th instant, and that you will proceed to do so as soon as permission shall have been given by the Congress of this Republic and as soon as the official lawyers shall have given their opinion regarding the title of the new canal company for the transfer of its rights.

When the occasion to sign the above-mentioned treaty shall arise, I will present, according to usage, the full powers authorizing me to do so.

Accept, excellency, the sentiments of my high consideration.

JOSE VICENTE CONCHA.

Hon. JOHN HAY,
Secretary of State of the United States,
Department of State.

Mr. President, I desire to be very brief about this matter. I have now presented the case of a treaty agreed to between our Secretary of State and the minister of Colombia, both asserting that it was done by the orders of their respective Governments and that they were both ready to sign that treaty whenever Congress should authorize the making of such a treaty, and whenever the President of the United States should ascertain through its proper legal adviser—the Attorney-General, I suppose—that the title of the Panama Canal Company to what it proposed to sell us was free and clear. Both of these matters have been ascertained to the satisfaction of the President, and the treaty now in the Senate has been sent here because of the ascertainment of those facts.

The treaty that was submitted by Mr. Concha to Mr. Hay, and agreed to by both parties, was for the payment of $7,000,000 for this concession and $250,000 a year, I think, for fourteen years, but at any rate that was the annual amount that was agreed upon.

The treaty now submitted to the Senate contains a provision for the payment of $10,000,000——

Mr. CULLOM. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Alabama yield to the Senator from Illinois?

Mr. CULLOM. I think I ought to ask, Mr. President, that the doors be closed in the discussion of this treaty, and I will call the attention of the Senator from Alabama to it before insisting upon my motion.

Mr. MORGAN. Mr. President, the Senator from Illinois need not make any apology to me for that motion. I have had it inflicted upon me heretofore for the purpose of covering up debate and preventing any inquiry into public affairs. The Senator, of course, has the right to make the motion and, if some one seconds it, he can go ahead.

Mr. CULLOM. Mr. President, I move that the doors be closed.

Mr. HALE. I second the motion, Mr. President.

The PRESIDENT pro tempore. The Senator from Illinois——

Mr. MORGAN. I raise a question of order on that motion, Mr. President.

The PRESIDENT pro tempore. The Senator will state his point of order.

Mr. MORGAN. The point of order is that I am on the floor,

and that the Senator from Illinois can not take me off the floor to make that motion.

The PRESIDENT pro tempore. The Chair overrules the point of order.

Mr. CULLOM. I will insist on my motion, Mr. President.

The PRESIDENT pro tempore. The Sergeant-at-Arms will clear the galleries and close the doors.

The Senate proceeded with closed doors to consider the resolution.

After one hour and fifteen minutes (at 1 o'clock and 58 minutes p. m.) the doors were reopened.

Mr. MORGAN. Mr. President, I proceed with the remarks I was prevented from making when the doors were closed, which I intended to make.

The first fact I meant to state was the publication in the Springfield Daily Republican, of Massachusetts, and inasmuch as Senators have doubtless all heard this paper or have read it, I will ask that it be inserted in my remarks as a part of them.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Is there objection to the request of the Senator from Alabama that the article to which he alludes be made a portion of his remarks?

Mr. HALE. It was on that very matter that the Senate closed its doors, and I must object to its being printed as a part of the public records of the Senate.

Mr. MORGAN. Mr. President, I had not presented that paper to the Senate, and the Senator from Maine is mistaken about the doors having been closed on that very matter. There was not a Senator in this body, except perhaps one, the Senator from Wisconsin, who knew that I had the paper.

Mr. HALE. Is not this the paper the Senator had read with closed doors?

Mr. MORGAN. Oh, yes; not in open session.

Mr. HALE. I did not say in open session.

Mr. MORGAN. Does the Senator want me to state what took place with closed doors? He has asked me a question with reference to it.

Mr. HALE. The Senator is an old Senator, and I have no apprehension——

Mr. MORGAN. The Senator asked me a question about what took place in secret session, and of course——

Mr. HALE. I asked the question whether this was the same paper.

Mr. MORGAN. Yes; it is the same paper that I read in secret session.

Mr. HALE. Then I must object.

Mr. MORGAN. Well, Mr. President, I leave it to the Senate to say whether I shall read it or not. I insist on its going into the RECORD.

The PRESIDENT pro tempore. The Senator from Alabama moves that the article from the Springfield Republican be printed in the RECORD as a part of his remarks. The question is on agreeing to the motion.

Mr. HALE. Mr. President, I think the Senate should not in any way countervail what it has done already this morning in taking this matter into a session with closed doors and there considering it as the rules provide. I do not think that when we come out of that session of closed doors the Senate ought to permit a subject-matter that was considered with closed doors and formed a part of the discussion, because the Senator now makes that motion——

Mr. MORGAN. I call the Senator to order. He has no right to speak about what took place with closed doors.

Mr. HALE. I have the right to say that this is the same paper.

Mr. MORGAN. I call the Senator to order. The Senator has no right to speak of what took place. He has already asked me a question about what took place with closed doors and I have answered him.

Mr. HALE. I ask——

Mr. MORGAN. Now he proceeds to comment on what took place with closed doors, and I call him to order.

The PRESIDENT pro tempore. Both Senators will please suspend. The Chair lays before the Senate the unfinished business, which is the statehood bill.

STATEHOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12543) to enable the people of Oklahoma, Arizona, and New Mexico to form constitutions and State governments and be admitted into the Union on an equal footing with the original States.

Mr. QUAY. Mr. President——

Mr. MORGAN. Will the Senator allow me to proceed for five minutes, merely to state my position?

Mr. QUAY. In one moment, if the Senator will pardon me. I desire to make my usual request.

Mr. NELSON. Mr. President, I rise to a point of order.

The PRESIDENT pro tempore. The Senator from Minnesota will state the point of order.

Mr. NELSON. The point of order is that the Senator from New Jersey [Mr. KEAN] is entitled to the floor, and if anyone is to yield it as a matter of grace to the Senator from Alabama, that grace should come from the Senator from New Jersey and not from the Senator from Pennsylvania.

Mr. MORGAN. I was not aware of the fact that the Senator from New Jersey is entitled to the floor.

The PRESIDENT pro tempore. The Senator from Pennsylvania has been recognized by the Chair, and he has the floor.

Mr. QUAY. I do not wish to split hairs with the Senator from Minnesota over the question whether the Senator from New Jersey or the Senator from Pennsylvania is entitled to the floor. If it so be that the Senator from New Jersey is entitled to the floor, I will ask him to yield to me for a moment.

The PRESIDENT pro tempore. The Senator from New Jersey has not been recognized by the Chair. The Senator from Pennsylvania has the floor.

Mr. HALE. Was not the Senator from New Jersey on the floor at the time the Senate adjourned? I understood that he was on the floor and held the floor upon this bill, which comes up at 2 o'clock.

The PRESIDENT pro tempore. The Senator from New Jersey has not addressed the Chair.

Mr. HALE. The Senator from New Jersey was in his seat prepared to take the floor upon the bill.

Mr. QUAY. My recollection is that the Senator from New Jersey had been on the floor and was swept off the floor.

Mr. HALE. Only by yielding; and clearly when we resume the consideration of the bill at 2 o'clock the Senator from New Jersey is entitled to the floor.

Mr. GALLINGER. Mr. President, I rise to a question of order.

The PRESIDENT pro tempore. The Senator from New Hampshire will state his question of order.

Mr. GALLINGER. I think it might be well to have the question once for all settled. Can a Senator suspending his remarks at the close of one day claim the floor in his right the next day, unless he is recognized?

The PRESIDENT pro tempore. The Chair is of opinion that he can not.

Mr. GALLINGER. That is my opinion.

Mr. QUAY. Mr. President, I rise to ask the unanimous consent of the Senate that on the 20th day of February, at 2 p. m., a vote may be taken on the pending bill, known as the omnibus statehood bill, and on all the amendments now pending or that may then or hereafter be made or offered.

The PRESIDENT pro tempore. The Senator from Pennsylvania asks unanimous consent that at 2 o'clock on the 20th day of February a final vote be taken upon the pending bill, upon amendments then pending, and amendments then offered, without further debate. Is there objection?

Mr. NELSON. Mr. President, the chairman of the Committee on Territories being absent, in his absence I object.

The PRESIDENT pro tempore. Objection is made.

Mr. KEAN. Mr. President——

The PRESIDENT pro tempore. The Senator from New Jersey.

Mr. MORGAN. I wish to ask the courtesy of the Senator from New Jersey.

Mr. KEAN. I yield to the Senator from Alabama.

MILITARY OCCUPATION OF PANAMA AND COLON, ETC.

Mr. MORGAN. Mr. President, the article to which I referred is not before me, and I ask the Secretary to state the date of it.

The Secretary read as follows:

Springfield Daily Republican, Friday, January 30, 1903.

Mr. MORGAN. I have many letters directed to me from different parts of the United States, from gentlemen who claim to be Republicans, and I have no doubt they are, and they write as though they were men of intelligence, who set forth the same line of reasons that are presented in the article I am forbidden to read, but which I believe the newspapers are not forbidden to print. If I had the liberty of laying those letters before the Senate I might perhaps convince it that the Springfield Republican is acting the part of wisdom and patriotism, and is anxious for the peace and security of this country in time to come, as we all may well be.

I wish to say now, Mr. President, not as characterizing the treaty we are about to enter into, but to characterize the present attitude of the Government of the United States, I believe that if we persist in going on as we are going, a war with Colombia will become inevitable within a few years—perhaps one or two—and not only that, but the inflammation, the war which has already broken out in the Central American States, will lead to complications on the part of the Government of the United States which will cause us to regret that we ever had any connection with the subject of a canal at Panama.

ALLEGHENY RIVER BRIDGE.

Mr. ELKINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from West Virginia?

Mr. KEAN. I yield.

Mr. ELKINS. There was a mistake made in the passage of the bill (S. 7226) to authorize the Pittsburg, Carnegie and Western Railroad Company to construct, maintain, and operate a bridge across the Allegheny River. The bill was passed yesterday and I wish to bring it before the Senate in order to correct an error. I move to reconsider the vote by which the bill was passed so that I may offer an amendment.

The PRESIDENT pro tempore. The Senator from West Virginia asks unanimous consent that the votes by which the bill was ordered to a third reading and passed be reconsidered. Is there objection? The Chair hears none, and the bill is in the Senate and open to amendment.

Mr. ELKINS. I offer an amendment to come in on page 3, which I ask may be read.

The SECRETARY. On page 3, section 3, line 6, after the words "post road" strike out the words:

over which no higher charge shall be made for the transportation of mails, troops, and munitions of war or other property of the Government of the United States than for any other passengers or freight passing over same.

And in lieu thereof insert:

upon which no higher charge shall be made for the transportation over the same of the mails, the troops, and munitions of war of the United States than the rate per mile paid for the transportation over railroads or public highways leading to said bridge.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THE ALASKAN BOUNDARY.

Mr. ELKINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield further to the Senator from West Virginia?

Mr. KEAN. I yield.

Mr. ELKINS. I ask to have printed as a document and in the RECORD an article which appeared in the Washington Post on the Alaskan boundary, by ex-Secretary of State John W. Foster. It contains a great deal of information bearing upon a pending subject.

The PRESIDENT pro tempore. The Senator from West Virginia asks that the communication appearing in the Post, under the signature of John W. Foster, touching the Alaskan boundary, be printed as a document for the use of the Senate.

Mr. ELKINS. And that it also be printed in the RECORD.

The PRESIDENT pro tempore. The Chair hears no objection, and it is so ordered.

The article is as follows:

THE ALASKAN BOUNDARY—VIEWS OF FORMER SECRETARY OF STATE FOSTER ON THE QUESTION INVOLVED.

EDITOR POST: I am a daily and careful reader of the Post, whose editorials especially I find of interest and profit. With the latter I am usually in accord; but I feel constrained to say that I think the editorial in your issue of to-day on "The Alaskan boundary" was written without a full comprehension of the situation, and that after further consideration you may deem it proper to revise your conclusions. With that object in view, allow me to submit a few suggestions.

First. There exists a necessity between neighboring and friendly nations for the accurate fixation of their coterminous frontier lines by means of artificial monuments or the designation of natural boundaries, such as mountain peaks or river channels. These frontier lines can not be arbitrarily laid out and marked by one of the interested nations alone. Although our international boundary with Mexico was sought to be accurately fixed by treaty stipulations fifty years ago and more, the two Governments have been engaged, from time to time, up to a very late date, in the creation of boundary commissions to consider and determine the exact line, and, after such agreement, to establish the monuments or designate the natural boundary.

We have had a similar experience as to the Canadian frontier line. The treaty of peace and independence of 1783 fixed the boundary as accurately as was possible with the geographical knowledge of the day, but for nearly a century following the precise establishment and marking of the line was the occasion of almost constant discussion and sometimes of violent controversy. First arose the question of what was the initial point of division on the Atlantic coast, then as to the ownership of the islands in and near Passamaquoddy Bay, followed by the long and bitter controversy as to the northeast boundary from the Maine coast to the St. Lawrence, and, in succession, the line among the islands of the St. Lawrence and the Great Lakes, the agreement upon the forty-ninth parallel, and, finally, not until 1873 was the line to the Pacific Ocean definitely agreed upon and marked.

Second. When in our relations with Great Britain any question has arisen as to the boundary with Canada it has been the policy of the Government of the United States, after diplomatic discussion had failed to bring about an agreement, to refer the subject to a joint commission of an equal number of representatives of each Government, with authority to agree upon and mark the boundary. But the United States has also seen proper in repeated instances to refer a boundary dispute to arbitration with a neutral umpire. Under the first treaty negotiated with Great Britain after independence—that by John Jay, in 1794—the question as to what was the St. Croix River named in the treaty of peace of 1783 as the eastern boundary of the United States was referred to three arbitrators, one chosen by each Government, and an umpire. (See Art. V of treaty of 1794.) By the treaty of peace with Great Britain of 1814 the distinguished statesmen and patriots, John Quincy Adams, Henry Clay, James A. Bayard, and Albert Gallatin, agreed to the creation of three separate arbitration commissions, each with a neutral umpire, to adjust various boundary disputes, involving the ownership and sovereignty of the various islands in Passamaquoddy Bay, the northeastern boundary line, the course through the St. Lawrence, the Great Lakes, and the Lake of the Woods. (See treaty of 1814, articles 4, 5, and 6.) By the treaty of Washington of 1871 the joint high commission, embracing some of the leading statesmen of the United States, submitted to the arbitration of the Emperor of Germany the fixation of the water boundary through the Strait of San Juan or Haro to the Pacific Ocean. (See treaty of 1871, art. 34.)

The treaty signed by Secretary Hay and Ambassador Herbert, now pending in the Senate, does not submit any American territory to the adjudication of arbitrators, but creates a commission of three American and three British experts to determine where the line between Alaska and British Columbia should be drawn, as laid down by the treaty of 1825, and, if they can agree, to mark the line.

Third. The boundary line between Alaska and British Columbia has never been definitely fixed, as the line between Mexico and the United States and between Canada and the United States has been fixed, as stated, by joint commissions. When the Territory of Alaska was first acquired by cession from Russia, the chief interest of the Government and people of the United States was in the fur seals and the fisheries on the islands and along the coast. Hence there was no urgent necessity to know accurately the interior boundary line. But as the country came to be settled and permanent industries established on the mainland occasion arose for a well defined and marked boundary, in order to determine police and administrative jurisdiction and to locate customs stations for the collection of duties.

As early as 1872 the British minister in Washington urged upon Secretary Fish the desirability of a joint survey and the definite fixation of the Alaska-Canadian boundary. Mr. Fish concurred in this view, but upon referring the matter to the Army engineers he found that such a survey would cost the United States alone $1,500,000, and Congress was not at that time disposed to authorize the outlay when the Government was husbanding its resources to build up its credit and reestablish specie payments.

If the proposition of the British minister had been then accepted, there would have been no difficulty in having the frontier traced and marked substantially as it was then and is now claimed by the United States. This is made clear by the correspondence which passed between the two Governments. Similar propositions have been made since that date by the British Government, but for reasons not necessary to detail here they were not favorably acted upon by the United States. It is plain, however, that each postponement has increased the embarrassments attending a friendly settlement.

Fourth. No one has insisted more strongly than I have, both officially and with the public, that the contention of the United States for a continuous belt or strip of territory around all the inlets of the sea is incontestable, but every candid reader of the treaty, in the light of present knowledge of the topography of the country, must admit that there are certain points of uncertainty as to the precise frontier which can be best determined by a joint commission. For instance, at the time the treaty was negotiated all the available maps represented the existence of a well-defined mountain chain apparently about 30 miles from the coast and following with some degree of regularity its sinuosities. The correspondence shows that a belief in such a chain existed in the minds of the negotiators, and they sought to establish the line in accordance with the supposed fact. Later explorations have shown that the early cartographers were in error, as there is no such chain, and that the region in question is, as it has been expressed by one of the explorers, "a wilderness of mountains."

Again, the only knowledge possessed by the negotiators respecting Portland Canal or Channel was through the explorations of Vancouver, but there is an apparent conflict as to Portland Channel between Vancouver's maps and his narrative. An essential point in the interpretation of the treaty is to determine just what is the Portland Channel.

On the early Russian maps and on the later ones issued in the United States, Canada, and England, the territory marked as now belonging to the United States under the treaty is a continuous strip running around all the inlets, with a uniform width of 30 marine miles. Yet, in my humble judgment, this claim can not be successfully maintained under the treaty at all points. An examination of the later surveys shows, for example, that there is a well-defined watershed at White Pass, north of Lynn Canal and only about 13 miles from Skagway, near the head of navigation. When the surveys and maps are critically examined by experts, there may be other points in the line which will, under the terms of the treaty, approach the coast nearer than 10 marine leagues, or 30 miles.

I trust that what I have stated is sufficient to show that there are matters of uncertainty which must be determined before the boundary can be marked upon the surface, and that an agreement can be more easily and satisfactorily reached, without putting our territorial claim in peril, by means of a joint commission of experts than in any other way.

Fifth. In the interest of our own citizens resident in Alaska or possessing property there, as well as of good neighborship, the present state of uncertainty as to the exact boundary line should no longer continue. This condition restrains enterprise, raises embarrassing jurisdictional questions, is a constant source of irritation, and may at any time create international complications. Recent reports of the United States Geological Survey show that sections of that frontier contain auriferous-bearing formations not as yet exploited.

At any moment the gold fever may break out in some new locality of the unadjusted and unmarked line and a police conflict may be precipitated. It sounds quite heroic and patriotic to assert that the territory in question belongs to our country and that we should not yield an inch of it. But coterminous nations, and conspicuously the United States, have, as I have shown, pursued a different method of adjusting their territorial questions. While I have never favored submitting our claim in Alaska to arbitration, I have felt that we could properly unite with Great Britain in the creation of a joint commission of citizens distinguished for their learning, uprightness, and patriotism, to whom the delimitation of the boundary could be safely intrusted. Such I understand to be the object of President Roosevelt and Secretary Hay, and I am persuaded that Congress and the country, reposing confidence not only in their patriotism, but in their skill and good judgment, will approve of their action in negotiating the Alaskan boundary convention, and will thank them for this effort to establish better relations with our Canadian neighbors.

JOHN W. FOSTER.

WASHINGTON, *January 31.*

INVESTIGATION BY COMMITTEE ON INDIAN AFFAIRS.

Mr. STEWART. Will the Senator from New Jersey yield to me for a moment?

Mr. KEAN. I yield to the Senator.

Mr. STEWART. I ask unanimous consent to call up the resolution which was pending yesterday. I will offer an amendment to it.

The PRESIDENT pro tempore. The Senator from Nevada asks unanimous consent that the resolution be taken from the Calendar and now considered. The resolution will be read.

The Secretary read the resolution reported by Mr. STEWART from the Committee on Indian Affairs on the 31st ultimo and reported yesterday from the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That the Committee on Indian Affairs, or any subcommittee thereof appointed by its chairman, is hereby authorized to investigate the claim of the Ogden Land Company to the lands of the Seneca Nation of Indians in the State of New York, and the proposed allotment of said lands in severalty to said Indians. Also to investigate and report upon such other matters affecting the Indians or the Indian Service as the committee shall consider expedient. Said committee shall have power to send for persons and papers, examine witnesses under oath, employ a stenographer and interpreter, and sit during the session or the recess of the Senate at such times and places as the committee may determine; and the actual and necessary expenses of said investigations to be paid out of the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. JONES of Arkansas. I understood the chairman of the committee to say that he had changed the resolution.

Mr. STEWART. If the Senator will allow the substitute to be read, it will be found satisfactory.

The PRESIDENT pro tempore. Is there objection to its consideration?

Mr. JONES of Arkansas. I object, unless the amendment is satisfactory. I want to see first what the amendment is.

The PRESIDENT pro tempore. The amendment will be read, and the Chair will hold the matter open for objection.

The SECRETARY. It is proposed to strike out all after the word "*Resolved*" and insert:

That the Committee on Indian Affairs, or any subcommittee thereof appointed by its chairman, is hereby authorized to investigate and report upon such matters affecting the Indians or the Indian service as the committee shall consider expedient. Said committee shall have power to send for persons and papers, examine witnesses under oath, employ a stenographer and interpreter and sit during the session or the recess of the Senate at such times and places as the committee may determine, and the actual and necessary expenses of said investigations to be paid out of the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

The Senate, by unanimous consent, proceeded to consider the resolution.

The amendment was agreed to.

The resolution as amended was agreed to.

MILITARY INSTRUCTION BY RETIRED OFFICERS.

Mr. ALGER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from Michigan?

Mr. KEAN. I yield to the Senator from Michigan and also to the Senator from West Virginia [Mr. SCOTT], who has a request to make.

Mr. ALGER. I ask unanimous consent for the present consideration of the bill (S. 5918) to amend section 1225 of the Revised Statutes so as to provide for detail of retired officers of the Army and Navy to assist in military instruction in schools.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Military Affairs with an amendment, on page 2, section 2, line 21, after the word "position," to insert:

Provided further, That they shall receive no compensation from the Government other than their retired pay.

So as to make the section read:

SEC. 2. That no detail shall be made under this act to any school unless it shall pay the cost of commutation of quarters of the retired officers or noncommissioned officers detailed thereto and the extra-duty pay to which the latter may be entitled by law to receive for the performance of special duty: *Provided*, That no detail shall be made under the provisions of this act unless the officers and noncommissioned officers to be detailed are willing to accept such position: *Provided further*, That they shall receive no compensation from the Government other than their retired pay.

The amendment was agreed to.

Mr. SPOONER. I should like to ask whether the number of such details is limited. I suppose that is provided for in the bill, or is it left open to discretion?

The PRESIDENT pro tempore. It is left open to the discretion of the President of the United States.

Mr. SPOONER. Very well.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

ALEXANDER G. PENDLETON.

Mr. SCOTT. I ask unanimous consent for the present consideration of the bill (S. 6680) authorizing the President to reinstate Alexander G. Pendleton, jr., as a cadet in the United States Military Academy.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HEARING AND DETERMINATION OF ANTITRUST CASES.

The PRESIDENT pro tempore. The Chair lays before the Senate the amendments of the House of Representatives to the bill (S. 6773) to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," "An act to regulate commerce," approved February 4, 1887, or any other acts having a like purpose that may be hereafter enacted. The Chair calls the attention of the Senator from Massachusetts to the amendments, which will be stated.

The SECRETARY. On page 2, line 16, after the word "under," the House of Representatives have inserted the words "any of;" and on the same page, line 17, they have stricken out "act" and inserted "acts."

Mr. HOAR. I move that the Senate concur in the amendments made by the House of Representatives.

Mr. SPOONER. What is the effect of the amendments?

Mr. HOAR. This bill provides for the expediting of causes under the act known as the Sherman antitrust law—which ought to be called the anti-Sherman trust law, because it was passed under his vigorous protest—"or any other acts having a like purpose."

The second section of the bill provides:

That in every suit in equity pending or hereafter brought in any circuit court of the United States under said act, etc.

As this bill relates to expediting suits under that act or any similar acts, the House inserted the words "any of," after the word "under," and changed the word "act" to "acts," so as to read, "under any of said acts." The amendments are merely verbal.

Mr. SPOONER. That is satisfactory.

The PRESIDENT pro tempore. The question is on concurring in the amendments of the House of Representatives.

The amendments were concurred in.

LIGHT-HOUSES AND FOG SIGNALS IN ALASKAN WATERS.

Mr. PERKINS. By the consent of the Senator from New Jersey, I wish to ask unanimous consent for the present consideration of a bill in relation to lights in Alaskan waters.

The PRESIDENT pro tempore. Does the Senator from New Jersey yield?

Mr. KEAN. I yield to the Senator from California, as I want to improve the Alaskan coast.

Mr. PERKINS. I ask unanimous consent for the present consideration of the bill (S. 6535) providing for the construction of light-house and fog-signal stations in Alaskan waters.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to appropriate $350,000 to enable the Secretary of the Treasury to establish, under the direction of the Light-House Board, light-house and fog-signal stations in Alaskan waters.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BOGUE CHITTO BRIDGE, LOUISIANA.

Mr. McENERY. I ask the Senator from New Jersey to yield to me that I may request the consideration of a bill.

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from Louisiana?

Mr. KEAN. I yield with pleasure to the Senator.

Mr. McENERY. I ask unanimous consent for the present consideration of the bill (H. R. 16646) to authorize the construction of a bridge across Bogue Chitto, in the State of Louisiana.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ESTATE OF M. J. GREALISH.

Mr. QUAY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from Pennsylvania?

Mr. KEAN. I yield with great pleasure to the Senator from Pennsylvania, Mr. President.

Mr. QUAY. I ask unanimous consent for the present consideration of the bill (H. R. 3502) for the relief of the estate of M. J. Grealish, deceased. It is a bill of 11 lines, which I think the

Senate will find unobjectionable, and it will not take very much time.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It directs the Secretary of the Treasury to pay to the estate of M. J. Grealish, deceased, late a captain in the United States Army, $766.64, balance remaining due for service rendered by Captain Grealish as assistant commissary of subsistence from July 15, 1870, to March 20, 1878.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PROPOSED PURE-FOOD LEGISLATION.

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from North Dakota?

Mr. KEAN. Certainly.

Mr. McCUMBER. At this time I desire to give notice that on Monday next, immediately after the routine morning business, I shall move that the Senate proceed with the consideration of the bill known as the pure-food bill.

AMERICAN ACADEMY IN ROME.

Mr. WETMORE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from Rhode Island?

Mr. KEAN. I do.

Mr. WETMORE. I ask unanimous consent for the present consideration of the bill (S. 4980) to incorporate the American Academy in Rome.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDENT pro tempore. This bill was read and considered as in Committee of the Whole on January 8th last, and several amendments were then adopted to it. The remaining amendments will be stated.

The next amendment reported from the Committee on the Library was, in section 1, page 2, line 4, before the name "McMillan," to strike out "James" and insert "William C.;" in line 6, after the name "George Von L. Meyer," to insert the name "S. Weir Mitchell;" in the same line, after the name "Charles Moore," to insert "Edwin D. Morgan;" in line 9, after the name "Frederick W. Rhinelander," to insert the name "Elihu Root;" in line 14, after the given name "Egerton," where it occurs before "Winthrop," to insert the initial "L.," and in line 16, after the word "politic," to insert "in the District of Columbia;" so as to read:

That Edwin A. Abbey, Samuel A. B. Abbott, Charles Francis Adams, James W. Alexander, James B. Angell, Arthur T. Barney, Edward J. Berwind, Edwin H. Blashfield, William A. Boring, Daniel H. Burnham, Nicholas Murray Butler, John L. Cadwalader, Frank W. Chandler, William A. Clark, Thomas Jefferson Coolidge, Frank Miles Day, William E. Dodge, William F. Draper, Charles W. Eliot, Theodore N. Ely, Marshall Field, Charles L. Freer, Daniel Chester French, Henry C. Frick, Lyman J. Gage, Richard Watson Gilder, Daniel Coit Gilman, Arthur T. Hadley, Charles C. Harrison, John Hay, Thomas Hastings, William H. Herriman, Abram S. Hewitt, Henry L. Higginson, Charles L. Hutchinson, William M. Kendall, John La Farge, Charles Lanier, Austin W. Lord, Charles F. McKim, William C. McMillan, Frederic MacMonnies, William Rutherford Mead, George Von L. Meyer, S. Weir Mitchell, Charles Moore, Edwin D. Morgan, J. Pierpont Morgan, H. Siddons Mowbray, Frederick Law Olmsted, jr., Francis L. Patton, Robert Swain Peabody, George B. Post, Henry S. Pritchett, Herbert Putnam, Frederick W. Rhinelander, Elihu Root, F. Augustus Schermerhorn, J. G. Schurman, Carl Schurz, James Stillman, Waldo Story, Augustus St. Gaudens, James Knox Taylor, Henry Walters, John Q. A. Ward, George Peabody Wetmore, Henry White, Stanford White, William C. Whitney, Egerton L. Winthrop, their associates and successors, are hereby created a body corporate and politic in the District of Columbia by the name of the American Academy in Rome, for the purpose of establishing and maintaining an institution to promote the study and practice of the fine arts and to aid and stimulate the education and training of architects, painters, sculptors, and other artists, by enabling such citizens of the United States as shall be selected by competition from among those who have passed with honor through leading technical schools or have been equally well qualified by private instruction or study to develop their powers and complete their training under the most favorable conditions of direction and surroundings.

The amendment was agreed to.

The next amendment was, on page 3, section 2, line 8, after the word "for," to strike out "its lawful ends" and insert "the necessary use and purposes of said organization;" so as to make the section read:

SEC. 2. That said corporation may adopt a constitution and make all by-laws, rules, and regulations not inconsistent with law that may be necessary or expedient in order to accomplish the purposes of its creation; and it may hold real estate in the United States and in the Kingdom of Italy for the necessary use and purposes of said organization to an amount not to exceed $500,000; and it may adopt a seal. Said corporation shall have its principal office in Washington, in the District of Columbia, and shall hold its annual meetings in such places as the said incorporators shall determine.

The amendment was agreed to.

The next amendment was, on page 3, to strike out section 4, as follows:

SEC. 4. That said corporation may send each year to the Library of Congress such works of the scholars of the institution as may be agreed upon between the officers of the corporation and the Librarian of Congress as suitable for preservation and exhibition in the Library.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MEMPHIS, HELENA AND LOUISIANA RAILWAY.

Mr. BERRY. Will the Senator from New Jersey kindly yield to me?

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from Arkansas?

Mr. KEAN. I am glad to yield to the Senator from Arkansas.

Mr. BERRY. I ask unanimous consent for the present consideration of the bill (S. 7159) authorizing the Memphis, Helena and Louisiana Railway Company to construct and maintain a bridge across St. Francis River, in the State of Arkansas.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS J. MORMAN.

Mr. BACON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from Georgia?

Mr. KEAN. Certainly.

Mr. BACON. I ask unanimous consent for the present consideration of the bill (H. R. 11544) to correct the military record of Thomas J. Morman.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Military Affairs with an amendment, in line 7, after the word "discharge," to insert "as of the date of June 1, 1848;" so as to make the bill read:

Be it enacted, etc., That the Secretary of War be, and is hereby, authorized to correct the military record of Thomas J. Morman, Capt. E. R. Goulding's company, Calhoun's Mounted Battalion Georgia Volunteers, Mexican war, and grant him an honorable discharge, as of the date of June 1, 1848.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

STATEHOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12543) to enable the people of Oklahoma, Arizona, and New Mexico to form constitutions and State governments and be admitted into the Union on an equal footing with the original States.

Mr. KEAN addressed the Senate in continuation of the speech begun by him on the 4th instant. After having spoken about three-quarters of an hour,

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from North Dakota?

Mr. KEAN. Certainly.

Mr. McCUMBER. As the Senator has spoken for a considerable time now, will he yield to me to make a report and to ask unanimous consent for the present consideration of the bill which I propose to report?

Mr. KEAN. I will.

[Mr. KEAN's speech will be published entire after it shall have been concluded.]

PUBLIC BUILDING IN FARGO, N. DAK.

Mr. McCUMBER. I am directed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 7115) to provide for the erection of an addition to the public building in the city of Fargo, N. Dak., to report it with an amendment, and to submit a report thereon.

The PRESIDENT pro tempore. Is there objection to the reception of the report at this time? The Chair hears none.

Mr. McCUMBER. I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. The Senator from North Dakota asks unanimous consent for the present consideration of the bill just reported by him. It will be read to the Senate in full for its information.

Mr. MORGAN. I object to the present consideration of the bill.

The PRESIDENT pro tempore. The Senator from Alabama objects.

Mr. MORGAN. There are but three Senators on the Republican side of the Chamber, and the Republicans are more interested in legislation than all the balance of us. They have control of the Government.

Mr. BEVERIDGE. But there are three more Republicans over on this side.

Mr. MORGAN. There being but three Senators on the Republican side, I must object.

Mr. McCUMBER. There is about the same number, I suggest, on each side.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Jersey yield to the Senator from North Carolina?

Mr. KEAN. I yield.

Mr. SIMMONS. Would the Senator from New Jersey just as soon suspend his remarks until to-morrow?

Mr. KEAN. I will do so, as I believe the Senator from North Carolina has a request he wishes to make.

Mr. MORGAN. I withdraw the objection I made to the bill reported by the Senator from North Dakota.

DEATH OF REPRESENTATIVE JAMES M. MOODY.

Mr. SIMMONS. I ask the Chair to lay before the Senate the resolutions from the House of Representatives relative to the death of my colleague in that body.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House, which will be read.

The Secretary read the resolutions, as follows:

Resolved, That the House of Representatives has learned with profound sorrow of the death of the Hon. JAMES MONTRAVILLE MOODY, member of this House from the State of North Carolina.

Resolved, That a committee of members of the House, with such members of the Senate as may be joined, be appointed to take order concerning the funeral of the deceased.

Resolved, That the Clerk communicate these resolutions to the Senate, and transmit a copy of the same to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased, the House do now adjourn.

Mr. SIMMONS. Mr. President, later a number of Senators will submit remarks to the Senate on the life and character of the deceased. For the present the resolutions of the House may lie on the table, and I ask unanimous consent for the adoption of the resolutions which I send to the desk.

The PRESIDENT pro tempore. The Senator from North Carolina submits resolutions, which will be read.

The Secretary read the resolutions, as follows:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. JAMES M. MOODY, late a Representative from the State of North Carolina.

Resolved, That a committee of five Senators be appointed by the President pro tempore, to join the committee appointed on the part of the House of Representatives, to take order for superintending the funeral of the deceased.

Resolved, That the Secretary communicate these resolutions to the House of Representatives.

The PRESIDENT pro tempore. The question is on agreeing to the resolutions.

The resolutions were unanimously agreed to.

The PRESIDENT pro tempore appointed as the committee under the second resolution Mr. PRITCHARD, Mr. SIMMONS, Mr. CLARK of Wyoming, Mr. DIETRICH, and Mr. HEITFELD.

Mr. SIMMONS. Mr. President, I move, as a further mark of respect to the memory of the deceased, that the Senate do now adjourn.

The motion was unanimously agreed to; and (at 3 o'clock and 18 minutes p. m.) the Senate adjourned until to-morrow, Saturday, February 7, 1903, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February 6, 1903.*

The House met at 10 o'clock a. m.

The Clerk read the following letter:

WASHINGTON, D. C., *February 6, 1903.*

I hereby designate as Speaker pro tempore for this day Hon. JOHN F. LACEY, of Iowa.

D. B. HENDERSON, *Speaker.*

The SPEAKER pro tempore. Prayer will be offered by the Chaplain.

The Chaplain, Rev. HENRY N. COUDEN, D. D., offered the following prayer:

Once more, Almighty God, our Heavenly Father, touched by the sudden death of another faithful member of this House, and warned of the uncertain tenure of life, we pray that we may do our work so faithfully that when the summons comes to us we shall be prepared to pass on to that unknown, where we shall take up the work Thou hast for us to do there. Comfort, we beseech Thee, the bereaved ones with the blessed hope of the Gospel that there shall be a time when they shall meet their dear one again.

Hear us and bless us all. In the name of Christ our Saviour. Amen.

THE JOURNAL.

The Journal of the proceedings of yesterday was read.

The SPEAKER pro tempore. If there be no objection, the Journal as read will stand approved.

Mr. DE ARMOND. Mr. Speaker, I desire to suggest a correction of the Journal. On page 1747 of the RECORD I notice that the bill which we have been considering (H. R. 17) is not printed. I suggest the correction that will be made when that bill is incorporated.

The SPEAKER pro tempore. To print the same in the RECORD?

Mr. DE ARMOND. It should be printed in the RECORD, but in fact only the substitute is printed. Both the bill and the substitute should be printed in the RECORD.

The SPEAKER pro tempore. It is not usual to print the bill in the RECORD unless it has been read in extenso and becomes a part of the RECORD.

Mr. DE ARMOND. It is unusual, I think, Mr. Speaker, not to have printed in the RECORD the bill which the House is considering. I believe the rule is certainly very general, and the practice, I believe, universal, to have printed in the RECORD the bill which the House is considering. In this case it is No. 17.

The SPEAKER pro tempore. The Chair does not so understand it. The number and title of a bill are always printed.

Mr. DE ARMOND. The substitute is printed in the RECORD, and the substitute was not read at all, according to my recollection. The RECORD says:

Mr. LITTLEFIELD (when the title of the bill had been read). I ask unanimous consent that the further reading of the bill be dispensed with.

That is bill 17. Instead of bill 17 appearing in the RECORD we have the substitute for bill 17. What I suggest is a correction of the RECORD. I have no objection to the substitute appearing in the RECORD, but what I suggest is a correction that will show bill 17 in the RECORD.

The SPEAKER pro tempore. That question comes up on every appropriation bill. The first reading of the bill is dispensed with usually. The bill is not read. The title is read. The bill is not printed in the RECORD, but when the sections of the bill are discussed under the five-minute rule, as they are read, they are printed in the RECORD.

Mr. DE ARMOND. I am aware of that.

The SPEAKER pro tempore. And when we reach the five-minute debate on this bill the same thing will be done.

Mr. DE ARMOND. I am aware of that with reference to appropriation bills, but that rule does not obtain with reference to other bills. I do not know of any rule that provides for the putting into the RECORD of a substitute which has not been read at all.

The SPEAKER pro tempore. The mistake consists in printing in the RECORD the substitute, not the omission of the other. The Chair will suggest that there is no rule requiring the text of a bill which has been read in the House to be printed either in the Journal or RECORD. It is not necessary or customary to print it in either of them.

Mr. DE ARMOND. The practice certainly is very general to print the bills in the RECORD. Since there does not seem to be any objection from the floor, it seems to me that this correction should be made, providing the Speaker pro tempore himself will withhold his objection.

The SPEAKER pro tempore. It can be printed by unanimous consent.

Mr. DE ARMOND. I am asking that it be made as a correction of the RECORD, asking that the RECORD be corrected. That is what I am asking. The unanimous-consent proposition comes up later, if it comes up at all.

The SPEAKER pro tempore. The Clerk will read a ruling of Mr. Carlisle, found on page 84 of the Digest.

The Clerk read as follows:

The Speaker said:

The Chair will state that on being applied to yesterday by the Chief Official Reporter for advice as to whether or not the joint resolution which was read by the gentleman from Kentucky should be printed in the RECORD, the Chair advised him that the joint resolution did not properly belong there and ought not, therefore, to go into the RECORD as a part of the proceedings of the House.

The Chair does not know of any rule which would authorize or require the Official Reporter to insert everything that may be read, either on the floor of the House by a member himself or from the desk by the Clerk, in the hearing of the House. Unanimous consent is frequently asked of the House to insert such matters in the RECORD, and the Chair knows of no other way in which they can get there under the rules of the House, except that it has been the practice of the House, the Chair thinks, to insert in full resolutions of inquiry addressed to the heads of the Executive Departments of the Government. * * * The Chair decides that, under the practice of the House, the joint resolution offered by the gentleman from Kentucky on yesterday is not such part of the official record of the proceedings of the House as can be entered in full either upon the RECORD itself or upon the Journal of the House; and the Chair decides that the gentleman has now no right to demand, as a matter of right, the reading of the official notes of the reporters of what transpired on yesterday; from which decision the gentleman from Kentucky appeals.

Mr. DE ARMOND. Mr. Speaker, if the Speaker will indulge me a moment, that decision has no bearing whatever, not the slightest, upon the question which I have now raised in the House and before the Speaker. That was a case where a member from his seat on the floor read something and asked that that something be incorporated in the Journal. The decision was that neither that matter as read by a member or the same matter as read at

the request of a member by the Clerk had any official place in the Journal. This is not something read by a member or read by the Clerk at the request of a member, but it is the bill which the House is considering; and therefore the decision by Mr. Speaker Carlisle, whether correct or not correct, I submit has nothing to do with this question. I think the RECORD ought to be corrected. It seems to me a little singular that the substitute has in some way found its place in the RECORD while the bill is entirely absent from it; and it seems to me, if the Speaker will permit me to make such a suggestion, it is a little singular that the objection should come from the Speaker to having this bill 17, which we are considering, put in the RECORD as a correction of the RECORD.

The SPEAKER pro tempore. The Chair will state that the universal practice is not to print these bills in the RECORD, but there is a special reason why this particular bill might be excepted, owing to the importance of the bill and the substitute. But that will be a matter for unanimous consent. The RECORD is made up in the usual way, except in inserting the substitute, which ordinarily would not have been inserted.

Mr. DE ARMOND. Upon that matter, Mr. Speaker, I ask unanimous consent that there be printed in to-day's RECORD House bill 17, the substitute, and the amendments proposed by the minority to the substitute.

The SPEAKER pro tempore. The gentleman from Missouri asks unanimous consent to print in to-day's RECORD the bill, the substitute, and the proposed amendments to the substitute.

Mr. LITTLEFIELD. I want to ask if that would include the amendments suggested in the minority views? I have no objection.

Mr. DE ARMOND. The bill itself, the substitute as reported by the committee, and the amendments suggested by the minority.

Mr. LITTLEFIELD. In the minority views?

Mr. DE ARMOND. The amendments appended to the minority views.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri? [After a pause.] The Chair hears none.

The Journal was then approved.

The bill is as follows:

A bill (H. R. 17) requiring all corporations engaged in interstate commerce to file returns with the Secretary of the Treasury, disclosing their true financial condition, and of their capital stock, and imposing a tax upon such as have outstanding capital stock unpaid in whole or in part.

Be it enacted, etc., That every corporation engaged in interstate commerce shall, on or before September 1 of each year, file a return with the Secretary of the Treasury of the United States, stating, among other things, its name, date of organization, where and when organized, giving statutes under which it is organized, and all amendments thereof; if consolidated, naming constituent companies, and where and when organized, with the same information as to such constituent companies, so far as applicable, as is herein required of such corporation; if reorganized, name of original corporation or corporations, with full reference to laws under which all the reorganizations have taken place, with the same information as to all prior companies in the chain of reorganization, so far as applicable, as is herein required of such corporation; amount of authorized capital stock, shares into which it is divided, par value, whether common or preferred, and distinction between each; amount issued and outstanding; amount paid in; whether paid in in cash, or property; if property, describing in detail the kind and character, with its cash market value at the time it was received in payment; total indebtedness, giving nature of same and purpose for which it was incurred; in case of indebtedness represented by mortgages, notes, debentures, or other obligations, amount authorized, amount issued, amount outstanding, and cash realized on same, date, rate of interest, and when payable; a statement of the assets at their present cash market value, and liabilities, with current assets and liabilities, total earnings and income, operating expenses, interest, taxes, maintenance, permanent improvements, net earnings, and dividends declared, with rate and date during the year preceding the 1st of the preceding July; salaries of officials, and wages of employees.

Said Secretary shall cause to be prepared a blank return for the use of such corporations containing the foregoing requirements and such others as may be necessary, so that said return shall disclose the true financial condition of such corporation and its capital stock, and shall make such rules and regulations as may in his judgment be necessary to carry out the purpose of this act. The treasurer or other officer of such corporation having the requisite knowledge shall answer on oath all inquiries that may be made in writing under the direction of the Secretary of the Treasury relative to its financial condition or to its capital stock; such answer shall not be used as evidence against the person making it except in prosecutions under this act. The treasurer of such corporation shall make oath that said return is true.

SEC. 2. That whoever knowingly swears to a return that is false in any material particular or knowingly swears to an answer to any such inquiry that is false in any material particular shall be deemed guilty of perjury and punished as provided in section 5392 of the Revised Statutes of the United States. Whoever shall knowingly prepare or cause to be prepared a return or answer that is false as aforesaid shall be deemed guilty of subornation of perjury and punished as aforesaid.

SEC. 3. That all corporations engaged in interstate commerce whose outstanding capital stock is not fully paid in in cash, or other property at its cash market value, shall pay annually, on the 1st day of September of each year, to the Secretary of the Treasury of the United States, a tax equal to 1 per cent of its capital stock issued and outstanding. If said tax shall remain unpaid for a period of thirty days after the same shall become due, an action of debt may be maintained therefor, for and in the name of the United States, against said corporation for the recovery thereof. Said tax shall bear interest from said 1st day of September at the rate of 6 per cent per annum.

Said tax is hereby made a first lien upon all of the property and estate of such corporations. Any corporation engaged in interstate commerce failing to make such return, or whose treasurer or other officer shall fail to make the answers aforesaid, or that shall fail to pay said tax within said thirty days, shall be restrained on the suit of the United States from engaging in interstate commerce. It shall be the duty of the Attorney-General of the United States, at the request of said Secretary, to enforce the provisions of this act. Suit may be brought in any district where such corporation has an established office or place of business.

SEC. 4. That it shall be the duty of said Secretary to cause to be prepared and published, as soon after the 1st day of September in each year as practicable, a list of all corporations making returns, showing the condition of each corporation and its capital stock, for free public distribution a number sufficient to supply any demand therefor.

The substitute is as follows:

Strike out all after the enacting clause and insert:

"That every corporation which may be hereafter organized shall, at the time of engaging in interstate or foreign commerce, file the return hereinafter provided for, and every corporation whenever organized and engaged in interstate or foreign commerce shall file a return with the Interstate Commerce Commission for the year ending December 31, whenever, and at such time, as requested by said Commission, stating its name, date of organization, where and when organized, giving statutes under which it is organized, and all amendments thereof; if consolidated, naming constituent companies and where and when organized, with the same information as to such constituent companies, so far as applicable, as is herein required of such corporation; if reorganized, name of original corporation or corporations, with full reference to laws under which all the reorganizations have taken place, with the same information as to all prior companies in the chain of reorganization, so far as applicable, as is herein required of such corporation; amount of bonds issued and outstanding; amount of authorized capital stock, shares into which it is divided, par value, whether common or preferred, and distinction between each; amount issued and outstanding; amount paid in; how much, if any, paid in in cash, and how much, if any, in property; if any part in property, describing in detail the kind, character, and location, with its cash market value at the time it was received in payment, giving the elements upon which said market value is based, and especially whether in whole or in part upon the capitalization of earnings, earning capacity, or economies, with the date and the cash price paid therefor at its last sale; the name and address of each officer, managing agent, and director; a true and correct copy of its articles of incorporation; a full, true, and correct copy of any and all rules, regulations, and by-laws adopted for the management and control of its business and the direction of its officers, managing agents, and directors. Nothing herein contained shall be construed as relieving any corporation from making, in addition to the foregoing, such returns as are now required by the "act to regulate commerce," approved February 4, 1887, and and all amendments thereof; but the provisions of this act, as to signing and making oath to returns and making answers on oath to written inquiries, shall be applicable to returns and such answers made under said act and amendments thereof.

"So far as any return may be a duplicate of one already filed, that fact may be stated, and the details, which are in such case duplicates, need not be repeated. Upon its being made to appear to the satisfaction of the Commission that without fault on its part it is impracticable for such corporation to furnish any of the items aforesaid, it may, by a written order of said Commission, be excused from furnishing such item or items.

"Said Commission shall cause to be prepared a blank return for the use of such corporations, containing the foregoing requirements, and shall make such rules and regulations as may, in its judgment, be necessary to carry out the purposes of this act. The president, treasurer, and a majority of the directors of such corporation shall make oath in writing on said return that said return is true. The treasurer, or other officer of such corporation having the requisite knowledge, shall answer on oath all inquires that may be made in writing on the direction of said Commission in relation to said return. Any corporation failing to make such return, or whose treasurer or other officer shall fail to make the answers aforesaid, may be restrained, on the suit of the United States, from engaging in interstate commerce until such return is made. Suit may be brought in any district of the United States at the election of the Attorney-General.

"SEC. 2. That whoever knowingly swears to a return that is false in any material particular, or knowingly swears to an answer to any such inquiry that is false in any material particular, shall be deemed quilty of perjury and punished as provided in section 5392 of the Revised Statutes of the United States. Whoever shall knowingly prepare, or cause to be prepared, a return or answer that is false as aforesaid shall be deemed guilty of subornation of perjury and punished as aforesaid.

"SEC. 3. That it shall be the duty of said Commission to cause to be prepared and published, on or before the 1st day of June in each year, a list of all corporations making returns, with an abstract of such returns, for free distribution in such number as said Commission may deem necessary to meet any reasonable and proper demand therefor, to be distributed under the direction of the Commission.

"SEC. 4. That said Commission shall have the same authority to inquire into the management of the business of said corporations, relating to interstate and foreign commerce, in the same manner and to the same extent, with the same power to compel the attendance of, and the giving of testimony by, witnesses, and the production of books, papers, contracts, and agreements, as is provided in "An act to regulate commerce," approved February 4, 1887, and all amendments thereof. Said Commission may employ such agents and clerks, as in its judgment may be necessary, for properly executing the provisions of this act, and shall make an annual report to the President, containing, among other things, such specific recommendations for additional legislation as it may deem necessary.

"Any person who shall neglect or refuse to make returns, attend and testify or answer any lawful inquiry hereinbefore provided for, or produce books, papers, contracts, agreements, and documents, if in his custody, control, or power to do so, in obedience to the subpœna or lawful requirements of the Commission, shall be deemed guilty of an offense against the United States, and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $500 nor more than $5,000.

"SEC. 5. That any person, carrier, lessee, trustee, receiver, officer, agent, or representative of a carrier subject to the act to regulate commerce, who, or which, shall offer, grant, give, solicit, accept, or receive any rebate, concession, facilities, or service in respect to the transportation of any property, in interstate or foreign commerce, by any common carrier subject to said act, whereby any such property shall, by any device whatever, be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce, or shall receive any advantage by way of facilities or service, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be subject to a fine of not less than $1,000.

"SEC. 6. That no corporation engaged in the production, manufacture, or sale of any article of commerce, violating any of the provisions of section 5 of this act, or attempting to monopolize or control the production, manufacture, or sale thereof, in any particular locality, by discrimination in prices, or by giving special privileges or rebates or otherwise, in order to destroy competition therein, in such locality, shall use, either directly or indirectly,

any of the facilities or instrumentalities of interstate commerce, or in any way engage in interstate commerce, for the purpose of aiding or facilitating, either directly or indirectly, such production, manufacture, or sale, with such intent; nor shall any other person or corporation use any of the facilities or instrumentalities of interstate commerce, or in any way engage in interstate commerce, in buying, selling, or disposing of any such article of commerce, for the purpose of enabling such first-mentioned corporation to engage or to continue to engage in such production, manufacture, sale, or control, with such intent. Every corporation or person violating the provisions of this section shall be punished, on conviction, by a fine of not less than five hundred and not exceeding five thousand dollars.

"SEC. 7. That any common carrier, lessee, trustee, receiver, or transportation company, engaged in interstate commerce, now subject to the provisions of said act to regulate commerce, knowingly transporting any property produced, manufactured, or sold in violation of the provisions of this act, or in violation of the provisions of 'An act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890, in interstate commerce, shall be subject to a penalty of not less than $1,000, to be recovered by the United States, in any court of the United States having jurisdiction thereof, which suit may be brought in any district in which such common carrier, lessee, trustee, or receiver, or transportation company has an office or conducts business.

"SEC. 8. That in all prosecutions, hearings, and proceedings under the provisions of this act, and under the provisions of 'An act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890, whether civil or criminal, no person shall be excused from attending and testifying, or from producing books, papers, contracts, agreements, and documents before the courts of the United States, or the commissioners thereof, or the Interstate Commerce Commission, or in obedience to the subpœna of the same, on the ground, or for the reason, that the testimony or evidence, documentary or otherwise, required of him, may tend to criminate him, or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, before said courts, commissioners, or Commission, or in obedience to the subpœna of either of them, in any such case or proceeding.

"Testimony of witnesses under the provisions of the act to regulate interstate commerce and amendments thereof, and of this act, before said Commission, or any member thereof, shall be on oath, and either of the members of said Commission may administer oaths and affirmations and sign subpœnas.

"SEC. 9. That the several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain the violation of any of the provisions of this act. It shall be the duty of the several district attorneys of the United States in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain the several acts herein forbidden. Such proceedings may be by way of petition, setting forth the case, and praying that the acts hereby made unlawful shall be enjoined or otherwise prohibited. When the parties complained of shall be duly notified of such petition, the court shall proceed as soon as may be to the hearing and determination of the case, and upon such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just.

"SEC. 10. That whenever it shall appear to the court before which any proceedings under this act shall be pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be summoned, whether they reside in the district where the court is held or not, and subpœnas to that end may be served in any district by the marshal thereof.

"SEC. 11. That any person or corporation injured in business or property, by any other person or corporation, by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any circuit court of the United States in the district in which the defendant or defendants reside or are found, without respect to the amount in controversy, and shall recover threefold the damages sustained and the costs of suit, including a reasonable attorney's fee.

"SEC. 12. That this act shall take effect May 1, 1903."

Amend the title so as to read: "A bill requiring corporations engaged in interstate commerce to make returns, prohibiting rebates and discriminations and the use of interstate commerce in attempts to destroy competition, and for other purposes."

The amendments to the substitute proposed by the minority are as follows:

AMENDMENTS TO THE SUBSTITUTE PROPOSED BY THE MINORITY.

Amendment No. 1.

Amend by striking out the following words at the beginning of the substitute, to wit:

"That every corporation which may be hereafter organized shall, at the time of engaging in interstate or foreign commerce, file the return hereinafter provided for, and every corporation whenever organized and engaged in interstate or foreign commerce shall file a return with the Interstate Commerce Commission for the year ending December 31, whenever and at such time as requested by said Commission."

And insert the following in lieu thereof:

"That every corporation, whether now or hereafter organized and engaged or that may engage in interstate or foreign commerce, and having a capital of $100,000 or more, shall annually, during the month of January of each year, unless the Interstate Commerce Commission from time to time substitute another date, make and file with said Commission for the preceding year a return and report."

Amendment No. 2.

Amend by adding at the end of section 6 the following: "The facilities and instrumentalities of interstate commerce," as the terms are employed in this act, shall embrace the mails, the telegraph, and the telephone.

Amendment No. 3.

Amend the first section of the substitute by inserting just after "sale," fifth line, sixta page, the words "the amount of taxes paid for the preceding year."

Amendment No. 4.

Add to section 1 the following:

"Any corporation failing to make such return in the time and manner required by this act shall be subject to a penalty of not less than 1 per cent on its capital stock."

Amendment No. 5.

Amend by adding at the end of sections 5, 6, and 7 the following:

"Each day's violation of this section shall constitute a separate and distinct offense."

Amendment No. 6.

Amend by adding the following:

"SEC. —. That in addition to the grounds of bankruptcy now existing by law, a corporation shall have committed an act of bankruptcy, and shall accordingly be subject to proceedings to adjudge it an involuntary bankrupt and wind up its affairs and distribute its assets, first, whenever it shall have issued stock in excess of the fair, reasonable value of its property; or, second, whenever it shall have given or offered to any person, association, or corporation any privilege, preference, advantage, facilities, discount, or rebate denied to or withheld from any other person, association, or corporation; or, third, whenever directly or indirectly it shall have engaged in any conspiracy or entered into any combination, agreement, or understanding to monopolize or aid in monopolizing any product of general utility, or so much thereof as to affect injuriously the general welfare, or to stifle lawful competition, or to control or affect injuriously the price of or the market for any commodity in general use or demand; or, fourth, whenever it shall have effected or attempted to effect any consolidation, combination, cooperation, undertaking, or agreement with any other corporation, association, or person, contrary to any law of the United States or of any State in which it shall do or offer to do any business."

Amendment No. 7.

Amend by adding the following section:

"SEC. —. Every corporation engaged in interstate commerce, wherever organized, shall be subject to the jurisdiction of the courts of any State in which it shall carry on business as it would be if created by such State, or as citizens thereof are subject to such jurisdiction."

Amendment No. 8.

Amend by adding the following:

"SEC. —. That any property owned or manufactured under any contract or by any trust or combination or pursuant to any conspiracy forbidden by the laws of a State, and being in the course of transportation from such State to another State, the District of Columbia, a Territory, or a foreign country, or to such State from another State, the District of Columbia, a Territory, or a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as are provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law; and every person who shall, knowing that any property to be owned or manufactured in any of the ways above described, transport it, or cause, or order, or contract for its transportation as above described, shall be deemed guilty of a misdemeanor, and, on conviction, be punished by a fine not exceeding $20,000, or by imprisonment not exceeding five years, or by both such fine and imprisonment: *Provided*, That nothing herein contained shall be held to interfere with any proceedings in a State court for the violations of any law thereof."

Amendment No. 9.

Amend the substitute by adding the following:

"SEC. —. That hereafter the following articles may be imported into the United States free of all duty:

"1. Steel rails, structural steel, tin plate, iron pipe, and other metal tubular goods; wire nails, cut nails, horseshoe nails, barb wire, and all other wire; cotton ties, plows, and all other agricultural tools and implements.

"2. Borax, borate of lime, and boracic acid.

"3. Binding twine.

"4. Paris green.

"5. Paper and pulp for the manufacture of paper.

"6. Salt.

"7. Plate glass and window glass."

Amendment No. 10.

Amend the substitute by adding the following:

"SEC. —. The President is hereby authorized, and it shall be his duty, whenever it shall be shown to his satisfaction that by reason, wholly or materially, of the existence of the tariff or customs duty upon any article, such article, or articles of its class and kind, are monopolized or controlled by any person, organization, or combination to the detriment of the public, by proclamation to remove or suspend such duty, in whole or in part, until the next assembling of Congress, or until the abuse prompting him to such action shall have ceased."

Amendment No. 11.

Amend by adding the following:

"SEC. —. There is hereby levied and shall be assessed and collected annually the following taxes on all corporations, whether domestic or foreign, doing business in the United States for profit or gain, and having a capital stock of $200,000 or more, at the rate of 10 per cent on its capital stock. The amount of the capital stock of any taxable corporation for the purposes of taxation shall be estimated according to its par value fixed by the charter, or by resolution of its board of stockholders or directors, and shall include all assets owned by such corporation which are reserved or funded or set aside for the benefit of its stockholders.

"Sec. —. Those corporations are exempt from taxation under this act whose income (or profits), after the payment of necessary expenses of operation and administration thereof, is devoted exclusively to purposes of charity or religion or benevolence, or to hospital, medical, surgical, or hygienic purposes; or to education, or the promotion of the useful arts; or to scientific purposes; or to literary or musical purposes; or to public entertainment.

"SEC. —. If any corporation liable to taxation under this act shall establish to the satisfaction of the Commissioner of Internal Revenue, by competent proof, under oath, that it is not engaged or about to be engaged in any way with any other corporation or person in any of the acts or combinations, conspiracies, agreements, or in any act or conduct that is prohibited in the act entitled 'An act to protect trade against unlawful restraints and monopolies,' approved July 2, 1890, or in the act entitled 'An act to provide revenue for the Government and to encourage the industries of the United States,' approved July 24, 1897, or an act entitled 'An act to regulate commerce,' approved February 4, 1887, or this act, or any amendment of any of said acts, the said taxes of said corporation shall be remitted, except 1 per cent thereof, which shall be collected and paid into the Treasury of the United States.

"SEC. —. The Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, is charged with and is empowered to direct and enforce the execution of this act, and the Secretary of the Treasury shall make such regulations as are needful for such purpose. All laws applicable to the collection of internal-revenue taxes by the United States, whether civil or criminal, shall apply to corporations that are taxable under this act and to their officers and directors, and to the enforcing of the provisions hereof."

Amendment No. 12.

Amend by inserting the following just after section 6:

"SEC. 7. That no person engaged in the production, manufacture, or sale of any article of commerce, or violating any of the provisions of section 5 of this act, or attempting to monopolize or control the production, manufacture, or sale thereof by driving out competition in any particular locality by discrimination in prices or by giving special privileges or rebates or otherwise in order to destroy competition therein in such locality, shall use, either directly or indirectly, any of the facilities or instrumentalities of interstate commerce, or in any way engage in interstate commerce for the purpose of aiding or facilitating, either directly or indirectly, such production, manufacture, or sale with such intent; nor shall any other person or corporation use any of the facilities or instrumentalities of interstate commerce or in any way engage in interstate commerce in buying, selling, or disposing of any

such article of commerce for the purpose of enabling such first-mentioned corporation to engage or to continue to engage in such production, manufacture, or sale or control with such intent. Every person violating any of the provisions of this section shall be punished, on conviction, by a fine of not less than $500 and not exceeding $5,000."

Amendment No. 13.

Amend by adding a new section, as follows:

"SEC —. The words 'interstate commerce' wherever they occur in this act shall be held to embrace commerce from any State or Territory of the United States or the District of Columbia to any other State or Territory or the District of Columbia."

NAVAL APPROPRIATION BILL.

Mr. FOSS, from the Committee on Naval Affairs, reported the bill (H. R. 17288) making appropriations for the naval service for the fiscal year ending June 30, 1904, which was referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. LLOYD. I reserve all points of order on the bill.

The SPEAKER pro tempore. The gentleman from Missouri reserves all points of order on the bill.

TRUSTS.

Mr. LITTLEFIELD. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. LITTLEFIELD. I propose to move that the House resolve itself into Committee of the Whole House on the state of the Union.

The SPEAKER pro tempore. That is not necessary under the rule. Under the rule the House resolves itself into Committee of the Whole House on the state of the Union under the special order for the consideration of the bill H. R. 17. The gentleman from Illinois [Mr. BOUTELL] will please take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, Mr. BOUTELL in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17.

Mr. SMALL. Mr. Chairman, the proposed bill is intended to curb the power for evil of the industrial monopolies which have been organized in the United States during the recent past which are engaged in interstate commerce. The bill is in response to a righteous demand upon the part of the American people. Like most of the reforms which have been embodied in law, this proposed legislation has its origin with the Democratic party. The Republican party is enslaved by the spirit of commercialism, as is now generally admitted. The leaders of that party are willing at all times to make sacrifices of principle, of convictions, and even of the fundamental doctrines which brought that party into existence for the sake of maintaining peace with the monopolistic combinations which are now dominating our industrial life. The dollar is the potent factor which controls their deliberations and shapes their actions. That party deserves no credit for bringing forward this measure at this late date. The same evils have existed for at least half a decade.

Democrats have repeatedly sounded a note of warning upon this floor and from every platform in the country. At first they were met by our friends on the other side with cries of derision, and we were termed "calamity howlers" who were endeavoring to check prosperity. Subsequently, when we pressed them to the wall, through their recognized leaders they confidently claimed there were no trusts. A little later they blushingly admitted the imputation, but said there were good trusts and bad trusts, of which the former predominated. As the people listened more attentively to the voice of Democracy, the leaders upon the other side put their ears to the ground, and now for some months they have been hearing the demand by the great American Republic upon this question, and they decided that they could not longer afford to delay a response thereto.

The majority brought forward a bill in this House in the closing days of the first session of the Fifty-sixth Congress in 1900 which was a mere pretense and which they never intended should be enacted into a law. That party dare not trifle longer with the people, and unquestionably some legislation will be enacted at this session; but I predict that this bill now under consideration, as imperfect and impotent as it is, will not become a law. It is rather more probable that the bill which has passed at the other end of the Capitol, and which was introduced by the distinguished gentleman from West Virginia and known as the "Elkins bill," and which is now pending before the Committee of Commerce of this House, will be fixed upon as the one even less harmful to the dear friends of the Republicans, the trusts.

There are many good people who still insist that monopolies are a myth and that the present evils resulting from their existence are very much exaggerated. Object lessons are always more forceful and impressive than mere argument and reason. Therefore, it might be well to cite some of the monster combinations which have been formed during recent years and then to hold up a few of them to the public gaze.

From January 1, 1899, to September 1, 1902, there were formed in the United States, exclusive of transportation lines, 82 combinations or trusts, with a total capitalization of $4,318,005,646. This embraces only the great combinations that have been formed during the past three and one-half years. As a matter of information and interest, I submit the following list of industrial combinations or trusts with a capitalization of $10,000,000 each and over which were formed during the period just mentioned, from January 1, 1899, to September 1, 1902:

Trusts.	Date.	Amount.
Allis-Chalmers Co	1901	$36,250,000
Amalgamated Copper Co	1899	155,000,000
American Agricultural Chemical Co	1899	33,600,000
American Beet Sugar Co	1899	20,000,000
American Bicycle Co	1899	36,456,400
American Brass Co	1900	10,000,000
American Can Co	1901	82,466,600
American Car and Foundry Co	1899	60,000,000
American Grass Twine Co	1899	13,033,000
American Cigar Co	1901	10,000,000
American Hide and Leather Co	1899	33,025,000
American Ice Co	1899	41,705,000
American Iron and Steel Manufacturing Co	1899	20,000,000
American Light and Traction Co	1901	12,127,800
American Locomotive Co	1901	50,412,500
American Machine and Ordnance Co	1902	10,000,000
American Packing Co	1902	20,000,000
American Plow Co	1901	75,000,000
American Railway Equipment Co	1899	22,000,000
American Sewer Pipe Co	1900	10,295,700
American Shipbuilding Co	1899	15,500,000
American Smelting and Refining Co	1899	100,000,000
American Snuff Co	1900	23,001,700
American Steel Foundries Co	1902	30,000,000
American Window Glass Co	1899	17,000,000
American Woolen Co	1899	49,796,100
American Writing Paper Co	1899	39,000,000
Associated Merchants Co	1901	15,000,000
Atlantic Rubber Shoe Co	1901	10,000,000
Borden's Condensed Milk Co	1899	25,000,000
Central Foundry Co	1899	18,000,000
Chicago Pneumatic Tool Co	1902	10,000,000
Colonial Lumber and Box Corporation	1902	15,000,000
Consolidated Railway Lighting and Refrigerating Co	1901	17,000,000
Consolidated Tobacco Co	1901	262,689,200
Corn Products Co	1902	80,000,000
Crucible Steel Co. of America	1900	50,000,000
Eastman Kodak Co	1901	19,673,100
Electric Co. of America	1899	20,378,400
Electric Vehicle Co	1899	18,475,000
Fairmont Coal Co	1901	18,000,000
General Chemical Co	1899	16,821,500
Harbison-Walker Refractories Co	1902	25,750,000
International Harvester Co	1902	120,000,000
International Salt Co	1901	33,000,000
International Steam Pump Co	1899	31,150,000
Jones & Laughlin Steel Co	1902	30,000,000
Monongahela River Consolidated Coal and Coke Co	1899	39,470,000
National Asphalt Co	1900	55,563,000
National Carbon Co	1899	10,000,000
National Enameling and Stamping Co	1899	23,838,400
National Fireproofing Co	1899	12,500,000
National Sugar Refining Co	1900	20,000,000
New England Cotton Yarn Co	1899	15,577,000
New York Dock Co	1901	28,580,000
Pacific Hardware and Steel Co	1902	10,000,000
Pennsylvania Steel Co	1901	34,270,000
Pittsburg Brewing Co	1899	26,000,000
Pittsburg Coal Co	1899	59,731,900
Planters' Compress Co	1899	10,000,000
Pressed Steel Car Co	1899	30,000,000
Quaker Oats Co	1901	11,500,000
Railway Steel Spring Co	1902	20,000,000
Republic Iron and Steel Co	1899	48,204,000
Royal Baking Powder Co	1899	20,000,000
Rubber Goods Manufacturing Co	1899	26,410,015
Sloss-Sheffield Steel and Iron Co	1899	18,200,000
Standard Milling Co	1900	17,550,000
Steamship Co., Consolidated Trans-Atlantic	1902	170,000,000
Union Bag and Paper Co	1899	27,000,000
United Box, Board and Paper Co	1902	30,000,000
United Fruit Co	1899	15,339,500
United Copper Co	1902	50,000,000
United Shoe Machinery Co	1899	20,055,575
United States Cast-Iron Pipe and Foundry Co	1899	25,000,000
United States Cotton Duck Corporation	1901	12,100,000
United States Realty and Construction Co	1902	66,000,000
United States Reduction and Refining Co	1901	12,808,300
United States Shipbuilding Co	1902	71,000,000
United States Steel Corporation	1901	1,389,339,956
Universal Tobacco Co	1901	10,000,000
Virginia Iron, Coal and Coke Co	1899	18,070,000
Total		4,318,005,646

A complete list without regard to date of formation, and including the large and the small, would aggregate more than 800 different combinations and would foot up a capitalization of more than $9,000,000,000. If to this list we add railroad consolidations, the outstanding capitalization would be swelled to more than $15,000,000,000.

During the year 1901 the Census Office published the result of an investigation into industrial combinations commonly called trusts.

This report shows only those combinations that were in existence in the census year, and therefore falls far short of the number as they exist to-day. The aggregates shown by the Census Office, however, are astounding, and this report reveals such a condition of affairs in the industrial world as is calculated to force the thoughtful economist to contemplate the terrible disaster that must surely follow such combinations of capital for the purpose of controlling the necessaries of life. To enter into the details of all these combinations, to show their methods of formation, how their capital has been inflated with water, and how the public is forced to pay enormous dividends upon this fictitious capital, would require a volume and I shall content myself with giving some of the details of one or two of the most notable of these combinations.

Probably the most notorious combination in the industrial world is that known as the "United States Steel Corporation."

According to Census Bulletin No. 122, which was issued December 30, 1901, there were then in existence 40 combinations which were organized to control iron and steel and their products. These 40 combinations controlled 447 plants. The actual value of their property as attested to the Census Office by their officers was $341,779,954. This was the value certified to as representing all the tangible property of these 40 combinations, and we must assume that this representation is correct, or that some or all of the officers of these corporations made false returns to the Government.

While the Census Office was conducting its inquiry a number of the corporations above alluded to, under the guidance of Mr. J. P. Morgan, were formed into a new corporation which was called the United States Steel Corporation. In 1901 this corporation consisted of the Carnegie Company, the Lake Superior Consolidated Iron Mines, and 9 other corporations engaged in various branches of steel and iron manufacture. At the time of the organization of this new company the Carnegie Company had issued stock to the amount of $156,800,000; the Lake Superior Consolidated Iron Mines had stock outstanding to the amount of $29,425,940, and the 9 other companies included in the deal had stock outstanding to the amount of $528,465,300. Add to these amounts the bonds issued by the National Steel Company, one of the 9 companies above alluded to, to the amount of $2,811,000, and it shows the total capital outstanding of these companies to have been $717,502,240.

This was very much more than twice as much as the real value of the tangible property belonging to these companies. It does seem that this large amount of fiction in the capital stock of these various corporations would have satisfied Mr. Morgan and his friends, but it did not, by a great deal. When these companies were merged into the United States Steel Corporation they carried in it all this enormous amount of capital, water and all, except $13,150,000, which was the price paid for the property of the Shelby Steel Tube Company, but it added $301,000,000 in bonds, making the grand total of the capitalization $1,005,351,740, and this capital, according to Moody's Manual, has been increased to $1,322,432,900, and if we include the stocks and bonds of subsidiary companies, which the United States Steel Corporation does not own, but controls, the capital is swelled to $1,389,339,956. It is absolutely safe to say that less than one-third of this capital represents actual tangible property. The balance, with the exception of some patents, is fiction—purely nothing.

The magnitude of this giant can best be gathered and understood by comparing its capital with some other large monetary aggregations. This capitalization is larger than the national debt of any of the nations of the earth except France, Germany, Italy, Russia, Spain, and the United Kingdom. It is $400,000,000 more than the debt of the United States. It has more capital and surplus than all the national banks of the United States; its capital is more than three times as large as the total specie in the United States Treasury on November 20, 1902; it has more capital than all the deposits in all the savings banks in New England in 1901. If this capital were divided among the people of the United States it would show a per capita of 50 per cent more than the national debt per capita for the United States.

The interest per capita on the Government debt of the United States in 1901 was 38 cents, but the interest and dividends on the United States Steel Corporation's capital in one year amounts per capita for the population of the United States to 96.8 cents. The capital of this great corporation is only about $800,000,000 less than the total money in circulation in the United States in 1902. The net earnings of this corporation in 1902 were $132,662,617. It paid a 4 per cent dividend on its common stock, 7 per cent on its preferred stock, and 5 per cent on its bonds. This means for that year something more than $70,000,000 in dividends and interest and leaves a surplus of more than $62,000,000.

Of course, anyone knows, according to the methods heretofore adopted by this corporation, that it is only a question of time when additional stock or bonds will be issued to absorb this surplus, so that it may become ordinary capital to levy additional dividends upon the consumers of iron and steel.

No one who believes in the eternal principles of justice will say that it is right for this overcapitalized concern to exact these enormous payments of dividends on water, and certainly no one who believes in equal justice to all and special privileges to none can defend a situation that permits such conditions to exist. These conditions do exist, because this combination has practically destroyed competition, and I believe it has been able to destroy competition because tariff duties prevent foreign manufacturers from placing their goods on the American market. The United States Steel Corporation can and does sell steel rails in England at $11 per ton cheaper than it does at home, but the English manufacturer can not compete with American prices because of a duty of $7 per ton upon his products, which shuts our market out of all his calculations. It can not be said that an import duty upon iron and steel is necessary to the existence of that industry in the United States. In the New York Commercial of November 4, 1902, I find the following:

CUT IN PRICE OF TIN PLATE ON DECEMBER 1—STEEL CORPORATION REDUCES ITS LIGHT PRODUCT 40 CENTS—IN LINE WITH THE ACTION ON SHEET STEEL, SMALL TUBES, AND WIRE NAILS—NOT AN INDICATION OF A RECESSION IN THE TIDE OF PROSPERITY—AIMED AT RIVALS.

NEW YORK, *November 3, 1902.*

The United States Steel Corporation to-day announced that the American Tin Plate Company had made a reduction in tin plate of 40 cents a box, or from $4 to $3.60.

The change applies to new equipments only, and will not become operative until December 1. In old stock no change is expected to be made for several months.

ACTION WAS EXPECTED.

The action of the tin plate company did not come as a surprise, because it has been known for some time that the operating department was working on a new schedule.

Then, again, the inactivity of the mills for the last few months has pointed to a shading in prices. There is no disputing the fact that overproduction is directly responsible for the reduction.

Following this, the falling off in demand, which usually occurs at this time of the year, resulted in a scramble for business by the independent companies. In order to keep their mills in operation they cut prices, and the combine naturally followed suit.

TO MEET ALL COMPETITION.

The United States Steel Corporation is determined to furnish its customers with tin plate at prices as low as those established by the independents, and in the event of a continuance of an inactive market quotations may go even lower.

The reduction in the price of tin plate follows reductions in sheet steel, small tubes, wire nails, and a few classes of wire goods. The cut in sheet steel was made last September, and is equivalent to $5 a ton.

NOT A SIGN OF DEPRESSION.

Steel corporation interests to-day took particular pains to point out that the lowering of prices is confined to the lighter branches of finished products, adding that the demand for material of this character is generally light at this time of the year, and the decline does not indicate that the crest of the wave of prosperity in the steel business has ebbed. For example, the cut in sheets is confined to black and galvanized plates, two of many grades turned out by the Sheet Steel Company.

CUTS IN LIGHT PRODUCTS.

In tubing the cut is confined to the small sizes, the demand for the larger shapes being more pronounced than ever before. The demand for small tubing, it is said, always shows a declining tendency with the approach of winter.

In wire the inactivity is confined to wire nails, owing to the fact that building operations are curtailed during the winter.

In tin plate the demand has been light for several months, due largely to the partial failure of the salmon catch and the pea crop shortage, which called for fewer tin cans for preserving.

NEW MILLS TO BLAME.

Had it not been for the new steel mills that have come into existence during the last two years it is likely that no reduction in prices at this time would have been necessary. While consumption is larger than two years ago, its increase has not been proportionate to the increase in production.

Representatives of the United States Steel Corporation do not attempt to conceal the fact that the inactivity of certain branches of the steel industry is due directly to increased production. At the same time they point out that a reduction in prices will discourage the organization of new enterprises, and that in time the industry will adjust itself to these new conditions.

IN LINE WITH ITS POLICY.

A representative of the United States Steel Corporation made this statement to-day:

"People are simply making a mountain out of a molehill in attempting to make capital out of the reduction in certain finished products. It is an interesting fact that the United States Steel Corporation has not advanced the price of one article since it was organized.

"If we had done so a howl would have been raised. Now that we cut prices in order to meet new conditions inexperienced people get it into their heads that the top notch in so far as steel is concerned has been reached.

"The cut in prices is confined to tin plate, wire nails, two of the many grades of sheet steel, and small tubes. The demand for large tubings is brisk, and there is every indication that it will continue so.

CONSUMPTION KEEPS UP.

"The activity of the steel-rail mills, structural plants, armor-plate works, steel-plate mills—in fact, all classes of heavy material—is sufficient to offset the falling off in the demand for light finished products.

"When the demand for the products of certain mills subsides, we devote our energies to products for which an immediate outlet can be found.

"That there is little foundation for the reports that the decline in tin plate, sheet steel, etc., does not foreshadow depression in the iron and steel industry is evident from the fact that the consumption of iron ore, coke, pig iron, and other products that make up the foundation of the iron and steel industry was never more pronounced than at present.

"The fact that the furnaces have sold their possible production until July 1

of next year and have opened their books for the last half of 1903 is sufficient proof that the iron and steel situation is sound.

"So far as heavy material is concerned, consumption is greatly in excess of demand. For example, there will be a shortage in steel rails next year, notwithstanding that something like 500,000 tons of rails will be imported from Europe.

"Through the carrying out of our policy of concentration and the great demand for heavy classes of steel, the cut in the prices in certain grades of light material will not affect the earnings of the steel corporation to any extent.

EARNINGS BIG ENOUGH.

"Of course the earnings of the corporation will show a falling off during the next four months, owing to the closing of navigation on the lakes, but they will exceed the earnings reported during the corresponding period of last year.

"The production of pig iron is not nearly adequate to the demands of the finishing mills. Consumption of pig iron is now going on at a rate of 1,500,000 tons a month.

"The increase in iron and steel imports does not indicate that we are losing our foreign business. The demand in this country is so pronounced that we have been forced to ignore the foreign markets altogether.

NO TIME FOR FOREIGN TRADE.

"When the demand becomes less inactive and prices reach a lower level we will find no difficulty in competing with foreign mills. Why, notwithstanding the high wages that are paid here, we can sell steel abroad at prices that our foreign competitors can not touch except at a loss."

About 80 per cent of the sheet-steel mills of the United States Steel Corporation are now in operation. The production of tin plate is within 25 per cent of the maximum capacity of the mills. The falling off in the demand for small tubing has resulted in no great curtailment of production.

PLATE MILLS BUSY.

The representative of a prominent steel-plate concern said:

"We have observed that many financiers and public men are expecting a lessening in the volume of business done in this country and a decline in the prices of all commodities, but there is no indication of such recession to be detected in the steel industry—certainly not in our branch of it.

"The steel-plate mills of the country have booked orders ahead for from three to six months' steady employment and bonuses are being paid for quick delivery. It is true that these orders are subject to cancellation, but there is very little likelihood of such action, and the mills would be glad of it if a few orders were canceled, as they have sold beyond their capacity.

WHY PRICES ARE LOW.

"There is no occasion for a reduction in prices. All things considered, prices are low—much lower than they might be, considering the enormous demand. The steel producers might have put prices much higher had they desired to make every dollar the trade would stand.

"There are two reasons why they did not. Higher prices would have increased foreign competition. As it was, finished products were imported to a certain extent. But the main reason why prices were held down to a comparatively low level was that the contrary course would have decreased consumption.

"That was well illustrated four years ago, when we had just such a demand as there has been this summer. The price was advanced to $60 a ton, and then within twelve months fell to $24 a ton, so great was the blighting influence of high prices on constructive work.

WHEN STEEL WAS TOO HIGH.

"The New York Central was using, in the vicinity of Albany, thousands of tons of steel for replacing wooden bridges. When the price reached a certain point the New York Central officials ordered all steel construction stopped and made temporary constructions of wood wherever there was anything to be done. Then the road simply waited for prices to come down, and they came.

"By this time steel men have learned that it is much more profitable to encourage construction and to keep the demand steady than to have periods of very high prices followed by periods of idleness at the mills. In our branch of the business there has not been a change in prices for more than five months. On May 22 the base price at the mill was advanced from $38 to $40 a ton. That price will remain in effect for the next quarter at least."

AIMED AT OUTSIDERS.

The Eastern agent of a steel company not in the steel corporation, said:

"Prices are fixed by the steel corporation, which controls between 60 and 70 per cent of the country's production. It is possible that that company, in order to put a stop to the foolish course of small outside concerns which know no better than to sell steel products for the value of the raw material, may reduce prices on certain lines for a time, but judging from the general situation there is no reason why prices should go lower.

"At present prices are low, fully as low as the producers can afford to make them. Nor is there any indication of any diminution in the demand."

This newspaper is friendly to the United States Steel Corporation and other trusts, and would not be likely to publish in its news columns inaccurate statements concerning its friends, and it is absolutely certain that it would not quote the officers of the United States Steel Corporation incorrectly.

After perfecting its plans to destroy the independent tin-plate manufacturers, this monster turned its attention to the independent producers of steel tubes. On November 7, 1902, a special from Cleveland, Ohio, to the New York Commercial, among other things, says:

The United States Steel Corporation is starting to make war on the independent producers of steel tubes, with the intention of driving them out of business. The first step was taken in that direction a week ago, when the corporation announced a reduction in the price of tubes.

This same dispatch points to the fact that this fight against the steel tube manufacturers dated back to the formation of the United States Steel Corporation when it took over the Shelby Steel Company and attempted to buy the other tubing mills. But because some of these independent mills preferred an independent existence and determined to withhold their property from this gigantic combine, they have become the subjects of the wrath of this trust. It was not charged nor intimated that the production of these smaller mills was materially affecting the market, but the trust decided that the time had come when it might not rely on the general market, and so it determined to drive the last of its competitors to the wall.

Not only does the United States Steel trust absolutely control the production and prices of iron and steel in the United States, but it boasts that it is able to meet European competition anywhere. On November 24, 1902, a representative of the Steel Corporation is reported by the New York Commercial as saying that the steel industry of the United States was then in a better position to compete with foreign mills than ever before in its history. This representative is quoted as saying:

The economy resulting from consolidation has reduced the cost of production to a minimum. Nowhere in the world can steel be manufactured so cheaply as in the United States. This is in spite of the fact that wages here are twice what they are in Europe.

The United States Steel Corporation owns 78 blast furnaces, with an annual capacity of 6,500,000 tons of pig iron; 149 steel works and 6 finishing plants, with an annual capacity of about 9,000,000 tons of steel. Its Lake Superior iron mines have an annual output of 12,000,000 tons of ore. It owns 18,300 coke ovens, 70,830 acres of coal land, 30,000 acres of other lands, and a lake fleet of 112 vessels. It owns the Olliver Iron Mining Company and the Pittsburg Steamship Company, and it has leased 50,000 acres of coal land from the Pocahontas Coal Company. With these enormous holdings of raw materials and these tremendous transportation facilities, it has power to crush any American competitor that may dare place his goods upon the market. It boasts that it can go into the European markets and compete successfully with the iron makers of the Old World. It is protection that has barred every competitor from the American markets and enables this single corporation practically to control the price of iron and steel in the entire world.

Another notable example of the power of a monopoly is seen in the American Tobacco Company. This corporation was organized in 1890, and acquired the principal cigarette factories in the country. In 1898 it acquired the properties of the Brown Tobacco Company and the Drummond Tobacco Company, of St. Louis. In this same year, 1898, the Continental Tobacco Company was formed in the interest of the American Tobacco Company to control the plug tobacco of the United States. In 1899 the American Tobacco Company acquired the Union Tobacco Company. In 1900 the American Snuff Company was formed for the purpose of controlling 95 per cent of the snuff output of the United States.

In 1901 the Consolidated Tobacco Company was formed to acquire, consolidate, and control all the interests of these various tobacco companies. The authorized capital of the Consolidated Tobacco Company is more than $262,000,000. Its actual capital issued on September 1, 1902, consisted of $30,000,000 full-paid capital stock and bonds to the amount of $157,844,600, making a total outstanding capital of $187,844,600. The assets of the American Tobacco Company, as shown by their balance sheets December 31, 1901, were $91,183,612, of which amount $29,747,860 represented values fixed upon trade-marks, patents, etc. The assets of the Continental Tobacco Company were $111,621,616.

The tobacco monopoly, with possibly the exception of the Standard Oil Company, is the most calculating and cold-blooded of any that affects the American people. It not only controls the production of manufactured tobacco and its prices, but it has gone a long way further and established itself in control of the raw material produced by the farmers. It has placed its agents upon the various tobacco markets of the country with instructions to pay so much and no more for certain grades of tobacco, and the farmer has been compelled to accept these prices for the very good reason that the American Tobacco Company's competitors, who once bid upon the farmers' tobacco, have been crushed and driven out of business; and if any man dare enter the tobacco markets and purchase tobacco above the price offered by the American Tobacco Company, he does it at his financial peril. When such a competitor offers the goods for sale which he has purchased, he finds to his sorrow that the American Tobacco Company is the only manufacturer that can use his goods, and he is forced to take their price.

In North Carolina, one of the leading States in the production and manufacture of tobacco, there are abundant examples of the ravages of this monster among the manufacturers and dealers and producers of tobacco. In 1890 that State had 90 establishments engaged in the production of chewing and smoking tobacco. In 1900, after a decade of unexampled growth in manufactures in the State, not only in the value of products, but in the number of new establishments which come into existence, this industry showed only 80 establishments, as compared with the 90 of 1890. The value of manufactured tobacco during this decade increased 108 per cent.

The number of people employed in tobacco factories increased during this decade but 6.7 per cent, and the average annual earnings of these employees decreased 4.4 per cent. That is to say, that at a time when there was free competition in this industry

the proportion of labor employed was much greater and that the wages paid this labor were higher than at a time when competition had been destroyed and one great combination controlled this industry. I do not charge this crime to the tobacco trust; I mention it as a significant fact. This monopoly has not been even modest in its career. It has plundered the farmer and enslaved the retail dealer, crushed the small manufacturer, and corralled the consumer.

Another example of the control of a Southern product by a combination, or rather by an association of friendly combinations, is found in the American Cotton Oil Company and the Virginia-Carolina Chemical Company. The Virginia-Carolina Chemical Company was organized in 1895 and controls practically all the phosphate rock from Maryland to Florida, and owns a controlling interest in the Southern Cotton Oil Company, besides other cotton-oil plants.

In July, 1901, this company had capital stock issued to the amount of $39,984,400. The capital invested in fertilizer factories in the States of Georgia, North Carolina, South Carolina, and Florida was in round numbers $25,000,000. This capital represents an actual value of the properties employed in the manufacture of fertilizers in these four States. These are the States in which this combination operates principally. It owns or controls practically every fertilizer factory within them; and it demands of the farmers of the South that they shall pay dividends upon 60 per cent more capital than its properties are worth.

The American Cotton Oil Company owns practically all the cotton-oil mills in the country, outside of those owned by the Virginia-Carolina Chemical Company. Thus these two corporations fix the price of cotton seed, and are able to fix the price of the manufactured product.

Perhaps the best example of perfect monopoly which is found in this country, if not in the world, is the Standard Oil Company. According to the reports of the Twelfth Census the actual capital employed in petroleum refining in the United States in the census year was $95,327,892.

The paid-up capital of the Standard Oil Company is $97,500,000. That is to say, this one company (though it must be admitted that it owns practically all the oil refineries in the country) is capitalized for more than the value of the entire refining business of the country. I do not recall that it has ever been charged that Mr. Rockefeller has attempted to inflate the Standard Oil stock with "water"—it may be that the physical principle that oil and water will not mix has prevented it—but no principle, physical, political, or moral, has stopped him from levying tribute from every householder who lights his home with oil.

The Standard Oil Company in 1900 paid a dividend of 48 per cent on its capital stock, and for the five years ending in December, 1900, its dividends amounted to 175 per cent of its capital stock. Between the method of Mr. Morgan and most other trust organizers, of watering valuable stocks and thereby increasing capitalization so that nominal dividends may appear reasonably small, and the method of Mr. Rockefeller of allowing his capital to remain intact and boldly declaring dividends from his earnings, even though they are enormous percentages, I say that of these two methods I frankly admit Mr. Rockefeller's is the more commendable.

If the Standard Oil Company were organized upon the basis of the United States Steel Corporation it would be capitalized at about $900,000,000. It is interesting in this connection to note a comparison of the apparent profits of the entire petroleum refining business in the United States and the actual profits paid upon the capital of the Standard Oil Company. The reports of the Twelfth Census show that if all the products of the petroleum refining business of the country in 1899 had been sold at the refineries and at the values reported to the Census Office, and that if the expenses connected with the refining business as reported to the Census Office had been deducted from these gross sales, there would have been left an amount of apparent profits sufficient to pay a dividend of 7.7 per cent on the entire capital employed in the industry.

In that same year, 1899, the Standard Oil Company paid a dividend of 33 per cent upon its capital of $97,500,000. These figures suggest that the reports of the value of products as made by the refineries to the Census Office were far below the value that should have been reported. It would be interesting to know how the Standard Oil Company reconciles its tremendous dividends of 33 per cent upon $97,500,000 with the statements made to the Census Office, which show that the apparent profits of the entire petroleum industry were only 7.7 per cent.

Whenever it is charged that a protective tariff tends to foster monopoly, the friends and defenders of trusts point to the Standard Oil Company as a fine example of how a great monopoly can come into existence and thrive without the benefits of protection. They tell us that the existence of this the most powerful of all monopolies is not due in any measure to protection, because petroleum and petroleum products are on the free list, and it is surpassing strange that the public has accepted this statement as true, and that public men and the press generally have innocently allowed such statements to go unchallenged. I know it is a terrible thing to be disillusioned, but candor and truth compel me to turn the light upon this question of protection as it affects the petroleum refining business in the United States.

In paragraph 626, act of July 24, 1897, commonly known as the Dingley Act, there is a proviso to this effect, that "if there be imported into the United States crude petroleum or the products of crude petroleum produced in any country which imposes a duty on petroleum or its products exported from the United States, there shall in such cases be levied, paid, and collected a duty upon said crude petroleum or its products so imported equal to the duty imposed by such country." On April 21, 1898, the Division of Customs, Treasury Department, issued Department circular No. 68, which gives a list of the countries imposing a duty on petroleum and petroleum products, together with the rates of duty so imposed. This list embraces more than 100 governments which impose a duty upon petroleum and its products, and according to the proviso of section 626, act of July 24, 1897, the United States imposes a similar duty upon petroleum and its products from all these countries.

Besides the United States, Russia is the only country that produces petroleum for export in any considerable quantity. Austria-Hungary and Roumania are the next largest producers of petroleum, but neither of these countries produces more than is sufficient for home consumption. Russia, therefore, is the only country that can put large quantities of petroleum upon the markets of the world in competition with the United States. When the Standard Oil monopoly increases its prices upon illuminating and other oils to such an extent that they amount to extortion, and it has often done such a thing, the Russian refineries, were they permitted to enter our markets, could compel the Standard Oil Company to give the people oil at reasonable prices; but the provision of the Dingley tariff law, above quoted, imposes a duty upon petroleum and petroleum products which are produced in Russia, because Russia imposes a duty upon such products produced outside of her own domain.

The duty imposed by Russia on kerosene and all other liquid products obtained from the distillation of petroleum is 1 ruble per pood. The United States Geological Survey gives 6.6 pounds as the weight of a gallon of refined petroleum. The export price of refined petroleum as quoted in the Oil, Paint and Drug Reporter of January 26, 1903, was 5.65 cents per gallon. Converting these Russian terms into United States equivalents and taking the export price of refined petroleum, above quoted, we find that the duty imposed by the United States upon refined petroleum produced in Russia is 9.42 cents per gallon, which is equivalent to an ad valorem duty of 167 per cent.

It might be interesting to state in this connection that the United States imposes upon petroleum imported from Austria-Hungary a duty of 12.4 cents per gallon, which is equivalent to an ad valorem duty of 213 per cent, and from Roumania a duty of 8.63 cents per gallon, which is equivalent to 153 per cent ad valorem. Another interesting fact is that while the quoted export price of kerosene oil on January 26, 1903, was 5.65 cents per gallon, the price quoted for kerosene in bulk to the American trade was 10.5 cents per gallon.

The oil people may undertake to explain this difference between the export price and the price to the American consumer by saying that the kerosene oil sold in this country is of superior quality. This may probably be a partial explanation of the difference, but the difference in the quality between the lowest and the highest grades of refined oil can not account for any such difference in prices as I have quoted. The real explanation is that the American market is a noncompetitive one, and the Standard Oil Company charges its home customers what it pleases, while the foreign markets are competitive and it must, therefore, fix its export prices to meet competition.

As I have already stated, Russia is the only country in the world that produces petroleum in sufficient quantities to compete with the United States. In the year 1900 Russia produced 77,230,561 barrels of crude petroleum, and in the same year the United States produced 63,362,704 barrels. In that year Russia exported 290,728,175 gallons of illuminating oil and the United States exported 730,585,487 gallons. The largest purchaser of Russian oils in that year was Great Britain, which country took 62,000,000 gallons.

In 1901 Great Britain took from the United States 169,548,529 gallons. The average price which Great Britain paid for American oils in 1901 was 5.4 cents per gallon. Germany purchased from the United States in 1901 136,399,456 gallons of oil, at an average price of 5.2 cents per gallon. These figures tend to show that the Standard Oil Company without protection is able to meet competition anywhere. It can go into Germany, at the

very door of Russia, and sell its products in competition with Russia, and with its lubricating and heavy oils it goes into Russia itself and competes with the Russian refineries.

The total quantities of mineral oils imported into the United States during the year ending June 30, 1902, was 3,235,467 gallons. Of this amount 2,601,684 gallons were admitted free. It is significant that of the total imports 2,783,148 gallons were received from the United Kingdom, and of the total imports admitted free of duty 2,380,022 gallons were received from the same country. Great Britain is the only large purchaser of petroleum that admits it into its markets free, and, as I have just shown, it is practically the only foreign country that sells mineral oils in the United States.

If we did not impose a duty upon Russian oil, and if there were that same free commercial intercourse between Russia and the United States that there is between Great Britain and the United States, it is evident that this one article of general consumption would be furnished to the American people at prices far below those they are now paying. It can not be contended that the petroleum-refining business in general, and the Standard Oil Company in particular, is in such an uncertain and unstable condition as to require a protective duty of more than 9 cents per gallon in order that its only competitor shall not interfere with its fixing of prices. I have shown conclusively that whenever and wherever it is necessary to meet a competitor the Standard Oil Company is able to do so, and that it secures its full share of the business of the world. I think I have also shown that wherever and whenever its competitors have been shut out of the market it has not hesitated to charge whatever prices a forbearing and helpless public seemed able to pay.

Thus, Mr. Chairman, are exhibited in some detail a few of the great industrial combinations which are now in existence. The constitution of North Carolina in its declaration of rights declares "that monopolies are contrary to the genius of a free State, and ought not to be allowed." These pregnant words are as applicable to these modern days as they were a century ago when embodied in the organic law of my State.

What are the remedies proposed in this bill for the evils which beset our economic system and bear with a heavy hand upon the producers and consumers of the country? Although various excuses are offered, yet it is freely admitted that the existing tariff affords protection and shelter to the great bulk of these monopolies. The bill contains not one word of encouragement or alleviation from the tariff schedules by which they are making their daily exactions.

The Dingley tariff is the one sacred part of our statute law which is declared to be free from the ruthless hands of Congress. No matter how much individual Republican voters and members of that party in this House may protest, regardless of the plain admonition offered by the Democratic party, our opponents have set themselves steadily against the granting of any relief by putting upon the free list any trust-made article. With pious hypocrisy they at once enlist themselves as champions of the smaller and independent concern engaged in the production of similar articles in competition with the trusts and declare that the lesser will be injured more than the greater by any reduction from the protective tariff. Apparently nothing but a political revolution will dislodge the defenders of the present tariff law and thereby establish justice and equality before the law.

There are substantially embraced in the bill two remedies, one providing what is commonly known as "publicity," and the other forbidding the granting of rebates or concessions by common carriers and preventing the latter from transporting any property manufactured in violation of the provision of the act.

Publicity may be good and is certainly worthy of experiment, but it is not a panacea. In any event, however effective it may prove, it is made abortive because it is only applicable in mandatory terms to those corporations which might hereafter be organized. All corporations created subsequent to this law are required, when engaged in interstate commerce, to make certain returns, laying bare the several elements of the body corporate, and thus enabling their more fortunate rivals who, under the protection of secrecy heretofore and fostered by existing law, have been enabled to establish a monopoly, the more successfully to crush their new rivals. Again, no penalty is provided as against any corporations which shall fail to make the required returns, and the only remedy is by injunction, the equitable method which has been so much abused and resorted to so generously in the courts of the United States during recent years.

Section 6 of the act provides that no corporation which accepts any rebate from a common carrier or attempts to monopolize any product "shall use any of the facilities or instrumentalities of interstate commerce." This is, to say the least, a very indefinite penalty, and which will be fruitful of much legal acumen by the courts when it is attempted to be construed. Which particular instrumentalities of commerce are intended to be included? Is it intended to embrace the common carriers alone or to include the mails, the telegraph, and the telephone, all of which are of a public nature and under the control of the law? The minority have insisted that these "instrumentalities" shall be defined and the law made effective, but in their tender solicitude the majority have considered that language too plain—might be construed as too drastic.

Attention is called to the fact that the enforcement of this law is to be trusted entirely to the courts of the United States. Why not confer upon the State courts jurisdiction to enforce the laws of their respective States against corporations engaged in interstate commerce? Congress has the right to confer this power, and thus under such a dual system would the respective laws of the States and the General Government be administered in their own courts and thereby more effectually prevent the creation and existence of monopolistic combinations.

Mr. Chairman, all these and other defects in the proposed law are pointed out most clearly in the admirable report of the minority of the committee.

The subject is one of vital importance. It should be considered in a nonpartisan spirit, and the best wisdom of Congress, gleaned from experience and study of this complex question, should be enacted into law. Personally I have no hostility to corporations or to capital. Both have contributed to our material progress, and I welcome the extension of each into every section and State of our common country. I have no patience with him who is jealous of the prosperity of another, or who would place unnecessary obstacles in the way of any citizen or corporation engaged in the development of our resources, in the manufacture of our raw products, or in the extension of our trade and commerce, both domestic and foreign. But this development must proceed along normal lines and the rights of every citizen must be recognized and natural laws must be upheld.

Free competition in all industrial pursuits must be preserved. There must be no monopoly in any of the necessaries of life demanded by modern civilization; the great arteries of commerce upon land and sea, the railroads and other transportation companies, must cease to discriminate and must accord equal privileges and equal rights as well to the humblest citizen as to the most powerful corporation.

Wherever these evils are fostered and permitted by existing laws they are a menace to healthy progress and must be repealed. Wherever the strong have waxed so great that they dare violate these inalienable rights and attempt to maintain a monopoly, the strong hand of the law, not in anger, but with firmness and justice, must intervene and restore an equality of rights and opportunities.

Mr. LAWRENCE. Mr. Chairman, thoughtful men agree that upon a successful solution of the problem of the trusts depends in great measure the welfare of the American people during the years that are to come. It should not be a party question. The consequences which might follow failure in the effort to solve the problem are so far-reaching that the question is one which may well demand the attention of the earnest and patriotic men of all parties. A very distinguished Democrat has recently stated that in his opinion there will be dark days—days full of want and suffering and disaster—before the problem can be solved, and that out of the demand for the solution of this question may be wrought a political revolution. He questions the sincerity of both of the great political parties, claiming that the leaders are guilty of hypocrisy and deceit, neither party apparently being more desirous than the other of finding and applying a cure. I can not agree with the distinguished gentleman, for I believe that the strong men of both parties are in earnest in the effort to enact laws which shall compel these great combinations of capital to subserve the public good.

Recently the President of the United States has been speaking on this subject, and his words have been earnest and frank. I am confident that he has been not alone the spokesman of his own party, but of the American people. He realizes that it is useless to rail at or regret this phase of the great industrial growth of the past half century; that the practical thing to do is to face conditions as they are and get the best there is in them out of them. He does not offer a patent cure-all for the evils of the trusts, but he recognizes the existence of such evils, and proposes to make a persistent effort to reach as satisfactory a solution of the problem as is possible. In his first message to the Fifty-seventh Congress, President Roosevelt said:

> There is a widespread settled conviction in the minds of the American people that these trusts are in many of their features and tendencies hurtful to the general welfare. This springs from no spirit of envy or uncharitableness, nor lack of pride in the great industrial achievements that have placed this country at the head of the nations struggling for commercial supremacy. It does not rest upon a lack of intelligent appreciation of the necessity of meeting changing and changed conditions of trade with new methods, nor upon ignorance of the fact that combination of capital and effort to accomplish great things is necessary when the world's progress is demanding that

great things be done. It is bottomed upon the sincere conviction that combination and concentration, while not to be prohibited, is to be controlled, and in my judgment this conviction is right.

In his message, delivered at the opening of the present session, he says that the experience of the past year has emphasized the desirability of the steps he then proposed; that while the inviolability of property is a fundamental base of civilization, this is not inconsistent with the right of society to regulate the exercise of powers conferred upon the owners of property in such a way as to prevent the misuse of these powers; that corporations, and especially combinations of corporations, should be managed under public regulation; and it having been shown that such supervision can not be obtained by State action, we must therefore look to its achievement by national action. The President sums up the matter with these strong and convincing words:

No more important subject can come before the Congress than this, the regulation of interstate business. This country can not afford to sit supine on the plea that under our peculiar system of government we are helpless in the presence of the new conditions and unable to grapple with them or to cut out whatever of evil has arisen in connection with them. The power of the Congress to regulate interstate commerce is an absolute and unqualified grant and without limitations other than those prescribed by the Constitution. The Congress has constitutional authority to make all laws necessary and proper for executing this power, and I am satisfied that this power has not been exhausted by any legislation now upon the statute books.

It is evident, therefore, that evils restrictive of commercial freedom and entailing restraint upon national commerce fall within the regulative power of the Congress, and that a wise and reasonable law would be a necessary and proper exercise of Congressional authority to the end that such evils should be eradicated. I believe that monopolies, unjust discriminations, which prevent or cripple competition, fraudulent overcapitalization, and other evils in trust organizations and practices which injuriously affect interstate-commerce trade, can be prevented under the power of Congress "to regulate commerce with foreign nations and among the several States" through regulations and requirements operating directly upon such commerce, the instrumentalities thereof, and those engaged therein. I earnestly recommend this subject to the consideration of the Congress with a view to the passage of a law, reasonable in its provisions and effective in its operations, upon which the questions can be finally adjudicated, that now raise doubts as to the necessity of constitutional amendment.

This part of the President's message was referred to the Committee on the Judiciary, and that committee after earnest consideration of the subject have reported the bill now before the House. The committee is certainly entitled to the thanks of Congress and of the people for its prompt action. The report of the committee has been followed by equally prompt action on the part of the House in assigning the bill for consideration—a fact which goes far toward refuting the insinuation that this Congress is not sincerely endeavoring to enact effective laws upon this most important subject.

When a trust—whether existing in the form of a corporation, joint stock company, association, or partnership—succeeds in its purpose to monopolize manufacture, to control prices, to limit production, to destroy competition, or to restrain trade and commerce, it interferes with legitimate enterprise and becomes oppressive. The aim of legislations should be to make all such organizations serve the public, and we have found it necessary to enact laws to prevent unfair methods of conducting business.

Much good has been accomplished by means of such laws; but it is becoming clearer every day that there is a necessity for additional legislation, not to destroy combinations of capital, but to compel, so far as as legislation can do so, honest management in the interest of the public. It is idle for anyone to longer deny the right of capital and labor to combine. The purpose of those who desire proper Government regulation and control is not to destroy or tear down. We would not adopt desperate remedies which might result in depriving our workingmen of employment and check that splendid industrial development of which we are so proud. The legislation now upon the statute books and the pending bill are not in any way hostile to corporations as such, but to the evil in them. It can work no injury to an honest corporation, honestly conducted. It is simply an effort to make these creatures of the State render honest service to the State. Great combinations of capital honestly conducted have contributed immeasurably to our advancement. It is when they become oppressive monopolies that there is danger to our people. As Mr. Justice Harlan of the Supreme Court of the United States has said:

Any combination that disturbs or unreasonably obstructs freedom in buying and selling articles manufactured to be sold to persons in other States or to be carried to other States—a freedom that can not exist if the right to buy and sell is fettered by unlawful restraints that crush out competition—affects not incidentally, but directly the people of all the States.

The destruction of competition, secrecy, and overcapitalization are not necessary for the development of our great business enterprises and should be prevented. Much of the evil of which we complain has been made possible because of the secrecy which has been permitted in the management of corporations. The public is entitled to full and accurate information. Under such publicity there would be little effort to break down competition by unlawful means. Overcapitalization is a fraud which bears with especial severity upon the public. The effort to pay dividends upon a greater sum than has been invested in a business naturally leads to unfair methods and oppressive management. Such unfair methods and oppressive management are especially intolerable when a corporation controls a necessity of life. The American people will not long permit a condition of things to exist under which there can be a monopoly of a necessity of life without an effective Government supervision and control. If such Government supervision and control can not save us from, for instance, such a calamity as threatened us from the recent coal strike, then Government ownership will surely come. I am sure that I do not mistake the temper of our people upon this point.

But while appreciating the necessity for additional legislation upon this subject, and for legislation which shall be effective, I realize as clearly as anyone that we could by unwise legislation destroy, or at least seriously check, the prosperity which has brought comfort and happiness to our homes. Statistics are generally dry, but those which deal with the material progress of the United States for the past fifty years must be of great interest to our citizens. They tell convincingly and eloquently the story of our development as a nation. Since 1861 our population has increased from 31,000,000 to 76,000,000; our national wealth from about $16,000,000,000 to nearly $100,000,000,000. The deposits in our savings banks have increased from $149,277,504 to $2,507,094,580, and the number of depositors from about 700,000 to over 6,000,000. There has been an increase in our imports of 143 per cent and in our exports of 318 per cent, the latter reaching in 1900 the splendid total of $1,394,483,082. There were in 1850 957,000 wage-earners in the United States; in 1900 the number had reached to 5,316,000. We would not change this story of progress to one of disaster, but we are confident that if this progress is to continue there must be legislation which will make possible a just and effective control of our great corporations.

Many of the States have enacted stringent antitrust laws, but as it is impossible to secure uniformity of action on the part of the States, many feel that Congress should have greater power conferred by means of a constitutional amendment. It is the opinion of the President that before the problem is finally and satisfactorily solved there will have to be an amendment to the Constitution conferring additional power on the Federal Government. To that end, an amendment to the Constitution was proposed by the Republicans of the Fifty-sixth Congress. It provided that Congress should have power "to define, regulate, control, prohibit, or dissolve trusts, monopolies, or combinations, whether existing in the form of a corporation or otherwise." It failed to pass, as there was not the necessary two-thirds vote required to pass a constitutional amendment. I shall vote for it again if I have an opportunity.

An effective and prompt solution of the problem is of such vital importance that I would like to see all doubt with reference to the power of the Federal Government in the matter removed as soon as possible. However, great Constitutional lawyers, in whose judgment I have confidence, hold that by the legislation now upon the statute books, we have by no means exhausted the national power over the subject. The senior Senator from my State is of the opinion that we now have the power to compel corporations doing an interstate business to keep accounts; that we can subject them to Government supervision; that we can prohibit stock-watering; in a word, that Congress has a right to compel them to use their powers so as not to injure others engaged in lawful commerce.

Attorney-General Knox, in his masterly address upon the subject of trusts, says that if the Sherman Act exhausts the power of Congress over monopolies, then the American people find themselves impotent, facing a situation with which neither the Federal nor State governments can deal. He is unhesitatingly of the opinion that Congress has the power under the Constitution to amend and extend the Sherman Act so as to effectively regulate national and foreign commerce, and "prevent the stifling of competition, the regulating of output and price, and the restraining of national and international trade," and says:

I do not believe that we find ourselves so helpless. When the currents of monopoly evil obviously flow out over State lines and cover the country, not only entering but largely filling the channels of interstate and foreign trade, it will not do to say that the evil is beyond national reach.

In speaking further upon this phase of the question, the Attorney-General says:

If Congress under its power to regulate interstate commerce may utterly destroy a combination and forfeit its property in interstate transit, as the Sherman Act provides, it seems reasonable to say that it can, in the exercise of the same power, deny to a combination, whose life it can not reach, the privilege of engaging in interstate commerce, except upon such terms as Congress may prescribe to protect that commerce from restraint. Such a regulation would operate directly upon commerce and only indirectly upon the instrumentalities and operations of production.

Much has already been accomplished in the execution of the Sherman antitrust law. That law declares that every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade to be illegal; and provides that every person who shall make such contract, or engage in any such contract,

or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, punishable by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

By reason of this law great combinations have been destroyed, because the Government was able to show that a conspiracy existed to restrain sale and distribution among the States. That was the fate of the Addystone Pipe combination. During the past year it became known that there was a combination of the great railway systems of the Middle West, by reason of which a few grain buyers were being favored in the matter of freight rates and thereby the small shippers were being driven from business. Suits were brought by the Government against 14 railroad companies and temporary injunctions were granted. The Attorney-General says that it is generally believed that, with few exceptions, since the issuing of these injunctions, the open tariffs have been applied and uniform rates charged to large and small shippers alike.

Injunctions were also issued against the combination of the great packing houses, known as the "beef trust," restraining them from combining and agreeing upon the prices to be charged for their products, and, as is well known, a suit is now pending to prevent the merger of the Northern Pacific, the Great Northern, and the Chicago, Burlington and Quincy into a New Jersey corporation to be known as the Northern Securities Company. In bringing about the merger, there was to be stock watering to the extent of $200,000,000. It was expected that by eliminating competition dividends could be paid upon that watered stock.

There are many who believe that a remedy for existing conditions could be found by placing all articles manufactured by trusts upon the free list upon the theory that a protective tariff fosters and shelters these trusts. Undoubtedly by such means the trusts could be "punished," but harm would also come to all our business interests, and the "punishment" would bear with especial severity upon the competitor of the trust and upon the workingmen employed in such industry.

I am one of those who believe in such a revision of the tariff as is needed to meet changed conditions in the interests of the American people, and I subscribe to the sentiment that tariff schedules are not sacred. The Dingley law, enacted five years ago, was never perfect, and no one will claim that it is in all respects such a law as we would pass to-day. I expect to see a revision made by the friends of protection, and in accord with the protective principle. I do not, however, think that a remedy for the evils of the trusts can be found through revision of the tariff or by any changes in our tariff laws. The platform adopted by the Republican party in my own State in October last contained a statement that "This plan of free trade in all products made by so-called trusts would mean the greatest possible injury to all the competitors of the trusts, and the least possible injury to the trusts themselves; that it would mean incalculable loss to all wage-earners employed in every industry thus recklessly assailed and the domination in our markets of foreign trusts." To this statement I heartily subscribe. We shall not better conditions by hysterical legislation which might close our factories, and hand over to foreigners the work now being done by American workingmen.

The bill now under consideration is entitled "A bill requiring corporations engaged in interstate commerce to make returns, prohibiting rebates and discriminations, and the use of interstate commerce in attempts to destroy competition, and for other purposes." Its first four sections deal with the feature of publicity. Existing corporations engaged in interstate commerce are compelled to file returns with the Interstate Commerce Commission upon the request of that Commission, and the corporations hereafter organized must file such returns at the time of organization. They are required to disclose their capitalization and financial foundation. If there is overcapitalization, "that unjust burden upon our industrial and commercial existence," such fact will become known by the return, for the corporation is compelled to disclose the amount of bonds, amount of authorized capital stock, amount paid in, how much, if any, is paid in cash, and how much, if any, in property.

If any part is paid in property, its kind, character, and location must be described; also its cash market value and the elements upon which said market value is based, and especially whether it is based upon the capitalization of earning, earning capacity, or economies, with the date and the cash price paid therefor at its last sale. Should there be ambiguity or uncertainty, the commission is empowered to make inquiries of the proper officers. All returns must be made under oath, and a person making a false return is deemed guilty of perjury and punished accordingly. Provision is made for publishing and distributing abstracts of such returns for the information of the public, and the Interstate Commerce Commission is given the same authority to inquire into the management of the business of corporations relating to interstate and foreign commerce as is provided in "An act to regulate commerce," approved February 4, 1887, and amended March 26, 1889, and February 10, 1891.

The Attorney-General, in his communication of January 3, 1903, to the special subcommittee on trusts of the Judiciary Committee, recommended that as a first step in a policy to be pursued persistently until every industry can be assured of equal rights and opportunities all discriminatory practices affecting interstate trade be made offenses to be enjoined and punished, and that such legislation should be directed against those who give and those who receive the advantages thereof. He also suggested legislation relating to concerns which manufacture wholly within a State whose products enter into interstate commerce, by which their products could be prohibited from crossing State lines. He also urged legislation penalizing the transportation of goods produced by the guilty parties. All of the above suggestions are covered by sections 5, 6, and 7. The remaining sections of the bill were inserted at the request of the Department of Justice as essential to the efficient administration of the law.

The thanks of the House are due to the Committee on the Judiciary for thorough investigation and prompt action. A large number of bills referring to this subject were considered, and all members introducing such measures were given hearings if they so desired. Not only that, but several conferences were had with the Department of Justice, and its recommendations, as has been said, have been incorporated into the bill now pending. The report of the committee, a very able document, shows with what care and patience the matters have been discussed. It is not claimed by the committee that the bill which they report is perfect or as far-reaching as some desire. Time will show whether its operation is advantageous and will undoubtedly develop the necessity for still further legislation along these lines.

The bill prepared by the committee is designed, in the words of the report, "to more effectively regulate and control, on conservative lines, industrial and business combinations which, in their operation, prove injurious to the public welfare. It involves the idea of publicity, additional legislation to prevent discrimination by rebates or special privileges upon the part of railroad companies, and seeks to prevent the effort to destroy competition in particular localities by discrimination in prices, and prohibits railroad companies from transporting goods in violation of the provisions of law, and contains provisions intended to facilitate the enforcement of this act, as well as existing legislation upon the same lines." With these purposes I am in hearty accord.

I believe the pending bill will more effectively regulate and control industrial and business combinations which in their operation prove injurious to the public welfare. I shall vote for its passage, because I am confident that it is a decided step in the right direction and will prove an effective remedy in dealing with the evils of the trusts. [Applause.]

Mr. HENRY of Texas Mr. Chairman, this bill is supposed to control and suppress trusts, monopolies, and combinations in restraint of trade, and yet not once is the word "trusts" mentioned in the measure. It is a most remarkable bill, considering the causes which have impelled its consideration and the terms which are embraced in it. We have heard much of trusts and combinations. In his message of December, 1902, the President of the United States spoke of trusts and combinations, monopolies, unjust discrimination, and fraudulent overcapitalization, and recommended legislation touching them, and yet not one word in reference to the trusts and combinations is contained in this bill reported by the Committee on the Judiciary.

There are two chief features of this bill. One relates to publicity in reference to corporate affairs in this country and the other pertains to discriminations in the way of rebates and otherwise.

Mr. Chairman, this measure will not reach the difficulty. It is gratifying to hear the gentlemen on the other side of this House say that this legislation should be considered without partisan spirit. A great legal proposition is involved. A tremendous crisis is upon the American people, and sooner or later this question must be settled properly, for never in the history of the world have the Anglo-Saxon people and monopolies existed for a long time together. In time the spirit which sustained Andrew Jackson when he destroyed and suppressed the old United States Bank will again reassert itself, and the American people will put under their feet monopolies, trusts, and combinations which are oppressing them to-day.

There can be no valid objection to the legitimate corporation. Corporations organized for proper business purposes are necessary in this country, and I would make no war on such corporate enterprises. They have existed for many years and will continue to survive in the future. But when these corporations violate the purposes for which they have been organized, when they violate their charter privileges and combine and organize for the

purpose of suppressing competition, limiting production, and raising prices of the necessities of life, then it is appropriate that this body should take some action to control and eradicate them.

It is well known that the so-called Sherman antitrust law of 1890 is defective. It is faulty because it fails to give a comprehensive definition of what constitutes a trust, monopoly, or combination in restraint of trade. If gentlemen are sincere in their proposal to enact legislation against the trusts, let us enact a definition of what constitutes a trust. Let us put the subject in a concrete form and define what a "trust" is and prescribe an adequate penalty which will control or destroy it.

Several years ago the Attorney-General of the United States, under a Democratic Administration, made this statement in reference to the so-called Sherman antitrust law:

"Several of the circuit courts have held that the act of July 2, 1890, which used general terms with no attempt at defining them, made nothing unlawful which was not unlawful before, but merely provided punishment for such agreements and conspiracies against trade and commerce as the courts, by the rule of the common law, have always refused to enforce between the parties. The result has been a great doubt and uncertainty and failure of the law to accomplish its purpose. If it is proposed to continue in this purpose, I suggest an amendment which shall leave no doubt about what is meant by monopolies, by attempting to monopolize, and by contracts, combinations, and conspiracies in restraint of trade and commerce."

This language was Attorney-General Harmon's.

Congress should pass legislation that is not too radical. Let us enact conservative legislation. When we deal with trusts and combinations in the bill which comes from the Committee on the Judiciary, we should certainly define what constitutes trusts and combinations and prescribe appropriate penalties. It is well known that the Sherman antitrust law has been almost construed away; the terms which referred to trust combinations were very vague and indefinite in that law. It did not pretend to define trusts, monopolies, and conspiracies against trade. This omission has been the great fault of the law. Then, if we are to deal with the trusts and monopolies of the present day, it is proper that we should enact a definition of what they are and prescribe adequate penalties. Some gentlemen on that side of the House contend that Congress has already exhausted its power and should go no further. The distinguished gentleman from Maine [Mr. LITTLEFIELD] was quick to disclaim that in a preceding Congress he had contended that Congress had exhausted its power and that a constitutional amendment was necessary, although he then used language indicating that he believed to the contrary and voted for the constitutional amendment. When we were about to enact the Porto Rican tariff law and the Philippine tariff measure, gentlemen on the other side resolved all doubts in favor of those laws and against the Constitution. On this occasion they resolve all doubts in favor of the Constitution and against the proposed amendments which are offered by the minority of the Judiciary Committee.

Many of those gentlemen who have believed in a strong central government have now become States' rights advocates, and say that Congress should not invade the rights of the States. They now profess great love for the reserved rights of the States, and would not invade them even to kill a trust. Why, the distinguished gentleman from Ohio [Mr. GROSVENOR] contended in a speech during the Fifty-sixth Congress that we had already exhausted the power of Congress, that the Sherman antitrust law was strong enough to cover every phase of this question, and that no further legislation should be enacted by Congress; that we should not invade the rights of the States; that we should not interfere with their privilege of granting charters to corporations and regulating them. They say now that we have exhausted the power of Congress and should go no further. And the chairman of the Judiciary Committee will contend that we have no power to go further than the Sherman antitrust law has gone; that we have already exhausted our constitutional right, and that Congress can not add to what is already contained in existing legislation.

Let us look at that proposition for a short time. These corporations have formed themselves into combinations, trusts, and conspiracies against trade. There are three methods by which they enter into these agreements and conspiracies against trade. The first time that the trust was known by that name was in 1882, when the Standard Oil trust was organized, when a number of oil companies, firms, and partnerships entered into an agreement under the terms of the Standard Oil trust and absorbed 98 per cent of the petroleum-oil industry in this country. They put their affairs in the hands of nine trustees. Then shortly afterwards the sugar trust was organized on the same plan. Then the next method was for a corporation to purchase the stocks of other corporations, and thus enter into a combination and conspiracy against trade by combining their corporate stocks and interests. And the third way, the modern method, is to organize a great corporation in the State of New Jersey or some other State of the Union and purchase the physical properties of the other corporations and absorb them in that way, and thus enter into a gigantic combination to fix prices, limit production, and destroy competition.

Mr. NEVIN. Will the gentleman allow me a question?

Mr. HENRY of Texas. Yes, sir.

Mr. NEVIN. I take it from what the gentleman says that he agrees that a combination of capital per se is not wrong. Now, I wish to ask what acts should a corporation or trust do before the gentleman would penalize them?

Mr. HENRY of Texas. I would expressly define that in the very first section of this bill which we are to enact. I would say what acts constitute a combination or conspiracy in restraint of trade.

Mr. NEVIN. And what acts would the gentleman designate?

Mr. HENRY of Texas. I have an amendment which I wish to offer, if your committee will agree to it, an amendment to define clearly what shall constitute a trust or combination in restraint of trade. But you have cut us off from the privilege of getting a record vote on such an amendment.

Mr. NEVIN. Oh, no; I beg the gentleman's pardon.

Mr. LITTLEFIELD. I think the gentleman from Texas is in error in the remark he has just made. The special rule that we have adopted allows any amendment under the five-minute rule. Does the amendment that the gentleman from Texas has in mind appear in the views of the minority?

Mr. HENRY of Texas. No, sir.

Mr. NEVIN. That is the reason I ask the gentleman to specify the nature of his proposition.

Mr. PALMER. It would be interesting to know what the gentleman's definition of a trust or combination is.

Mr. HENRY of Texas. I have not my amendment immediately at hand. It is in my desk. It simply defines what are trusts, combinations, and conspiracies against trade.

Mr. PALMER. The gentleman contends that the Sherman act and also this bill are defective, because they contain no definition of a trust. Will he let us know what his definition is?

Mr. HENRY of Texas. I will do it.

Mr. CLAYTON. I suggest to the gentleman that he print his amendment in the RECORD.

Mr. PALMER. Give us the benefit of it now.

Mr. HENRY of Texas. Certainly I will; I will submit it. I contend that the Sherman antitrust law does not contain a sufficient definition; that the Supreme Court has construed it away. When you look for its substance there is nothing to it. My amendment proposes to make it definite, and I will offer such an amendment. But your measure is supposed to be directed against trusts and monopolies, and in no section of it do you undertake to define what trusts and monopolies are. The President of the United States, in his message to this Congress, complains of "trusts" and "monopolies," and says that some legislation should be enacted on the subject. Yet this bill is not directed or aimed at the combinations at all; not once is the word "combination" or "monopoly" used. This bill is directed only at corporations and says that their affairs must be made public. Now, here is the amendment which I will offer, and ask that it be printed in the RECORD. I will not read it now, but it gives a full definition of trusts and monopolies.

Mr. NEVIN. Let us have it now.

Mr. HENRY of Texas. Very well; I will read it now:

That a trust is a combination of capital, skill, or acts in restraint of trade or commerce among the several States and Territories of the United States by two or more persons, firms, corporations, or association of persons, or either two or more of them, for either, any, or all of the following purposes:

First. To create or carry out restrictions in trade or commerce.

Second. To increase or reduce the price of merchandise, produce, or commodities.

Third. To prevent competition in manufacture, making, transportation, sale, or purchase of merchandise, produce, or commodities, or to prevent competition in aids to commerce.

Fourth. To fix at any standard or figure, whereby its price to the public shall be in any manner controlled or established, any article or commodity of merchandise, produce, or commerce intended for sale, use, or consumption in the United States of America.

Fifth. To make, or enter into, or execute, or carry out any contract, obligation, or agreement of any kind or description by which they shall bind or have bound themselves not to sell, dispose of, or transport any article or commodity, or article of trade, use, merchandise, commerce, or consumption, below a common standard figure, or by which they shall agree in any manner to keep the price of such article, commodity, or transportation at a fixed or graded figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between them or themselves and others to preclude a free and unrestricted competition among themselves or others in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine, or unite any interest they may have in connection with the sale or transportation of any such article or commodity that its price might in any manner be affected.

Every person, acting in his own behalf or as the agent, attorney, employee, representative, or officer of any firm, copartnership, corporation, or any association whatever, aiding, becoming interested in, executing, or entering into any combination for each, any, or all of the purposes defined and set out in this section, in restraint of trade thereof among the several States and Territories of the United States, or with foreign nations, shall be deemed guilty of a misdemeanor, and on conviction thereof in any circuit or district court of the United States shall be punished by fine not less than $1,000 or by imprisonment not exceeding one year, or by both said fine and imprisonment, in the discretion of the court.

Each day's maintenance of said combination as defined in this section shall constitute a separate and distinct offense.

That defines what shall constitute a trust and combination in restraint of trade.

Mr. GROSVENOR. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. HENRY of Texas. Yes.

Mr. GROSVENOR. Mr. Chairman, I have not had so good an opportunity as has the gentleman to understand that amendment, but it strikes me that a combination as defined in the first paragraph—that is, a combination of skill, etc.—might impair the usefulness of combinations of labor.

Mr. HENRY of Texas. The amendment speaks for itself. I am trying to solve this question in accordance with legal principles.

Mr. GROSVENOR. I am trying to do the same thing, and listened with a great deal of deference to the reading of the document, but it strikes me that what I say would be true under half a dozen of the subdivisions.

Mr. HENRY of Texas. I think the gentleman will change his mind when he comes to read it and "evolute" as he has evoluted on the power of Congress. The definition applies to products, commodities, and articles of commerce, and not to labor organizations.

Mr. GROSVENOR. I have not evoluted at all.

Mr. HENRY of Texas. Then I suppose the gentleman will support the measure before the House?

Mr. GROSVENOR. I have not said anything about that.

Mr. HENRY of Texas. In the gentleman's speech in the last Congress he said that Congress had exhausted its power and could not go any further.

Mr. GROSVENOR. Did I use the words "exhausted its power?"

Mr. HENRY of Texas. Practically.

Mr. GROSVENOR. The gentleman puts that construction upon language which is not susceptible of that construction. I said the Sherman Act was sufficient, and I say it yet.

Mr. HENRY of Texas. Still the gentleman voted for the constitutional amendment.

Mr. GROSVENOR. I do not know whether I did or not.

Mr. HENRY of Texas. I think the gentleman did.

Mr. GROSVENOR. Anything beyond the additional facilities for enforcing the Sherman Act is, in my judgment, totally unnecessary.

Mr. HENRY of Texas. Well, if the Sherman Act is sufficient, why are the trusts not suppressed by the Republican Administration?

Mr. GROSVENOR. Everyone that has been attacked——

Mr. HENRY of Texas. And why does the President recommend further legislation for the suppression of trusts and combinations?

Mr. GROSVENOR. Well, the time was when I was charged with being the mouthpiece of the Administration, but the gentleman must know that that time has gone by. [Laughter.]

Mr. HENRY of Texas. Now, Mr. Chairman, I would give a definition of these combinations in restraint of trade. But this measure does not remotely allude to the subject. Prescribe a penalty and say that any person or corporation violating the provisions contained in the definition shall be punished in any district or United States court. This body, having the power to deal with interstate commerce, may define what combinations and contracts restrain interstate commerce, and have the absolute and unqualified power to suppress them. Now, gentlemen say that they want to consider this proposition from a nonpartisan standpoint. If they do, let them adopt that amendment, which defines trusts and provides a punishment for their formation and continuance. Let us approach the subject in a conservative way; but when we are dealing with the subjects of trusts and combinations we should use language which shall apply to the great combinations, monopolies, and conspiracies against trade, instead of talking about "publicity" of corporate affairs and discriminations and rebates.

For my part I can not see the merits of the publicity idea. We already know all about these trusts and combinations. We have complete lists of them. We know what their capital stock is. We know as much about them now as we would if this act should finally pass in the other end of the Capitol. It is an evasion of the question. It does not approach the question that is referred to by the President in his message. It is a miserable makeshift. It is a snare and delusion to lull the people to sleep.

Permit me now to discuss the constitutional power of Congress to deal with trusts and monopolies.

Mr. PALMER. Mr. Chairman, will the gentleman permit a question?

Mr. HENRY of Texas. Yes.

Mr. PALMER. The gentleman says that we all know what the trusts are and that he has a list of them. Will the gentleman place in the RECORD the list of what he calls trusts?

Mr. HENRY of Texas. Yes. The gentleman from Alabama [Mr. CLAYTON] will do that. He stated on yesterday that he had a list of them.

Mr. PALMER. I would be glad to know what you claimed the trusts are, what business they are engaged in, and whom they are hurting.

Mr. NEVIN. Under the gentleman's definition as given here in the paper I hold in my hand, I would ask him if he would put into the RECORD what he calls trusts. I mean by that corporations that are violating the law in the manner set out in the amendments which he proposes to offer.

Mr. WHEELER. Does the gentleman not know some of them?

Mr. NEVIN. I think I do, to answer the gentleman squarely, but I would like to know what the gentleman means by it.

Mr. HENRY of Texas. That will appear. We all know that 75 per cent of the manufactured articles that are consumed by the American people to-day are absolutely controlled and dominated by the great trusts of this country.

Mr. NEVIN. There I very much differ with you.

Mr. HENRY of Texas. Well, we will simply continue to differ on the proposition.

Mr. LITTLEFIELD. Where does the gentleman get his authority for the statement?

Mr. HENRY of Texas. I get my authority from various sources, and I have thoroughly convinced myself of the fact, and if the gentleman will listen I will convince him.

Mr. LITTLEFIELD. I hope so.

Mr. HENRY of Texas. You admit that there are some trusts. This would reach some trusts and combinations. It would apply to the Standard Oil trust, the sugar trust, the steel trust, the wire and nail trust, the borax trust, the paper trust, the leather trust, the coal trust, the beef trust, and various combinations between corporations, partnerships, and individuals which have entered into contracts in restraint of trade. You admit that, do you not?

Mr. LITTLEFIELD. Why, I am simply asking the gentleman a question. I asked him where he got his authority. I ask it in all kindness, simply wanting to know where the gentleman got his authority for his 75 per cent proposition. I am not disputing it, I am only saying that if you have any statistical authority for it I am curious to get it.

Mr. HENRY of Texas. That will accompany the discussion. I have thoroughly convinced myself of that proposition. These trusts which have been named and many others will be reached by my amendment.

This bill refers only to corporations. It should prevent contracts and combinations between persons and corporations and partnerships and joint-stock companies as well. It can do so. Let it apply to all of them alike, and whenever they enter into a contract in restraint of trade which destroys competition they should be punished under that definition enacted by virtue of the commerce clause of the Constitution.

It will be seen that the proposed amendment clearly and specifically states what shall constitute a trust. Then it provides an adequate penalty for the violation of the same. Has this body the power to thus deal with trusts and combinations? Can we define them when they restrict interstate commerce, and can we punish them? Let my State's rights friends on the Republican side of the House answer whether we can. The distinguished gentleman from Maine [Mr. LITTLEFIELD] on yesterday was quick to say that this body had not exhausted its power, and it was evident that he believed that we could thus define these contracts in restraint of trade and provide for a punishment. The commerce clause is broad, and any contract which impedes commerce between the States of this Union can be prohibited and destroyed by law enacted by this body, if it so chooses. Here is the Knight case frequently alluded to. It clearly elucidates the extensive jurisdiction Congress has over contracts in restraint of free competition.

It will be perceived how far-reaching the proposition is, that the power of dealing with a monopoly directly may be exercised by the General Government whenever interstate or international commerce may be ultimately effected. The regulation of commerce applies to the subjects of commerce, and not to matters of internal police. Contracts to buy or sell or exchange goods to be transported among the several States, the transportation and its instrumentalities, and articles bought and sold or exchanged for the purpose of such transit among the States, or put in the way of transit, may be regulated. But this is because they form part of interstate trade or commerce.

Thus unanimously spoke the Supreme Court of the United States.

Take the great United States Steel Corporation, a combination of many corporations in this country, doing business throughout this Union of States and doing an interstate-commerce business, the very terms of its agreement and combination providing that it shall do an interstate-commerce business and shall strike at

and destroy competition, raising the price of nearly all iron and steel products, by its very language thus disclosing its intent and purpose. This gigantic trust is capitalized at $1,752,371,856. Its visible assets are about $300,000,000, and the balance of this immense amount of capital stock is watered and fraudulent. This trust controls more than 77 per cent of the iron and steel industry of the United States. The iniquitous protective tariff, shutting out the competition of the outside world, is responsible for its profits of more than $100,000,000 annually. And yet there is not one word in this law to suppress such a combination.

There are various trusts and combinations admittedly doing an interstate business, which are restraining trade to-day throughout this Union, that could be reached under the power of Congress. Why not apply the remedy? The President of the United States in his recent message says that Congress has not exhausted its power. He says that such combinations should be suppressed, that "fraudulent overcapitalization" should be stopped. The Attorney-General, a distinguished lawyer, holds that Congress has not exhausted its power; that the Sherman antitrust law is not sufficient and should go further than it does. Then why not advance along "conservative" lines and put something in this statute against "trusts" and "monopolies" and "combinations" in restraint of trade, instead of only directing its language at corporations, at railroads, for giving rebates, and persons and corporations for receiving them?

Let me dwell upon the fact that Congress has the power to prohibit such combinations and contracts in restraint of trade. After an exhaustive investigation, it seems clear to me that this body has the power to enact legislation that will control and destroy these contracts and agreements which impede commerce between the various States of the Union. The clause of the Constitution is broad enough not only to warrant this legislation, but to warrant every amendment that has been offered or that will be offered by the minority.

Here is the language of the Supreme Court in reference to just such contracts, combinations, and agreements as I am discussing. It is in the noted Joint Traffic Association case:

> The point not being raised and the decision of that case having proceeded upon an assumption of the validity of the act under either construction, it can, of course, constitute no authority upon this question. Upon the constitionality of the act it is now earnestly contended that contracts in restraint of trade are not necessarily prejudicial to the security or welfare of society, and that Congress is without power to prohibit generally all contracts in restraint of trade, and the effort to do this invalidates the act in question.

The very question at issue before this body now was before the Supreme Court. Can contracts and combinations in restraint of trade be prohibited by Congress?

> It is urged that it is for the court to decide whether the mere fact that a contract or arrangement, whatever its purpose or character, may restrain trade in some degree, renders it injurious or prejudicial to the welfare or security of society, and if the court be of opinion that such welfare or security is not prejudiced by a contract of that kind, then Congress has no power to prohibit it, and the act must be declared unconstitutional.

In answering the question the language of the Supreme Court is clear and resonant. They say:

> The question really before us is whether Congress, in the exercise of its right to regulate commerce among the several States, or otherwise, has the power to prohibit, as in restraint of interstate commerce, a contract or combination between competing railroad corporations entered into and formed for the purpose of establishing and maintaining interstate rates and fares for the transportation of freight and passengers on any of the railroads parties to the contract or combination, even though the rates and fares thus established are reasonable. Such an agreement directly affects, and of course is intended to affect, the cost of transportation of commodities, and commerce consists among other things of the transportation of commodities, and if such transportation be between States it is interstate commerce. The agreement affects interstate commerce by destroying competition and by maintaining rates above what competition might produce.

Now they say:

> We think it extends at least to the prohibition of contracts—

Such as defined in my amendment—

> relating to interstate commerce, which would extinguish all competition between otherwise competing railroad corporations, and which would in that way restrain interstate trade or commerce

As broad as language can make it.

The court continues:

> We do not think, when the grantees of this public franchise are competing railroads seeking the business of transportation of men and goods from one State to another, that ordinary freedom of contract in the use and management of their property requires the right to combine as one consolidated and powerful association for the purpose of stifling competition among themselves, and of thus keeping their rates and charges higher than they might otherwise be under the laws of competition. And this is so, even though the rates provided for in the agreement may for the time be not more than are reasonable. They may easily and at any time be increased. It is the combination of these large and powerful corporations, covering vast sections of territory and influencing trade throughout the whole extent thereof, and acting as one body in all the matters over which the combination extend, that constitutes the alleged evil, and in regard to which, so far as the combination operates upon and restrains interstate commerce, Congress has power to legislate and to prohibit.

Let Congress make this act apply to all such contracts of corporations and individuals restraining interstate commerce. The Supreme Court decides that this body has complete power; and if we are proposing to legislate against trusts and combinations in restraint of trade, let us define these combinations and trusts and penalize them.

Is there anything harsh or radical in that sort of legislation? You boast that you passed the Sherman antitrust law; that you put it on the statute books. The Supreme Court has so construed its provisions away that it is no longer useful and will not reach the modern trust and combinations and conspiracies against trade. Amend the language and make it reach them and extirpate them if we can.

It would be wearisome to detain the committee long in reading from books, but permit me to read from one other decision of the Supreme Court in order to clearly put before this body and before the country the power of Congress in dealing with the very question in hand. The Supreme Court said, in 1899, in the matter of the power of Congress:

> Under this grant of power to Congress that body, in our judgment, may enact such legislation as shall declare void and prohibit the performance of any contract between individuals or corporations where the natural and direct effect of such a contract will be, when carried out, to directly, and not as a mere incident to other and innocent purposes, regulate to any substantial extent interstate commerce. (And when we speak of interstate we also include in our meaning foreign commerce.) We do not assent to the correctness of the proposition that the constitutional guaranty of liberty to the individual to enter into private contracts limits the power of Congress and prevents it from legislating upon the subject of contracts of the class mentioned.

Very often the Supreme Court has held that no State in this Union could pass a law which would impede commerce between the States, and yet we refuse to say here to-day that corporations, persons, or partnerships shall not enter into agreements and contracts which restrain free commerce between the States and destroy competition. We have the power. Let us exercise it.

The court further says, in the same case:

> We can not so enlarge the scope of the language of the Constitution regarding the liberty of the citizen as to hold that it includes or that it was intended to include a right to make a contract which in fact restrained and regulated interstate commerce, notwithstanding Congress, proceeding under the constitutional provision giving to it the power to regulate that commerce, had prohibited such contracts.

In a nutshell the court comes to this conclusion, which reaches the difficulty now before us, if we would but apply the language and remedy in our legislation to-day.

> We conclude that the plain language of the grant to Congress of power to regulate commerce among the several States includes power to legislate upon the subject of those contracts in respect to interstate or foreign commerce which directly affect and regulate that commerce, and we can find no reasonable ground for asserting that the constitutional provision as to the liberty of the individual limits the extent of that power as claimed by the appellants. We therefore think the appellants have failed in their contention upon this branch of the subject.

Thus the Supreme Court holds that this body has absolute and plenary power to enact a statute which shall define these contracts as being in restraint of trade and interstate commerce and to punish corporations and individuals entering into such combinations. We all know that many corporations and persons have entered into such combinations. It is admitted on all sides, by gentlemen on that side of the House, by the President of the United States, and by the Attorney-General of the United States. Then let us deal with them in a "conservative" manner, if you please; let us say to these persons and corporations with whom we are at war at this time that they shall not impede free intercourse between the States of the Union and suppress competition in many articles that are consumed by the American people.

There can not be any doubt of our power to thus deal with this subject. Let us apply every remedy. If you are willing to suppress the trusts and control them, let us apply every reasonable expedient, and when we are legislating against trusts and combinations do not talk about corporations and discriminations and rebates, for the bill now being considered will not reach contracts, combinations, and conspiracies against trade.

If you will put this definition in the statute and prescribe adequate penalties for the violation of the same, I think it would not be an unwise step. Take every step warranted by the decision of the Supreme Court, by the Constitution, by every dictate of justice and fairness to the American people, and it can not be construed to be an unwarranted attack on the legitimate business interests of this country. There are many ways in which we can approach this subject. We should provide that the products of the trusts which are protected by the Dingley tariff law shall be placed on the free list. Do you believe that the people are more entitled to protection at your hands than the trusts? Then, if the trusts are sheltered by the Dingley bill, let us protect the American people by removing the shelter from the trusts afforded by the Dingley law. Some gentlemen on the other side of the House have announced that they are willing to revise the tariff, and, if I mistake not, the rumbling which has been heard in the State of Iowa on the question of revision of the tariff and the destruction of the trusts will soon spread from one end of this country to the

other and wipe out and destroy combinations and monopolies in America. [Applause on the Democratic side.]

Mr. PALMER. Will the gentleman yield to me for a question?

Mr. HENRY of Texas. Yes.

Mr. PALMER. I understand the gentleman to say that his remedy for the trust evil is to put trust-made goods on the free list.

Mr. HENRY of Texas. That is one of several remedies.

Mr. PALMER. And the gentleman says that 75 per cent of the manufactured goods of this country are trust-made goods?

Mr. WHEELER. Oh, no; he did not say that.

Mr. PALMER. If the gentleman will excuse me, I am putting my question to the gentleman from Texas. He stated more than once that 75 per cent of all manufactured goods in this country were trust made. The question I want to ask is this: In order to suppress what you call the trust evil, are you willing to put 75 per cent of all manufactured goods in this country on the free list?

Mr. HENRY of Texas. If they are in the trusts, I am. I am ready to do anything legitimate and constitutional to crush the trusts.

Mr. LITTLEFIELD rose.

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Maine?

Mr. HENRY of Texas. Yes, sir.

Mr. LITTLEFIELD. Do I understand the gentleman to suggest the putting on the free list of these items mentioned in the amendment submitted by the minority?

Mr. HENRY of Texas. I am just coming to that point.

Mr. LITTLEFIELD. I notice among those articles binding twine. Now, do I understand the gentleman to say that there is a trust or combination or monopoly created by the tariff in the manufacture of binding twine?

Mr. HENRY of Texas. Let me make this argument in my own way. My time is limited. I do not want to be discourteous; but I would like to go ahead without interruption.

Mr. LITTLEFIELD. Well, I do not want to disturb the gentleman.

Mr. HENRY of Texas. If the trusts are protected by the tariff law, it will do no harm to protect the American people by removing the tariff on trust-made goods. It seems to me that a gentleman who refuses to remove the tariff which protects the trusts loves the trusts more than he does the American people when he refuses to give the people that benefit.

The amendment to which I have referred has been printed, but I will read it in order that it may go in with my remarks, and will offer it hereafter.

Amend the substitute by adding the following:

"SEC. —. That hereafter the following articles may be imported into the United States free of all duty:

"1. Steel rails, structural steel, tin plate, iron pipe, and other metal tubular goods; wire nails, cut nails, horseshoe nails, barb wire, and all other wire; cotton ties, plows, and all other agricultural tools and implements.

"2. Borax, borate of lime, and boracic acid.

"3. Paris green.

"4. Paper and pulp for the manufacture of paper.

"5. Salt.

"6. Plate glass and window glass."

The adoption of this amendment would lighten the burdens of many citizens in this country. It would bring untold relief to the great industrial and agricultural population. Its adoption means an enormous saving on many of the prime necessities of life.

Then, the next amendment reads:

Amend the substitute by adding the following:

"SEC. —. The President is hereby authorized, and it shall be his duty, whenever it shall be shown to his satisfaction that by reason, wholly or materially, of the existence of the tariff or customs duty upon any article, such article, or articles of its class and kind, are monopolized or controlled by any person, organization, or combination to the detriment of the public, by proclamation to remove or suspend such duty, in whole or in part, until the next assembling of Congress, or until the abuse prompting him to such action shall have ceased."

We shall offer those two amendments. They simply provide that where a trust is protected by the tariff laws the duty on goods manufactured by that trust shall be removed.

Mr. Chairman, what was the object of the tariff in its genesis? These "infant industries" of a hundred years ago that clamored so loudly for protection have now grown to be gigantic monopolies, combinations, and conspiracies against trade. With their millions and millions of dollars of capital, they are still asking for protection under the tariff laws of the United States. What was the reason of the protective tariff laws of this country in former years? Let us see. Mr. Blaine, perhaps the most conspicuous and brilliant advocate of the protective tariff theory in the latter half of the last century, used in his book entitled "Twenty Years of Congress" language of great meaning and weight. It is commended to gentleman who now favor retaining these tariff laws on the statutes in order that the trusts may fatten upon the resources of the people and go on declaring their millions and millions of dollars in dividends:

The American protectionist does not seek to evade the legitimate results of his theory. He starts with the proposition that whatever is manufactured at home gives work and wages to our own people, and that if the duty is even put so high as to prohibit the import of the foreign article the competition of home producers will, according to the doctrine of Mr. Hamilton, rapidly reduce the price to the consumer. He gives numerous illustrations of articles which, under the influence of home competition, have fallen in price below the point at which the foreign article was furnished when there was no protection.

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Protection, in the perfection of its design as described by Mr. Hamilton, does not invite competition from abroad, but is based on the controlling principle that competition at home will always prevent monopoly on the part of the capitalist, assure good wages to our laborer, and defend the consumer against the evils of extortion.

When the tariff laws were first enacted it was supposed that if manufacturers were protected from the competition of the outside world then the competition of the manufacturers at home would reduce the price of the commodity to the American people. Such was the basic theory of the protective tariff advocated by Hamilton, Clay, and Blaine. They believed that, if we should shut out the balance of the world from our markets, competition at home among the protected industries would bring down and keep down the prices of their commodities to our home people. But this competition at home is utterly eradicated and destroyed, by the trusts and combinations among the protected industriesl which limit production, increase prices, and monopolize the home markets by their closely formed agreements and conspiracies. Competition among them at home is faded and gone. It is a mere reminiscence.

The impelling cause which induced Mr. Blaine and those who went before him to advocate a protective tariff has disappeared. Such reason for the protective tariff does not now exist. These infant industries have grown to be tremendous trusts and monopolies, and under no circumstances will they compete with one another while the tariff wall permits them to raise prices, agree among themselves, and control without let or hindrance the market in America, and grind the people to the full extent permitted by the protective tariff. Living to the American people has increased 40 per cent under the Dingley law. Over 200 corporate trusts, and many others, have been organized since its passage. Truly it is the mother of trusts! It affords a veritable breeding ground for them. They sell many of their products to the American people a hundred per cent higher than they sell to foreigners. Many articles are shipped abroad, and freight paid, for prices far below what the American people pay. The tariff permits this condition and lets the trusts grind our home people with prices to the full level of the tariff wall.

This condition can and should be remedied by placing trust-made goods on the free list, and thus we can force the trusts to sell to the American people at least for the same prices they sell to foreigners. There is no high wall then to shield them from outside protection. Put agricultural tools, plows, and implements on the free list. Put every trust-made article there. It will be a long stride in the right direction toward destroying trusts and combinations. Deny the trusts the use of the mails, telegraphs, and all instrumentalities of commerce. Tax the trusts out of existence. Not the legitimate corporate interests, but the great monopolies and combinations impeding and restraining interstate trade and commerce. Such power of taxation is given us to the fullest extent. Lay the heavy hand of taxation on the fraudulent overcapitalization of the corporations. By this method prohibit their watered stocks and bonds. Such power is confessed on both sides of this House.

For over three hundred years the English-speaking people have denounced monopolies and conspiracies against trade. They condemn them to-day. In America we are but repeating the historic struggles of the people of England against monopolies. The monopolies went down in the contest there and the trusts and monopolies will go down here. Queen Elizabeth yielded to the indignation of the House of Commons, and repealed the monopolies which she had granted on the necessities of life. The granting of monopolies was one of the chief causes which sent Charles I to the block. The struggle is at hand, and there can be no compromise between the people and the trusts. The spirit of independence and justice which has ever characterized the Anglo-Saxon race will continue to grapple with this great problem, and in the end there will be no vestige of the trust and monopoly remaining.

The CHAIRMAN. The time of the gentleman has expired.

[Mr. HENRY of Texas took his seat amid loud applause from the Democratic side].

Mr. LITTLEFIELD. Mr. Chairman, I yield one hour to the gentleman from Wisconsin [Mr. JENKINS].

Mr. JENKINS. Mr. Chairman, before reaching the question involved, I desire to allude to my adherence to the oft-expressed opinion, first given in 1892, that Congress has no power to legislate with

reference to the so-called trust question. I shall support the pending bill, which, I believe, will receive the unanimous support of the House, hesitating somewhat against unloading upon the Supreme Court in times of great excitement unconstitutional legislation simply because there is a popular demand for it. When some of the ablest gentlemen of my acquaintance differ on the question, I feel as though it should be brought to the attention of the American public as early as possible. The subcommittee labored earnestly to formulate something to satisfy the popular demand and devoted much time to the work. I am not entitled to any credit for a word or line of this proposed legislation, but cheerfully submit my views to the American people.

Mr. Chairman, as there is practically a unanimous demand upon the part of the people for Congressional legislation in regard to trusts, the subject has to be carefully examined before action, in order to legislate, within constitutional limitations, wisely and justly, to better rather than to injure present conditions. We must first ascertain the disease and then apply the appropriate remedy, and may not be able to agree upon either the disease or the remedy. Much confusion exists to-day in the popular mind in regard to the subject. Everybody names the diseases and has prescribed a remedy, and as much excitement prevails and considerable feeling exists the average mind is not particular as to either, but is contented with denouncing trusts and suggesting all sorts of remedies. The people are in earnest. Very many fair-minded men ask why this great outcry against the industrial interests of the country that have done so much to bring the nation into prominence and better the condition of the labor of this country, insisting that continued agitation of the subject will retard the growth of the country and in the end do violence to the labor thereof. The point of view aids largely in shaping judgment. In other words, the people are largely influenced by their own personal interests. I speak as opposed to all class and sectional legislation, keeping strictly in mind constitutional limitations that legislation should be for the benefit of the people and not for their oppression. It will never do for those intrusted with legislative power to do something under excitement for political effect, or to satisfy popular clamor, that the people themselves will not approve of or will fall short of affording them the relief demanded.

Great responsibility rests upon the representatives of the people both in State and in nation, for they have the rights and welfare of the people and the perpetuity of the nation as founded by the fathers in their keeping. The difficulties of legislation are increased by the intense feeling upon the part of the people. A most tremendous change has been wrought in this country in the last few years. It has operated quietly, effectually, aggressively, and lawfully, but not without provoking, however, intense feeling, developing dangers that must be removed, introducing new elements that must be controlled, subverting many principles of government, making the many industrial slaves of the few—Americans, freemen in name only. The end sought has been obtained—competition has been eliminated, the business and industrial interests of the country placed in the hands of a few instead of the many. The average American citizen, instead of being his own master, has rapidly become the industrial slave of another. The individual is no longer known in business.

Sharp business men saw that millions of money could be made if combination of capital would eliminate competition. Trusts were first employed, then combinations of different organizations; but now corporations have taken the place of both trusts and combinations and are now the great and sole agencies and instruments of commerce and transportation, controlling the necessaries and luxuries of life. It is easy to denounce anything, and, in fact, everything—to condemn a party, a legislative body, or an individual for what is done or not done. Drafting laws always involves responsibilities, but in times like these, when there is a general demand for prompt legislative action, those charged with the responsibility feel it and have to proceed with great care. This is a government of limited power only, confronted with the reserved rights of the States and the power of the judicial branch of the Government to pass upon the constitutionality of its legislative declarations. To frame the required legislation that will satisfy the people and meet the approval of the Supreme Court is very difficult within the limited power of Congress. A stern situation confronts us and no one can anticipate what the outcome will be.

The Democratic party continually charges the Republican party with being the friend of trusts, monopolies, and of the rich people, and the enemy of labor generally, and contends that if the tariff were removed trusts would thereby be destroyed. It may be worth while to examine the record of the Democratic party on these several matters, and also to consider the present state of the law. If there is no power in Congress to legislate so as to reach these various questions and to control monopolies, trusts, and the great corporations, neither party is to blame for a failure of legislation. The Republican party has placed itself on record as being in favor of adopting a constitutional amendment so as to create a power which will be adequate to control the commerce of the country, the great corporations, the monopolies, and so-called trusts, while the Democratic party has placed itself on record as being opposed to this remedial legislation.

Trusts proper and combinations proper were very numerous and active during Mr. Cleveland's term as President, when he had both Senate and House in political sympathy with him, but at that time the Democratic party did not undertake any legislation and never made any effort whatever to legislate against monopolies, trusts, or corporations, but all the time have been very active in charging the Republican party with a dereliction of duty. This whole question would have been settled a long time ago if the Republican party controlled a two-thirds vote in both Houses of Congress.

The duty of Congress is to come to the relief of the people whenever possible, bury all party differences, and take up great questions like this, so steadily and earnestly confronting the nation, and dispose of the same on business principles, with reference to the rights of all, whether it be labor or capital, whether they be rich or poor. The American people are uneasy. There never was a time in the history of the nation when almost every individual was so politically sensitive as at present. All realize that there is something wrong, something needing correction. The situation is aggravated by the political division in this country; the Democratic party practically antagonizing every position of the Republican party necessary to relieve the people. For several years the Republican party has been wonderfully successful, and I believe that party is as anxious as ever, not only to be retained in power, but to do everything possible for the best interests of the whole people.

The people are represented by parties, and great questions are now presented in this country; questions that will not admit of postponement, and the party equal to the emergency and occasion can be successful. Realizing that something is wrong, many argue that it is the tariff, and most all charge present conditions to the trusts. So much has been said with regard to tariff and trusts that the people are excited, alarmed, and aroused, intent on doing something as early as possible without reference to the subject or the after effect upon trade relations. Everybody condemns the trust so universally that a suggestion that trusts are beneficial receives no consideration. The people are in no mood to argue the merits or demerits of the trust, but content themselves by saying that trusts must go. The trust is blamed for all delinquencies. The Democratic party uses the argument to great advantage by charging that the tariff system is constitutionally and radically wrong; that the Republican party legislates for the rich and against the poor; that trusts are oppressive and are sustained by the Republican party. As it is plain that the people are interested and conditions threatening, it may be worth while to review the situation and honestly and thoroughly consider the same. Nothing will help more than to carefully and fully state the condition, and the American people can be safely trusted to do what is right as soon as they fully comprehend the subject.

Much confusion exists in the public mind on these very important questions. We must first ascertain what is a trust and its relation and effect upon trade and commerce. To do this we must call things by their right names. Mr. Justice Story defined a trust as "an equitable right, title, or interest in property, real or personal, distinct from the legal ownership thereof." This definition from a great jurist does not afford much light, but practically a trust means where A as the absolute owner of property conveys the same to B for the use and benefit of C—A parting with all of his title, B taking the legal title, while the equitable title goes to C. It is useless to trace the origin and object of the trust as defined by Mr. Justice Story. The modern trust is founded on the same definition, but its object and purpose are entirely different. The modern trust was formed by a combination of all similar concerns in the United States under one management. In the case of corporations all over the country the stockholders of each assigned their stock and took certificates in the new concern, but the people throughout the country were very hostile to these modern trusts and the law was adequate to reach them, and they all retired from business on the trust plan. After the trust had disappeared combinations came, soon to disappear, but in the place of combinations and trusts corporations have grown and taken the place of both.

These corporations are created by the State and not by the Federal Government. My insistence is that nothing further can be done under the Constitution and that the only remedy for the people is the adoption of an amendment to the Constitution which will give Congress power to regulate commerce in the United States, placing all corporations, copartnerships, and joint stock companies under the control of Congress and giving Congress the power to regulate, control, prohibit, and dissolve all contracts and combinations in restraint of trade or commerce. Unquestionably

the chief bnsiness of the country will be done through and by corporations, and the only possible remedy for the people is the adoption of this amendment. We are told that overcapitalization is a great evil and that if capitalization of corporations were limited it would benefit the people. This might be a proper question for the States, but something Congress has nothing to do with. The average person throughout the country is not interested in the question of capitalization. The people want the corporations controlled. They do not want these great monopolies to control the country. To let them go by limiting their capital or imposing a small tax, or even by making public their affairs, would legalize them as far as Congress is concerned, without any corresponding benefits to the people.

The States deny to the Federal Government the power to create these corporations. They are all created by the laws of their respective States and practically placed upon the same business footing as citizens, and until they come in competition with the legislative power of Congress are doing a perfectly lawful business, even though some might consider it to be oppressive. The trust, combination, and corporation all have the same object in view, the elimination of competition, so to-day the people have absolutely no protection whatever. A gigantic institution can control one or more of the necessaries of life and either refuse to sell to the people or, if they sell at all, on just such terms as they suggest. This is what makes the system so objectionable. These great industrial changes seriously affect almost everyone. Years ago we had in this country many proprietors of business, or what might be called business men, or yet stating it plainer, employers. Now we have but very few employers; almost all are employees. They are compelled to await the acting of the employer. They have no voice whatever in the industrial affairs of this country. They go to work at the suggestion of the monopoly, work on such terms as the monopoly dictates, and at such length of time as they prescribe, all contributing to the maintenance of a very bitter feeling. As I shall show, these unwise institutions are beyond the power of Congress and practically beyond the power of the States, growing stronger and stronger every day, and are determined to maintain themselves on a proposition indisputable that they have the absolute legal right to do as they see fit with their property, and that if people do not want to buy of them or work for them they need not.

Opposed to the few manufacturers or employers in the country are millions of laboring men who are the political power in the nation and who insist upon their rights in business affairs. They want to be parties to the contract affecting their labor, and when they are told they can either work on the terms given them or quit, a bad feeling is produced. The laborers know that the only possible way for them to succeed is by preventing others from taking their places. They pay no further attention to the statement that if they do not want to work themselves they must let others work, but they combine for what they deem their mutual protection. They absolutely believe they are standing in defense, not only of their own rights, but of their families. They are supported in their contention by a very large majority of the people. The strike comes on and they feel that after having left work their only protection and safety depends in not letting any one else take their places. Their employer, who is following a course marked out by law, calls upon the military arm of government and the injunctional power of the court for protection. This intensifies the animosity already existing, and conditions rapidly grow worse that ought never to exist in a free country like the United States, and the question is, How much longer can this state of affairs continue? But we need to stop and consider the situation, and so legislate as to obviate present difficulties and contribute to the upbuilding of a good feeling between the capitalist and the laborer. I am not aware of any organization of labor that demands that the business of this country be crippled. We do not want to do anything in any way to prevent a man pursuing his constitutional rights, or to deprive him of his property interests, because if we injure the capital of the country we are liable to weaken the laborer, who is so absolutely dependent upon capital. It can be no hardship to insist that, as far as the law is concerned, the laborer and the capitalist should be put on an equal footing. The welfare and perpetuity of the country depend upon it.

Over ten years ago I publicly announced that the only remedy was a constitutional amendment. I paid close attention to everything that was said at the great trust convention that met in Chicago a few years ago. I have been very materially strengthened from time to time by many things said by moneyed men in favor of it. As far as the question of time is concerned, if the people are sincere in demanding relief it all could be accomplished inside of two months. Congress could pass the resolution in a day or two; all of the State legislatures are now in session, or could be called in session in a very short time, and ratification could be accomplished. The people to-day all over the nation are looking to Congress for relief. In order to satisfy them that Congress has no power we will first consider the dual system of government. At the outset we had thirteen sovereign and independent States. They erected our present Federal Government. At the time of the adoption of the Constitution each State had absolute power to interdict what might be called interstate commerce, and had exclusive control of all commerce within their respective limits.

While I do not want to be hypercritical, I want to call full attention to the legal situation. It will be noted by subdivision 3, section 7, Article I of the Constitution, that Congress was given power to "regulate commerce with foreign nations and among the several States and with the Indian tribes." While this power was given in the same terms, it certainly was with different intention. That is, the power to regulate commerce with foreign nations and with the Indian tribes is much more extensive than to regulate commerce with the several States. To properly understand it, this section of the Constitution must be considered in connection with subdivision 18, section 8 of Article I:

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Therefore it will be seen that the only power Congress has is to make all laws necessary and proper to regulate commerce between the States. The States never surrendered to the Federal Government power to interdict commerce between the several States, they retaining that power with the power to absolutely control commerce within their respective limits; but this power of interdicting as far as the States is concerned is dormant. The power to regulate commerce presupposes that commerce exists, but the great object and purpose of the power was to promote unity between the States and to facilitate commerce between the States and not to embarrass commerce between the States. No power whatever was given to Congress to destroy or embarrass or hinder commerce between the States. From the day of the adoption of the Constitution down to the present time not a writer on this subject has ever suggested that Congress has any power to interfere with interstate commerce; but, on the other hand, every writer, including the Supreme Court of the United States, has said the object of vesting in Congress the power to regulate commerce was to insure uniformity of regulations against conflicting discriminating State legislation.

This matter has been more or less discussed in 9 Wheaton, 1; 12 Wheaton, 419; 15 Wallace, 275; 19 Wallace, 589; 91 United States, 280; 102 United States, 697; 128 United States, 21.

Now, I have contended from the outset that it was never the intention of the creators of this power to give Congress the power to destroy or prevent interstate commerce. In other words, the only power which Congress has is to prevent individuals or the States from attempting to regulate commerce or to place any restraints upon interstate commerce. If this power to interfere with the subject of commerce exists it must and can be exercised at the will of Congress, and the great object and purpose of the union of over one hundred years will be a failure. The supreme object and purpose of the formation of the Constitution was to make a more perfect union, destroy the power to interdict commerce between the States, and to make commerce free. No one can foretell what great influences and power may be brought to bear on Congress for unjust discriminations, unquestionably leading to prohibition of products, sectional and class legislation, if it should ever be held that Congress has absolute power to say what and on what terms articles of commerce can be shipped.

It was said in Groves *v.* Slaughter (15 Peters, 449) that "Congress could not prevent entry of slaves from one State to another, or force them into a State."

From a legal standpoint this subject is entirely new. So far in the history of this nation it has been discussed with reference to the line of demarcation between the power of Congress and the reserved power of the States and the so-called Sherman Act of July 2, 1890. There has been but little opportunity to develop thought or obtain the opinion of the Supreme Court of the United States on the important question how to deal with the great industrial situation confronting the nation. There must, in my judgment, be another development of the Constitution. Unquestionably there is necessity for action.

While there is anxious feeling existing in the minds of our people to-day against monopolies, I do not believe it to be my duty to denounce them or add to the present excitement. As I have said, these people are pursuing a lawful course, created and protected by the law. While monopolies have always been considered illegal at common law, the statutes of the several States in opposition to the common law have created these monopolies. Our people have always felt that they had the constitutional right to choose their own pursuits. To-day there is no possibility of their doing that. Hence, there is a denial of rights and privileges which they desire to enjoy, and through the corporation and

aggregation of capital the exclusive rights and privileges which the States were unable to directly bestow upon anyone are acquired by a few against the many.

I have considerable Democratic authority in support of my contention that Congress can not legislate: that is, if we ever do anything to meet the so-called trust question we will have to have a constitutional amendment. I shall cite nothing but Democratic authority for this position, which will include reference to the Supreme Court of the United States, and I think what I shall offer will be absolutely conclusive in favor of my statement.

On Thursday, May 31, 1900, we were trying to adopt a rule for the consideration of the so-called trust amendment to the Constitution, and, as on yesterday, the leader of the other side of the Chamber, the gentleman from Tennessee [Mr. RICHARDSON] opposed the adoption of the rule. He was then the acknowledged leader of the Democracy, and is to-day the acknowledged leader of the Democracy, as he has long been the leader of the Democracy on the floor of this House. He was supported warmly both by generous applause and votes on the Democratic side of the Chamber. I desire to quote him accurately:

It will, in our judgment, take away from the States the power which they now possess to suppress trusts, or, at least, greatly impair that power in the States. The most effectual remedy so far for the suppression of trusts and their control and regulation has been in the States. Mr. Speaker, this constitutional amendment, if passed, will serve to excuse Congress from acting and break down the power of the States to control these trusts. Now, I say in view of that fact our party has decided to oppose this constitutional amendment. We believe it is right to oppose it. * * * If we pass this constitutional amendment the effect of it will be to do just what the dominant party desires to do, and that is to eliminate the trust issue from the campaign this year. Now, are we going to help to do it? I hope not. I trust every Democrat who loves constitutional law and order, who believes in the rights of the State, will stand with his party here and vote down this constitutional amendment. [Applause on the Democratic side.] (First session Fifty-sixth Congress, p. 6301.)

It will be noted that the learned gentleman from Tennessee insists that the power is with the State. If that is correct, and I do not dispute him, then Congress has nothing to do with it. He further confesses that if this power is conferred on Congress it would remove the trust question. Therefore, if that is true, the tariff is not responsible for our trouble, because the States can not interfere with the tariff. The argument was—and he was well supported by his Democratic colleagues—that the whole power to dispose of this question resides with the States. I want no abler support than the statement of the learned gentleman from Tennessee.

I have another excellent case, which was decided by Judge Jackson, of the Supreme Court of the United States.

Mr. BALL of Texas. Will the gentleman from Wisconsin please state what decision of the Supreme Court held that?

Mr. JENKINS. I can not make my speech all at once.

Mr. BALL of Texas. You say that they said so and so. Will you quote one case?

Mr. JENKINS. If you will but be patient, you will hear and be a convert to my cause.

Mr. BALL of Texas. Just cite one such decision.

Mr. JENKINS. Now, Mr. Chairman, I want to get through as fast as possible, and I will read them.

In re Greene, 52 Federal Reporter, 104, page 112, the defendant had been indicted under the so-called Sherman Act of July 2, 1890. In short, while there were four counts in the indictment, they all embraced practically the one proposition that he, with others, had been making contracts with reference to manufacture and sale and the buying up of competitive institutions in different States in violation of the act. He had been arrested in Ohio, and an application having been made for an order to transfer him to Massachusetts for trial, he sought the aid of the United States court through a writ of habeas corpus, and in disposing of the case the court, among other things, said:

The quantity of such products, whether large or small, can in no way affect the right of disposition incident to lawful ownership. Congress may place restriction and limitations upon the right of corporations created and organized under its authority to acquire, use, and dispose of property. It may also impose such restrictions and limitations upon the citizen in respect to the exercise of a public privilege or franchise conferred by the United States. But Congress certainly has not the power or authority under the commerce clause, or any other provision of the Constitution, to limit and restrict the right of corporations created by the States, or the citizens of the States, in the acquisition, control, and disposition of property. Neither can Congress regulate or prescribe the price or prices at which such property, or the products thereof, shall be sold by the owner or owners, whether corporations or individuals. It is equally clear that Congress has no jurisdiction over, and can not make criminal the aims, purposes, and intentions of persons in the acquisition and control of property which the States of their residence or creation sanction and permit. It is not material that such property, or the products thereof, may become the subject of trade or commerce among the several States or with foreign nations. Commerce among the States, within the exclusive regulating power of Congress, "consists of intercourse and traffic between their citizens, and includes the transportation of persons and property, as well as the purchase, sale, and exchange of commodities." (County of Mobile *v.* Kimball, 102 U. S., 691-702; Gloucester Ferry Company *v.* Pennsylvania, 114 U. S., 203, 5 Sup. Ct. Rep., 826.)

In the application of this comprehensive definition it is settled by the decisions of the Supreme Court that such commerce includes not only the actual transportation of commodities and persons between the States, but also the instrumentalities and processes of such transportation; that it includes all the negotiations and contracts which have for their object or involve as an element thereof such transmission or passage from one State to another; that such commerce begins, and the regulating power of Congress attaches, when the commodity or thing traded in commences its transportation from the State of its production or situs to some other State or foreign country, and terminates when the transportation is completed, and the property has become a part of the general mass of the property in the State of its destination. When the commerce begins is determined not by the character of the commodity, nor by the intention of the owner to transfer it to another State for sale, nor by his preparation of it for transportation, but by its actual delivery to a common carrier for transportation or the actual commencement of its transfer to another State. At that time the power and regulating authority of the State ceases, and that of Congress attaches and continues until it has reached another State and become mingled with the general mass of property in the latter State.

That neither the production or manufacture of articles or commodities which constitute subjects of commerce and which are intended for trade and traffic with citizens of other States, nor the preparation for their transportation from the State where produced or manufactured, prior to the commencement of the actual transfer or transmission thereof to another State, constitutes that interstate commerce which comes within the regulating power of Congress; and, further, that after the termination of the transportation of commodities or articles of traffic from one State to another and the mingling or merging thereof in the general mass of property in the State of destination, the sale, distribution, and consumption thereof in the latter State forms no part of interstate commerce. (Pensacola Telegraph Company *v.* Western Union Telegraph Company, 96 U. S., 1; Brown *v.* Houston, 114 U. S., 622, 5 Sup. Ct. Rep., 1091; Coe *v.* Errol, 116 U. S., 517-520, 6 Sup. Ct. Rep., 475; Robbins *v.* Taxing Dist., 120 U. S., 497, 7 Sup. Ct. Rep., 592; and Kidd *v.* Pearson, 128 U. S., 1, 9 Sup. Ct. Rep., 6.) In the latter case the Supreme Court pointed out the distinction between commerce and the subjects thereof, and held that the manufacture of distilled spirits, even though they were intended for export to other States, was not commerce, falling within the regulating powers of Congress.

The defendant was discharged, for, it will be seen by the opinion quoted, the court held the defendant had not violated any law. What he had done in the State was legal; what he had contemplated doing in other States was legal by the laws of the several States.

This opinion disposes of the many arguments that are made that Congress can so legislate as to affect the price of the product at the time of sale. It thoroughly confirms my contention that the power of Congress is very limited. Let me say in passing now how ridiculous it appears when this Union was formed for the express purpose of promoting unity and facilitating business, the States reserving the power to control monopolies, that the Congress of the United States should be held to have power to make criminal any man who proposes to proceed in accordance with the law of his State but in violation of the law of Congress. This also disposes of many other questions; that is, Congress may legislate, even assuming that Congress has the power to legislate, and all the laws of Congress can be evaded. What is to hinder the great sugar trust (and that is the best illustration that we can take) from selling all its product to A and then let A make the shipments. I do not think it can be successfully argued that Congress can evade that transfer, punish the shipper, and interfere with the product. He makes a valid contract under the laws of the State of New Jersey, and is entitled to all the rights and privileges of citizenship in the various States.

Mr. GOLDFOGLE. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield?

Mr. JENKINS. For a question.

Mr. GOLDFOGLE. Does the gentleman from Wisconsin mean to assert that there are no trusts at all existing in this country?

Mr. JENKINS. Well, that is what the gentleman said; yes.

Mr. GOLDFOGLE. May I ask the gentleman another question? What is the purpose then of the Judiciary Committee reporting any bill on the subject?

Mr. JENKINS. Well, if my friend will sit down and listen patiently he will learn something. [Laughter.] I reiterate for the benefit of the gentleman from New York that there are no trusts in this country, and that these great corporations are acting in a lawful manner, doing just exactly what every one of us would do. Hence I say I have never spent any of my time denouncing them, but I have insisted since 1892 that, as there is no power to regulate them, there should be a power created in this country, not to oppress them, not to drive the business men out of business, not to do anything to destroy the prosperity of the country, but to regulate those great industries, and I feel satisfied, as I pass hurriedly over this question, that if there was a power in this Government to-day to regulate those great institutions we would have no trouble here. The only power Congress has is to regulate—in the words of the Supreme Court in many cases, "power to make rules by which interstate commerce will be governed"—and within all of the authorities, meaning that States, persons, and corporations can not regulate or restrain commerce. The Federal right can be protected as well without legislation as with it, for the only thing effective is a contract. All regulation and restraint of commerce must be done through contracts, and they can be annulled by the courts while Congress is silent.

I know that it is argued that Congress has power to pass a law which will prevent the so-called sugar trust from shipping their product directly or by shipping it through a third party under a

sale made in the State, but I am not in sympathy with any such view. I insist that under the law, conceding that the sugar trust is the greatest monopoly that ever existed, they can ship their product wherever they see fit as interstate commerce entirely uninfluenced by any law of Congress, or make a valid contract through a third party, or the purchaser can go to the State of New Jersey and buy the product there and have it shipped unaffected by the law of Congress, so that under the limited power of Congress any legislation that it makes can be evaded. I am not considering in my remarks this morning the subject of rebates. That is within the constitutional power of Congress. I am confining my views strictly to the subject of Congressional control over interstate commerce, contending that Congress has no power whatever over the subject of commerce; that is, if the shipper does not undertake to regulate commerce or place any restraint upon commerce Congress is powerless to reach him, whether it is a person or a corporation.

It was said in 122 U. S., 342; 114 U. S., 196; 91 U. S., 275; 102 U. S., 691, and 8 Wall., 168, as far as interstate commerce is concerned it makes no difference whether carried on by individuals or corporations. The grant makes no reference to the agencies, whether individuals or corporations.

It was further said in 122 U. S., 339, that transportation is essential to commerce, and every burden laid upon it is pro tanto a restriction.

I am astonished at the many arguments made to the effect that Congress has power to punish a person for doing what the reserve power of the State entitled him to do. This is not a case where the law of Congress is supreme or even concurrent with the law of the State. The law of the State permits and protects the manufacture and sale, the Federal power simply protecting the article of commerce in its travel from one State to another. The two powers must cooperate to promote harmony and unity and facilitate business, and not have the two powers opposing each other, to the detriment of all.

In the case of United States *v.* E. C. Knight Company (156 U. S., 1) the Government was trying to reach the so-called sugar monopoly. Several competitive companies had united and created a monopoly. The opinion of the court was delivered by the Chief Justice, and it would be well for our Democratic friends to take note of what that eminent gentleman said, for he is in line with all of the authorities on this question. It is an excellent lesson for those gentlemen who are insisting that Congress has power to invade the States and take the monopoly by the throat. The learned Chief Justice said, in part:

> It can not be denied that the power of a State to protect the lives, health, and property of its citizens and to preserve good order and the public morals, "the power to govern men and things within the limits of its dominion," is a power originally and always belonging to the States, not surrendered by them to the General Government, nor directly restrained by the Constitution of the United States, and essentially exclusive. The relief of the citizens of each State from the burden of monopoly and the evils resulting from the restraint of trade among such citizens was left with the States to deal with, and this court has recognized their possession of that power even to the extent of holding that an employment or business carried on by private individuals, when it becomes a matter of such public interest and importance as to create a commnn charge or burden upon the citizen, in other words, when it becomes a practical monopoly, to which the citizen is compelled to resort and by means of which a tribute can be exacted from the community, is subject to regulation by State legislative power.

Mr. HENRY of Texas. The gentleman is making an argument, as I understand, to show that Congress can not reach such monopolies as the sugar trust——

Mr. JENKINS. That is what the Supreme Court said, through its Democratic Chief Justice.

Mr. HENRY of Texas. The gentleman is arguing that Congress can not reach such monopolies as the sugar trust under the interstate-commerce clause. Now, does the gentleman deny that Congress can reach such a monopoly or trust under the taxing power?

Mr. JENKINS. I might say, digressing for a moment, that that all depends. My judgment is that Congress can pass a law having that object, if it so desires; but it must be in accordance with the terms of the Constitution. Congress has not the power, in my humble judgment, to say that it can tax mere interstate commerce. To illustrate: Here is a man in Minnesota, a wheat-producing State, who has a million bushels of wheat. He has no idea of making that wheat a subject of interstate commerce; but my friend from Texas decides to buy the wheat—a million bushels, we will say—and desires to ship it to the State of Texas. Congress can not say, because that man in Minnesota desires to ship his wheat to my friend in Texas, that he shall be compelled to pay a tax on it, because there would be a want of that geographical uniformity required by the Constitution. But Congress can, in my judgment, select wheat generally as a subject of taxation and impose a tax on it; but it must be geographically uniform—that is, wherever in the United States wheat may be, it must pay its uniform tax.

Mr. HENRY of Texas. In the income-tax case the Supreme Court held unanimously that occupations and privileges might be taxed, and is not sugar refining an occupation?

Mr. JENKINS. I do not deny that there is constitutional power in Congress to tax every corporation in the United States, but I insist the tax must be uniform.

Mr. HENRY of Texas. But could not such a tax as I have just described be uniform?

Mr. JENKINS. That is all right; but it is not such a tax as the people want. You want to make legitimate these great business institutions; the people do not want merely that we shall tax the sugar corporation, because if you do so the tax has to come out of the people, and they will not be content with that. I think there is no contention on that point. We have not that question here to-day.

You state a case that would make a tariff a tax. I do not understand how any power opposed to tariff can advocate a tax.

Mr. HENRY of Texas. But you may tax a corporation until you drive it out of business, just as you taxed the State banks and put them out of business.

Mr. JENKINS. I listened to my friend from Texas this morning when he said that he did not want to do anything to drive these combinations of capital out of business. The laboring people of this country are not asking that capitalists be driven out of business, but put under control.

Mr. HENRY of Texas. Let the gentleman understand me. I would not drive legitimate corporations out of business; but where a number of corporations form a combination to destroy business, I would tax them until I drove that combination out of business; in other words, I would destroy the trust.

Mr. JENKINS. By the law of the State, the supreme law of the land, these corporations are legitimate.

Now, it must be understood that the so-called Knight case was an attempt to reach a monopoly. And yet the Supreme Court of the United States said that it was impossible to do it, conceding it was a monopoly created by the State, protected by the State. When the Federal Government was created the State reserved to itself the power to control that monopoly, and it was not subject to regulation by Congressional power, but by State legislative power. There is no question that this is a correct legal statement, and if that is so I am at a loss to know how you can compel a corporation to disclose its business affairs. We will bring on a worse conflict here than we had in 1861 if the States are permitted to do one thing and the Federal Government antagonizes it. I do not believe any such condition of things was ever contemplated.

I have said heretofore that there is a vast difference between the power of Congress in regulating commerce between the States, and with foreign nations and Indian tribes. In discussing this question Prentice and Eggan, in their work on the Commerce Clause of the Federal Constitution, page 305, say:

> Over interstate commerce no such extensive authority has been claimed. The right to engage in such commerce is one of the rights reserved to the people and one of the privileges and immunities of citizenship. Congress can not lay an embargo upon interstate commerce, nor can it in national matters make restrictions of unequal operation among the States. (Groves *v.* Slaughter, 15 Pet., 449, McLean, judge.) The purpose with which the grant was made to secure freedom of transportation throughout the country unembarrassed by differing regulations at State lines measures not only the power of the States, but also of Congress.

And on page 42, discussing the same subject, the same authors say:

> In interstate commerce the power of the Federal Government is always limited by the constitutional rights of citizens.

This authority is a valuable contribution to this point.

I am further confirmed in my views of this question by the able and distinguished Senator from Missouri, who gave an extended interview of this subject in the Washington Post on December 25, 1902:

> VEST TALKS ON TARIFF—THERE, HE DECLARES, IS TO BE FOUND CURE FOR TRUSTS—HOPE IN DEMOCRATIC VICTORY—AS ONE OF THE AUTHORS OF THE SO-CALLED SHERMAN ANTITRUST LAW, HE DOES NOT REGARD THAT ACT AS POTENT—THINKS NEXT PRESIDENTIAL CAMPAIGN WILL BE FOUGHT ON ISSUE OF TARIFF REVISION.
>
> On the eve of his retirement to private life, after a long career of honorable and useful public service, Senator GEORGE GRAHAM VEST, of Missouri, is in a position to discuss affairs of State and legislative policy with an eye single to his country's welfare. A Democrat of profound convictions, he believes that in the Democratic party reposes the Republic's hope of permanency and greatness, but removed from the thought of preferment for himself, he has no need to let party considerations give color to his utterances.
>
> Senator VEST declares that, overshadowing all other issues in American politics, a revision of the tariff schedules as a means of curbing the growth of monopolistic corporations is forcing itself daily on the attention of the country. That the leaders of the Republican party contemplate such a revision of the tariff he does not for a moment believe. The Democratic minority in Congress, of course, is impotent to such an effort. This, then, the venerable Senator from Missouri thinks, is the issue upon which will be fought the next Presidential compaign, now less than two years removed.
>
> PRESENT LAW LACKS FORCE.
>
> As a member of the Senate Judiciary Committee which gave form to the antitrust law of 1890, known popularly as the Sherman law, Senator VEST speaks authoritatively when he declares that in the enacment of that measure Congress went as far as it has power to go under the grant of authority given it by the Constitution. And as one of the authors of the law, his words

also are entitled to consideration when he declares that the law is inefficient and lacking in force, under the rulings of the United States Supreme Court.

At his home on P street last night Senator VEST talked to a representative of the Post of matters that he considers of most vital moment to the country. His health is better somewhat than it recently has been, and though the burden of years and sickness have set their mark heavily upon him, his mind has lost none of that vigor that gave its possessor rank as one of the intellectual giants of the Senate.

"The greatest menace that threatens this country to-day," said Senator VEST, "is in combinations of capital that have monopoly for their object. That these trusts, as they have come to be known, owe their being largely, if not solely, to the protective tariff should be evident to any student of economic questions. The existence of a monopoly depends on the ability of a combination of capital to control the output and distribution of a commodity. That sufficient capital can be combined to control a commodity in this country we have seen, but there has not been, and it does not seem there could be, a combination sufficiently gigantic to control the world's output of any of the great necessaries of life.

MONOPOLY MADE POSSIBLE BY PROTECTION.

"In attempting to refute the argument that the tariff is responsible for trusts in this country, it is declared that equally great trusts exist in free-trade England. This is false, absolutely. There are in England a number of trusts which control the supply of certain articles of commerce, but none of these articles is a great necessary of life of general production. The English monopolies are possible because the articles they control are of such limited production that they have been able to gain possession of the sources of supply. No monopoly can exist in a great staple of commerce where competition is open to the world.

"This being the case, it seems very clear that monopolies in commercial staples is possible in the United States only because competition is not open to the world, and the protected tariff is convicted of responsibility. The first step, then, in an honest attempt to correct the evils from which we suffer is to remove the protection the tariff gives to monopoly and force it into world competition.

"But the Republican party will not take this step. The protective tariff is an interdependent mutuality of greed. Let an attempt be made to remove the protection afforded one industry, and every industry that feeds on protection will cry out in pain. Like a flock of English sparrows that comes noisily to the succor of one that has emitted cries of distress, the entire protection brood will join in a chorus of protest against any change in existing tariff schedules. When the present tariff was under consideration in the House of Representatives, Mr. Dingley, the accredited author of the measure, admitted the rates were unnecessarily high, but declared the schedules were fixed as a basis from which to negotiate favorable commercial treaties with other nations. Yet the Dingley rates are now held sacred, and their continuance is demanded by the interests that have gluttoned on them.

"Refusal to reduce the tariff rates leaves Congress with but weak weapons with which to fight monopoly. The act of 1890, known erroneously as the Sherman antitrust law, represents the limit of the constitutional authority of Congress to regulate trade between the States, and only in the regulation of trade between the States can Congress touch the trusts.

SHERMAN OPPOSED SHERMAN LAW.

"It is odd that the name of the late Senator Sherman should be coupled to a measure which he conspicuously opposed and refused to vote for. In 1890 Mr. Sherman introduced from the Senate Finance Committee a bill designed to regulate the trusts, but it was clearly unconstitutional in that it sought to take from the States their right to regulate their domestic commerce. The bill was referred to the Judiciary Committee, of which Senator Edmunds was chairman, and of which I was a member. The Judiciary Committee took up the question and reported the antitrust measure, which became law, but which embodied none of the essential features of the Sherman bill. When the bill came before the Senate Mr. Sherman opposed it and, rather than vote for its passage, got up and left the Senate Chamber.

"This act requires the establishing of two primary facts in order to make prosecution of a trust successful. The first is that the goods are manufactured or produced by a combination of capital monopolistic in its tendencies and in restraint of trade, and the second is that the goods upon which action is based are in the channels of interstate commerce. The most prominent Supreme Court decision under the law was in the prosecution against the American Sugar Refining Company, brought up from the United States circuit court of New Jersey. In this case the fact was established beyond dispute that the goods were manufactured by a monopoly that was in restraint of trade, but that the Government failed to prove that any of the product of this monopoly was sent by it into the channels of interstate commerce. The simple subterfuge had been resorted to of selling the goods to a second party and of having neither responsibility for nor knowledge of what became of them after they left the factories. Resort to this subterfuge, under the Supreme Court's ruling, will at any time render the so-called Sherman law insufficient to cope with trusts.

ATTORNEY-GENERAL KNOX'S PLAN.

"I read with interest the Pittsburg speech of Attorney-Keneral Knox, in which he claimed to be able to conduct successful prosecutions under this law. The Attorney-General may have resources of which I know nothing, but as one of the authors of the act I do not see how it can be done.

"The only other hope of securing direct legislation to cure the trust evil is by a constitutional amendment giving Congress a larger grant of power, and I do not believe the States are willing to surrender to Congress so large a measure of their reserved rights.

"The difficulty, if not the impossibility, of dealing with trusts through remedial legislation being established, does it not seem reasonable that the wise course would be to cut off the nourishment that has enabled them to grow to such ungovernable size? This is the view I think the American people will take of it, and a demand for such process should be the attitude of the Demoratic party, the determination of the Republican party not to adopt the remedy being apparent. With this for the paramount issue in 1904, I confidently believe a Democratic President and a Democratic House of Representatives will be elected."

While I do not agree with all he says, it will be noticed that he concurs in my views by saying:

The only other hope of securing direct legislation to cure the trust evil is by a constitutional amendment giving Congress a larger grant of power, and I do not believe the States are willing to surrender to Congress so large a measure of their reserved rights.

I can not understand why our Democratic friends refuse to join us in creating the power. We will not only control the commerce between the States, but the commerce in the States, including the instruments and agencies of commerce. In other words, the whole subject will be under the absolute control of Congress. We are not denying any power to the States or taking it away from them because they are unable to operate. We are simply creating a great national power to meet a great national emergency. Yet our Democratic friends are so devoted to State rights that they will refuse to aid us in strengthening the Federal Government when necessary, but sit here this morning and suggest all sorts of unconstitutional amendments that is a complete invasion of the rights of every State in the Union.

I have too much respect for the rights of the States to join in supporting those amendments. I have always argued that it is our duty to respect the rights of the States. I am not willing to invade the rights of the States or impair the powers of the Federal Government. I do not think we ought to hesitate to strengthen the Federal Government whenever we see a necessity, but I am not going to join our Democratic friends to the extent of making the trusts odious by suggesting unconstitutional remedies that would be an absolute invasion of the rights of the States of this Union. Certainly under the Supreme Court decision Congress has nothing to do with the manufacture of the product, and it is plain nothing to do whatever after Federal power over the subject has ceased.

I am further supported in my views by another very celebrated Democratic Senator, the gentleman from Alabama [Mr. MORGAN], who had an extended interview in the Washington Post on the 27th of December, 1902. While I do not agree with his conclusions, he makes a most effective argument against the proposition that repeal of the tariff will remedy the evil.

MORGAN ON TRUSTS—ALABAMA SENATOR SEES SIGNS OF POLITICAL REVOLUTION—HE SCORES BOTH PARTIES—REPUBLICAN AND DEMOCRATIC LEADERS CHARGED WITH INSINCERITY—POLITICAL AFFILIATION NO SHIELD AGAINST GLITTER OF GREAT WEALTH—POWER OF TAXATION AND NOT THE TARIFF THE REMEDY OF THE EVIL—THIRD PARTY MAY BE NECESSARY—THE QUESTION ONE OF OVERWHELMING IMPORTANCE TO THE COUNTRY.

"I can not see that there is any great difference between the leaders of the Democratic and Republican parties on the question of trusts. Whichever party is out of power cries out against the octopus; whichever party is in power hugs the octopus to its breast. Political affiliation seems to be no shield against the glitter of great wealth."

At his home on John Marshall place, yesterday, Senator MORGAN, of Alabama, gave his views of trusts and trust legislation to a representative of the Post. Though unable to take an optimistic view of the situation as it exists to-day, he is not a pessimist. On the question of trusts, he declared the leaders of both the Republican and Democratic parties are guilty of hypocrisy and deceit, neither party apparently being more desirous than the other of finding and applying a cure. That a cure will be found, however, and that it will be applied effectively, he does not doubt. But before that devoutly to be wished for consummation he fears the chastising rod will be laid heavily on the American people. Out of this chastising he thinks will come an awakening and a political revolution that may sweep out of existence both of the great parties as they now are organized.

"Seldom, if ever," Senator MORGAN continued, "has a question of such overwhelming importance arisen in our economic development. It is pressing for solution, and it will be solved. The Republican party may solve it or the Democratic party may solve it. It may be that before a solution is found a new party will arise on the ruins of the old ones. The solution may come soon or it may be long delayed. It depends on how speedily the American people awaken to their peril. I am inclined to believe there will be dark days before the awakening comes—days full of want and suffering and disaster. My belief also is that out of the demand for a solution of this question will be wrought a political revolution—a revolution that will shake present party organization at its base, perhaps wipe it out.

"The strength corporate wealth has attained in the United States is calculated to fill one with awe. The President and the Congress are as pigmies beside it. It is feared by the leaders of both political parties. The pot has no ground upon which to criticise the kettle's blackness. Democrats and Republicans alike on the stump rave and shout and profess eagerness to engage in mortal combat with the giant. They come to Congress or assume executive office and their limbs are paralyzed and their tongues silenced.

PEOPLE HAVE THE POWER.

"There is one power, however, greater even than that of corporate wealth—the power of the American people. It is slow in the arousing, but, once aroused, no wrong can stand before it. The leaven already is at work—the people are beginning to think. The very poor are the first to feel the oppressions of the trusts. Conditions for them to-day are very hard and growing harder. People of moderate circumstances and comparative wealth do not so soon feel the weight of the burden, but it is bearing down upon them, and sooner or later it will become intolerable. Then they will join with the poor to fight a common battle, and whatever opposes them will be swept away. For men in high places who are serving two masters that day will be a day of reckoning."

"By what method of treatment do you think the cure will be effected?" Senator MORGAN was asked.

"No man is sufficiently a prophet to answer that question," the Senator responded, "but the course that seems most plausible to me is through the exercise by Congress of its constitutional power of taxation."

In explaining the details of the plan he proposed, Senator MORGAN said he would fix a graduated tax on the capital stocks of corporations, the rate of taxation increasing with the increase of capital. The percentage of tax on the capital of a $100,000 corporation he would have much lower than on one with a capital of $100,000,000.

"Then," said the Senator, "I would have a provision in the law that any corporation that came forward and furnished proof that it was not a monopoly or an unlawful combination in restraint of trade should be wholly relieved of the tax. This not only would provide a remedy that would cure, but it would relieve the Government of the burden of proof, placing it on the corporations."

TARIFF NOT A REMEDY.

"Do you think the trusts can be reached through a revision of the tariff?"

"A reduction of the tariff schedules might afford some relief, but it would not effect a cure. The tariff undoubtedly aggravates the trust evil, but responsibility does not rest there. The suggested provision that the President should be empowered to place on the free list any article control of which had been secured by a trust is not only unconstitutional, but it would have a double action Should capitalists for any reason desire the duty taken off

any article under such a law it would be necessary only to form a trust to control it and let the fact be known. No, I do not think the tariff offers a remedy, the use of which will cure the trust evil."

In answer to a query as to whether he thought trusts would be an issue in the next Presidential campaign, Senator MORGAN said:

"Undoubtedly there will be much discussion of trusts in 1904, but as both parties in the national platforms will go on record as opposed to them I do not see how it can be a real issue. Each party, of course, will accuse the other of insincerity in its antitrust plank, and each will try to outcrow the other, but I doubt if the question will afford an issue that will seriously count in determining the result."

"What, then, do you think will be the paramount issue?"

ISSUE IN NEXT CAMPAIGN.

"A contention for and against a protective tariff. There will be a strong demand for a revision of the tariff, not for the purpose so much of crushing trusts, as because the protection theory in tariff legislation is wrong in principle and a violation of the constitutional authority of Congress. I rather expect to see the parties lined up much as they were in 1884, when Grover Cleveland was first elected to the Presidency.

"As I have said, however, the question of curbing the power of trusts is of surpassing importance to the American people, and all present calculations are likely to be upset by developments in this question. It does not seem to-day that the crisis will be reached in two years, but no man can tell. It is a time of uncertainty, and changes may come so swiftly upon us that the existing order of things will be upturned before the Presidential election of 1904."

I have still another Democratic authority. Mr. Justice Peckham delivered the opinion of the Supreme Court in Addyston Pipe and Steel Company *v.* The United States (175 U. S., 211, p. 246). This case followed closely the so-called sugar case to which I have referred. Six competitive companies entered into a contract for the regulation of interstate commerce, and an action was brought by the United States to annul that contract. The court held it had power to destroy the contract, because the contract undertook to regulate commerce, a power exclusively within the power of Congress; that if Congress could prevent States from regulating commerce between the States, it could certainly prevent individuals from doing the same thing. The contract, if performed, would be a regulation of commerce between the States. The point was pressed very strongly on the court that Congress had no power whatever to interfere even with this contract; but the court held that it could destroy the contract, but was very careful to limit the power of Congress to reaching just such contract; or in other words, as I understand the decision, it practically says that the only power Congress has is to prevent the regulation of interstate commerce or to prevent any restraint upon interstate commerce. After making a very long argument the court said, in part:

It is almost needless to add that we do not hold that every private enterprise which may be carried on chiefly or in part by means of interstate shipments is therefore to be regarded as so related to interstate commerce as to come within the regulating power of Congress. Such enterprises may be of the same nature as the manufacturing of refined sugar in the Knight case—that is, the parties may be engaged as manufacturers of a commodity which they thereafter intend at some time to sell, and possibly to sell in another State; but such sale, we have already held, is an incident to and not the direct result of the manufacture, and so is not a regulation of or an illegal interference with interstate commerce. That principle is not affected by anything herein decided.

It will be noted that the court is emphatic in saying that interstate commerce can be carried on without coming within the regulating power of Congress, and it does not leave it open to conjecture what private enterprise may be or what interstate shipments can be made without coming within the regulating power of Congress; but they openly and boldly tell us that the refined sugar in the Knight case can be shipped by the sugar trust to any State in the Union and not come within the regulating power of Congress, because the sale is an incident to and not the direct result of the manufacture, confirming what I have said, that they could ship the sugar because the shipment of the sugar is not the regulation of or an illegal interference with interstate commerce.

Still later we find further Democratic authority. In Dooley *v.* United States (183 U. S., 151, p. 171) the minority of the court was discussing the power of Congress in this regard, and the Chief Justice said what is very much in point at this time:

But if that power of regulation is absolutely unrestricted as respects interstate commerce, then the very unity the Constitution was framed to secure can be set at naught by a legislative body created by that instrument.

Such a conclusion is wholly inadmissible. The power to regulate interstate commerce was granted in order that trade between the States might be left free from discriminating legislation and not to impart the power to create antagonistic commercial relations between them.

The prohibition of preference of ports was coupled with the prohibition of taxation on articles exported. The citizens of each State were declared "entitled to all privileges and immunities of citizens in the several States," and that included the right of ingress and egress and the enjoyment of the privileges of trade and commerce. (Slaughterhouse Cases, 16 Wall., 36.)

Justices Harlan, Brewer, and Peckham concurred in the opinion of the Chief Justice. Unquestionably, while this appears in the dissent, it represents the views of the court, as there is nothing said in the majority opinion in conflict with what was said by the Chief Justice in his opinion.

I still have further Democratic authority, Tucker on the Constitution, volume 2. The writer of this book was a very able man. He was a distinguished and honored representative in this House from the State of Virginia. He wrote at a time when there was nothing being said about it by the general public. His mind was perfectly free to follow his convictions and understanding of the law. He discussed the question at great length, and I quote from pages 526 to 555.

In regulating commerce, therefore, Congress regulates traffic in things, vehicles of transport, and things in transitu, but not the things themselves. Before and after the transitus they are beyond this power of regulation. The production and use of things in the terminus a quo and the terminus ad quem are not subjects of the commercial power, but of the law of the State or country from which and to which they are transported (p. 526).

But does the power so extensive in its reach as to foreign commerce have the same interpretation as to interstate commerce? A negative answer must be given to this question. The considerations which justify this conclusion are too important to be omitted.

(*a*) Under the articles of confederation the States could interdict trade inter se. The grant of power to Congress to regulate interstate commerce was with the purpose not to transfer this power of interdicting interstate trade to Congress, but to leave interstate commerce free, as the Constitution intended, in order to form a more perfect union. Could the Constitution have intended to destroy the freedom of interstate trade by Congressional power when it took it from the States and vested it in Congress in order to prevent such destruction? In the case of Railroad Company *v.* Richmond, Mr. Justice Field, speaking of this purpose in language which authorized the preceding statement, distinctly says: "The power to regulate commerce among the several States was vested in Congress in order to secure equality and freedom in commercial intercourse against discriminating State legislation; it was never intended that the power should be so exercised as to interfere with private contracts not designed at the time they were made to create impediments to such intercourse." Again, he says it was "designed to remove trammels upon transportation betweeen different States which had previously existed, and to prevent the creation of such tramels in future." And in speaking of the acts of Congress called in question, he says: "They were intended to reach trammels interposed by State enactment or by existing laws of Congress."

(*b*) If it is objected that the phrase to "regulate commerce" may mean the same power in reference to interstate trade as it does as to foreign trade, the answer is very easy. These regulations of commerce of either kind may be made by law, if the law be necessary and proper to carry the power into execution. A law that is necessary and proper to protect our vessels and the property engaged in foreign commerce against foreign enemies would not be necessary or proper as to interstate trade in a union between friendly States united under the Constitution. The word "proper" means, says Justice Story, in the clause cited by Chief Justice Chase, "bona fide appropriate." He says it is at once admonitory and directory. Can it be "bona fide and appropriate" in the exercise of a power which is delegated to make a "more perfect union" between the States to pass a law which would disunite the States by antagonistic commercial relations between them? Can it be appropriate to the end of "domestic tranquillity" to sow seed of controversy and rivalry between them in their trade inter se?

When we look at all powers vested in Congress as trust powers to be used for the States as beneficiaries and as members of one family of Commonwealths, so to be used as to promote union and not disunion, to establish harmony and peace and not discord and hostility between the States, it must be inevitably predicted that the courts will never hold any law of Congress which prohibits, restricts, or ties interstate commerce to be either necessary or proper as a regulation of commerce, but they must hold it to be a perversion of its trust power to the subversion of the fundamental principles of the Constitution. The power to regulate foreign and interstate commerce was given in the same terms diverso intuitu—in the first, to protect all against the machinations of foreign enemies; in the second, to protect and promote the free and unobstructed movement of men and things between the States in the family of the Union. (Pp. 528, 529.)

(*d*) But there is another general clause of the Constitution which is clearly a denial of any such power by Congress. It declares that "Citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." In considering the meaning of this clause we must anticipate what would, in some respects, be more appropriately discussed hereafter. It will be perceived that this is a declaration of the personal right of every citizen, and belongs to him as such. No Federal or State law gives it to him; he holds it by the higher title of the Constitution itself. If, therefore, any regulations of commerce should invade the right conferred by this article, it would be, under Judge Marshall's canon, prohibited to Congress by the Constitution. It is a personal right which neither Congress nor a State can impair. It gives to a citizen in any State a passport to every other, and confers upon him the privileges and immunities which attach to the citizen of that other. (P. 530.)

It is therefore obvious that this right conferred by the Constitution upon the citizens of each State included free ingress and regress of persons and property and the like, and put them beyond the reach of the power of the States, and, a fortiori, beyond the power of the Federal Government. The power, therefore, of Congress to tax or prohibit interstate commerce, including the intercourse of persons, did not exist in Congress or in the States. Congress may regulate such commerce so as to promote it and secure its safety, but can not forbid it or tax it.

In a dissenting opinion in Stoutenburgh *v.* Hennick Mr. Justice Miller relies upon this construction of the clause as to the rights of a citizen as being a limitation upon the power of the States to tax drummers.

These considerations conclusively show that the power to regulate interstate commerce is not commensurate with the power of Congress to regulate foreign commerce; and while it may prohibit the transitus of persons from foreign countries into the United States as a whole and prohibit commerce in things by embargo, yet no such power is vested in Congress as to interstate commerce. A confirmation of this conclusion might be derived from the requirement of uniformity of duties, imposts, and excises, and from the prohibition upon Congress of making any regulation of commerce which would give preference to the ports of one State over those of another. The whole Constitution in all of its parts looks to the security of free trade in persons and goods between the States of the Union, and by this clause prohibits either Congress or the States to interfere with this freedom of intercourse and trade. (P. 533.)

It may be remarked that the power of Congress is not to regulate persons and things, but merely commerce in them. (P. 534.)

Section 267: In closing this prolonged discussion of this important clause a few additional considerations may be noted:

A State is held in many of the cases to have no power to tax a foreign drummer nor to forbid a person or corporation freely to engage in interstate commerce, and the reason assigned in the decisions has generally been that a State thus regulates interstate commerce. If this be so, then it would naturally follow that Congress could do these things because it is a regulation of commerce. This seems to the author to be a fallacy as to the ground of decision, for it has been seen that the article of the Constitution in reference

to citizenship prevents a State or Congress from taxing or preventing intercourse of persons or transitus of property between the States. Both of these the Constitution left free, and they can not be interfered with by State or Congress. Both are inhibited from the exercise of such power by the clause referred to. (P. 555.)

The only argument with which I am familiar in opposition to the views I have this morning expressed has been recently made by a gentleman interested in opposing my views, and he invokes section 9 of Article I of the Constitution of the United States:

The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation not exceeding $10 for each person.

The argument of this gentleman is to the effect that the framers of the Constitution were compelled, on account of the extensive power of Congress, to place a limitation upon the power of Congress until the year 1808; that if it had not been for the limitation Congress could have prevented the migration or importation of the persons referred to in the Constitution. Therefore it was necessary to tie Congressional hands until the year 1808. Hence the power to regulate includes the power to destroy. My argument to the proposition is this: Within many of the authorities I have cited, and according to my own judgment, there is a difference between the power of Congress over foreign commerce and interstate commerce—that the migration or importation of persons mentioned in the Constitution could have been prevented by Congress, because this has relation to foreign commerce, not commerce between the States. The authority that I cited from 15 Peters, 449, shows that Congress could not prevent entry of slaves from one State to another or force them into a State, but they certainly had the power to prevent slaves from being imported into this country. They could do this as easily as they could pass a protective-tariff act. There being no limitation of power in that regard, those that favored the importation of slaves from foreign countries until the year 1808 insisted upon this limitation being placed upon the power of Congress; but whether the gentleman I refer to is right or not, or whether I am right or not, his argument is the only one I have been able to find anywhere opposed to my contention.

I appreciate very fully all that my friend from Texas and colleague on the committee has said with reference to the exercise of the taxing power. As I have indicated, that would simply be legalizing these monopolies, if Congress is permitted to do it, and will not relieve the people but will make the monopoly bolder; but however that may be, I am insisting that Congress has no power to tax interstate commerce as such. If the tax is direct, it must be apportioned. If indirect, it must be uniform. Unquestionably, I will say to my friend from Texas, Congress has ample power to impose a tax on every corporation in the United States, but it must be geographically uniform. The burden of taxation must fall uniformly on every corporation, wherever found. If you are going to impose a tax on interstate commerce, just see how it will work. I will again say to my friend from Texas, suppose he desires to buy a million bushels of wheat from a gentleman in Minnesota. Until the time that the contract is complete and the wheat is delivered to the common carrier for transportation to Texas there is no burden of taxation forced upon it, but according to his theory all interstate commerce shall be taxed.

Now, the party who desires to ship the wheat or the purchaser must bear that burden. The tax would not be uniform because it would not fall on all the wheat in the country wherever found. Congress can not discriminate and eliminate tax on wheat not shipped from one State to another. Congress could select wheat as the subject of taxation and impose a tax on all the wheat in the United States wherever found, but it must be on all wheat and not on what is consumed in the State alone or imposed on what is forced to seek a market in some other State, but, as I have said to my friend from Texas, my great objection is that the people do not want these great monopolies legalized by Congress. They are insisting upon their being controlled. If you tax them they are not only protected by the power of the States, but they will then be protected by the power of the Federal Government, because the Federal Government would not feel like interfering with them if they paid the tax imposed upon them. Undoubtedly all the great monopolies in the United States would like to make a contract with Congress to-day to pay so much revenue and be permitted to do business unobstructed and unannoyed. The people are not asking that these institutions be oppressed, but insist upon their being regulated so that whenever oppressive to the public at large the people can be relieved.

Mr. HENRY of Texas. Will the gentleman allow me to interrupt him for a moment?

Mr. JENKINS. Just for a question.

Mr. HENRY of Texas. Did you not the other day, with the members of the Judiciary Committee, consent that Congress should surrender its power over the product when it reached the State line, when it was intoxicating liquor, and become subject exclusively to the laws of the State where it was shipped?

Mr. JENKINS. I will say to my amiable friend that that is not the question involved here.

Mr. HENRY of Texas. That was a product, and we passed that bill.

Mr. JENKINS. Much has been said with reference to the difference in the right between persons and corporations to do interstate-commerce business, some suggesting that Congress can absolutely control the corporation and not the individual, insisting that it would be right to deal more drastically with corporations than with individuals, while some others insist that Congress should restrain all corporations chartered by the States from doing interstate-commerce business and compel all corporations desiring to do an interstate-commerce business to obtain charters from the Federal Government. Corporations are rapidly increasing under State law. All business enterprises requiring the use of considerable capital are now carried on through and by corporations created by State law. Congress can not interfere with these corporations doing business outside of the State of their creation. It is for the State where they are created and the States they enter to do business, and not for Congress to place conditions or limitations upon their operations unless they undertake to restrain or regulate interstate commerce. The States denied to Congress the right to create these corporations.

It makes no difference whether interstate commerce is carried on by individuals or by corporations. The grant of power is general in its terms, making no reference to the agencies by which such commerce may be carried on. It includes commerce by whomsoever conducted, whether by individuals or corporations. (8 Wall., 168; 91 U. S., 275; 102 U. S., 691; 114 U. S., 196.)

I have tried to present within the limited time allowed me the condition that actually confronts us, both as to the fact and that condition presented by our dual system of government, and the remedy that I believe ought to be applied. Realizing as I have for years the limited power of government, the earnest demand of the people for some relief, I found myself recently confronted with the situation presented by the so-called coal strike. That evidences more fully than anything I can say the entire situation. It shows how powerful these great combinations of capital are, how very difficult to reach. This absolutely controlled one of the great necessaries of life. They have simply been doing what I have said with reference to the other great monopolies created by the laws of a State—have been operating under the protecting law of the States and absolutely beyond the reach of the Federal Government except by and through the doctrine of eminent domain. Coal was withheld from the people. There was nothing that could take its place.

The people were ready, able, and willing to buy, but could not purchase. In consequence thereof the suffering was very great. I realize that there was a strong disposition upon the part of everybody to do something. I had it in mind that Congress was soon to adjourn; that the theory that I had in my mind must be developed by Congress; that it first required Congressional action. My belief was and is, if one of the great necessaries of life was withheld from the people by a monopoly created by the law that we were doing no great hardship to that monopoly when we insisted in the interest of the people that something should be done to compel that monopoly to recognize the wants and needs of the peoples as evidenced by their suffering. I suggested that the Judiciary Committee of this House be directed to inquire as to the power of Congress to act in this great emergency. At the time I introduced a resolution to this effect there was intense feeling throughout the country. I do not think that feeling has abated. Almost every individual felt outraged to think that they were treated so contemptuously by this monopoly.

I realized not only that Congress was about to adjourn, but if Congress did not take any action the Executive branch of this Government was absolutely powerless, and we would have to concede that this great Government of the people, for the people, and by the people was absolutely in the hands of a monopoly. In order to see whether or not I was justified in acting, I will submit an extract from one of the leading papers of the United States, which but voiced the sentiments of the entire country at that time:

COAL HELD FOR HIGHER PRICE—HUNDREDS OF THOUSANDS OF TONS LIE IDLE NEAR JERSEY CITY.

NEW YORK, *January 14, 1903.*

City officials who have been deceived by the coal operators' excuses that all coal possible is being shipped to New York may convince themselves that the operators are telling an untruth.

Along the lines of the Central Railroad of New Jersey from Jersey City through Bayonne down to Newark Bay are miles and miles of cars loaded with hundreds of thousands of tons of coal—not only gondola cars, but freight cars. The rails between the cars are rusted, showing that they have not been moved for many days. The coal is being held for higher prices.

In Bayonne there are acres of cars. In the Perth Amboy terminal yards there are sufficient loaded coal cars to extend, if placed in one train, fully 6 miles. In the Elizabethport yards the railroads are accumulating thousands upon thousands of tons, all in cars, ready to be released the moment the operators believe that the highest price has been reached.

On the 14th of January, 1903, as will be found from page 811, second session Fifty-seventh Congress, the able, eloquent, and distinguished gentleman from Pennsylvania [Mr. DALZELL] spoke on the coal question. In order that he may be correctly quoted and not misrepresented, I take his language from the RECORD:

I need not say anything, Mr. Speaker, as to the necessity or the propriety of the passage of this bill at this time. The great coal strike in Pennsylvania is a matter of lamentable history. I learn this morning, by a statement from an authentic source, that during the five months of that strike the country was deprived of a supply of anthracite coal amounting to 24,000,000 tons. There could be only one result from such a condition of things, and that result has followed—a scarcity of coal, great and widespread suffering in the heart of midwinter, and a high price for the commodity.

Now, I want to say here and now, speaking for myself, that I do not believe that this legislation will introduce into the market an additional pound of coal. I do not believe that any coal will be imported that would not have been imported without the passage of this bill. I do not believe that it will have any appreciable effect upon the price of coal. I do not believe that any legislation can affect the greed and avarice of the cormorants who are taking advantage of the present condition to oppress people already oppressed. But it will do one thing, it will satisfy the great public that believes that Congress can do something, and it will show the disposition of Congress to do everything that it can do to alleviate this distress.

Everyone knowing that honorable gentleman will know that he would not overstate the proposition. He told us that he had that morning received from an authentic source information that during the five months of the strike this country was deprived of a quantity of anthracite coal amounting to 24,000,000 tons. At that time all over the country we were reading of great destitution, a lamentable condition of affairs. In the dead of winter, coal, a necessity of life, withheld from the people. It was not that they were short of money and unable to buy coal, but were unable to obtain the coal at any price. Every hotel keeper was complaining that when night came they did not have coal enough to commence business with in the morning. Every department of Government here was trembling because of the scarcity of coal. I thought it was a lamentable and pitiable condition of affairs, that in a great nation like ours a monopoly had grown up so strong and powerful that it could withhold coal from the people and cause great and intense suffering and yet be beyond the reach of the Government.

The suggestion contained in my resolution was not in the interest of confiscation, but to prevent it. The only argument made against it was that it was a populistic idea, populistic to ascertain the power of this Government in this great emergency, and to say to this powerful combination withholding coal from the suffering people that if you will not furnish it, it will be the duty of the Government to furnish it until the exigency is over. In my judgment, it is the only possible relief we can at present afford the people. An honorable, just, and fair settlement of this coal strike would abate the present bad feeling in this country. Every sensible and intelligent man knows to-day that the coal men of this country are determined to pursue what they call a lawful course, and while compelled by the intercession of the President to make some concessions last fall, they are going to so operate as not to suffer any loss by reason of what they did, but propose to reinstate themselves as early as possible by insisting upon managing their own business in their own way, regardless of the rights of the people.

Now, this is the time for argument and education, not for villainous abuse. The people of this country are not being deceived. They know very well that it is not a populistic idea to inquire as to the national power, when four or five artificial persons created by the law of a State can cause so much suffering as has occurred this last winter by the withholding at will this great necessity of life. What a humiliating condition, when eighty millions of people are compelled to undergo untold sufferings in these great United States because they are in the toils of a few who insist upon the management of their business in their own way, without any interference. Now, I insist that it is one of the great duties of government to come to the relief of the people in such great emergencies, not in the interest of government ownership, not to carry out a populistic idea, but to help prevent the great conflict now going on. If the coal operators are determined to pursue their lawful course and the coal miners feel compelled to resent the action of the coal operators, it will bring on more trouble in this country than we can suppress. Therefore, I felt, as I feel now, that it was the highest governmental duty to ascertain just exactly what the power of this Government is, as I say, in such a great emergency. According to my view, this is the first time in the history of the country when the national power could be invoked, and I find that I am sustained by the Washington Post of January 29, 1903:

WHAT A STATE OWES TO THE COUNTRY.

Whether the Pennsylvania legislature of 1903 will improve upon the record of the latest and worst of its predecessors remains to be seen. That it could, if it tried with all its might, do worse than that awful aggregation of law-making talent is scarcely believable. The general impression is that legislation in the Keystone State, having been on a downgrade for many years, struck bottom muck in 1901, and that, therefore, any change of character must be for the better. This impression obtains in as well as out of the State. It would be difficult to find an intelligent Pennsylvanian of any party who would not in private conversation confess to a sense of humiliation over the bad reputation achieved by the government of his State, and especially over the administration of Governor Stone and the legislatures that sat during his term.

If this concerned only the people and the interests of that State, outsiders might not feel called upon to meddle with it, although sympathy for the afflicted would excuse such interference. But it does directly and seriously concern millions of families in many States. The country holds the State of Pennsylvania responsible for the coal famine and all the results thereof. The American public believes that anything like good government in that State would have rendered this terrible calamity impossible; believes that long years of misgovernment created the conditions that culminated in the strike of the miners. And the country at large viewed with mingled anger and disgust the puerile impotency of the State government after the strike began and the distressful situation of a coalless winter was being created.

Will this legislature take steps to prevent a recurrence of coal famine? The Philadelphia Press puts the case mildly in the admission that "the legislature owes it to the whole country to take any possible and proper steps to prevent a recurrence of the conditions resulting from the great coal strike."

All the anthracite mines are in the State of Pennsylvania. All the corporations and firms engaged in mining and transporting the coal to tide water are amenable to the laws of the State. All the miners are similarly situated. The entire business is a matter of State jurisdiction, and it could not be brought under national control without changing this democratic Republic into a gigantic commune. The palpable and culpable failure of the State government to discharge its obligation to its own people and "to the whole country" has produced other baneful results besides disease and death and cruel suffering.

It has given an impetus to the dangerous doctrine of government ownership and operation of all the coal fields, and every facility for working the mines and marketing their product. Under our Constitution, as heretofore interpreted, that would be impossible, but its agitation is dangerous. The spectacle of the chairman of the Judiciary Committee of the National House of Representatives proposing that the nation enter upon that straight road to the commune has shown how dangerous it is.

Is there statesmanship enough in Pennsylvania to perform the duty which the Philadelphia Press concedes to be an obligation of the State to the people? The election and inauguration of Judge Pennypacker as successor to the incompetent Stone has been hailed as the dawn of a new era. It is not enough to know that the new can not be worse than the old. The situation calls for a radical change—calls for the State's domination over its corporations and their employees instead of being dominated by them.

The article speaks for itself. It tells us that this coal question directly and seriously concerns millions of families in many States. They speak of it as a terrible calamity, call it a coal famine. What stronger argument can be used? But the Washington Post wants the State of Pennsylvania to act. Now, if it is populism for the Federal Government to act, is it not populism for the State to act? My judgment is that the same principle governs both. I concede that the State of Pennsylvania could have acted, but whether they can act now or not depends largely upon the question whether or not the people of that State can obtain coal. But the State of Pennsylvania is not the guardian of all the States of the Union or the people of the Union outside of their own State. While the State of Pennsylvania might relieve the wants of the people of their own State under the principle that I have suggested, yet they certainly could not reach out and take care of the suffering people outside of the State of Pennsylvania. The article of the Post is timely and able, but it should have called upon the Federal Government to relieve all the people and not upon the State of Pennsylvania to do it. Whatever would be done under such a power conferred by the nation or the State would not be by way of confiscation, but it would be under the power of eminent domain.

Let us briefly see what can be done under that power.

WHAT IS EMINENT DOMAIN?

It is an attribute of sovereignty and can be exercised whenever necessary or expedient to accomplish a purpose within the power of the Government. It does not depend on constitutional provision, but the use of the power is limited by the fifth amendment to the Constitution, which provides "nor shall private property be taken for public use without compensation."

Mr. Justice Field said, in United States *v.* Jones, 109 U. S., page 518:

The power to take private property for public uses, generally termed the right of eminent domain, belongs to every independent government. It is an incident of sovereignty, and, as said in Boom Company *v.* Patterson (98 U. S., 406), requires no constitutional recognition.

When the use is public the necessity or expediency and the manner of taking must be determined by the legislature and not the courts. In order to constitute a public use it is not essential that the entire community, or even any considerable portion thereof, should directly enjoy or participate in what is done. (Fallbrook Irrigation District *v.* Bradley, 169 U. S., 112.)

In the following cases it was held that the right of eminent domain can be exercised to enable municipalities to obtain water for public use: 95 Cal., 105; 4 Cush., 62; 4 Gray, 500; 47 N. J. L., 311; 135 Pa. St., 22; 160 U. S., 685; 53 N. J. Eq., 440; 143 N. Y., 596, where the municipality condemned a private water supply, and this was confirmed in the 166 U. S., 685.

In 7 Atlantic Reporter, 167, and 131 Ind., 446, private gas works were condemned for the benefit of the public.

It is public if it actually concerns or promotes the welfare, comfort, or convenience of the people.

Mr. Cooley, in his sixth edition of Constitutional Law, page 644, says:

It is a rightful authority which exists in every sovereignty to control and regulate those rights of a public nature which pertain to its citizens in common, and to appropriate and control individual property for the public benefit as the public safety, necessity, convenience, or welfare may demand.

In Pollard *v.* Hagan (3 How., 212), the court said:

The right which belongs to the society, or to the sovereign, of disposing, in case of necessity and for the public safety, of all the wealth contained in the State.

As will be seen, Mr. Cooley speaks of its being done for the public benefit as the public safety, necessity, convenience, or welfare may demand. He has argued it so full and equitably that there is nothing further that can be said on this subject.

As far as I am concerned, I can stand any amount of criticism. What I have said and done in this regard was in the interest of the suffering people the Washington Post speaks about. It seems to me, as I have been saying, that the time has come when something ought to be done in this country. We either had to ascertain our power or sit down here and say to this great monopoly, "You are created by the law, but you are greater than the law. No one shall question your right to proceed or operate your business as you see fit."

I only insisted upon action when it appeared that a national exigency had arisen, not that the people could not buy coal because of the scarcity of money, because, according to my judgment, neither State nor Federal Government could act in a matter of that kind; but if it appeared that the people were willing, anxious, and able to buy coal, and well knowing that coal is a necessity of life, and that it was withheld from the people, no matter what the reason, that it was the duty of the Government, through its legislative body, to declare that the exigency had arisen, and put in operation the power of eminent domain in the interest of the people. It would be useless to take possession of the coal mines if we could not control the lines of transportation; but I feel safe in saying this, that believing fully that the power exists, if that power had been openly declared by this House and made public to the nation, those great operators would have seen that there was a power in this country which could be put in operation if necessary, and they would not have then stood back on the letter of their rights and said, We will run our business to suit ourselves.

That may be all right in the abstract, but it will not work practically in this country at this time. Instead of making the many denouncements which are being made to-day, every effort ought to be made to bring capital and labor into closer and better relationship. There is a power to regulate and control the labor of the country, but absolutely no power to control the capitalists of the country; but, as I have said, if they do get into trouble they can call upon the strong arm of the Government to uphold them, while the millions of labor are simply building up a bitter, earnest feeling which will bring ruin to the business interests of this country.

The wealth of this nation ought to take a little time to ascertain public sentiment and have due regard for the rights of others.

The conditions are such in this country that it becomes the imperative duty of every citizen to conscientiously and carefully consider things as they exist to-day. The high protectionist must be reasonable or all protective duties will have to go. If the people are not relieved in one direction, they will take something else, in the hope that it will bring them the much-needed relief. In a little time the average citizen will not listen to reason. They will insist that the time for action has arrived. The man standing behind monopolies will regret that he did not join that conservative class of men of to-day who are anxious to perpetuate the Government just as the fathers intended—equal rights to all—for he will be looking for somebody to defend his property.

The millions of voters in this country are swaying backward and forward. They feel the grinding power of combined wealth, they appreciate that competition has been eliminated, they overlook the law and the constitutional rights of these great monopolies, and will insist that the time has come when they must take care of themselves and their families. When a man loses his reasoning powers he stands ready to do almost anything. When the people realize that nothing can be done by way of legislation to control these great trusts, and that the representatives of the people are unwilling to ascertain the powers of this Government to relieve present conditions, it will be impossible to foretell to what they will resort. As I have said, it is a fight between capital and labor. The refusal of the monopolies to join in the preservation of the rights of all and to aid in restoring public peace will make them responsible for all the troubles of the future. It will be practically impossible to continue doing business. To keep up present conditions will injure both capital and labor. These mammoth institutions that derive all of their strength and support from the law ought not to object to being controlled by the law in the interest of the public good when their business course becomes oppressive to the great majority of the people throughout the United States.

Mr. DE ARMOND. Mr. Chairman, I yield fifty minutes, or so much thereof as he may desire to use, to the gentleman from Georgia.

Mr. FLEMING. Mr. Chairman, it is not my purpose to engage in a political discussion on the measure now before the House, but rather to confine my remarks to some legal aspects of certain defects which, it seems to me, should be remedied in this bill.

One of the leading objects of political economy is to cheapen production. But the real purpose in view in reducing the cost of commodities is not to confer all the benefits on the producer or maker, and thus pile up immense fortunes in the hands of a few individuals, but rather to confer these benefits upon the great mass of the people by reducing the market price of the commodities to the consumers. If the reduction in cost to the maker is not followed by reduction in price to the consumer, one great object of political economy has been thwarted and both science and civilization cheated out of their just expectations.

There are only three methods yet devised by which the prices of commodities can be determined; one is by government regulation, another is by competition, and the third by monopoly. Whatever may be said for or against government regulation and for and against competition, there never has been and there can not be more than one opinion about monopoly from the standpoint of political economy. It is wholly and unalterably bad. What is the essential element of monopoly? It is power of the owner of commodities to fix the price that the people must pay for those commodities, unhampered by government and unhampered by competition.

The defect in this system is fundamental and never can be eradicated this side of the millennium, because it rests on human greed. If all men were altruists we would not need to legislate for competition. The manufacturer would count the cost of his product, add a margin of reasonable profit, and tender his goods on the market to his consumers at cost plus a reasonable profit. But as long as human nature remains as it is the maker or producer of commodities is not and can not in the nature of the case be a proper judge as to what the public or the great mass of the people shall pay for commodities of which he himself, the judge, is the owner.

Human nature has not yet risen to that high standard of moral perfection which will justify the people under any form of government in trusting their welfare in this important respect to the power and the judgment of the men who own the commodities to be sold.

It can not be denied that great saving can be effected by large aggregations of capital. Such economies are distinct advantages to mankind. It is not the amount of capital against which statesmen need to direct their efforts or about which the people need to have fear. It is the monopolistic tendency and power which is involved in these great aggregations of capital.

Wherever we can control that monopolistic tendency we can give relief and guard against danger. The American people have not advanced sufficiently far on the road to progress or decay, whichever it may be, to accept the socialistic principle of governmental regulation of prices. In the nature of the case we can not accept the principle of monopoly and therefore under the conditions now surrounding us, we are compelled to fall back for protection upon the great underlying principle of competition. It is our only available refuge from monopoly.

Mr. Chairman, the bill now up for consideration is based upon the theory that the regulation of prices must, at least for the present, rest upon the preservation of competition. And having reached that stage, I propose now to discuss some of the special features of this bill from the standpoint of competition.

I will say here by way of premise that I intend to vote for the bill whether it shall be amended or not. It is better than existing law; it is better than nothing. There is one section which is highly meritorious, and that is section 5, which prohibits railroads from making discriminations between shippers in favor of one and against another. It puts a penalty not only on the railroad which grants the rebates, but it puts a penalty upon the shipper who receives them.

I believe that with the proper effort on the part of the Interstate Commerce Commission and the Department of Justice there is no question but what every common carrier under the law can be made to deal with absolute fairness and equality toward all the shippers of the country. When that has been done, one great step in advance has been taken toward giving equal rights to all and special privileges to none. Some of the most immense fortunes in existence in America to-day have been founded upon discriminations in railroad rates. Section 5 of this bill will, for all future time, if honestly enforced by the officers of the law, absolutely prevent that wrong, in my judgment. Therefore I

have nothing but unqualified commendation for section 5, as far as it goes.

But right here I wish to call the attention of the House, and especially the members of the Judiciary Committee, to the fact that section No. 5, in regulating the transportation rates and preventing discriminations, by its express language confines its operation to railroads and those common carriers that are subject to the interstate-commerce act, or, in other words, to the carriers who are compelled by the laws that now exist to publish their tabulated rates, and the punishment is visited upon them for violation of the published rates.

Manifestly that classification does not embrace any carrier by water. There is not a river steamboat engaged in commerce between the States nor an ocean liner that crosses the sea that will come under the operation of this law. I ask the gentleman in charge of this bill why such omission should have been made or should be continued? Why should not this House add an additional paragraph to section 5 and forbid any common carrrier, whether by land or by water, from discriminating amongst shippers?

I give my unqualified indorsement to the section so far as it goes, but I give notice now that when it is reached in the consideration of the bill under the five-minute rule I shall offer an amendment to make the principle of that section, not the language, apply to all common carriers.

Mr. LITTLEFIELD. Mr. Chairman, does the gentleman from Georgia desire an answer to his question now?

Mr. FLEMING. I have no objection, if it is brief.

Mr. LITTLEFIELD. I can give it now. It was discussed, and there was no provision made for this in the interstate-commerce law, because there was no substantial complaint made by reason of discriminations made by such transportation companies, and it was suggested that some difficulties were involved in it respecting that, and for that reason we decided not to proceed that far. That is substantially the reason.

Mr. FLEMING. Mr. Chairman, at the proper time I shall offer the following amendment. I wish to say the gentleman from Maine, so far as I am concerned, has always exhibited a liberality of spirit, seemingly with a desire to perfect the bill, and it is in a reciprocal spirit toward him I want to propose the amendment to section 5, not to change a line of it as written, but to broaden its application and make it embrace water carriers. It may be, Mr. Chairman, that the difficulties and the burdens of discriminations have not heretofore been so great on water as on land, but that they exist I have no doubt. When you stop them on land, I have no doubt they will take to water. I would like very much to see the House in passing this bill now make it apply to all common carriers.

Mr. LITTLEFIELD. Just one further suggestion, perhaps, I should make to the gentleman from Georgia; that is, that there is a practical distinction between the transportation on water and on land. That is, you have no continuity of service which would enable you to regulate the corporation carrying on the sea on steamships.

Mr. FLEMING. I admit there are distinctions, but I can readily understand, in view of the great combinations now being made in this country, in view of the fact that the prosperity of our own people is going to depend in the future upon foreign trade to a far greater extent than ever before, I can readily see that here, in its inception, we should place the penalty of the law upon water carriers as well as upon the transportation companies by land, and I shall offer the following amendment, to add as an additional paragraph to section 5:

> That any common carrier, lessee, trustee, receiver, officer, agent, or representative of such carrier, who or which shall offer, grant, give, solicit, accept, or receive any rebate, concession, facilities, or service in respect to the transportation of any property in interstate or foreign commerce, whereby any discrimination or advantage is given to any person or corporation over another person or corporation, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be subject to a fine of not less than $1,000.

Now, Mr. Chairman, to go back to section No. 1 of this bill. I have several objections to that section as it is now drawn. Strange to say, there is in the bill as reported from the Judiciary Committee a remarkable omission. With great solemnity and great enumeration of details, they require corporations to file returns and strangely omit to put any penalty for failure to comply with the requirement.

There is not a corporation in the United States, if this bill is allowed to stand as it is now printed, that need feel the least fear of punishment or disadvantage of any character by simply failing or neglecting to make its returns. The practical procedure will be for the Attorney-General to file a suit against the corporation, asking for an injunction to restrain it from transporting its goods in interstate commerce. Then when that bill, after much delay, is brought to a hearing in court all that the corporation would have to do would be to file its returns. There is no punishment for failure to file the returns when called for, and a delay in such filing works no disadvantage whatever under the law.

Now, I have been informed—and I presume it is no secret, and therefore I shall pass on from this part of my argument—that the gentleman in charge of the bill acknowledges its defect in this respect and intends to offer an amendment to cover that particular point.

Mr. THAYER rose.

The CHAIRMAN. Does the gentleman from Georgia [Mr. FLEMING] yield to the gentleman from Massachusetts [Mr. THAYER]?

Mr. FLEMING. Yes, sir.

Mr. THAYER. I should like to call the gentleman's attention to the fact that, as it appears to me, this bill does not provide that all corporations shall make returns.

Mr. FLEMING. It certainly does not; I am coming to that point now.

Another objection, to which I call the attention of the House, is the fact that this bill does not compel any corporation already in existence to make any return whatever, but leaves it entirely discretionary with the Interstate Commerce Commission to say whether or not any return shall be made at all, and if so, when. But it does put upon all corporations hereafter formed the burden of filing these returns. Why should that distinction be made? Why should corporations heretofore created, trusts now in existence, be allowed to go free, without carrying the burdens that are to be placed upon the large corporations that must hereafter be formed to fight those very trusts in the open market?

Mr. MADDOX. Will my colleague allow me to ask in this connection what good will this measure do if these trusts now in existence are to be excused from the making of these reports under the law?

Mr. FLEMING. The question is a very pointed one, and scarcely needs any answer. The effect of this provision of the bill is to give an advantage to the existing trusts, and prevent the people from getting other combinations of capital in the market to fight them, and compete with them, the only way that we have to break down the monopolies now existing.

Mr. MADDOX. If Mr. Morgan and the whole combined forces of these trusts had met, and if they had had the power to suggest the frame of this measure, could they have suggested a provision which would have been more in their interest than the one which we have in this bill, and which the gentleman is now discussing?

Mr. FLEMING. I think that in some respects it would be very hard to do. But section 5 will be of some service; and if we put on the amendment I have suggested, to make it apply to water transportation, we shall reach the big ship combines.

Mr. RICHARDSON of Tennessee. Will the gentleman tell us why the committee did not amend the bill so as to make it apply to existing corporations?

Mr. FLEMING. I am coming to that. I will show what excuse the committee gave.

Mr. RICHARDSON of Tennessee. Did they overlook that in committee?

Mr. FLEMING. Certainly not.

Mr. RICHARDSON of Tennessee. I want to know why this omission took place, what reason could have been assigned against the very proper amendment which the gentleman from Georgia is now discussing.

Mr. FLEMING. I have never heard any reason that amounted to the dignity of an argument as to why corporations already in existence should not be required to file these returns. The only reason I have heard is that they say "these corporations are already on the market; they have already floated their stock; the swindling has already been done, and there is no use now of showing the people how badly they have been swindled; but we will undertake to prevent anything of that kind in the future."

Now, the weakness of that position comes in right here. We are purposing as a fundamental principle of this bill to remedy the industrial evils of the country by resorting to competition. But under the bill as now framed we put obstacles in the way of new combinations of capital getting into the market to fight the combinations that now exist. I say that this is unsound—unsound in logic, unsound in political economy, unsound in law—and there is no excuse for it. I can well imagine that if the charges which I frequently hear and frequently read in the public prints are true about the Republican party being tied to the chariot wheels of the trusts of this country, that party might not be willing to place a penalty upon those from whom it has in the past received financial aid and benefit. But upon no theory of the public welfare, upon no theory of future competition, can I find a justification for it.

Mr. Chairman, there might be one other objection. It might be said that if all corporations were required to file their returns the operations of the Interstate Commerce Commission would be impeded by the absolute unwieldiness of the work placed upon

them. I think there is something in that, although I must admit that that excuse was originated in my own mind, and not in the mind, I think, of any gentleman who favors the bill as it now stands.

But, Mr. Chairman, the practical way to solve that difficulty is to strike out that part of this section and put an amendment in requiring all corporations, whether now existing or hereafter organized, having a capital stock over a certain amount—say, for instance, $100,000—to file those returns and make no discrimination whatever between the past and the future. That is the answer to it. If you require all corporations formed in the future to make these returns, an immense bulk of work may be laid upon the Commission which ought not to be there. Little corporations of capitalizations of twenty or thirty thousand dollars can do no harm in this great country, and there is no reason why we should not place a limit of $100,000 or $200,000 upon the capital stock and require all above that to file their returns, and omit, for the present at least, as insignificant, those having a less capital stock.

Now, upon that point the report of the majority of the committee says they could not make such a limitation because they were afraid they would violate the uniformity clause of the Constitution. I am surprised at the legal lights on the committee committing themselves to such a proposition. There are but three clauses in the Constitution of the United States where uniformity of legislation is required. One is uniformity in the levying of duties, imposts, and excises; another is uniformity in naturalization laws, and another is uniformity in the bankruptcy laws.

In no other respect is Congress, in mere matter of procedure, tied down to any system of uniformity. Why, only a few days ago this House, on the recommendation of this Judiciary Committee, passed a bill varying the general law assigning one district judge to every district, and gave two district judges to one district in the State of New York. Now, where did they get the power to vary the general law?

Mr. LITTLEFIELD. Will the gentleman from Georgia yield for a question?

Mr. FLEMING. I do.

Mr. LITTLEFIELD. I call the attention of the gentleman to the fact that the report does not state it would be unconstitutional, but simply does say that grave question might be raised. That is what the report says.

Mr. SMITH of Kentucky. What kind of a question?

Mr. LITTLEFIELD. A constitutional question. I will ask the gentleman if the objection was not seriously raised by men on the Judiciary Committee?

Mr. FLEMING. Oh, I think perhaps it was. I think so; but not by myself.

Mr. LITTLEFIELD. Oh, well, I do not say it was raised by the gentleman himself. I call the attention of the gentleman to the fact that the report does not state it would be unconstitutional, but simply says that grave question might be raised. That is what the report says; I drew it myself.

Mr. FLEMING. Well, Mr. Chairman, I am glad to have that admission. The gentleman, then, does not claim it is unconstitutional, but confines his defense to the statement that there may be grave doubts about it. I say by implication I was justified entirely in making the statement I did; but now, since he has admitted that much, I suggest to him and to the other members of the House that while perfecting this bill there is no basis for any such position by the committee. I have just cited one instance where the law is not kept uniform. This Congress put two judges in one United States district court only a few days ago in the State of New York.

Not only that, but in glancing over the subject I find that while the general law is that the district judge must reside in his district anywhere, a special law was passed requiring the district judge in Florida to reside in a particular city in his district. That was not held unconstitutional. Further than that, there is a different law controlling the adjournment of the district courts in Indiana and in Kentucky from that applied to the rest of the States; and in Louisiana there was a most remarkable exception.

Mark, now, the general law requires that the President shall "appoint district judges;" but when the law was passed for the appointment of a district judge in the State of Louisiana it provided that the President shall appoint a district judge "who shall be learned in the law," thus making a distinction between that district and that State and every other district and State in the Union. The law requires that that judge shall be "learned in the law;" but no such requirement applies in any other district.

Mr. Chairman, a great improvement will be made in this bill from the side of its practical working if the House will adopt an amendment requiring all corporations, past and future, to file these returns which have a capital stock of $100,000, and that amendment will be offered by some member of the minority when the section is reached.

Mr. THAYER. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield?

Mr. FLEMING. Yes.

Mr. THAYER. Believing, as I do, that overcapitalization is one of the greatest evils which now prevail, I would like to ask a member of the committee if that matter was considered with a view of putting in the bill a prohibition against capitalizing water and froth?

Mr. FLEMING. Well, Mr. Chairman, I do not know to what extent it was considered in the subcommittee that had the bill in charge. The bill was before the whole committee only one day. I think they did consider it as far as they could; but, inasmuch as the States create these corporations, I confess myself I do not see how we are going to control the organization and creation of corporations in that respect.

Mr. TAYLER of Ohio. Will the gentleman yield for another question on the point he has just spoken on?

Mr. FLEMING. I will be glad to do so.

Mr. TAYLER of Ohio. Referring to the question of a want of uniformity that might be raised if the minimum capitalization of the corporation was made the limit of this requirement——

Mr. FLEMING. Yes.

Mr. TAYLER of Ohio. Whether the gentleman remembers if the Supreme Court, in passing upon the income tax case, expressed any opinion as to the propriety or constitutionality of that act, in view of the fact that no incomes under $4,000 were taxable?

Mr. FLEMING. Mr. Chairman, my answer to that question is, as I have already stated, that there are three subjects on which the Constitution requires our laws to be uniform. One is the levying of taxes, duties, and imposts. Uniformity is required in that. In naturalization laws uniformity is required. In bankruptcy laws uniformity is required. But in no other section of the Constitution is any uniformity required. Of course we must not violate the provision guaranteeing "the equal protection of the laws."

Now, the income-tax law was a law levying a tax; and if you propose to tax these corporations, I frankly admit that you could make no such discrimination, unless it was reduced to a lower amount as the best practical working minimum.

Mr. TAYLER of Ohio. Perhaps my friend misunderstands my attitude as respects his proposition. I am very sure that if the Supreme Court had had a conviction upon the subject of that limitation it could have settled the income-tax law very much more easily than it found itself able to do.

Mr. FLEMING. But the income-tax law was a taxing law. It levied a duty, and the Constitution expressly says it shall be uniform. But here we are simply engaged in an administrative procedure, requiring these corporations to file returns for certain public purposes, but not for taxation.

Now, Mr. Chairman, I wish to call attention to another serious defect, as I understand it, in section 6 of this bill. This is the section which the Attorney-General of the United States and some of his wise legal advisers consider constitutional, but which the gentleman from Wisconsin, the chairman of the Committee on the Judiciary [Mr. JENKINS], considers entirely unconstitutional. I am inclined to agree with the Attorney-General on that great legal question. I believe that Congress has the power to regulate interstate commerce in such a way as to promote the public welfare to the extent that is provided for in that section. But if the committee will give me their attention for one moment they will see a remarkable omission here. This section, No. 6, says that no "corporation" engaged, and so on, shall send its goods to any particular locality for the purpose of breaking down competition at that point.

Mr. Chairman, why is that prohibition confined to "corporations?" Why did the committee omit to put in a similar prohibition against persons? Why did they allow private individuals to carry on this nefarious kind of commerce which you propose to prohibit in corporations, and which you say is so injurious to the public welfare? Is it intended as a loophole? I ask that question because it seems to me to be pertinent. Is it intended as a loophole for escape? There is an excuse given for it in the report of the committee, in which they say they doubt the constitutionality of making that prohibition apply to persons. They are confident it is legal and constitutional when applied to corporations, but they doubt its constitutionality when applied to individuals or persons.

Now, Mr. Chairman, this is a very important point in this bill. I do not think that any provision written in it from beginning to end is more worthy of our consideration than the one I am talking about now. Why should individual citizens be allowed to do what you prohibit corporations from doing in section 6? There is no justification in reason on the ground of the public welfare, and its only excuse can be found in the fears of these gentlemen

that it might not be considered constitutional. Now, I want to address myself to that particular question.

The position of the committee assumes that Congress has in some way some power over corporations that it does not possess over a person or a citizen. I deny that proposition as broadly as it can be stated, and I say Congress has just as much power over a person as it has over any corporation that is created by a State.

Mr. LITTLEFIELD. I understand the gentleman to state broadly the proposition that under the Constitution there is no distinction between the power with reference to a corporation and to a citizen.

Mr. FLEMING. Oh, no.

Mr. LITTLEFIELD. I would call the gentleman's attention to this authority, which he can use as he goes on. It is the case of Paul *v.* Virginia, 8 Wallace, 168, and which case holds that the term "citizen," under the clause of the Constitution which provides that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States, does not include corporations, and therefore the immunity clause does not apply to corporations, which gives persons a great advantage under the Constitution.

Mr. FLEMING. Mr. Chairman, I have that authority cited upon my own brief, which I hold in my hand. It sustains my position, and I will show that very conclusively in a few moments, so conclusively, I think, that nobody will doubt it.

Mr. LITTLEFIELD. I shall be glad to have that shown.

Mr. FLEMING. I hold in my hand a short brief that I have drawn up, headed "Corporations and the Constitution," and I have laid down five propositions which I think will be interesting, especially to my friend from Maine. I read:

CORPORATIONS AND THE CONSTITUTION.

1. The word "corporation" does not occur in the Constitution of the United States, either as originally drawn or as now amended.

2. The word "citizens" as used in section 2 of article 3 which extends Federal judicial power to controversies "between a State and citizens of another State, between citizens of different States," etc., does include corporations. (13 Wallace, p. 270.)

The same is true of the word "citizens" as used in the eleventh amendment prohibiting suits against a State by "citizens of another State or by citizens or subjects of any foreign State."

3. The word "citizens" as used in section 2, article 4, which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States," does not include corporations. (8 Wallace, p. 168.)

4. The word "person" as used in the fifth amendment prohibiting the Federal Government from depriving any person of property "without due process of law," does include corporations. (164 U. S., p. 578.)

5. The words "persons" and "citizens" as used in that portion of section 1 of the fourteenth amendment defining who are "citizens of the United States" and prohibiting any State from abridging their "privileges and immunities" do not include corporations.

6. The word "person" as used in that portion of section 1 of the fourteenth amendment prohibiting any State from depriving any person of property "without due process of law," and from denying to any person within its jurisdiction "the equal protection of the laws," does include a corporation. (164 U. S., p. 578.)

Now, Mr. Chairman, let us take a look at the logic of the situation. We see as a fact that the word "corporation" does not occur in the Constitution of the United States. In some places where the word "person" occurs it is construed to include "corporations." In other cases it is construed as not applying to them. Therefore do you not see that all the power we have over a corporation we get by reason of the fact that the court construes it to be embraced under "person" or "citizen?" How, then, do you get any power over a corporation that you have not over a person? The only power Congress has over a State corporation is the power which it gets through the meaning of the word "person" or "citizen."

There is absolutely no answer to this, and Congress can not put the weight of its finger upon a corporation created by a State except through the construction that the court has placed upon the words "persons" and "citizens." And yet the Committee on the Judiciary solemnly come to the House and tell us that they omit to give us power over "persons" because they are afraid we have no warrant in the Constitution. If you have not the power over a person, a fortiori, you have not the power over a State corporation.

Now, Mr. Chairman, one other objection. If gentlemen will turn to section 7 they will see that it attempts to punish a corporation engaged in transportation of goods manufactured or sold in violation of law. It is true the bill uses the word "knowingly," but how, I ask, how is the transportation agent of the railroad to know in advance whether or not certain goods in dispute are tendered for shipment in violation of this law? You constitute him the judge and jury in advance of a trial in court, and compel him upon his peril to decide right or wrong.

Under the law, if he refuses to accept the goods on the ground that they are unlawful and prohibited by this act, and it should turn out on the trial that they are not unlawful, he is liable to damages. If he does accept the goods, and upon the trial it turns out they are unlawful, he is liable to damages. You punish him if he takes them and you punish him if he does not take them. Where is the justice, where is the common sense of Congress placing upon an agent of a railroad the powers and the duties of a court—duties that require sometimes weeks and months of judicial investigation? Yet you require him to act on the instant at his peril.

Mr. THAYER. Why not make it obligatory upon the common carrier to place marks upon his goods that they are not trust made, or so mark them that the agent would at once have intelligence as to whether or not they were prohibited under this statute?

Mr. FLEMING. Every man, of course, will think his own child perfect. He is never going to put the brand on its forehead that it is illegitimate or that it is in violation of the law. That will not do.

This is an intricate question; a question that no tribunal but a court is competent to pass upon. Therefore, Mr. Chairman, I shall insist at the proper time upon this section being stricken out entirely. Now, it could be improved by an amendment, if they would add a proviso that the penalty should not attach until after some competent tribunal had ascertained that the goods manufactured and sought to be transported were in violation of law. That would help it to some extent; but the real defect of it can never be remedied except by cutting it out entirely.

I hope when the time comes, under the five-minute rule, that the members of the House will exercise their own individual judgment in this matter and will vote to strike that section entirely from the bill. I will state that there is a minority report, concurred in by the gentleman from Ohio [Mr. NEVIN] and myself, asking that this section be stricken out.

Now, Mr. Chairman, I can say with perfect ease and frankness that in this matter I am animated only by a desire to do what is just and right to the railroads. I am under no possible obligation to one in this country or elsewhere. But as a matter of simple justice I do insist to this House that we ought not to leave such a section in this bill.

I not only object to this section from the fact that it is a hardship on the railroad officer, but I object to it because of the power which it puts in his hands. Suppose, for instance, there was some manufacturing company located along the line of a great railroad, and a rival company wanted to run it out of business. All that would be necessary would be to get the ear of the traffic manager, and whisper to him that the goods of its rival were trust goods made in violation of the law, and the agent of the transportation company would say: "I can not move your goods one foot from the station." And so in a few days he could put the unfortunate corporation into bankruptcy. It is an unwise power to give railroad corporations. It is unwise for us to put such a penalty on them, and it is equally unwise to put in their hands such a power to punish some one else.

Mr. MANN. Will the gentleman allow an interruption?

Mr. FLEMING. Certainly.

Mr. MANN. The gentleman says that the bill would impose a penalty upon the railroad company which permits the transportation of trust-made goods at its peril?

Mr. FLEMING. Certain trust-made goods.

Mr. MANN. Certain trust-made goods; yes. I call the attention of the gentleman from Georgia to the fact that section 5 of the bill imposes a penalty upon the agent of the railway company which refuses to permit a transportation of goods that are not trust-made goods.

Mr. FLEMING. Of course, he catches it both ways.

Mr. MANN. So the station agent, wherever he is situated, has got to decide for himself, and decide rightly, under penalty, whether goods presented to the railroad company are or are not trust made.

Mr. FLEMING. Yes; they put the penalty on him going and coming.

No tribunal except a competent court ought to be allowed to determine such a question. I do not think there can be two opinions on that subject. Surely the gentleman who put the section in the bill must have contemplated an extraordinary situation of affairs. He must have felt that some railroad would undertake to transport the goods after they had been declared illegal by some competent tribunal. This section ought to go out, for it can not be wholly cured.

Mr. NEVIN. Will the gentleman from Georgia allow me a suggestion?

Mr. FLEMING. Certainly.

Mr. NEVIN. I am advised that the committee will accept an amendment, and I would like to ask the gentleman in charge of the bill if the committee will accept the following amendment:

Provided, however, That before the penalty named in this section shall attach, some court of competent jurisdiction or the Interstate Commerce Commission shall have first found and declared that the person or corporation engaged in the production, manufacture, or sale of any article of commerce is so engaged in violation of this act or of said act to regulate commerce.

That, I think, will improve the section very materially. I understand the gentleman from Maine to say that the committee will accept it.

Mr. LITTLEFIELD. I have not heard read the whole amendment, but if it is the one the gentleman showed me the other day, I say yes.

Mr. FLEMING. I am glad to know that the committee will accept that amendment and unquestionably it will improve the section; it will take a great deal of the sting out of it; but we would do better to strike out the section entirely. The amendment still leaves the section open to serious objection.

I will take an illustration. Suppose a thousand tons of steel rails to have been transported to a certain point and there stopped by legal proceeding. Suppose the court has declared that they were being transported in violation of law. Under the bill, even with this amendment, these goods afterwards could not be moved from the place where they were left. What are you going to do with them? Strike the section out; and if you will enforce what is left you will have enough to answer all present purposes in that respect.

Mr. PALMER. Under the amendment—you say you are in favor of that——

Mr. FLEMING. I am in favor of the amendment, but prefer to strike out the section.

Mr. PALMER. Suppose a consignment of goods should be brought to a carrier and the question should be raised, "Are these trust-made goods?" While the court is determining the question whether the goods are trust-made or not, what will become of the goods?

Mr. FLEMING. I am not the author of the amendment or the section. I want the section stricken out; but the amendment is certainly an improvement upon the section in its present condition.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FLEMING. Will the gentleman from Missouri [Mr. DE ARMOND] allow me one minute more?

Mr. DE ARMOND. Yes, sir.

Mr. FLEMING. There is another amendment to which I wished to call attention. This bill uses the words "interstate commerce." Now, "interstate commerce" does not include all that we want to have included. The bill should include commerce between the Territories, or between a State and a Territory, also the District of Columbia; and therefore some member of the minority will offer an amendment to the effect that "interstate commerce" as used in this bill shall be construed to include commerce between the Territories (including the District of Columbia) or between a State and a Territory, etc.

If the committee will only include these other amendments, as well as those which they have already accepted, I think we should come very much nearer to agreeing on the bill and making a measure in more perfect shape, which shall be of some service to the country. [Applause.]

Mr. LITTLEFIELD. I now yield thirty minutes to the gentleman from New Jersey [Mr. PARKER].

Mr. PARKER. Mr. Chairman, the question that this legislation brings before the House is, as has been shown, one of details, on which the opinion of the various members as to what is wise or practicable in dealing with the great corporations and the great captains of industry who carry on the business of this country may be as numerous as the members themselves. But with all this diversity of views, the speech of the gentleman who has just spoken [Mr. FLEMING] emphasizes the one great division of opinion as between those who believe in regulating that business and those engaged in it, and, on the other hand, those who would take the risk of its destruction.

The bill as reported by the majority recommends regulation. Its title has been changed so as to read: "An act requiring corporations engaged in interstate commerce to make returns, prohibiting rebates and discriminations and the use of interstate commerce in attempts to destroy competition, and for other purposes." It is not directed against persons or corporations, but against certain evils therein indicated.

It provides for returns of facts that will aid the law. It fixes penalties for those who accept rebates as well as for those who give them. It provides like penalties against those who attempt to break down competition by discrimination in prices. It gives a powerful remedy by injunction, as well as a tremendous remedy which will enable us to call all officers of corporations or other persons engaged in interstate commerce, and to obtain their testimony, without their being incriminated, and without their having any right to refuse to answer. Thus it is a bill for regulation. It may be improved and strengthened in that regard, but it is for regulation and control.

The other view is represented by the minority report. It recommends destruction rather than regulation. Four members unite in all the amendments there proposed. One amendment proposes that any corporation that issues stock in excess of the value of its property, or that sells any goods to any one man for a cheaper price than it will sell them to others, or that gives to anyone any rebate that it denies to others, or that enters into a combination to bring about any monopoly in articles of general utility, so as to affect the price in the market, shall be considered as having done an act of bankruptcy and shall be put into bankruptcy.

That in addition to the grounds of bankruptcy now existing by law, a corporation shall have committed an act of bankruptcy, and shall accordingly be subject to proceedings to adjudge it an involuntary bankrupt and wind up its affairs and distribute its assets, first, whenever it shall have issued stock in excess of the fair, reasonable value of its property; or, second, whenever it shall have given or offered to any person, association, or corporation any privilege, preference, advantage, facilities, discount, or rebate denied to or withheld from any other person, association, or corporation; or, third, whenever directly or indirectly it shall have engaged in any conspiracy or entered into any combination, agreement, or understanding to monopolize or aid in monopolizing any product of general utility, or so much thereof as to affect injuriously the general welfare, or to stifle lawful competition, or to control or affect injuriously the price of or the market for any commodity in general use or demand; or, fourth, whenever it shall have effected or attempted to effect any consolidation, combination, cooperation, undertaking, or agreement with any other corporation, association, or person, contrary to any law of the United States or of any State in which it shall do or offer to do any business.

Under this amendment any corporation that may sell goods cheaper to one man than it is willing to sell to another becomes a bankrupt.

By another of their proposed amendments, goods unlawfully manufactured, contrary to the law of any State against trusts, are forfeited when they come to the border.

That any property owned or manufactured under any contract or by any trust or combination or pursuant to any conspiracy forbidden by the laws of a State, and being in the course of transportation from such State to another State, the District of Columbia, a Territory, or a foreign country, or to such State from another State, the District of Columbia, a Territory, or a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as are provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law; and every person who shall, knowing that any property to be owned or manufactured in any of the ways above described, transport it, or cause or order, or contract for its transportation as above described, shall be deemed guilty of a misdemeanor, and, on conviction, be punished by a fine not exceeding $20,000 or by imprisonment not exceeding five years, or by both such fine and imprisonment: *Provided*, That nothing herein contained shall be held to interfere with any proceedings in a State court for the violations of any law thereof.

Again, it is proposed that the President, if he is satisfied that particular goods are made by a trust and that it has a monopoly, shall be authorized to take off the duty on those goods. We recognize this provision as one that was proposed by a gentleman who was afterwards a Democratic candidate for the office of President, and as a provision which it was afterwards in the power of a Democratic Ways and Means Committee to report, but which was never reported. It has bobbed up from time to time in party platforms. It is now gravely proposed here.

Again, it is proposed that every corporation, domestic or foreign, doing business in the United States, and having over $200,000 capital shall pay 10 per cent tax on that capital, unless the tax be remitted by the act—of whom? Of the Commissioner of Internal Revenue, who shall be satisfied that the corporation is not monopolizing any product, in which case the tax shall be reduced to 1 per cent.

These are the provisions which the bill of the minority directs against all the great business corporations and interests of the country. It proposes their destruction if they be found to have done any act beyond the purview of the law as calmly as if that destruction were of little moment. The gentlemen who sign this report have come from various remote States, traveling upon the railroad, at charges of from 2 to 5 cents a mile, in Pullman cars and with all the appliances of modern civilization.

Now, those railroads are combinations of many corporations, with monopoly of their route, representing millions of capital. They are known as the Plant system, the Gould system, the Vanderbilt system, or whatever other system it may be. This is the travel provided by monopoly. Our ancestors came to this city by stagecoach, and the law provided a rate of 20 cents a mile each way as a reasonable charge to fall upon any gentleman who wished to travel in the way that suited his position. The proposition states itself. Our food used to be brought from the nearest farm, the grain ground at the nearest mill, the cattle killed by the local butcher.

Now we get our flour from the wheat fields of Minnesota and the Dakotas. Our meats come from the great herds of the West. All this is done by combinations of capital, which have established storehouses, cold storage and otherwise, built cold-storage cars, and run fast trains until the whole country is fed by combinations of capital called corporations. The minority propose that if they have done or shall do anything against the purpose and intent of this bill they are to be absolutely destroyed—put into bankruptcy and taxed out of existence.

Our light used to be obtained from oil lamps fed by the product of whales killed by our brave seamen in the Northern seas.

Now it comes in electricity made by power stored in coal which is taken out of the earth, or by gas made from that coal, or from oil taken out of underground storehouses, hauled over railroads, or forced through pipe lines. Thus in these ways combinations of capital, millions of dollars, come to do service to the whole country. We favor no legislation which under any circumstances demands or insists upon the destruction of these great agents of public utility. They serve us as the genii served Aladdin; they have built us a palace, as it were, in a day. We will regulate and control them, but we do not intend to destroy these useful giants that are the servants of modern civilization. These are the great differences between the two views expressed upon this bill.

Now, having said so much, let us add that any law which undertakes to deal with these subjects must attack what is wrong. When a man does what is wrong, he is punished for it. The law does not kill him. It only punishes him in order that future crimes of the same character may be prevented. If any person—and by person I include corporations as well as men, and there are men in this country whom we could name who represent and hold control of all these corporations and who could do all their business with their own capital, if they so chose, just as well as it is done under the form of a corporation—if any man or corporation tries to obtain advantages that can not be justly obtained by his fellow, then we shall insist upon equality before the law.

If these corporations build up their wealth or maintain it, as is charged—I do not say proved, but as suspected—if they build up their wealth or maintain it by obtaining discrimination in freight contracts or privileges in transportation that are not granted to other people, then those privileges should be forfeited and their value given up. The claim, as I stated in 1900, is made that these great firms or corporations have obtained special rates of freight contracts, special privileges as to cars, storage, switching, telegraph, or prompt delivery of their goods, and that by these privileges they seek to crowd out competition. These matters are all within the interstate-commerce jurisdiction of the United States. They are prohibited in the most sweeping terms. I shall not read the second and third sections of the interstate-commerce act, but they cover those discriminations beyond all question. The difficulty is in enforcing it. Let us provide remedies by which that law can be enforced.

Mr. Chairman, I have my own view about what is the best remedy. Penal statutes are very hard to enforce. It may be true, for instance, that one coal mine can get its coal to market and get cars when the other does not. You find that one combination has switches and terminals and storage facilities which another corporation or person does not seem to be able to get. But how can it be proved that there was any intention to do wrong in doing this? The conditions are complicated that settle the justice of these arrangements. Provide all the criminal penalties you will, and juries will not hold that there is such a breach of the law as to send a man to State prison or to put him under the ignominy of conviction of crime.

I have always proposed and I shall insist before this House that the proper remedy is this: In a civil suit let the United States be authorized to sue any person who has received a rebate or special privilege for the value of the special privilege or rebate which is sold and received against the law. I will read this provision:

> Any person who shall receive from any common carrier any benefit or advantage, whether by rebate, special privileges or contract, or otherwise, which benefit or advantage is prohibited by an act to regulate commerce or by this act, shall be liable to pay to the United States the value of such benefit or advantage, to be recovered with costs in an action of law brought by the United States in any circuit court, which action may be instituted by the Attorney-General.

I think I may say without impropriety that this provision was favored by the majority of the members of the committee, but that some of the members thought that there should be further provision that the action might be brought by an informer on a moiety, while some thought it ought to be only a simple action, as I propose, by the United States. Because of that difference of opinion the amendment fell.

I maintain that a suit for damages is much more efficacious than any proceeding upon a criminal charge, first, because the United States will not have to prove intent; secondly, because it can get all the evidence you desire without incriminating anybody, from the officers, from books, or from the person who receives the rebate, and thirdly, because the penalty is a hundred times greater than any fine which any court could ever impose. The value of these unjust discriminations may in some cases run into the millions. Those views governed me in reaching the conclusion which I urged in 1900 and which I urge now, because it is an efficient and direct remedy to enforce the payment to the public of rebates wrongfully received.

Mr. Chairman, let us have no sympathy whatever with the endeavor to pull down corporations as such. Let us have no sympathy whatever with the idea that we should attack the machinery by which men unite to serve their day and generation. The whole course of our business transactions shows that business as well as government has adopted the motto which united our States in one, the motto that in union there is strength—E pluribus unum—the motto that proper combination will do the work of the public better than it can be done by each particular person. And at the risk of losing some time, I wish to make one reference to the allusions that have been made to my own State.

It has been called the home of trusts. It is attacked because it receives a revenue from corporations and because great corporations, honest corporations, good corporations, prefer to go there and to pay the State taxes, rather than to go elsewhere. There are good reasons for this. The first is that in all the neighboring States and in the great metropolis of this country "Jersey justice" is famous, and stockholders know that when they subscribe to a New Jersey corporation they are under the control of strong courts, civil and criminal, which enforce the law and will protect them in their rights.

The second reason is that the State of New Jersey has always maintained that a corporation as well as an individual has the right to do an honest business like an individual without interference, as long as it does it honestly, and provided it is a private business.

The third reason, strange to say, is because New Jersey taxes the capital stock of corporations at its par value. We have very little belief in the power of any combination of individuals, commissioners or otherwise, to value the property that goes into capital stock. The value of a patent is a very indeterminate article' and many corporations are for patent exploiting. No commission can value a patent.

The Government of France has always maintained the right to approve the assets of any corporation before its stock goes upon the Bourse, and the result has been a state of corruption with reference to such great corporations as the El Paso and Pacific Railroad and Panama Canal as has sometimes pulled down the Government and changed the administration. Government by commission is not republican. The people are jealous of any such power to value corporate assets. New Jersey assures herself of that value in a practical way; she taxes every corporation a very small amount, one-tenth of 1 per cent, upon the total amount of its issued capital stock without reference to value.

Those that have value behind the stock last. Those that have no value behind that stock and are mere watered companies fail, because they can not pay that little tax, the forfeiture of their charter made, and annually the charters of numerous corporations in New Jersey are declared forfeited. Those that last are those that have value, and it has been recognized to be a recommendation of any corporation that it is able to last under that New Jersey law, which requires honesty, and under that New Jersey taxation, which requires likewise honest valuation of its capital stock, by putting on a tax that dishonest valuation can not pay.

Under these circumstances it is no wonder that the corporations have crowded into that State and that as the result of good courts and equal justice to all, rich and poor, it receives a revenue which, oddly enough, is rather objected to by those who come from other States. Let us say to the objector, "Go thou and do likewise."

Mr. Chairman, we come now to a more difficult question. The rates charged by railroads engaged in interstate commerce are and ought to be thoroughly under United States jurisdiction.

The great principle is that where the law creates any monopoly the prices charged under that monopoly must be regulated by law and made equal to all, because competition is gone. This principle is all pervading. If the law gives licenses to cabs in a city, so that no one but a licensed cab can transport passengers, it has the right to say at what rate passengers shall be carried. If it establish a railroad and give it a monopoly of its line from one place to another, it likewise requires equal and reasonable rates. Perhaps the principle might properly be extended to patent rights.

There have been some abuses whereby owners of patents and trade-marks have refused to sell their goods at reasonable rates unless the purchaser would buy other goods of them. But it has not yet been necessary to go so far. It is only an example of how far the principle may be regarded as universal. Where there is fair competition the law may trust the competition to establish the price.

Where there is no competition and competition is forbidden by law, by reason of the grant of a legal monopoly—and there are many such besides those I have mentioned, such as corporations that run water through the streets, telephone companies, trolley lines, gas and electric companies—naturally and necessarily, as a Government monopoly has been given to them, the Government owes it to the people to say that while the company shall receive a fair profit upon their investments, some arrangement shall be

adopted by which their rates shall be such as to give the benefit back to the people, so far as is not necessary for that fair profit.

Mr. WM. ALDEN SMITH. Will it interrupt the gentleman if I should ask him a question at that point?

Mr. PARKER. I yield to the gentleman.

Mr. WM. ALDEN SMITH. What I desire to ask is whether the publicity feature of the corporation laws of New Jersey is as large as that contained in this bill?

Mr. PARKER. Entirely as large, except that the provision for an affidavit as to value of their plant is, perhaps, not as broad as that contained here.

Mr. WM. ALDEN SMITH. Are these reports accessible?

Mr. PARKER. Perfectly, and abstracts are printed. We have a book of about 500 pages which gives all the information concerning them. But let me return to companies using the streets. In other lands they have established rules by which, when the profits of these street corporations are above a liberal dividend of 10 or 15 per cent, the balance above that shall be devoted toward taking up and canceling the stock into the treasury for the benefit of the city. A different rule must apply when these companies have been long established and their securities are in the hands of honest holders. That value must first be taken care of, and the principle can only be applied to prevent further stock watering. This regulation of local public corporations is not in this bill.

It is mentioned only as an example that can fairly be made of the great principle, that private business may fairly be left in most cases to the regulation of free competition, as long as that competition is not stifled, but that corporations doing a public service stand on a different basis, that they are created by the various legislatures or even by the United States, with monopoly of routes and monopoly of franchises, and are necessary public instruments for doing the business of the public, and because of that fact need to be regulated.

It is not yet settled how this should be done. Perhaps the laws of the United States might set an example here in the District of Columbia or the Territories as to these smaller local monopolies. This bill deals with the larger questions of interstate commerce. The interstate-commerce law requires equal rates, and its provisions only need to be perfected. Reasonable rates involve another question. All the older railroads in this country had rates imposed in their charters, but when the progress of business has been such that these very monopolies have all reduced their rates for transportation of passengers and freight to a mere tithe of the amount allowed by law it would be futile to interfere with rates by legislation.

Fortunately, America has little to complain of as to exorbitant rates, for even a monopoly can be trusted to reduce its prices enough to get business. The great monopolies of oil and coal keep their prices down low enough to get business in oil and coal. If the coal magnates owned all the anthracite coal in the country they would not dare to put the price of coal up so far as to drive it out of the market. If the price be run up, people would find some other way of keeping warm with less fire. Smoke-consuming devices would be perfected, or something would be done that would destroy the anthracite market. Free competition will take care of the business of the country, if only it be free.

Mr. FITZGERALD. Will the gentleman permit me to ask him a question?

Mr. PARKER. I can not be interrupted. I have only a minute or two left.

Mr. FITZGERALD. It will only take a minute.

Mr. PARKER. I have only about two minutes left.

Mr. FITZGERALD. Will the gentleman explain why the Standard Oil Company put up the price of oil at the time that there was a famine in coal?

Mr. PARKER. I ask that this interruption be not deducted from my time. One other great matter may some time come before the people of the States and of the United States, one other great matter that is perhaps outside of all that I have spoken of. There is a rule of law that many things are unlawful when done by a combination which would be lawful when done by a single man.

If all the people of a town combine to refuse to buy of a certain man or to sell to him, it would be criminal. It would break up his business, and if it was continued it would drive him out of town, and therefore it becomes a crime. We have single men in this country (not to speak of corporations), that I could name, the extent of whose business and organized power is such that they are more powerful than a hundred of such combinations as the old rules of the common law dealt with.

There may a question come, how this case is to be solved. Perhaps the actions of a man who controls so great an organization shall be governed by a different rule from that which governs other single individuals. They are giants on the business pathway. Ordinary men must not run into others. But the giant may be held, perhaps, to more strictly rule in his walk than a private individual, lest he trample others under foot. But there must be one rule for great and small.

The time may come when there will have to pass laws whereby if any man should manipulate prices, not with the intention of ordinary trade that is to make profit, but with a declared and proved intention to ruin another man, some penalty shall be imposed. But that legislation should be by the States. Let them try this experiment. The injury will be done in the States to local industries, and can not be done in any other way.

If there be a deficiency in the powers of the State to get at interstate commerce perhaps we may have to give the States power over deliveries free from the original package limitation.

But I do not believe that radical legislation will be needed. Competition on the whole is able to take care of any overgrown, ballooned, overfattened or overwatered corporation that ever existed.

Mr. WM. ALDEN SMITH. That is the theory of protection, that it gives all men the right to compete with one another.

Mr. PARKER. Yes, the theory that all men can compete. Away with the theory that we are not able to compete with anybody else, if he only fights fair; away with the theory that for that reason we should pull down the tariff wall and destroy industry in this country from one end of the land to the other. Remember that to pull down any industry will destroy and affect them all. Away with the theory of destruction! This bill and the majority of the committee stand for eqality of all men, rich or poor, before the law, not for the destruction of any man or any corporation, but for the regulation of the business of all men, rich or poor, so that in that business they shall allow free and full competition and shall do nothing but what is absolutely fair. [Prolonged applause on the Republican side.]

I beg to print herewith my report and views on this bill. They are as follows:

[House Report 3375, part 3, Fifty-seventh Congress, second session.]

BILL REQUIRING RETURNS FROM CORPORATIONS, PROHIBITING REBATES, ETC.

January 31, 1903.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PARKER, from the Committee on the Judiciary, submitted the following views (to accompany H. R. 17):

The report of the committee is unanimous in favor of the bill, each member reserving the right and duty of informing the House where certain sections may and should be bettered.

SECTIONS 1, 2, 3, 4.

Sections 1 to 4 provide for sworn returns that will provide valuable statistics as to corporations engaged in interstate commerce, and will, it is hoped, protect against overcapitalization. It is noted that the scope of the bill applies only to such corporations as are engaged in interstate commerce, and not to local companies having monopolies of the public streets for gas, water, trolleys, telephones, etc. (over which the United States has jurisdiction only in the District of Columbia and the Territories), in which the question of overcapitalization is perhaps of more importance, but must be reserved for further legislation through appropriate committees.

The requirements of these sections as to returns are practically those enforced in each State as to its own corporations, and the massing of the information can not fail to prove of value.

SECTION 5.

This section deals with what is probably the paramount question, namely, the prevention of rebates, special privileges, and advantages in interstate freight contracts. It is by the aid of such unlawful privileges and advantages that the great monopolies of the land are believed to have been built up and maintained. The interstate-commerce law forbids all such advantages, but its penal provisions have utterly failed to prevent them.

They perhaps usually consist not in rebates of money, but in special privileges as to which it is difficult or impossible to prove criminal intent, so that prosecutions of the carrier under that act have generally failed, and prosecutions of the shipper under section 5 will probably be just as futile.

A remedy is wanted that will put in issue not the question of the intent with which a special privilege is given, but the question of fact whether it has been actually given. For this purpose many members of the committee believe that a simple action at law to recover the value of the rebate, special privilege, or advantage will have a much better result.

In such an action the defendant can not plead the purity of his intent or refuse to testify for fear of criminating himself, or do anything except to ask a fair trial of the question whether his contract, privileges, or freight rates are valid under the law of the land. If he have received unlawful advantages, recovery will be had, not of a mere fine, but of the full value of these advantages.

It is therefore proposed to add to section 5 (or substitute for it) the following:

"Any person who shall receive from any common carrier any benefit or advantage, whether by rebate, special privileges, or contract, or otherwise, which benefit or advantage is prohibited by an act to regulate commerce, or by this act, shall be liable to pay to the United States the value of such benefit or advantage, to be recovered with costs in an action of law brought by the United States in any circuit court, which action may be instituted by the Attorney-General."

It is fair to add that some members of the committee favored adding to this the following language:

"Such action may be instituted by the Attorney-General, or, by leave of the court, by any other person as informant, after notice to the Attorney-General to bring such suit. Such informant shall receive half the amount recovered in such suit instituted by him, but shall pay the expenses thereof: *Provided, however*, That such informant shall not dismiss or settle such suit without leave of the court, after notice to the Attorney-General of district attorney of the district wherein such suit is brought, and in case or such notice of application for leave to dismiss, or on notice to such informant by the Attorney-General, or in case such informant unduly delays or fails to prosecute such suit, the Attorney-General may be ordered by the court to assume said suit, and said informant shall lose all interest therein upon

proper terms as to costs and expenses already incurred by him, to be settled by the court."

Some also favor allowing recovery of double the value of the rebate when intentional. But suits by informants or for penalties are so disfavored by courts and juries that, in the complications attending the conditions of trade and the reasons for freight rates, it seems wiser to leave the grosser cases to the penal provisions of the present law, while providing a civil remedy by which anything illegal may be corrected, even if done by mistake or in the utmost good faith. The suit proposed appears adapted to that end.

SECTION 6.

This section prohibits all interstate commerce to any corporation that attempts to secure local monopoly by discrimination in prices.

The section is a new departure in the law. Its effect can best be realized by instances. The corporation may be within or without the State where the local monopoly is attempted.

For example, a corporation carrying on a general or department store in some town of a State may, by lowering prices on one article temporarily, drive out of business all the local dealers in that article, no matter what it be. In this case the section would prohibit the corporation from buying the article from another State. Or the corporation may be a manufacturer or wholesale dealer in that article outside of the State and may temporarily favor prices to one local dealer who does business exclusively with them, so as to drive all other local dealers out of trade. In this case the section prohibits the corporation from sending goods to the State.

It is plain that the injury in each case (if made one by law) is in undersellling in the State in question. It is an injury done there and to local dealers of the State. That State may punish, if it be proper to punish. The jurisdiction of the United States is more doubtful.

It is true that in the second instance the State can not always exercise jurisdiction, for if the goods are shipped in original package the State can not touch them, and the shipment is part of interstate commerce and part of the transaction.

This matter of a "boycott," and of underselling small dealers by large concerns, has in modern times reached an importance which was unknown before the great concerns had grown so great. The law may have to find a remedy. It is, perhaps, doubtful whether the United States has jurisdiction to make sales illegal within a State which are not prohibited by the law of the State and create only a local monopoly. That State law can create this illegality, and until the State takes action the United States may not have the right to deny to any man, or any corporation, the right to use the facilities of interstate commerce. The courts will construe this section as to its constitutionality and decide whether the whole question of local monopolies and local boycotting of trade must be left to State law.

A United States statute might assist State jurisdiction by providing that any article of commerce shipped from one State or Territory into another to or by any person attempting to monopolize or control the production, manufacture, or sale thereof in any particular locality in the State or Territory by discrimination in prices, or by giving special privileges or rebates, or otherwise, in order to destroy competition therein in such locality, such articles of commerce, from the time of entering or of arriving within the boundaries of such State of delivery, shall become subject to the operation of all the laws of the said last State, preventing or remedying such monopoly or control by the aforesaid means and with the above intent.

Such a provision might be added as a new section. But the whole question is a difficult one.

SECTION 7.

Section 7 provides that any railroad corporation knowingly transporting any such articles of commerce or any property produced, manufactured, or sold in violation of the Sherman Act shall be subject to $1,000 penalty.

For the railroad company to protect itself its officers must act as judge and jury to determine whether any article is trust-made or not. If it determine that the article is shipped to aid a monopoly, it is to stop all the business of the corporation concerned. The proposition states itself. The law can not properly blacklist goods before trial, and the man who has the property has the right to sell. Any such restraint upon transportation would simply result in shipping by a jobber or exporter instead of by the manufacturer, whereupon the act utterly fails to apply.

Section 8 relieves witnesses from liability to punishment for testimony given and will have a wide and beneficent effect.

Section 9 gives a remedy by injunction, which is wise and far-reaching.

Section 10 allows the bringing in of absent parties.

Section 11 allows a suit for treble damages caused by any acts forbidden, and is properly adopted from existing law.

Liberty is taken to refer the House to Report No. 1506, Part 3, Fifty-sixth Congress, first session, as to an amendment providing for civil suit for the value of rebates therein suggested, as printed on pages 6492 and 6493 of the RECORD.

R. WAYNE PARKER.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. OLMSTED having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

S. 6881. An act for the relief of James L. Elmer;

S. 7145. An act granting an increase of pension to Rosetta E. Rafferty; and

S. 7223. An act providing for the interment of the remains of Marie Irene Donaldson and her daughter, Marie Irene Donaldson.

The message also announced that the Senate had passed the following resolution; in which the concurrence of the House was requested:

Senate concurrent resolution 64.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he hereby is, authorized and directed to cause to be made an examination and survey of the Delaware River at Philadelphia, with a view to extending the improvement thereof above Christian street as far as Allegheny avenue, and to submit plans and estimates for such improvement, the cost of the work herein directed to be paid from the amount available for the improvement of said river below Christian street.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 15449) to increase the efficiency of the Army disagreed to by the House of Representatives; had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. COCKRELL, Mr. QUARLES, and Mr. FORAKER as the conferees on the part of the Senate.

TRUSTS.

The committee resumed its session.

Mr. DE ARMOND. Mr. Chairman, I now yield twenty minutes to the gentleman from Kentucky [Mr. GILBERT].

Mr. GILBERT. Mr. Chairman, there is a story found in the Folk Lore of Northern Europe to the effect that a certain peasant met a series of misfortunes. His barns were burned, his grain rotted in the fields, his cattle had the murrain, and this peasant concluded that some dreadful hobgoblin was pursuing him, and he determined to watch for this monster and slay him. So he sat up nights and peered about through the darkness, and finally he got sight of this big and shadowy demon. With a yell of triumph the peasant drew his sword and ran to catch this monster. He finally overtook and seized him, and with desperate energy the peasant drew back his sword to slay the monster, when the spook turned, and, lo! the face of the spook was his own.

So the Republican party is pursuing the trust, and the spook eludes them in the darkness. The evils of the political body politic are surely great enough. In the midst of the greatest abundance of coal the poor are without fire and the rich are charged enormous prices. With the greatest railroad systems in the world, rates are pooled and advanced in the interest of one shipper and rebates are given to build up the private fortunes of another. With fat cattle grazing upon every hillside, the beef trust forces the home consumer to pay larger prices than are paid for our cattle when shipped abroad, and the ship-subsidy schemers are here clamoring for $180,000,000 to help them transport the beef for the benefit of themselves and the foreign consumer.

With oil wells everywhere, one corporation dictates the price of it all. Yes; these are evils, and the trusts are the hobgoblins that cause it all. Let us watch and wait for a sight of this spook, armed and equipped to destroy the monster. Let us watch and see what the face of it is like.

The President in his first speech against the trusts, at Pittsburg, reared and ranted against these monsters, and wound up his speech by winking and blinking at Mr. Frick, and then went home with him to dinner. When Mr. Frick comes to Washington he dines at the White House, the most honored guest of the occasion. Of course, everybody has forgotten the ringleaders of that conspiracy to bring the Pinkerton detectives from Chicago and New York to guard the Homestead factories near Pittsburg. We have all forgotten that arrangements were made to bring these detectives a week before the strike began.

The last national convention of the Republican party met at Philadelphia and fulminated a broadside against "industrial combinations in restraint of trade." But everybody knows that that committee on resolutions met at the cottage by the sea of Mr. Griscom, who was then, and still is, the president of the International Navigation Company, and has for years been heading the ship-subsidy steal. He is the head and front of that gigantic scheme by which the promoters are seeking to obtain $180,000,000 out of the public Treasury to place it in the pockets of that corporation, not to enable them to transport merchandise and other property across the sea any cheaper, but to enable them to do so as cheaply as these things are already being carried without the subsidy.

We all know that Mr. Carnegie made a great fortune by organizing a monopoly and trust in the manufacture of structural iron and steel, and in armor plate for the Government, and we know that he sold this at enormous profit, at prices fixed by a trust of which he was the ringleader. We know that he sold armor plate across the sea to foreign countries cheaper, much cheaper, than he would sell it or could be induced to sell it to his own Government. But he made a fortune, and that is enough to make him an ideal Republican, and it is rude and plebeian to raise any question about how it was made. He is giving away large parts of his fortune in building libraries, and when he comes to town the President and Cabinet, Supreme Court and Congress, and all the lesser lights and the rag-tag and bobtail of the party gather around to do him honor, and admire and smile and fawn in the sheen and halo of the great benefactor.

The Standard Oil trust has perhaps been guilty of more big and little acts of meanness than any of the trusts. It has crushed more private enterprises and driven more people to pauperism than any of these greedy monsters, and yet all that is necessary to make a saint out of Mr. Rockefeller is for him to present a million or two to some college or church and all the crimes of the trust are forgotten and forgiven. The preacher clutches at the gold and smiles over the benefaction, while the college professor changes his curriculum to suit the great and good man. The professor pockets the increased salary and points the boys to the great model for them to follow. The price of oil is advanced a cent or two on the gallon and this great and good man makes

twice as much as he gave away, and, he too, becomes a "captain of industry" worthy of all praise. Surely, if there are any trust monopolies in this country, J. Pierpont Morgan has taken a leading part in bringing them into existence. Surely, if the promoters and organizers of trusts are to be regarded as criminals, he is the chiefest sinner. And yet, where is the drawing-room or club in which he is not a welcome and honored guest?

In the vague darkness somewhere you imagine there is a spook you call a trust, but as soon as one of these magnates who spends his life organizing these trusts, and who has grown fat and rich from the spoils appears out in the daylight, you doff your hats to him as one of the captains of industry. You make him the lion of society and the hero of the hour. Laws are worthless unless they express the real and honest sentiment of the people, and so long as a vicious sentiment exists which panders to wealth for its own sake your statutes will remain unexecuted. The man of millions is wined and dined, and it matters not how he lied, robbed, and cheated to obtain his fortune.

Are the trust magnates criminals? Do they in truth deserve ball and chain? Should they in fact be placed in the penitentiary for a year and fined $5,000? If so, why wait until the Attorney-General starts the prosecution? Why not make it the duty of every circuit and district judge to give the statute specially in charge to every grand jury and make it the duty of every district attorney to ferret out and prosecute these criminals? You do not wait for the Attorney-General to start prosecutions for counterfeiting, for forgery, or for violating the revenue laws, and why wait for the Attorney-General to prosecute the trusts.

If I had my way I would make it the duty of the circuit and district judges to call the grand juries' attention especially to the antitrust law and the duty of the district attorney to prosecute, and I would make it a felony for the Attorney-General to interfere to stop the prosecution. You propose to make a special class out of those trust criminals. You start out by giving them the stamp of respectability not accorded to other criminals in providing that they are not to be prosecuted at all until the Attorney-General says so. If you intend to regard these violators of this statute as real criminals give them the same treatment as are given other criminals. If you do not intend to regard them as real criminals then throw your bill into the wastebasket and stop trying to make yourselves believe and stop trying to make the country believe that you are in earnest.

No, gentlemen, the trouble is not the want of legislation. We could prosecute and convict every trust magnate in the country under the common law. Besides for more than twelve years the Sherman antitrust law has remained virtually a dead letter upon the statute books. The trouble is the want of an honest, healthy public opinion behind the law. The history, tradition, and policy of the Republican party have all along gravitated toward enthroning the dollar and debasing the man, and the controversy about the gold standard was an external manifestation and symptom of a broader and deeper national controversy. It was a struggle between American manhood and American commercialism. The money changers won the day and are now in the saddle. They are carrying the flag to the Orient. They are writing the platforms, selecting the candidates, and furnishing the spoils for political campaigns. You start out in search of a trust monster and wind up by finding a captain of industry.

We must reverse the whole policy of the Government and teach the people higher ideals. Let us begin by legislating for the masses, and stop legislating for the classes. Let the people and not the corporations control the country. Let us teach the people that palaces and millions are disgraceful unless honestly acquired. Let the poor man and the rich be equal before the law. Let us go back to the old landmarks and ask if the man is honest and capable, and not seek candidates because of their ability to debauch the ballot box and corrupt the elections. Teach the rising generations that

> Honor and shame from no condition rise;
> But to act well their part, there all the honor lies.

These things may become old and stale and tiresome by constant repetition; but we must not forget the magnitude of the evils that have grown up in this country by a long-continued and persistent course of unwise legislation. And lapse of time should not be allowed to mellow into forgetfulness the real causes of these baneful trusts.

During all the history of modern Europe and America there have been two great political parties underlying the social and political revolutions that have extended from Runymede to this hour. One party has been willing to stand by the Crown and strengthen the arm of the King; the other party has constantly clamored for the rights of the people, and has struggled against the moneyed aristocracy and against kingly prerogatives. One party favored a strong government, and was always ready to enlarge the scope of royalty, and to thank God for the divine right of kings, and the passive obedience of the subject. The other party struggled for the rights of the people, and through many centuries battled to lift the masses from the condition of serfdom of the peasants of the middle ages.

These two great parties have battled from one end of English history to the other, and from the settlement of Jamestown to this day. In Scottish kirk and Catholic conclave, in Puritan assembly and Presbyterian synod, in Parliament and in Congress—everywhere these parties, under the guise, sometimes of religious nonconformists, and sometimes in the shape of political organizations, have waged a war of words and arguments for and against monarchy and the established church.

When heated debate and learned discussions failed, these opposing factions, time and again, met upon the "tented field," and in the fiercer conflicts of war fought for the truth of their causes. These parties have builded their own monuments, and have left unmistakable signs behind them which we may read and which are scattered all over England and America.

These monuments show the wisdom or folly of their teachings and the success or failure of the one party or the other. Each of these parties has had its period of mastery, and each in turn has been forced to yield to the superior genius and power of the other. To that political party favorable to the rights of the people and struggling for their elevation can be traced almost every step of English and American progress. To that other party, devoted to the King and willing to widen his domain of power, can be traced every period of tyranny, every period of oppression, and every retrograde movement of the Anglo-Saxon race. That party of the people forced Edward the First to repeal the laws in favor of purveyance and wardship. It was the growth of that party of the people that established the House of Commons, and they came to the front holding the purse strings of the nation. These representatives of the people in the House of Commons, after centuries of struggle, established the right in themselves to levy the taxes, and they built up through this same agitation the farmer and merchant class that have become the intelligent, wealthy middle class that now rules England.

That party of the people made James the First recall the banished ecclesiastics to their native land. That party of the people was in power when Charles the First was made to sign the petition of right, and when Charles the Second was compelled to grant the writ of habeas corpus. It was the party of the people that struggled against the tyranny of the Stuarts and achieved a parliamentary reform that constituted the glory of the revolution of 1688. That party of the people has gradually elevated the masses of the English race, and have gradually shorn the nobility and gentry of their hereditary claims to be booted and spurred to ride over mankind. The growth of this party of the people has narrowed the House of Lords into the smallest compass and curtailed the prerogatives of the Crown until these have virtually disappeared altogether. This party of the people came to the front in the reform measures of 1831, by which the elective franchise was extended to almost every citizen, and this party repealed the corn laws, and by the genius of Richard Cobden and John Bright this party of the people has made for England that vast empire "upon whose dominion the sun never sets."

In a word, this party has furnished almost every good thing England has had for five hundred years. From Chaucer to Shakespeare, from Shakespeare to Dr. Johnson, from Dr. Johnson to Gladstone, from Gladstone to the present Earl of Rosebery, who is to-day clamoring for home rule for Ireland, and who denounced the government for its miserable treatment of the Boers. "Look on this picture and on this."

To that king-loving party on the other hand can be traced most that is odious and mean in English history. That party was in power when Henry the Eighth married and murdered as many wives as he pleased, and confiscated the property of the monasteries because the church would not sanction his crimes. This royalist party was in power when England's religion had to be changed to suit the conscience of the person who occupied the throne, and the conscience of every subject had either to yield to the dictates of the Crown or be subjected to a religious persecution.

This royal party was in power when Queen Elizabeth established those monopolies that so stifled the trade of England that thousands died of starvation. This party was in power when the court of high commission and the infamies of the star chamber became a terror to the people. That party devoted to the king was in power when James the First made it a felony for a Jew or a Catholic to set his foot on the island of England, and when he forced the doctrine of the divine right of kings to be read from every pulpit in the Kingdom. That party of the king was flourishing at the head of the nation when Charles the First levied ship money without the consent of Parliament, and with his hired myrmidons laid waste the fair fields of Scotland. With the sword in one hand and the firebrand in the other this monarch invaded the Emerald Isle and made Ireland "the saddest island of the

sea." That royalist party came again into power when the court of Charles the Second became the most dissolute in Europe, and when favorites of the court were allowed to farm the revenues and to spend the taxes wrung from the people upon the silken harlots at Whitehall.

This party was in power when the Duke of Buckingham sold, under letters patent of the Crown, the exclusive right to make shoes to one man, and the exclusive right to make tinware to another, and so on, thus establishing the meanest monopolies that ever existed. This royal party was in power when Francis Bacon was keeper of the great seal and sold the judgments of his court to the highest bidder, and when James the Second sent Lord Jeffreys out upon those bloody assizes, when, for supposed political offenses and without a trial, women and children were hanged and their bodies hung upon stakes by the roadside to rot.

Our ancestors, driven from the old monarchy of England, brought to this country the doctrines and traditions for which they had vainly struggled and battled, and planted them in the forests of the New World, and the struggle went on between the lovers of liberty and the adherents of royalty. From the settlement at Jamestown and Plymouth Rock through all the history of the colonial period these political controversies continued, and these struggles for liberty still are to be found in the prevailing sentiments of the political parties of to-day.

The Declaration of Independence and the Constitution of the United States were not the creation of a day, but they were only the full-grown expression of political principles that had been growing and maturing through all the history of England. The doctrines of that party of the people, and the doctrines of the heroes of the American Revolution, and the doctrines of the Democratic party are to-day substantially the same. On the other hand, the underlying principles of the old royalist Tory party of England, and the doctrines of the adherents to the Crown during the days of the American Revolution, and the doctrines of the Republican party to-day are substantially the same. The Tory party of England, like the Republican party of this country, advocated favored classes to be supported by taxation of the masses. That party favored the building of great fortunes by monopolies and smiled at the grandeur of the English landlord. That party favored a strong centralized government and gloried in the glitter of the crown. In every essential feature the old Tory party of England loved the same things and hated the same things that are loved and hated by the Republican party of to-day. Just as in England almost every great landlord and prince of the blood is a Tory, so in this country almost every millionaire, every factory lord, and every mining king is a Republican. Just as in England, being a manufacturing country, Tory interference with the rights of the citizen built up great landed estates, so in this country, we being an agricultural people, the interference of the Republican party has built up a protective tariff and princely fortunes for the manufacturers.

Hamilton and his school were English royalists, Americanized, it is true, but still tinctured and permeated with the sentiments and prejudices of the same ancient faith; while Jefferson and his followers, upon the other hand, inherited the old faith of the Roundhead and Whig of the mother country. So on down through all of our political history the same old creeds, modified a little by time and the exigencies of the hour, still remain to-day. You might send one of our leading Republicans back across the sea to England and he would be found to-day a loyal Conservative, devoted to the "integrity of the Empire." He would have applauded Salisbury when he declared that not one shred of Boer independence should remain. Whereas if you should transport a genuine Democrat back to England he would be a Liberal, clamoring for home rule in Ireland, and he would have applauded Gladstone and would have rejoiced at the prospective independence of the South African Republics. Everybody knows that the sympathies and tastes and sentiments of the controlling elements of the Republican party are upon the side of the capitalists and "captains of industry," and everybody knows that the underlying sentiment that holds the Democratic party together is its sympathy for the struggling masses of mankind.

Charles the First lost his crown and his head for levying ship money without the consent of Parliament; our forefathers flew to arms and fought the battles of the Revolution because England undertook to impose a trifling tax under the odious stamp act; and yet we are to-day patiently submitting to the greatest burdens of tariff duties ever imposed upon an English-speaking people, and taxes, too, confessedly not needed by the Government, but imposed for the private gain of favorites of the Government. These taxes are imposed upon the people in order to swell the fortunes of factory lords and railroad magnates and mining kings, who live in marble palaces at home and who are spending abroad in traveling over Europe in royal splendor fortunes filched from the working classes and consuming classes of our own country. Millions of dollars in the shape of tariff taxes are paid every year by the working classes of this country into the pockets of these favorites of the Government, and then these nabobs go abroad every summer and spend these millions among the ragged and wax-headed counts of the Old World. They spend it in lounging in the perfumed baths of Baden Baden or they fling their gold across the gambling tables of Monte Carlo. And yet you are seeking to destroy the trusts! Let us teach the people that the man who wrecks a railroad is no less a scoundrel than the man who robs a bank. Let us proclaim the truth, that the men who monopolize and corner coal and beef and freeze and starve the people are no better than pirates, and that all thieves and robbers, especially the big thieves and robbers, are to be kicked out of decent society and are to be captured and punished.

The Republican party through all of its history has been and still is a party devoted to the interests of the classes and indifferent to the wishes and wants of the people. Posing as the friend of the laboring man, it relaxes the rules against Chinese immigration and fills the mines and factories with pauper labor imported to break down labor organizations and lower the rate of wages. It made the greenback a legal tender in payment of the soldiers, the farmer, and merchant, but not good enough to pay the interest on the bond. This Republican party enabled the rich to buy the bonds at 50 cents to the dollar of gold and then made the bonds payable in gold and doubled the fortune of every bondholder. With greenbacks or with silver bonds could be purchased at par when gold was worth two to one, and then the value of the bonds was doubled by demonetizing the silver and making all bonds payable in gold. I am not talking of 16 to 1. I am speaking of those years of legislation when the trust evil started, when vast millions were donated to bondholders, and when your national platform denounced the Democratic party for its efforts to demonetize silver. Aggregated wealth and an idle and insolent aristocracy have been the curse of every government and of every land.

Whether the plutocrat has been the long-finger-nailed nabob of the Orient, or the bloated blatherskite of our Western protective tariff system, his greed and power in every age "have made countless thousands mourn."

You are the architects and builders of these trusts, and all of the people are reaping the harvest you Republicans have sown.

Your protective tariff has operated to tax all the people in order to put the money into the pockets of a few manufacturers. While the wealth of the country has been produced in the North, and South, and West, yet the East—the poorest by nature of them all—has become possessed of more wealth than the North, the South, and the West combined.

All of this is by reason of a century of unfair and vicious legislation. You are now scheming to consolidate two vast Territorial empires into one State. Arizona and New Mexico are to be consolidated into one State for the purpose of still allowing the small and barren hillsides of New England to remain the seat of political power, so that you may still continue that system of pernicious legislation.

Mr. GROSVENOR. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield?

Mr. GILBERT. Yes.

Mr. GROSVENOR. Was it not a New England man, a Representative from Massachusetts [Mr. KNOX], who, as chairman of the Committee on Territories, reported and advocated and put through the bill to admit these three Territories as States?

Mr. GILBERT. This that I refer to was done in the Republican Senate.

Mr. GROSVENOR. But I refer to the action of the House.

Mr. GILBERT. Oh, the action of the House was all right.

Mr. GROSVENOR. Was not the measure led and championed by the chairman of the Committee on Territories [Mr. KNOX], a Massachusetts Republican?

Mr. GILBERT. Yes, that is correct; but why, if it is a Republican measure, have you not passed it through the Senate?

Mr. GROSVENOR. Oh, I am not a member of the Senate. The reason I did not pass it through the Senate might be that I voted against it here and would vote against it there.

Mr. FITZGERALD. Will the gentleman permit a suggestion?

Mr. GILBERT. Yes.

Mr. FITZGERALD. It is not the first time that the Republican party has put a measure through the House for the purpose of deceiving the people, and with no intention of enacting it into law. [Applause on the Democratic side.]

Mr. GILBERT. And more than that, the gentleman from Ohio, when that bill was under discussion, was honest enough to announce from his seat that his opposition to the bill was founded upon political considerations. That is the statesmanship that prompted his opposition to the bill, and I suppose it is the same political consideration that is now prompting the opposition to the bill in the other House. The truth is, the gentleman from Ohio will

understand, that the Republican party is now making the same desperate and heroic effort to destroy the trusts that it made for ten years to establish bimetallism by international agreement. [Laughter on the Democratic side.] Surely the people of this country will learn after a while how you Republicans are playing hide and seek here in the Capitol. You play one House against the other, and when attacked you point to the action of the Republicans in the House or Senate, as the exigency may demand. The gentleman from Ohio rises from his seat to proclaim that a Republican House passed a bill offering to make three States out of the territory of Arizona, Oklahoma, and New Mexico, when he knows, and everybody knows, that all of the Democrats favored this measure and the only opposition it encountered in the House came from the Republican side, led by this same gentleman from Ohio. He knows, and everybody knows, that the Democrats in the Senate are anxious to pass that bill and that it is being deadlocked and will be ultimately defeated by the Republican opposition in the Senate.

Yes; you passed an antitrust law also at the last session, backed by the unanimous support of the Democratic side of the House. It has been put to sleep in your Republican Senate, and you all know perfectly well that it will not become a law by reason of the Republican opposition in the Senate. Now you are going to pass this bill, backed by the support of all the Democrats, and this bill will also be put to sleep in the Senate. You are preparing to go before the country and try to make the people believe that you have been laboring to destroy the trusts.

You underestimate the intelligence of the people. They are going to catch on to your game of hide and seek. These vicious policies of your party and its double dealing have been pursued and persisted in until the poison has permeated our whole national system, and have in great measure vitiated the sentiments of our population.

The disease has become radical, constitutional, organic; and your homeopathic doses of antitrust legislation will prove as futile as your Sherman law has proved to be.

You applaud when the Supreme Court overturns the precedents of a century and refuses to make the rich pay income taxes. You give the management of your campaign to a man who was openly charged with bribing a legislature in order to obtain a seat in the Senate. When a leading Republican is found guilty of robbing the post-office funds in Cuba the Administration interposes to set him free. You turn with contempt away the delegates from South Africa, who came only for a smile of sympathy and encouragement. You are all in a trot in the broad highway of commercial greed, going to the devil together, with trust magnates in the lead. And now, when the whole country is honeycombed with trusts, you introduce a bill that is to apply only to corporations hereafter organized. So take your lanterns and, unlike Diogenes of old, go in search, not of an honest man, but in search of the monster trust, and when you find one look in its face and you will find that the face of the spook is your own. [Loud applause on the Democratic side.]

Mr. NEVIN. Mr. Chairman, the growth of our country in the last half dozen years in material wealth has been phenomenal. To the student of political economy it is nothing short of marvelous. We used to estimate our growth in millions, but now nothing short of billions will express the wondrous and wonderful increase of wealth. It has come to all occupations and all classes of people. Within the last half dozen years not only the manufacturer, but the laborer employed by him has increased in wealth.

The merchant who handles the goods, the grocer, the lawyer, the professional man—of all classes of the community this is true. That has not only been true of the last half dozen years, but since the war of the rebellion it is true. Steadily and certainly have we grown in wealth. For only four years did it stop, and that was when for some reason God punished the American people by putting them in the hands of the Democracy. From 1892 to 1897 we had perhaps four or five of the worst years in the history of the American people. This might not be very germane to my subject—this bill to regulate trusts and combines—were it not for the fact that at that time the sovereign remedy for the then-existing ills of the people offered by the Democratic party was tariff revision, and, strange to say, when we have before us to-day a question as to controlling monopolies and the so-called trusts, we find them offering the same panacea, the same omnicurant of tariff revision as the remedy now.

I assume that we can never, even if we could lay aside party politics and party policies, agree upon any measure upon this subject to the satisfaction of all the individuals of this House. If we were to start out now to draw a bill, I believe that the bills would be as various as the members of this House. Therefore we have to get together and present the best compromise measure that can be reached to remedy the evils which we are discussing.

Gentlemen have been talking of the trusts, of these great combinations, as if they were creatures of Congress, and as if we created them. Well, we have not anything to do with them as corporations or as creatures, save as they are engaged in interstate commerce and come within the control of this body. They are nothing more than individuals or corporations or artificial persons created by the States. Their powers are granted them by the States. Their charters give them all the rights they have and limit them in their functions, and all that we can do is when they engage in interstate commerce to put our hands upon them for the purposes of control.

This bill presented by the Judiciary Committee seeks to remedy the evils that exist, when they have come under the control of Congress. Everybody says that one of the great evils is overcapitalization. We have heard that from Mr. Bryan; we have heard that from Democratic sources as we hear it everywhere. This bill seeks to remedy that evil. It provides that every corporation that shall hereafter be formed to engage in interstate-commerce business shall, upon the 31st day of December next, file with the Interstate Commerce Commission all the figures and all the facts of its capital stock, that which is paid in in money, that which is paid in in property, and give to the people all that can be known of these bodies.

The gentleman who has just spoken [Mr. GILBERT] was in error, at least in his conclusion if not in his statement of fact, when he said that the corporations now in existence escaped the penalties of this law. All corporations now in existence and engaged in interstate commerce shall, when required by the Interstate Commerce Commission, file with said Commission a full and complete statement of their capital stock, and how paid in.

I have seen it estimated that not more than 5 per cent of the corporations of this country are within the meaning of what you denominate trusts; that fully 95 per cent are small corporations, engaged in business that in no sense could ever become a monopoly or ever could raise the prices of the products they manufacture to the consumer.

Now, what reason can there be for having 95 or 98 per cent of the corporations in existence to-day compile these facts and present them to the Interstate Commerce Commission? What good could it do? What reason is there for it? The power by this bill is put in the hands of the Interstate Commerce Commission to require any and all corporations that they may see fit to make such statement of their capitalization as is required of all corporations hereafter to be formed, going into interstate commerce business.

Mr. SMITH of Kentucky. If it will not disturb the argument of my friend——

Mr. NEVIN. It will not.

Mr. SMITH of Kentucky. I should like to ask him a question. My question is this: Suppose that it is developed by the returns made in pursuance of sections 1, 2, 3, and 4 of this bill that a corporation is largely overcapitalized, has a great deal of watered stock. What is the remedy against that in this bill?

Mr. NEVIN. None.

Mr. SMITH of Kentucky. None at all?

Mr. NEVIN. None. There is no remedy for that for any future corporations. It is the fact that you want to get before the people, the fact of the overcapitalization; how much of it is property, how much is money, and what may be water, in order that those who are going to invest or in order that those who want that information may have it. That is the sole purpose of that section and all it is meant to do.

Mr. SMITH of Kentucky. I want to ask the gentleman if he does not think that it would have been very wise for the committee to have reported in this bill a provision that would, as far as possible, have prevented the watering of stock by corporations?

Mr. NEVIN. I do not see what power Congress can have. These corporations are creatures of the States. Would you be willing as one of your party to say that we can take hold of these State institutions and control them, even if we have that power?

Mr. SMITH of Kentucky. I answer very candidly that I do not doubt the power of Congress to tax corporations of any class. I think it has been done repeatedly, and can be done again.

Mr. NEVIN. Yes.

Mr. SMITH of Kentucky. Now, I believe personally that it would have been well for this bill to have contained a provision requiring all corporations having watered stock to pay into the Federal Treasury a tax equal to the declared dividend upon their watered stock. I believe that would have driven them back to doing business on their paid-up capital stock.

Mr. NEVIN. Supposing they did, who would pay that tax eventually? You do not illegitimatize it. You do not say that they may not do it; you simply provide that for watering their stock they shall pay a penalty in the shape of a tax. Now, who would pay that tax?

Mr. SMITH of Kentucky. They would cease to have watered stock if they had to pay upon that into the Federal Treasury.

Mr. NEVIN. That would be a question. Now, that is the first evil we seek to remedy in this bill. What is the next great crying evil before the people? Why, it has been the fact that some persons or corporations have been permitted to have rebates from the railroad companies and common carriers, and thus they have been enabled to sell the product of their factories and mills for less than others in open competition. Beginning with section 6, clearly is the remedy here for that. It provides not only that the company which gives the rebate, but that the person or corporation receiving it, shall be liable under the act in any court of the United States, and upon conviction shall pay a fine of not less than $1,000.

I think that is an improvement such as will absolutely prevent rebates in the future. I take it that we are not here for the purpose of stopping these great instrumentalities of trade that have brought to us this enormous wealth that I have spoken of. It is for the purpose of regulating them and compelling the use of open, free competition, and not for the purpose of destroying them. We could no more go back to the old instrumentalities of trade and commerce of twenty-five, thirty, and forty years ago and have the prosperity we have to-day than we could go back to the old times of one hundred years ago and expect the same results.

We could no more expect the results in material wealth which have grown out of the evolutions of business and commerce that we have now under the old mode and way of doing business than we could expect to fight the battles of the present with the old musket and arms that we had in the war of the rebellion. And so it is we have grown up gradually to the present state of affairs. These corporations, thousands of them, 95 to 98 per cent of which never reach that stage in which they become a menace to the people of this country, are not and will not be affected by this law.

It is only the rich, in point of numbers very few, for which these laws need to be passed. And all we can do is to take a step and reach out just as far as we know the circumstances will permit; and if, during the years to come, we find this law does not do the work, if it is not an effectual remedy, why, then we can go forward and find a remedy. It will be found by some person or by some party at some time, because the American people will never submit to anything less than free, fair competition among all the people.

Now, then, I want to say that I differ from the committee as to one section, and that is section 7. I agree with Judge FLEMING. I do not believe that it ought to be here, and it ought to be stricken out without being even amended. Now, that section in effect provides:

> That any common carrier or transportation company or receiver that shall knowingly transport any product produced in violation of the provisions of this act——

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. LITTLEFIELD. I yield five minutes more to the gentleman from Ohio.

Mr. NEVIN. Manufactured or sold in violation of the provisions of this act, shall be subject to a suit and penalty of not less than a thousand dollars, to be brought in any district in which such common carrier, etc., conducts business or has an office. It looks to me as if that is putting an unfair and improper burden upon the common carrier. A person or company comes and presents goods for transportation. Now, why should the common carrier be compelled to determine whether they have been manufactured or produced in violation of law or not? And I may say right here the word "knowingly" in the law does not affect it. That is begging the question. Now, if the common carrier receives these goods, it, being engaged in interstate commerce, is subject to the law.

Mr. WM. ALDEN SMITH. It may take it from a connecting carrier?

Mr. NEVIN. Yes; it may take it from a connecting carrier, but suppose it refuses on account of this law to receive them. Well, then, suit may be brought and the company mulcted in thousands and tens of thousands of dollars damages for refusing to accept these goods. I have in my mind one manufacturing plant at Dayton where if the roads centering there were to refuse to receive its goods it would absolutely ruin the establishment.

By the terms of this bill the railroad company must determine whether the goods come within this section or not; it must act instanter, and if it accepts them and it finds out afterwards that the goods are monopoly or trust made, why then it is liable to a penalty of a thousand dollars under this act, and if it does not take them it is liable to pay damages. Thus it is you have the old story: "You can and you can't; you shall and you shan't; you will and you won't; you're damned if you do and you're damned if you don't." [Laughter.] It does not make any difference whether you take them or refuse to take them you are subject to a penalty.

That is not all. The amendment that will be offered and which the gentlemen said they would accept does not cure it. The amendment says before suit can be brought and the penalty attach it must first be found and declared by some court of competent jurisdiction, or by the Interstate Commerce Commission, that the goods offered for transport have been made in violation of this act. Now, there are monopolies in this country by law. In my city the National Cash Register Company for many years was by law a monopoly. It was a legitimate monopoly. The patents under which it was manufactured were given it by the Government of the United States. Its products were the only ones that could be put out under a patent and the Government gave it the right of monopoly.

Now, they had monopoly-made goods, confessedly so; it does not require a court of competent jurisdiction or the Interstate Commerce Commission to declare that. It was by virtue of the law itself. It was by virtue of the power given it by the United States Government to produce and monopolize those goods. Now it takes those goods, say to the common carrier, and says, "we want you to ship these goods all over the country."

The common carrier says, "We can not do it. There is no exception in the law," it says, "if done in violation of the provisions of this act"—not in violation of law—"in violation of the provisions of this act, and in violation of the provisions of the Sherman Act of July 2, 1890, and we are unable to transport them. We are liable to a penalty of $1,000 in a suit brought by the United States Government." And so they are refused. What would be the result? Ruin to the company. It seems to me, Mr. Chairman, that that section should be stricken out. It is more drastic than any other section in the bill.

Mr. COOPER of Wisconsin. Will the gentleman allow me an interruption?

Mr. NEVIN. Certainly.

Mr. COOPER of Wisconsin. Will the gentleman call attention to the provision in the bill which prevents the transportation of monopoly-made goods?

Mr. NEVIN. Yes; it is the section before this one, describing the goods that are controlled, and it says goods transported in violation of the provisions of this act. In my judgment, it does not say it in precise terms, but it says any manufactured goods sold or manufactured in violation of the provisions of this act and that of the act of July 2, 1890.

Mr. COOPER of Wisconsin. If the gentleman will permit me, I understand the argument, but it is based upon the proposition that somewhere in this bill or in the act ordinarily known as the interstate-commerce act there is a provision prohibiting the transportation of monopoly-made goods, and I am unable to find that in this bill or in the interstate-commerce act.

Mr. NEVIN. This is the section that prohibits the transportation. This is the one that prevents trust-made goods from being transported. But regardless of this, I say that there is ample reason to have this section stricken out, and that the common carrier and receiver or transportation company ought not to be compelled to decide this question. I am in sympathy with the law if it will put a penalty on the manufacturer of these goods, if it will make him pay for the transportation of them if produced in violation of law.

Mr. THAYER. Will the gentleman allow me an interruption?

Mr. NEVIN. Yes.

Mr. THAYER. Is it not perfectly feasible——

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. SULZER. Give him time enough to answer the question.

Mr. THAYER. Is it not perfectly feasible——

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. DE ARMOND. Mr. Chairman, I now yield to the gentleman from New York [Mr. McCLELLAN].

Mr. McCLELLAN. Mr. Chairman, the bill before the House has been reported as the result of the urgent recommendations contained in the President's message on curbing the monopolistic tendencies of the trusts. Speaking as the official head of the Republican party, the President has repeatedly recognized the existence of the so-called trust evil, and has in so doing proved that both parties are in accord in believing that there is an evil that should be remedied.

So much has been written upon the trusts, so much has been spoken, not only by those who know something of the subject, but by those who know nothing at all, that this great, vital question of our day has been so obscured that at times its solution seems almost hopeless. Gentlemen speak of "curbing the trusts" and of "smashing the octopus" as though the deflection of the trend of existing economic conditions were as simple a performance as changing the direction of a stream of water coming from a garden hose. The very terms in use in the discussion are obscure. The same words are constantly used and misused to represent opposing thoughts. Until we know what it is we wish to

cure, until we know what the evil tendencies are we desire to curb, it is hopeless to even pretend to undertake to touch the question.

Some there are who argue that every combination of wealth on the face of the earth is an evil. Gentlemen have undertaken to prevent the concentration of wealth when they should have devoted their energies to the task of trying to reach the monopoly that concentration, aided by government, has made possible. The sooner that we are ready to recognize the economic fact that the tendency of the age is in the direction of the concentration of energy, of effort, and of wealth, the sooner will we be able to deal intelligently with the evil effects of concentration.

I take it that in speaking of trusts gentlemen do not necessarily mean trusts in the literal sense alone. They usually include in their references to trusts any combination of capital which is larger than those to which they are accustomed. Furthermore, gentlemen are in the habit of assuming that all great combinations of wealth are necessarily monopolies, which is very wide of the fact.

It is a new phase in the development of the Republican party that it should show any solicitude upon the trust question. What its purposes may be, what its theories are, passes all human comprehension. I have always been possessed of an impression that the Republican party derived its sinews of war, derived the very vital force which permits it to continue to exist, from the treasuries of those very trusts which it is now professedly anxious to curb.

On the other hand, the Democratic position is consistent. The Democratic party makes no war with wealth legitimately and honestly acquired. We realize that the tendency of the time is in all things in the direction of concentration. We know that labor is as dependent upon capital as is capital upon labor, and that the greater the honest wealth in a nation the greater will be the people's prosperity. But when great aggregations of wealth, engaged in the production and the distribution of the necessities of life, become monopolies, then we say that it is time to call a halt, not that we object to the wealth of itself, for we do not, but because we do object to its misapplication and its misuse. And so, unlike our Republican opponents, who are fighting like men buffeting the air, blind guides leaders of the blind, we are actuated by a common purpose.

None realizes more thoroughly than do I the vastness of the task to which we have set ourselves. The United States is confronted with the most serious economic crisis in its history, not even excepting that of slavery, and upon its correct solution will depend the future happiness and the hope of generations yet to come.

Broadly stated, there are in the United States five classes of monopolies: First, those derived from patents and copyrights, which are, within certain limitations, generally recognized as being in accordance with wise public policy; second, natural monopolies, derived from the exclusive ownership of certain natural sources of production, and which must be borne as long as the right of private property exists; third, monopolies due to direct government action, such as street-railway franchises in cities; fourth, monopolies caused by discrimination in freight rates accorded by the railroads; fifth, monopolies due to the protective tariff. It is with the last two classes of monopoly that we are alone concerned.

The tendency of monopoly price is constantly upward until it reaches the point at which the law of substitution comes into play—the point at which the consumer can no longer afford to buy and must seek some cheaper substitute. There are so-called trusts in every civilized country on earth, but the existence of trusts does not necessarily imply monopoly. Wherever there is competition it follows that there can be no monopoly, for the moment the effort is made to raise prices the competitor brings his goods to the market at the old price, and no increase is possible. In free-trade Great Britain whenever an effort has been made on the part of a so-called trust to raise the price of its product above that of the world market the producers of the world have at once brought their goods into competition and the effort has ignominiously failed. To make it possible for a producer to raise the price of his product above that of the world market the world producer must be excluded from competition. This can only be where government in its might excludes the foreign competitor by means of a protective tariff.

In every country of Europe the railroads are either owned and operated or carefully and honestly supervised by government, so the question of discriminating freight rates is nonexistent. There is therefore only one possible cause of monopoly, natural and direct government monopolies being excluded, in any other country but ours, and that cause is a protective tariff. And so we find that wherever there is free trade there is no monopoly, but that wherever there is a protective tariff monopoly exists, its power for oppression being directly proportionate to the amount of protection accorded. The problem with which we have to deal is that growing out of discriminating freight rates and a protective tariff.

The bill before us comes with more advertisement than any in recent years. It is the result of eight months' earnest effort on the part of the entire Republican party. It is only fair to assume for the sake of argument that its authors intend it seriously, and that before final adjournment it will be enacted into law. But even so, what will it accomplish? Its purposes appear to be twofold in scope: (1) The so-called "publicity" feature, intended to furnish the public with information as to the condition of corporations engaged in interstate or foreign commerce; (2) stringent provisions against discrimination on the part of common carriers in the matter of freight rates.

Just at present it is the fashion to assume that publicity in the affairs of corporations will prove an absolute preventive of monopoly. Gentlemen honestly believe that if the public is in possession of the details of management of our corporations that in some mysterious, peculiar way those corporations will be prevented from acquiring monopolies. The gentleman who fathers the bill before us states in his report that publicity will tend "to lay the foundation for more intelligent legislative action in the line of direct control" of the trusts. Yet publicity will not make the evil effects of monopoly more evident than they are to-day.

The only result of the publicity feature of the bill will be a greater protection to the honest investor in corporate securities. It may result in preventing the floating of wild-cat companies, and the fleecing of the bleating lambs of Wall street, but the Wall street end, if I may use that expression, is the only part of the problem that publicity will reach.

The sections of the bill designed to strengthen existing law against discriminating freight rates may serve to prevent the growth of monopoly in the future based upon this particular wrong, but they come too late, even if rigidly enforced, to destroy by themselves many monopolies already in existence. It is a question whether they do not tend to close the stable door after the horse has been stolen, and certainly their efficacy will depend upon the spirit in which they are enforced. The sincerity of a lukewarm Administration, driven to take some action by an insistent public clamor, is but a feeble reed to lean upon in the righting of a monstrous wrong. [Applause.]

The most glaring example of monopoly due to discriminating freight rates is the Standard Oil Company. Thanks to the complacence, thanks to the silent, if not the active, partnership of the railroads, this vast trust has acquired so complete, so absolute a monopoly that no enforcement of a prohibition against discriminating freight rates will serve to shake it; the remedy must be sought elsewhere.

We must not flatter ourselves that by a mere stroke of the pen we can reform humanity. There are some evils incident to our growth that can only be cured by the evolution of our race, but there is no evil that can not be minimized by wise and just legislation, and none that can not be prevented provided its anticipation renders prevention possible.

When the door is open and egress easy the wise man, if capable of walking, loses no time in leaving a burning building, and does not wrap himself in asbestos for the purpose of testing the temper of the flames. He prefers the obvious and simple solution of the problem rather than one which, while picturesque, is not unattended with danger. When the cause of a disease is perfectly evident, and when that cause can be readily removed, the common-sense remedy is the removal of the cause.

We propose by this bill to make public the affairs of the trusts, thereby protecting investors. So far, so good. We propose to prevent the railroads from joining the trusts in sleeping partnership; a very wise proposal, worthy of the statesman who fathers it, even if not original. But these remedies do not go below the surface, and so do not strike at the primary cause of the evil of monopoly. The effort to destroy the vine by trimming its leaves is doomed from the beginning; the effort to slay the monster of monopoly with paper pellets can scarcely disturb the confidence of the intended victim. To propose publicity and to prevent discriminating freight rates are well enough so far as they go, but as long as the Government remains in active partnership with the trusts of this country, just so long will the trusts be able to maintain monopolies. The fundamental cause of monopoly in this country, and in every country, is a protective tariff. Just so long as we maintain a tariff which prevents competition, just so long will we have monopolies.

I grant that it is a clever move on the part of the Republican party to try to hoodwink the public by means of bills such as the one before us. While professing sincerity in their efforts to destroy monopoly, they offer us this bill, which can accomplish but little, and very carefully refrain from even by implication touching the tariff. The views of the minority of the Committee on the Judiciary call attention to the chief omission from the bill.

The most dangerous class of monopolies, the most oppressive, the most absolute, is left entirely untouched, either directly or indirectly, either by statement or by suggestion. There is not one word in this bill in reference to the protective tariff. In the report of the gentleman from Maine there is not one word of hope that the time will ever come when the Republican party will dare to face the real question involved in monopoly—the protective tariff now upon the statute books. [Applause.]

It is perfectly true that the Standard Oil Company's monopoly was created because of the complaisance of the railroads, and that to-day it is strong enough to exist without their help. It is, however, no less true that were the countervailing duty against Caspian oil repealed, that product would serve as a guaranty to the people of the United States that the price of the home product could never be raised above that of the world market.

It is probable that were iron and steel admitted duty free, the steel trust, so called, would continue to do business, and to pay wages and dividends. But it is certain that were iron and steel placed upon the free list, or a revenue duty levied upon them, the steel trust would find itself powerless to raise prices above the world level or to maintain its present monopoly.

Were the duty on sugar reduced to the maximum revenue-raising point, it is very possible that the American Sugar Refining Company would be obliged to go out of business. But as it exists to-day, thanks to Government bounty, its stockholders when investing take a gambler's chance that the law will remain unrepealed, and for this very reason receive proportionately enormous dividends. The benefit to the people of the United States resulting from free sugar would far more than offset the loss of Government charity to the owners of the trusts.

Whatever justification there may have existed for a policy of protection in the early days of our history, that justification has long since disappeared. We have become so great, so rich, so prosperous, American labor is so efficient, American ingenuity and American brains so competent that we can compete on equal terms with every other nation on earth. The only possible result of protection to-day is the granting of Government subsidies to producers and distributers who do not need them.

We may deceive ourselves by specious arguments, we may talk of the unrest that would be created in the business community of the country by a revision of the tariff, and yet the fact remains that without a revision the problem can not be solved.

The party to which I have the honor to belong was founded upon certain fundamental principles which are unchanging and unchangable. One of those principles is that there should be no taxation except for purposes of government economically and honestly administered. [Applause.] That principle is as vital to-day as it was a hundred years ago, and but for the violation of that principle monopolies would not exist.

Try as it may the party in power can not shift the issue, and can not shirk the responsibilty of its own acts. By this bill, upon which it has staked its future, it proves its own hypocrisy. The Republican party has been in power for six years; the President and both branches of Congress are Republican; a revision of the tariff is demanded by the people, the necessity for that revision is conceded by far-sighted and patriotic Republicans, and yet no revision is proposed, nor promised, and this miserable makeshift is offered as a substitute, a makeshift of which the best that can be said is that it is better than nothing at all.

The people of this country are hardheaded and intelligent. They are conservative and slow in reaching their conclusions, but when they have once made up their minds as to what they want they ultimately obtain it. Should this bill be enacted, as we must assume it will be, it can only be a question of months when it will prove its own impotence. It would have been far wiser from a political point of view, far more courageous from a manly standpoint, had the Republican party openly acknowledged its solicitude for monopoly. The feat of running with the fox and hunting with the hounds is as impossible of accomplishment in statecraft as in the hunting field. There was a time when Republicans were not ashamed to boast of the artificial industries they had created. Now that their monster has grown strong, violent, and disreputable, they disclaim all responsibility for his existence. They even cut his acquaintance when they meet him on the street, but they nevertheless continue to feed him by stealth when he calls after nightfall at the basement door. They talk loudly against the evils of monopoly, but let the latter perfectly understand that it has nothing to fear as long as they remain in power. [Applause.]

No halfway measures can avail, no legislation that does not go to the root of the matter can be efficacious. There is but one solution of the problem; there is but one cure for the evil. That is the absolute dissolution of the unrighteous partnership that exists between Government and monopoly in the protective tariff. [Applause on the Democratic side.]

[Mr. GOLDFOGLE addressed the committee. See Appendix.]

Mr. LITTLEFIELD. I yield five minutes to the gentleman from Massachusetts [Mr. TIRRELL].

Mr. TIRRELL. Mr. Chairman, it will be impossible for me, in the brief time allotted, to discuss the provisions of this bill, nor is it necessary. The committee having this matter in charge with remarkable ingenuity and ability have provided for the exigencies and purposes for which this bill was designed. They recognized the fact that there has been a mighty change in the last twenty-five years in the industrial development of the country; that the methods of business which were in vogue twenty-five years ago have passed away; that not only in this country, but in all parts of the civilized world there has been an aggregation of business enterprises for economical purposes, and that the simpler methods of former days will probably never return. They have not attempted to cover the whole field or solve every problem the trusts present.

As government is an evolution from days when occupancy determined ownership to the complex administrative systems of modern civilization, so laws to control business are an evolution from unrestricted action to more or less restriction, as experience demonstrates to be wise. Every law regulating commerce or business is more or less experimental. It fails to meet every case. We ought not to expect it. The infinite diversity of action of enormous wealth seeking avenues of investment creates and frames new issues as rapidly as the old are solved. Step by step safeguarding the rights of both capital and labor is the statesman's duty. Mistakes will be made. Conditions change. What is applicable to-day may be obsolete to-morrow. If this bill fails to accomplish its purpose, it will at least be an honest effort to secure publicity in the organization of great corporations, prevent discrimination in transportation, provide against overcapitalization and watered stocks so far as the same are deceptive and misleading, guard against interference with competition, and secure full and complete returns relating to the assets and business of the trusts coming within its provisions.

In the discussion of this bill it is not surprising that conclusions are drawn diametrically opposed to each other. Much depends upon the point of view. One thinks it is a restraint of trade to fetter a corporation with inquisitorial laws, that it discourages the investment of capital, and leads to evasion and fraud. He asserts that only unhampered industries will flourish, and what individuals repudiate applies to corporate bodies as well. No individual, he argues, would tamely submit to an exposé of his business, and corporations—an aggregation of individuals with vested interests—will be affected in the same manner. Another becomes frenzied over the contemplation of the existence of great corporations, to him the foe of labor and the enemy of industrial prosperity. Whatever view is taken, it is indisputable that the public regulation of great corporations is demanded by the American people. It devolves upon Congress to evolve a law under which this may be secured without injury to legitimate business.

I believe this bill is justly framed to this end. It may fail, as almost every law fails, to give justice in every instance. I believe it is adapted to the general conditions applicable to the great trusts and for which the people demand reform. It signals out no special industry, it is devoid of partisanship, it applies to those corporations that owe their existence and prosperity to the use of public franchises, and it insists that those franchises shall be equitably and equally for the benefit of every corporation, great or small, wherever located. It provides means to carry out its provisions, enforcing penalties sufficiently severe to deter the repetition of offenses committed under it, and is so clear in phraseology that its meaning can not be misunderstood. Without lingering further upon this phase of the question I turn to another and more important, to prove, if possible, by a few illustrations the necessity of the enactment of some law to meet these ends.

If it can be shown that the objects of these great aggregations of capital, the so-called trusts, are to secure a monopoly of the business in which they are engaged, to suppress competition and to prevent competition in the future and to so manipulate their business that whatever the selling price of their product a large if not an excessive profit can be secured, then we have demonstrated the necessity of action. Take, for example, the Standard Oil Company, the first and one of the greatest trusts. In 1882, after eleven years under an agreement with independent oil companies by which they pooled their issues, dividing the territory in which they sold and selling at fixed prices, it organized a number of petroleum refineries in Pennsylvania and adjoining States into one consolidated company.

Previous to this consolidation the Standard Oil Company had for years, by a secret agreement with the railroads, secured lower freight rates than its competitors, and so shameful was the prostitution of public franchises by the railroads of the country, in addition to granting the Standard lower rates, they paid to it the

excess sums paid in freight rates by the Standard's competitors, which amounted, so statisticians tell us, to over $10,000,000, a large profit upon the par value of its stock, enabling them to sell oil at less than cost to crush out competition. Then the Standard Oil went to the independent companies offering to purchase their plants. What could they do? They knew the railroads would discriminate against them. They knew that the railroads were transporting oil at lower rates than they could possibly secure. They knew that the secrets of their business, necessarily more or less open to railroad inspection, were divulged to their rival. Against all this they protested. They demanded equal transportation rates.

Equal rates were promised, provided equal quantities of oil under the same conditions were shipped and guaranties were given, an impossibility, as the Standard Oil was the largest producer. There was no Interstate Commerce Commission to regulate the traffic; there was no court when transportation went beyond the boundaries of the State that had jurisdiction. Many of the States, even then recognizing the gross injustice of permitting a railroad organized and owing its continuance to the legislative enactments of the State itself such discriminations, had laws and commissions to punish such infractions and suppress by injunction any unfair or unjust treatment of its citizens who used these roads as common carriers for commercial purposes. Beyond the State the power ceased. The railroads were linked to the Standard Oil in the conspiracy. The independent companies could not long continue the unequal contest. Financial ruin was inevitable in competition which in railroad rebates alone gave a dividend and surplus to the Standard Oil stocks. They had to sell. If a company was obdurate it was threatened with special attacks to drive it from the market. So at last they came to terms. No one was allowed even to appraise his own property. What it was worth to the Standard Oil Company, as determined by its appraiser, was the price the Standard Oil paid.

In a hearing before the Congressional committee of this House, evidence was adduced that the independent refiners sold to the Standard Oil Company at 50, 40, 75 per cent—in short, the best per cent the Standard Oil would offer—plants that had been great producers and vigorous competitors before this octopus absorbed them. By such processes a trust was formed that sent its tentacles throughout the oil regions of the country until it seized them all. All this with a capital of $100,000,000 only, but which had a valuation in 1900 of $842,000,000, rating its stock at nearly nine times its par value, and paying dividends that year of $48,000,000, or nearly 50 per cent on its capitalization, following in 1901 with $45,000,000 in dividends, to swell the colossal fortunes of men who, by a wanton, open, and shameful discrimination in the use of public franchises, had squeezed the life out of independent competitors, forced the sale of their plants at their own figures, and acquired a monopoly of the oil business, controlling for five years prior to 1901 from 80 to 85 per cent of the American output of refined petroleum, now even more, having since bought out its leading competitor. It is asserted that to-day this company owns or controls absolutely 95 per cent of the output of the country.

It is reported, and has appeared in the papers of the country without denial, that the Standard Oil magnates have telegraphed to many United States Senators their opposition to the publicity features in the Commerce and Labor bill, creating a new department of the Government and authorizing the investigation of methods of business, to procure reports of the status of trust companies for action for violation of law, if the facts would justify. All this proves that the trusts aim, first, for a monopoly; second, to drive out competition, and third, to wring inordinate profits from the people. Other trusts on similar lines have their malodorous history, but this example, stated with some detail, illustrates the steps taken. This company, and other trust companies, it is true, claim that by economies they place their product on the market at lower prices than before the combination was made.

Even if true if those prices in the aggregate pay excessive profits on genuine capitalization there is just cause of complaint if the price can always be regulated to keep the profits far in excess of those from legitimate business investments. For instance, last summer the Standard Oil, justifying their action by the slight increase in manufacturing cost, unwilling to shrink its dividends to moderate dimensions, put a cent a gallon on the cost of oil. The company is said to produce 180,722 barrels a day, and this increase in price is reported to add to their profits $16,000,000 a year. At any rate, the stock of this company, on this increase, jumped from $655 to $750 a share. Thus, with the trusts it is not what the raw material can be obtained for or whether the manufacturing cost increases. In any event the field is theirs. Their market needs no drumming. The coal strike is a startling illustration. The railroad companies controlling the anthracite coal belt of Pennsylvania, where anthracite alone is found, could ask double, treble the ordinary price, which was paid instantly, as the coal could be secured from no other available source.

Mr. Havemeyer, the magnate of the sugar trust, frankly said, "Business is not philanthropy. I think it is fair to get out of the customer all you can consistent with the business proposition, the real object being the protection of our own business, the result being no profit to rivals." In accordance with that policy, to kill the beet-sugar competition in the Mississippi Valley, this trust sold refined sugar there last summer half a cent below the cost of raw cane sugar in New York. The profits here on the sugar we had to buy went to pay the losses there. We contributed, and were absolutely compelled to do so, to stifle an industry that fully developed would bring a vast amount of labor to the agricultural sections of the West and great wealth to the nation. This so-called sugar trust flourishes only as it monopolizes the production of refined sugar. In its organization it mattered little what it paid in buying up its rivals.

The capitalization of all the companies it bonded amounted on their own valuation to $6,590,000. The sugar trust capitalized this valuation for $50,000,000. Slight changes were made and the capitalization was advanced to $75,000,000, and recently to $90,000,000, the last addition ostensibly for the purchase of property; what property has not yet been disclosed. Its capitalization is nearly five times what was considered a fair value of its assets before consolidation. On this capitalization dividends are paid, hoodwinking the people into believing that a modest and proper return, consistent with a genuine investment of capital only, was earned. The underwriters of the United States Steel Corporation received as compensation 649,987 shares of preferred stock and an equal amount of common stock. Taking $90, the market value of the one, and $40 of the other, they have a value of $84,500,000, from which deducting $28,000,000 advanced by them leaves them a clean profit in the organization of this company of $56,500,000.

The interstate-commerce law of 1887 and the Sherman antitrust law of 1890 and similar laws passed in 31 States have had little effect in preventing the formation of trusts, and nearly 200, with an aggregate of nearly $4,000,000,000 in capital, exist in the United States. Stated in a general way, the preferred stock of these trusts represents the real capital and the common stock, water, created to pay the promoters or distributed as a bonus in the acquisition of the plants.

What is the effect of such combinations? I come from a State among the foremost in manufacturing activity. Scattered along its rivers and thickly studding its plains are potent evidences of its industrial life.

In towns in my district of 12,000 people more than 100 factories can be counted, representing diversified industries competing with each other for the same trade. All is stir, and hope, and confidence. Each day witnesses the development of new energies—the reaching out into larger lines by one, the invention of some new device by another, and the economical rearrangement of a factory by a third. Small enterprises in a few years become great, and the laborer in the yard becomes the foreman in the factory. There is a competitive spirit aroused among all to rise in the world. It is not limited to a few of extraordinary genius who would rise anywhere superior, apparently, to insuperable obstacles. In every department emulation, industry, and natural capacity with honest, faithful work reaps its reward and either in the master's place or as the proprietor of some small factory or business of his own the laborer of to-day becomes a leader to-morrow.

He learns every detail of the business, because he has had experience from the lowest to the highest place. He knows men, for he has been in touch with employer and employee in all the grades. He can sympathize with those struggling for bare necessities and realizes as well the cares and responsibilities of the masters of industry. He has no false estimate of the power of wealth and no despicable judgment of the attitude of labor, for he has been a laborer himself. Thus the ideal citizen is created, broad-minded and just to his fellow-men, sympathetic even when unreasonable complaints are made, and tactful in the adjustment of disagreements which will more or less frequently arise with his employees. Not only is wealth diffused throughout such a town more generally, but never can it be said there that the rich are growing richer and the poor poorer.

Like a kaleidoscope, changes are passing before the vision. New men are coming to the front from lower ranks. Business is increasing. New enterprises are being established. There is always some one at hand competent to fill a vacancy. Men trained by a diversified experience and honest effort are the rule and not the exception where there is a fair field for labor. They become thrifty because they are independent and had their chance. They are not a tenantry, but landholders bound to the soil and country. Their homes are neat and comfortable, furnished with what would be luxuries in former days. Such is a live community where monopolies are unknown or competition is not stifled. To build up such communities fair opportunity must be afforded for the humblest to rise, protected by laws that will restrain, if not entirely

prevent, unjust discrimination. When a trust has substantially absorbed its rivals and controls the market, its employees, lost in a great multitude, are but grains of sand upon the shore. They are atoms indistinguishable from each other, minute parts of a great body that one sees only as a whole.

As individuals, they are helpless and at the mercy of the master, unless by combination they can be aggregated into a formidable power. Before the trusts even the great corporations could not disarrange the business of the country. If strikes occurred, as was often the case, one factory might be closed a while, but other factories were running and the country was amply supplied with goods. The employer was solicitous to arrange a reasonable compromise with his employees, because the cessation of his business meant inability to fill his orders and loss of trade. The employee would meet employer in conference, because a long strike necessitated his removal from town and probably a poorer job. Thus strikes were of short continuance. Some basis of adjustment was arrived at. Sometimes, it is true, both sides remained obstinate, and the business would be transferred to another town or State. But this experiment proved costly. It would be tried only as a last resort.

With fair competition you can not cripple an industry. You can not prevent a supply according to the demand. Suppose it otherwise. Let, for example, a great corporation absorb the boot and shoe factories of the country. The employees, helpless as individuals, unite in a great union. The corporation is represented by its trustees. It can act swiftly and with absolute power. It disregards the just complaints of labor. A strike occurs. What can the laborer do? Where can he seek work? What opening is there for him anywhere? The union may close down the works indefinitely, but how does that help him if there is no shoe factory open for employment? Where could the anthracite coal miners have found employment if the mines they had struck against had not resumed work? Is there not danger and imminent danger at that, that work will not be resumed if the operator claims there is a principle at stake, as did the notorious Baer recently in Pennsylvania? Corporations do not starve or cry for bread. Their shareholders would probably never feel the pinch of poverty, even if work was not resumed.

Trusts in these emergencies are in an independent position. They can dictate terms and under the assumption we have made the employee must come to terms, union or no union, because there is no other alternative. He knows no other business but this. He must become a dependent upon charity or reseek employment with the monopoly carrying it on. The trusts can bide their time, and exhausted by the struggle the employee comes back a suppliant. They have nowhere else to go, and in the anthracite strike the intervention of the Government alone saved us from this pitiable spectacle. We had the object lesson, nevertheless. With competition gone, the independent American laborer is gone, and a servile dependent takes his place. His ambition is extinct. He has become part of a great machine. He has been evolved into an animal to do its master's will. While his union can ameliorate distress or poverty or bring about some modification of rules to lighten his burden, it fights against invincible odds.

In the interest of the masses there should be no czar of labor any more than a czar of empire. A free field for competition, publicity, equal rights for all, and an exaction of honest capitalization—this the people demand to avoid evils to which we have referred. What are the remedies our Democratic friends propose? One is often reiterated, to take off the duty on trust-made goods. Can they show that thereby the foreign competitor will not, with his cheaper products, supersede our markets? Our Democratic friends cry, "Crush the trusts!" This sounds well, but it involves a punishment of every independent producer, no matter how honorable his business methods have been. Great as monopoly is, it has not as yet controlled any branch of production in the country. Even the steel trust, with nearly a billion and a half of capital, has 48 per cent only of the steel production of the United States.

The honest manufacturer must not be made to suffer for the sins of his competitor. Competition should be forced to honesty if possible by operation of law applicable to his case. The removal of duties on trust-made goods means free trade in the particular article affected, and is relegated to the arguments that will apply when tariff revision is before this body. As applied to this bill they are one-sided, dangerous, and unjust. It is vigorously asserted by those who advocate this course that it is justified, as trust goods are sold cheaper abroad than at home. We admit this is done. We deny that trusts or the tariff have anything to do with it. To ascertain the reason we must understand the conditions under which our manufacturing is carried on. We have the greatest surplus of any nation in the world.

The wealth of the country represents a per capita of $29.48 for every man, woman, and child in it. Money is not hoarded. It bears no interest in safety deposit boxes. It is invested often recklessly and nowhere more freely than in manufacturing.

Consequently mills and factories are constructed in all lines of industry more rapidly than the demand. Their capitalization is enormous. Only on a large scale in these times can economies be brought about. To all these mills there are fixed charges attached. There are the taxes, the interest upon the bonds, the salaries of officers, superintendents, and yearly employees, the interest account chargeable to the stock and material on hand, repairs, etc., all which are items entering into the manufacturing cost. So slight is the margin of profit in legitimate business that a few points in variation determine loss or profit. The profit is figured not on the minimum, but the maximum production of the mill. A day's cessation of the mill means an increased manufacturing cost the next day. The mill must be run constantly to make a dividend. The production must be large to make that dividend respectable.

Now, there is no great industry in this country where the productive capacity of our mills is not from 10 to 25 per cent more than our country alone requires. Foreign markets must be utilized or the mills shut down. Shutting down the mill means every day increased manufacturing cost. Take a wood-pulp mill for illustration, with a capacity of 50 tons a day. Suppose the manufacturing cost at that production is 1.70 cents a pound. The mill closes one day and resumes the next. The average production for three days is 33⅓ tons. Is it not plain that with the same help and the same fixed charges to run that mill the manufacturing cost for those three days is much more than it would have been if 50 tons were turned out?

There has been some labor expense saved and that is all. With the supply in excess of demand, the manufacturer can pursue three courses. He can close down from time to time, according as his product sells, once a week or a month now and then, or indefinitely as conditions change. He can gradually fill his warehouses and then resume after his surplus is disposed of, or he can find a market abroad and run his mill at its full capacity all the year round. He chooses the latter, because only thereby can he successfully compete on the narrow margin of profit characteristic to-day of legitimate business; because he can more economically run his mill; because it is better for his employees, thus giving them constant employment and steady wages; because he can build up a foreign trade, still holding the home market but securing a share of the trade beyond the seas. We ought not to complain, we have no reason to complain, if goods made under the most economical and favorable conditions at the lowest manufacturing cost are sold generally at a slight advance on that cost, if the surplus placed abroad is disposed of at even less than cost, for thus only as a rule to-day can goods be made for the prices asked here.

Shut off that foreign market and up goes the selling price here because it would cost more then to make the goods. The manufacturing cost increases to pay the fixed charges on the idle mill. There is no charity or philanthropy in foreign sales. Exporters will always get the best price possible abroad. Frequently they get as good a price there as here. Yet as a rule the prejudices of foreign markets must be overcome. Naturally the home product at the same price and value will be preferred. Foreign articles are not made in style the same as ours and our manufacturers do not at first make a style popular abroad and must learn to adapt their styles to the foreign market. He sells at first probably at less than cost. At any rate, he will get the best price he can and, when his clutch is firmly on that market, a profit in his sales.

This market we must have. This vent for the surplus of the country is a guaranty of continued prosperity. This commercial extension, even if was a temporary tax upon the country, must be encouraged. This commercial activity, not alone with our manufacturers but our farmers, is whitening every sea. Destroy this trade because trust-made goods are sold at a lower price and the trust-made goods of foreign countries will supersede our own trade here and both markets slip from our grasp. The protection of our own markets has been the war cry of the Republican party. It will be in the still brighter days to come. Its banner has waved in front of victorious political forces for fifty years, carrying civil and industrial blessings wherever it has fought its battles. To-day, not alone in the protection of American industry and labor, but in the enactment and enforcement of laws, it will seek above all justice as between man and man, that a government "by the people and for the people shall not perish from the face of the earth."

Mr. DE ARMOND. I yield twenty-five minutes to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS of Mississippi. Mr. Chairman, I stated the other day that I would take the first opportunity to reply to the reply made by the gentleman from Pennsylvania [Mr. SIBLEY]. I do that for two reasons; first, because the speech seemed to be

directed meward, and second, because that portion of the Republican elephant represented upon this floor seemed to have approved very much of the speech, as was indicated by its applause and by the ovation given to the gentleman from Pennsylvania. I wish therefore to follow that speech out to its logical end and ascertain if the Republican party or the country really can approve of its sentiments.

Mr. Chairman, clay tenement never contained a more genial and sympathetic soul than that of my friend from Pennsylvania [Mr. SIBLEY]. It is so genial and so sympathetic that it makes him allsided in his sympathies—sympathizing with many sides of many questions. I said the Republican elephant applauded the other day, but it seems that the paragrapher of the Washington Post thought that it ought to have indicated its pleasure in a different way. I read:

Doubtless the Republican elephant possesses sufficient humor to gasp and snicker every time it perceives the Hon. JOSEPH SIBLEY posing as its champion and lecturing the Democrats because of their inconsistencies.

Now, Mr. Chairman, a picture of direr despair was never drawn in more glowing colors than the one drawn by the gentleman from Pennsylvania the other day. A wail of hopelessness was never uttered in more optimistic tone than that uttered by the gentleman the other day when he preached the gospel of human despair and human helplessness to this House amid the applause and approval of the Republican party. I am not misquoting or misrepresenting the gentleman. I will give his exact words. Here, in what I am about to read, is the pith of his entire speech. There are inaccuracies in details all through it, but this is the pith and the gist of the gentleman's argument and of his position, and I am afraid of the position, to which you yourselves, as Republicans, are gradually coming by evolution of political opinion—I fear it, because you can not continue always to minimize the dangers of trusts and monopolies and to apologize for them without finally coming to the point to which he (the gentleman from Pennsylvania) has already come, of applauding them, not only as necessary, but as beneficial to humanity.

The day of individualism is passed, and the day of concentration of effort, for the accomplishment of great purposes, has come. Individualism, competition, is destructive; it is war. Cooperation of forces is peace and is a guaranty of greater prosperity and greater happiness and blessings to the human race.

Individualism is dead! Competition is "destructive and is war!" Human happiness is to be found in a peace like the peace which reigned in Warsaw—a peace which was predicated upon the fact that everything that could disturb the peace was dead.

Human industrial life will—competition being dead and individualism passed—run along smoothly under the direction and guidance and control of a few great "captains of industry," "concentrating effort," and "cooperating forces." The sublime ideals of individualism on which Christ builded and which were taught as the safeguards of temporal as well as eternal salvation by Paul, and John Knox, Thomas Jefferson, and Herbert Spencer, all shattered! And for what? Why these "cooperating forces" and "concentrated efforts" of magnates? All simply and solely to make money.

The gentleman does not know it, but his next logical step in the evolution of political thought must be an advocacy of State socialism. If "competition is dead" and monopoly "necessary," then how long do you fancy it will be before people will say, "Verily, then, let the monopoly be a State monopoly; let us elect the captains of industry."

Thomas Jefferson was right long ago when he said this world is full of timid souls who prefer the "calm of despotism" to "the tumult of liberty." The only sort of peace you can get from this sort of social condition is that proceeding from the "calm of despotism." The gentleman tells us that individualism is dead. If it is, then be ye assured, manhood is dead, industrial freedom is dead, and the highest ideal of a happy condition for a free people. If I were to undertake to picture what remains, as I think the speech of the gentleman from Pennsylvania would picture it, followed to its logical analysis, it would be the picture of a few great employers of labor paying, perhaps, good wages, though, most probably, the lowest wages possible, and ninety-nine one-hundredths of American humanity in employ under guidance, in "leading strings," with nothing left save only the right of revolution! Shade of Herbert Spencer! Is that what you applauded?

Competition is a curse! All that we have learned about competition being "the life of trade" is to be unlearned. Industrial despotism is "a blessing," monopoly is a blessing, individualism is dead, and, according to the gentleman's doctrine, punctuated by your applause, ought to be dead! I do not believe, Mr. Chairman, that man was made simply for the purpose of making money; and, as far as I am concerned, I believe it would be infinitely better to preserve, even at some cost, that magnificent middle class which has always been the foundation upon which this great Government and all free governments have rested, and upon which liberty has rested; to leave industrial individuality intact and not destroy that individuality by bringing all small concerns into some few great concerns.

To go further, Mr. Chairman, the other day the gentleman from Pennsylvania [Mr. SIBLEY] said:

But my friend from Mississippi [Mr. WILLIAMS] stated the other day, if I recall his remarks aright, that there were but three methods possible under which a trust can exist: First, to reduce the price of the product purchased from the producer of that product; second, by reducing the wages of labor, or, third, by increasing the price to the consumer.

Mr. WILLIAMS of Mississippi. Or decreasing the volume of labor.

Mr. SIBLEY. Or decreasing the volume of labor. Now, Mr. Chairman, there is not a gentleman who is familiar with any of our great manufacturing centers, our great industrial works that we have all through the Northern section of this country, who does not recognize that the gentleman is mistaken in that.

Everybody recognizes that I was mistaken? And yet I challenge anybody to cite one single trust which has thriven and is thriving to-day that has not done one of these four things. I challenge anybody to cite one which has not either reduced the price of labor actually or reduced it potentially by presenting a better power of resistance to withstand the demands of labor, when wages of labor ought to have risen, as in the case of the anthracite coal trust, or else raised the price to the consumer, as nearly every one of them has done, or else reduced the volume of labor by shutting down plants and throwing men out of employment, as has happened in thousands of instances.

To go on with what the gentleman from Pennsylvania [Mr. SIBLEY] said, he says that the "Federal Steel Company saved $500,000 in cross freights alone in one year." I do not know whether it did or not; but if it saved it, to whom did it save it? Because this very same steel company raised prices to the American consumer, with very few exceptions during that time, and its prices have been rising all along the line from the beginning of its formation, or very nearly from its beginning. Who got the saving? Was it the foreign consumer, to whom avowedly goods were sold cheaper than to Americans? I fancy it was the company and its great officers, and they alone.

To continue the gentleman's arguments or assertions—

Every combination of capital that has increased the price to the consumer has been forced to close its doors; and the record of every successful combination of capital is a diminished price to the consumer.

Now, the only trouble with that statement is that it is inaccurate and incorrect as a matter of fact. The steel trust has not "diminished prices to the consumer." The tobacco trust has not done it; the cordage trust has not done it, every farmer who buys binder twine knows it; the oil trust has not done it; the anthracite coal trust did not do it; the beef trust has not done it. There are the facts staring the gentleman in the face. And wherever any one of these trusts has chosen to maintain original prices without a rise, and there may be an instance or two of it, then it has done it by shutting down plants somewhere and concentrating labor in one given locality, or a few favored places, leaving unemployed the labor in the places where the plants were shut down.

The gentleman says he knows of one concern whose "general officers do the work which formerly required three times their number, and thus the cost of administration is lessened." Aye, but that is not all. Commercial travelers have been and are being thrown out of employment, bookkeepers are thrown out of employment, foremen of divisions in the works have been thrown out of employment, entire plants have been shut down and all sorts and conditions of men employed in industry have found their occupation, like Othello's, gone and have been forced to change pursuit or residence. We might just as well be fair and honest with one another. Gentlemen know that to be the case. No gentleman who has a respect for facts will deny that that has been the trend of events.

That is not all, Mr. Chairman. The natural trend of events is toward cheapened prices of finished products. That is the law of industrial progress and advancement. It comes about by constant invention and improvement, cheapening processes of manufacture. That is the law of industrial growth. For example, a man was making a hundred pounds of nails a day. A machine was invented whereby the man could make twenty times as many, a hundred times as many. That man who earned $1.75 a day while he was making a hundred pounds of nails with his hands gets, let us say, $4.50 a day now when he and the machine make, let us say, 20 kegs of nails a day. He has had a raise in his wages, and there has been at the same time a lowering of the cost of the nails. I am speaking of what takes place in the natural condition of things when monopolistic greed does not control.

In other words, a labor-saving machine, which is invented, is a part of the unearned increment of human progress, unearned by capital, unearned by labor, or by the consumer; earned only by genius, which is rewarded by its patent rights. The profit goes partially to the consumer, by cheapening the goods; partially to the capitalist, by enabling him to make better dividends or larger

quantities of goods, and partially to the laborer, by enabling him to make better wages. At least, that is the way the profits ought to go. So that the law of human progress is cheaper and cheaper finished products and higher and higher wages, because the percentage which labor makes in the total value of the finished product becomes less and less as humanity advances industrially. But these people, the trusts, have been able to counteract this law of humanity's industrial progress, which I have stated, by making the law stand still in its operation. Not only that, but they have absolutely *raised* the price to the consumer, notwithstanding the constantly cheapening process of manufacture, and at the same time refused the laborer the increased wages which labor ought to have as its share of the common advancement. [Loud applause on the Democratic side.]

We are not complaining, as gentlemen seem to think, that wages have fallen. They have not gone up as they should. The complaint is this: That out of this common fund that I call the unearned increment of human advancement, capital has got a great deal more than its share, and labor has got less than its share, and the consumer has received no share at all, but, upon the contrary, has been taxed in order that the profits of protected magnates may be greater yet. The gentleman goes on to say:

Gentlemen on that side seem to be afraid of combined capital. You say it is dangerous. How much of it is dangerous?

And all that.

The Democratic party is not afraid of the right sort of combinations of capital. Nobody is afraid of combinations of capital per se. Nobody is preaching the demagogic doctrine that there ought to be no combinations of capital, because whenever Smith goes into partnership with Jones in the clothing business there is a combination of capital; whenever a stock company is formed there is a combination of capital. It is not a question of the amount, but it is a question of the method in which the combination of capital uses, and is permitted by law to use, its energies after the combination is formed. It is a question as to whether it uses it in a fair field, with equal opportunities to all people, or whether, on the contrary, they owe their magnitude to law-conferred or else to corporation-conferred special privileges, discrimination, inequities, and inequalities. I do not suppose there is a man in this House that would deny the right to any individual in America to do all the business that is done in America in a given line provided he did it in free competition with the world, in an open and fair field, and with equal opportunity to all other men. Everybody knows that neither individual nor corporation can monopolize any business in that way. I defy the wisest Republican upon the other side to give one single solitary instance of the successful operation of a monopolistic combination or a trust which has not rested upon special privileges granted either by law or by a corporation permitted by law to grant them. [Applause.] There is not one. The gentleman goes on:

Why, a schoolboy might think an elephant would be faster if his legs were removed, but he would have to be a pretty young schoolboy. But that is the remedy for the trusts proposed by our Democratic friends.

That is not the remedy proposed by the gentleman's Democratic friends. There is nothing revolutionary, there is nothing anarchistic, there is nothing new even in the remedies proposed by the Democratic party. All the Democratic party asks is that you shall establish an industrial condition such as that no corporation and no class of business shall enjoy any special privileges conferred hy law or by other coporations. The remedy is as old as the founder of the party and his doctrine, "equal rights to all and special privileges to none." All that we ask, in short, is that you shall reduce the duty upon articles which are trust-produced to the point of world competition. That is one remedy. The next remedy proposed by the Democratic party is that you shall deprive common carriers of the power of making open or secret rebates and unjust discrimination, and forbid them thus from conferring special privileges upon certain combinations and certain shippers.

I think it would be well to go a step further and deny to common carriers the right to be anything except common carriers. A common carrier ought to be relegated to its original functions. It ought not to be permitted to own mines, factories, or to own anything else except the railroad itself and such property as may be necessarily or properly incident to its operation. Because if it collects freight from itself it merely takes money out of one pocket and puts it into another pocket, and in that way if it owns coal mines or factories it has the entire freight difference as an advantage over competitors.

Now, Mr. Chairman, the thing that chiefly attracts me about this speech of my friend from Pennsylvania is the close of it. He says:

This, Mr. Chairman, is a time when all charged with responsibility for legislation should step carefully and cautiously, as those who tread upon thin ice.

Methinks I hear the old song upon the stage, where the actors all step around in the dim uncertain light, and each one sings to the other, "Hush, hush, hush, it is the bogeyman." [Laughter.] "Thin ice!" We have arrived at the "thin-ice" period! Glacial, is it not? I sometimes think, when I hear all these cautions, of that note from "Madame Angot," where the play folk all step around, with their black collars on, and feel out, trying to touch each other in the half light, and singing, "Où sont donc les conspirateurs?" [Laughter.] You would think that here was a great conspiracy to tear down industrialism, to tear down prosperity, to tear down the right of men to use their money as they please, provided they use it honestly, and provided they use it on an equal footing with other people, and provided further they are not bolstered up in exorbitant profit taking by special privileges conferred by the Government or by Government-created bodies.

Now, gentlemen, it seems to me that this "thin-ice" anxiety is a little bit uncalled for, for this reason: You have already adopted a part of the Democratic ideas. When you had to deal with the anthracite coal trust you adopted one by removing the duty, and when the Elkins bill passed the Senate you adopted another to put an end to freight discrimination, and sections 5 and 6 of this bill carry out, to some extent, the same idea as was embodied in the Elkins bill. But I will go on with the gentleman's speech:

I believe the American people will hold us to a strict accountability when the hysteria and the mania of the present moment concerning tariff revision and the trust have passed away. [Applause.]

Mark the applause.

Now, Mr. Chairman, where does the "hysteria" come in? What is the tariff? Is it a god, is it something sacred, is it a thing not to be touched? Is there hysteria invovled in the idea of changing the schedules of a tariff bill? No; but I will tell you where the hysteria is. It is in your endless chain of tariff robbery; each one of you depending on each of the others; all of you engaged in a common scheme of robbing the consumer and supporting one another lest if one fall all shall fall. A bill is framed by immense log rolling of so-called industries, each one to be hothoused into artificial prosperity by taxation. It is a great arch supporting a structure of artificially high prices, and you are afraid that when one brick is removed from the arch the entire arch may fall. The hysteria breaks forth on that side of the Chamber whenever one says "tariff." [Laughter and applause on the Democratic side.] Why, we dare not touch the smallest schedule for fear of the cry "Democratic free trade," "Democratic destruction of industry," and the gentleman from Pennsylvania went into that a while and talked about it.

A while ago I read where he said that every successful combination of capital is diminishing the price to the consumer. I answered that, or attempted to, by stating instances to the contrary. But I need not have answered it. The gentleman from Pennsylvania replied to it himself a few breaths later. He said, "You say prices are higher. Surely, surely." So I need not have answered it. And he said, "Where do you wish to make them lower? Formerly you got 4 cents and a fraction for cotton, and now you get 8.31 cents." And in another part of his speech he speaks of 4-cent cotton being under a Democratic Administration.

Now behold how plain a tale shall put the gentleman down Let us settle once and for all this Republican error about cotton. Here is a book I hold, entitled "Cotton Facts," by William D. King, of New York, containing the price of cotton running back to 1880. I find in the list of prices of cotton that the lowest price that cotton reached in all that period was November 15, 1898, under the Administration of Mr. McKinley, when it went down to 5⅝ cents.

I find not only that, but taking that entire line of cotton figures for that year, and taking the line of figures under Mr. Cleveland's Administration, for the year when cotton was at its lowest—in 1894—the general average of prices for 1898 was less than in 1894. This is just an indication of the gentleman's carelessness. It is a small matter, but it is an indication of the inaccuracy running through the woof and warp and thread of all these utterances.

Now, Mr. Chairman, it seems to me that this question ought not to be a political question. It seems to me that the Republican party, presided over by our present Chief Magistrate, ought not to give up "a strenuous life," based, as all strenuous life necessariiy must be, on virile individuality; that you ought not to stand here like helpless "weaklings"—a favorite phrase of the President—and applaud a man when he says that the day of individualism is gone, the day of competition is gone. If the day of individualism is gone, the day of industrial freedom is not only gone with it, as I said some time ago, but the day of freedom of action has gone; and in the course of time the day of freedom of speech and of political conduct must go with it; for I tell you there can not exist a people anywhere, one one-hundredth of whom are employers and magnates, and the balance employees, even at good wages, if you will, with the old middle life, independent initiative, and the spirit of individualism stamped out of existence. [Loud applause on the Democratic side.]

Mr. LINDSAY. Mr. Chairman, I will vote for the bill now pending before this House. I do not believe the bill will accomplish the results that are so earnestly sought and desired by the people of the country. The people are demanding and they have a right to expect that the great national council of this Republic will formulate such legislation as will give relief from the oppression and exactions under which the common masses of the people have suffered for a long time past.

Groaning under these exactions, suffering from the grievous evils imposed by trusts and the conditions they have unfortunately created, we should go a long distance, due regard being had to constitutional limitations, to pass legislation which will reach, curb, control, and regulate these combinations whose purpose it has been to stifle fair competition in trade and prevent honest and legitimate rivalry in commerce. We should enact such laws as will prevent such a frightful condition as the country recently witnessed from the result of the coal trust and the beef trust.

But, sir, the majority in control of this House are responsible for the legislation, and the people, when the hour comes, when their will may through their right of suffrage be expressed at the polls, will show their disapproval of the Republican party, who have fostered and maintained these gigantic trusts and who have waited till this eleventh hour, and then only when the height of a people's indignation had been reached, to offer a so-called antitrust measure.

Still, as the bill is a step in the right direction it shall receive my vote. I recognize its weakness, but it is the best the majority will give us now. Not until the most disastrous results were worked out and an indignant people and a righteously indignant press cried out against the unlawful and illegal combinations, has the party in control ventured to report for the action of Congress any measure of an antitrust character. The one now before us will fail to accomplish the purpose sought, and when the people find that an effective, substantial, and practical law has not been adopted to break down and destroy the trusts, so destructive of the best interests of the nation, let them plainly understand that the responsibility rests with and belongs to the Republican party.

Mr. LITTLEFIELD. I yield five minutes to the gentleman from New York [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Chairman, I have asked for the privilege of addressing the House on this important issue, deeming it the duty of every Representative on the floor to make known to his own home district, and the country generally, his position on the trust question—the most momentous and serious problem commercially we have ever been called upon as a people to face—also feeling that one should not merely acquiesce in and follow the recommendations of our own party or the committee as to needed legislation, but plainly and unequivocally state our personal disposition and have the courage to record to what extent we are prepared to go in endeavoring to satisfactorily settle a grave condition which confronts the country, and the handling of which under the law is sure to have a pronounced influence on our future.

I welcome the present bill. Great care, earnest effort, thought, and sincere intent has been given to its framing by the subcommittee.

At the same time it does not seem likely that it will fully meet our ultimate needs and requirements, but rather we must look upon it as only an entering wedge, a proper experimental measure, and that further legislation, based on the experience we may gain by its enactment, will enable us in the future to perfect our laws so as to do no injury to honest corporations now existing or those which the future will develop, and at the same time regulate, restrain, and force combinations to do business fairly, placing the people in a safe position and preventing oppression by these immense corporations.

That the people themselves are greatly stirred up and disturbed over the position—the rich, the middle classes, and the poor, according as their interests are affected—is universally admitted, and if the masses are wrong in the view which, it appears, they have generally formed—that the great corporations, which have become so dominant and prominent a factor in our business life of recent years and are continually growing in strength and importance, are working to their likely present and permanent detriment—as individual members of the community we should make clear to them wherein lies their mistake.

If, however, they are right, and personal liberty, advancement of the workingmen's interests, the prospect of livelihood for the rising generation, and the ambition of the masses to better themselves is being held in check or injured by real or seeming obstacles ahead, so that men are forced to accept existing conditions and are practically obliged to work for these joint combinations of money and power rather than dare risk the starting and building up of enterprises of their own through fear of being driven out of business so soon as the results of their labor is likely to bring satisfactory returns, we should then frankly admit that danger exists, and formulate means to prevent its further spread.

Should the chances to build up fortunes and homes by the many be even slightly affected and the likelihood of those who are already far too rich enhanced, so that they may grow richer, not by their own honest exertions, but by corrupt practices, and to the detriment of the toiling masses, and the already colossal individual wealth of the few further extended, all must agree that it is time a halt should be called.

If the requirements, not to say actual necessities, of life are possible to be raised by unjust combinations in cost to the many; if the business honesty and uprightness of our children, who must yearly face the problems of life and enter the struggle for existence, is warped and the teaching of the home and the church broken down by the plain evidence before them that under our present methods success is of more importance than all else, and our new world is careless of consequences so long as the goal is rapidly reached; rapacity, dishonesty, craftiness, and cruelty to mankind being placed above the true inspirations and teachings of our forefathers; if American manhood, personal reliability, and honest faith in one's self, which is so pronounced a characteristic of the American people, is to be crushed out or injured, then most decidedly, if all, or some, or even one of these eventualities are possible to exist, or prevail at present, and are likely to be increased under our existing social status, we should not hesitate, or stay our hands, nor measure our purposes by fear of temporary disturbances of conditions, should it be possible to improve matters, but pass a comprehensive law, or series of laws, which will set right the existing wrongs, and we should prove our courage at all hazards, by being willing to force to a just conclusion for the general welfare a problem which must be met, and which the people will not be willing to longer have Congress ignore. [Applause.]

It seems weak, to say the least, to admit for a moment that Congress can not take action in such manner as while doing justice to all, including capital and labor, at the same time will create legislation that shall be so definite as to wisely prevent the greed of individuals or corporations from preying unjustly upon the country.

The able gentleman from Maine [Mr. LITTLEFIELD], in his masterly and powerful address, produced evidence which clearly proved that unlawful combinations have always existed to oppress and injure the common people, but he also clearly showed that even thousands of years ago the rulers of those days were alive to the disgrace of such conditions, and framed forcible laws to break down and punish such crimes. The trusts of those days, or all times, are, however, but pigmies in comparison with the network of ingenuity and shrewdness of our present-day great combines, backed by unlimited wealth and power to aid in carrying out their intentions, and certainly therefore our laws of a necessity must also be the stronger, clearer, and more determined, combined with heavy penalties, if we hope to accomplish tangible results.

The fear of unconstitutionality, a point which is so often advanced, should not be allowed to block the way of so many otherwise reasonable, proper, and feasible measures or proposals that have been put forward, and as the lawyers mostly disagree as to this danger, had we not better proceed at once, and leave our Supreme Court to finally decide any debated and contested points, so long as we know the intent is right?

The will and desire of the people themselves, and the universal demand for a measure, acts as a great factor to make almost any law justified if it fills the popular need and requirements, and it is questionable if a statute so passed would be ruled out by our highest courts except for very strong and potent reasons.

If it should prove necessary the Constitution should be amended, although we all appreciate the desire to avoid such a contingency, which might cause long delay.

It appears also as if it were time for us as a nation to lay aside some of the reverence we have for a Constitution framed so many years ago, when we had a population of only a few millions, and we should not hesitate to bring its provisions up to date, and have them revised, not only in this, but in such other particulars as may be found necessary and essential.

The situation as it now exists is not new, although the surrounding circumstances are, and the colossal capitalization of trusts and corporations is beyond anything dreamed of only a few years since.

In the past these evils were put up with until the strain became too great for the masses to bear, and the result was uprisings and bloodshed. We, however, live in a more advanced age; our countrymen are generally well educated, respect the law, and look to the Government to free them from real or threatened dangers, and they should not be disappointed. The party which takes the responsibility of inaction, and through cowardice and fear proposes to let well enough alone, will likely not remain long the dominant power in the land.

So great is the feeling among the poor it will not do to remain

quiescent, for should our present prosperity die away suddenly and the evil of bad times again assail us, undoubtedly local troubles and strikes of a serious nature would result in various sections of the country, and we had therefore far better take such steps as may be necessary while the present exceptionally good times are with us and few lack work.

The welfare and employment of the many and the moderate enriching of the largest number possible in any community, and not the building up of the few at the expense of the many, is what all nations should earnestly seek for as the greatest desideratum and surest method of national prosperity and welfare.

Combinations are unquestionably created on the plan of cutting down all unnecessary expenditure and reducing labor and clerical force where possible, and it is a debated question whether the large trusts bring about the employment, after formation, of a greater number of men and women owing to increased output or not.

It is also an open issue whether they cause, owing to cheaper production, the lowering of the cost of articles manufactured to the consumer, or a number of factories competing for the same trade would not force such a result far more rapidly.

It is difficult, with the uncertain information at hand, to say anything absolutely definite as to these points, although such questions should be carefully looked into, and let us hope if the department of commerce is established, as most of us wish, that within a short time we shall be able to procure necessary statistics to establish the facts.

It does appear beyond any question, however, that the trusts do away with the opportunity of the many to make a competency out of an industry or enterprise, and that it would be much more readily accomplished if there were a number of independent works.

The efforts of all trusts during recent years appear to be to do away with the intermediary, and to strive in every possible way to reach the consumer direct, and they often even go so far as to open their own retail establishments.

Let us take one trust alone as an illustration—the Standard Oil combination. Until they obtained the enormous power and influence which they exert to-day, and which amounts to a practical monopoly at home and abroad, oil was refined and sold to anyone who desired to purchase, and without restrictions as to the purchaser's selling price, or demand that the seller would handle none but Standard Oil products. The party purchasing was often a wholesale dealer in oil. The Standard made their profit, and the dealer made his. The dealer sold to a large grocer or storekeeper, who also made a profit, and the oil then went into the hands of the consumer, or, again, to a still smaller storekeeper, who finally sold to the consumer.

Thus there was a benefit derived by four or five different classes of traders, and yet the oil was obtained by the user through competition as cheaply as it is to-day, taking existing conditions at the time into consideration, and the many individual dealers or firms handling the product were enabled to make a competency and build up a business which eventually secured them a livelihood as a result of their labor and operations, and the same position existed as regards other corporations, whereas now the Standard and other trusts have practically driven out of trade the wholesaler, also the large and small retailer, and either sell, themselves, direct to the consumer, or do so through local agents who are not allowed to make any profit, but are tied down to a fixed price, simply obtaining a small commission, and all intermediary gain goes into the pockets of the Standard Company.

It may not be generally known, and so it is well, perhaps, to mention in this connection, that not only has the Standard adopted this method at home, but have taken upon themselves as well to do away with all trading in their products abroad.

Formerly they sold their oil and other output for export to any merchant who desired to trade in foreign lands. These merchants charged their profit, generally a small commission only, and distributed throughout the world—India, China, Japan, Australia, New Zealand, South Africa, South America, etc., besides the continent of Europe. The merchant sold to the large local importers in the various countries named and elsewhere, who sold in lesser quantities to the wholesaler. It then went to the smaller dealer, and so on to the consumer, all making a profit, or at least having a speculative opportunity to do so.

The Standard Company encouraged the export merchants in every possible way to build up business, and to work energetically in their interests, packed private brands for them, and never intimated that they would alter the situation, after such magnificent pioneer work being done for their company, and often at a heavy expense; but presto there was a sudden change of front. The Standard revised their methods and coolly turned around and informed the merchants, although they may have sold them for twenty-five or thirty years for a certain market, that they could no longer purchase. They now have their own agencies established in most of the countries named. American methods are adopted, and their agents do away absolutely with any possible chance of profit on the part of the foreign dealers.

The Standard arbitrarily fixes the price, and the agent sells at that figure to the wholesaler or retailer, who is bound by contract to buy oil from no one else and must sell it at the agreed-upon Standard quotation, and at the end of specified periods they make their returns and, if they have carried out their agreements, are paid a commission equal to probably 5 per cent for their servitude to the Standard.

I give these facts to show how extended are the various ramifications of this great trust, not only covering our entire country, but reaching out as well to secure a monopoly in many other parts of the world, and gathering to itself all profits by methods explained, forcing all they employ to accept their terms and penalizing all who deal with them by refusing to sell to anyone who will not agree to confine themselves solely to Standard goods. [Applause.]

This great corporation also practically controls the lubricating-oil production of America, the turpentine, benzine, naphtha, grease, gasoline, vaseline, etc., and are continually monopolizing other products, and all are placed as soon as practicable on a similar basis, and merchants who have been making a living by trading in these goods for years are now reluctantly obliged to turn elsewhere.

I have not specially mentioned the immense railroad and banking interests, steamship and sailing-vessel interests, and other manufacturing enterprises outside of oil and its products that the heads of this trust have gone into; but the moneyed interest involved reaches in all probability to one thousand millions of dollars, and their power is felt in many a direction unknown to the general public.

It may be right, but many thinking men consider it is not, that products of American origin should thus be held under absolute control of one company, and that citizens of the United States can neither buy for home or export trading; and likely profits which could be secured by many if the privilege was open are absolutely done away with.

Some say that notwithstanding these abuses we must not regulate the rights of individuals or corporations to do as they please so long as the law is not violated, as the Constitution grants to us all this liberty; but if certain men and combinations have, by willfully overlooking the rights of their fellows for years, built up fortunes of untold millions, it certainly appears as if the time has come when their hands should be restrained, so that others may have some rights, if we really live in a land of freedom.

If the trusts as private corporations can force others to sell their products only, and at fixed prices, presumably under existing law, which power they have grossly abused, why can not the law step in and force them to sell to all at an equitable figure, or at least not allow discrimination against dealers who desire to purchase from other firms who may be able to sell them? And this undoubtedly can be done without taking away from anyone the right to fix the original selling price.

The United States Steel Company, the tobacco trust, and many other corporations are now branching out and adopting similar methods to those of the Standard, opening their own selling agencies in foreign lands as well as here, and by quoting the merchant abroad as cheaply as the exporter are taking away from our traders the ability to longer make a profit or even commission from the sale of their goods.

The words "spheres of influence" are often used, meaning that a nation has taken hold of some portion of the world's surface in a foreign land and proposes to exercise for its own benefit in trading and other ways sole control or influence over said territory and the inhabitants thereof, which is only applying Standard methods by one nation to another, and this is a thought which we may well consider in connection with the trust question. It is well known that the Standard have for some years been endeavoring to divide the world by combination with the Russian oil people, proposing to join also with them one or two other companies, such as the Schell Company, who own large oil fields in Java, the intention being to adopt the "spheres of influence" plan—that is, Europe would be divided between the Russian and the Standard Oil people; South America would be similarly divided; North America would remain, of course, the field of the Standard Company; Australia, Africa, and other countries would be parceled up to suit mutual interests, with the final result that in all these places there would be absolutely no competition, and the company that controlled the territory allotted to them would have an absolute monopoly, and could charge prices their pleasure dictated, or the people would consent to pay without raising trouble, or the government would tolerate without taking the issue up and forcing a proper settlement in the people's interest.

All this possibly can not be prevented, but many believe that

such methods have already gone, or are fast going, too far, and the time has arrived when the different governments of the countries interested should step in, and see to it that laws are passed to prevent such international proposed arrangements by private corporations, and to create instead a healthy competition, to the end that the people, not only of our own, but other lands, may at least have some rights and chances to live and prosper in a business way.

If these combinations and trade arrangements, backed by immense capitalization controlling many of the great national industries, are not checked, why can not the steel and iron trusts, the beef trust, the packing trust, the canning trust, the tool trust, the tobacco trust, the harvester trust, the sugar trust, etc., all arrange in due time their "spheres of influence," divide territory, and place the people of the entire world practically as slaves at their feet? [Applause.]

This may seem somewhat of an exaggeration, and is to a certain extent; but we all know and realize that the globe to-day is comparatively no larger than Europe alone seemed a couple of hundred years ago, by reason of the enormous strides in development, the quick modern methods of communication by land and sea, and the possible almost instantaneous placing by cable of our desires and wishes before others thousands of miles away.

It may appeal to some, but probably few, that trade shrewdness and greed warranted the beef combination in raising prices last year to our poor beyond reason, while they sold to the poor of other countries 3,000 miles away at 25 per cent less.

That the oil trust is justified in putting up the price of that article of universal need several cents a gallon to the consumer, mostly the working classes, and at a time when its consumption is enormous by reason of the unfortunate coal situation and the inability of our poor to secure their usual supply, which has forced them to use oil stoves largely to heat their homes; and if statements are true, this has resulted in a trust, already paying dividends of over 40 per cent, adding many millions to its profits, wrung from those to whom every nickel is a consideration.

No one believes that the extra cost of the crude oil has warranted or justified these advances; and it is a well-established fact that the Standard pack the same oil or a better grade (as many foreign nations protect their people against explosions by regulating the test of the oil that can be imported) in tins, then in cases, pay the freight, insurance, landing and cartage charges, necessary commissions, and sell it to the heathen at the other end of the world at from 20 to 30 per cent less than at home.

Based on their prices abroad to-day, they could sell here at 33⅓ to 40 per cent less and make a good if not large profit, and as these statements are practically correct, no wonder the poor are raising their voices against such extortions.

It hardly seems proper that the tobacco trust should be permitted to carry out the thoroughly unscrupulous methods which they have followed in handling their business and in their endeavors to kill off all opposition. They have cut prices far below cost in many instances, and lost millions to accomplish the ruin of others. They have refused to sell to dealers who do not hold their goods exclusively. They purchase or lease stores occupied by their competitors at fabulous prices so as to drive them away from a location where they have built up a personal line of customers, and it is said they regularly employ men who act as spies, and whose sole duty it is to visit dealers' business places and obtain evidence against those who may have unknowingly or thoughtlessly infringed the internal-revenue laws, so as to cause trouble, close competitive places if possible, or force them to compromise by payment of Government fines.

The sugar trust and its methods are too well known to need repeating here, but certainly no one can claim their trade ways are, or have been, conducive to public morality, or will teach upright business ways to the young men of our country who are starting out in life careers.

The unfortunate coal strike and the misery and suffering engendered is a sad commentary on twentieth century enlightenment, and while time will not permit my entering into a review of the subject, every citizen feels that the greed of the large operations, working in conjunction with the railroads, had much to do with forcing the issue, and there is no question whatever but that proper legislation can and should be passed to prevent such occurrences from again disturbing the personal and business interests of the country.

The formation of combinations in this country started primarily for good and sufficient reasons and mostly with proper intentions. Large industries had been built up. The owners were often desirous of relieving themselves of business responsibility or were getting old and wished to turn the business into a corporation to relieve themselves of close personal attention and care of their interests. There were periods when competition between various industries became acute, and at first selling arrangements at fixed prices were agreed upon; but it was soon seen that the desire to do business was so keen that these agreements could not be properly maintained, as one or more parties to the deal would infringe and not abide by their promises. This often led to more acute warfare, and finally it was found necessary to resort to actual combinations for mutual protection under one company, parties interested taking stock according to the appraised valuation of the plant or business by experts, thus reducing expenses and absolutely doing away with any possibility of cutting in prices.

As, however, the country grew and prospered, officious men came to the front who took up more pronounced and, as they said, advanced theories and aimed at the control of commodities in a way which the original incorporators of combinations had not thought of or desired. They became unscrupulous and deliberately set about ruining the business of those who would not sell out to them, and have finally brought about conditions undoubtedly detrimental to the welfare of local interests and the country at large.

Men would secure options on a number of plants and by offering far more than the real value of the factory or business to the original owners would induce them to sell for cash and stock and then form a large company, disposing of the inflated stock to the public, often paying dividends which were not earned for one or more years to deceive outsiders while the stock was manipulated in Wall street, and in their extreme desire to obtain results have proceeded against independent companies who stood out against their offers in a manner which the law should no longer allow or tolerate. [Applause.]

The desire, in fact necessity, of cultivating by every means in our power good-fellowship and amity between all classes of our people is universally admitted and advocated, and while every one can not be rich, at least the poor can be brought by justice to admit that those who are better off do not oppress but on the contrary are willing to advance their interests in every possible way.

These ideas have led to much discussion as to whether or not the new business theories and formation of large combinations tend to bring about more cordial relations between the workingmen of the country and their employees, or the old order of things was best, and as this certainly is a factor of much moment and consequence, a few words on the subject may not be amiss in making these remarks.

Heretofore our industries have been chiefly built up by the genius, energy, and hard work of one or more men who have started often from the smallest beginning. They have had a personal pride and interest in their work and were influenced by surroundings and local public opinion. The proprietors lived in the town or city where the factory was established, and they naturally desired to stand well in the community. They had a personal knowledge and acquaintance with certainly a considerable portion of the workingmen under their control. The residents of the place took a material and sentimental interest in the enterprise, and naturally, by reason of all these foregoing mentioned conditions, when differences arose between proprietors and employees it would seem as if it should be more easy to adjust the trouble and reach a fair settlement than is possible in these later days of what we call national progress.

This theory has proved correct by the splendid record of dozens of business firms who have never had a strike at their factories. I will mention two notable cases, that of the Baldwin Locomotive Works, who have been in business some sixty to seventy years, and the praiseworthy career of Mr. Kilbourne, of the Kilbourne & Jacobs Manufacturing Company, of Columbus, Ohio.

At present the high officials and directors of our great enterprises are mostly located in the larger cities, often hundreds of miles away from the seat of industry. The factories themselves are run by well-paid superintendents, whose special duties are to make the best showing possible and secure the greatest output at the lowest cost. These men know that their results are being carefully watched and compared with what others similarly employed at the head of other corporation factories may accomplish.

There appears absolutely no room for sentiment or conscience, and when disputes arise, while certain officials may personally know of the injustice, suffering, and perhaps proper demand of the workingmen for redress, their duties as officers of the company likely compel them to absolutely stifle and smother all such feelings and knowledge, and to look at the matter simply as a business proposition. They are paid to save the company money, and therefore drive the hardest bargain possible.

All individuality is crushed, and men are viewed in calculating the settlement as simply machinery, capable of doing so much work in so much time, and to be paid accordingly.

This may not be true in all instances in the past, and I trust the record of the future will prove the theory even to be wrong, as we must admit some of the lately formed trusts have shown a commendable desire to deal fairly with their workingmen, which action we can not too strongly indorse.

These changes in the conditions of trade many consider has been the cause which has led largely to the combinations of the workingmen to protect themselves, and the formation of labor unions and their spread and increase in power and influence which nothing can now check.

They may often go far beyond their rights and public approval, also frequently injuring their own ends and wishes by unreasonable and absurd demands, or temporarily kill any special movement for their betterment by violence or defiance of the general good, but we must, nevertheless, admit unions have come to stay, and will have to be recognized outside the law, if not within it, and it may be as well to accept the position rather than attempt to fight or legislate against it.

Personally, I believe that before long national laws will be passed to regulate and control strikes and labor troubles, without forcing compulsory arbitration, when the issue involved is such that the entire country may suffer if a prompt conclusion of the difficulty is not reached.

One can not but arrive at the conclusion, after studying the matter carefully, that a number of factories competing among themselves to a reasonable degree is more favorable to healthy trade conditions than one or two large corporations handling the same amount of business, and certainly far better than a monopoly of one.

While the rivalry between industries may be keen, probably no single house would have sufficient capital to drive out of business all those in opposition, either by cutting prices or through controlling the raw material, and it has been unquestionably shown in the past that the more in any line of business the easier for others to start on small capitalization, and gradually build up without fear of being forced out.

Individual members of a business are not likely to go so far as to sacrifice their fortunes to drive out competition, but corporations with many millions at their disposal, the loss individually being but small, often feel that it is necessary for their final essential welfare and monopoly, and will not hesitate to force issues to the utmost limit and throw away enormous amounts to accomplish what they think for their best ultimate interests.

Competition in the past undoubtedly has been extremely keen between competing houses in various trades, yet self-preservation has ruled, prices have not, taken year by year, reached a point of absolutely placing goods on the market at a loss, as is proved by the fact that all classes of industries throughout the country have continued to expand and yearly grow until they have reached their present wonderful status, both as to large output and number of men employed, and it is only as the trusts increase in number and influence that deliberate, preconceived, and skillfully carried out methods are adopted to kill off rivals in business.

Corporations now endeavor in many cases to control the source of supply, or the raw material itself, recognizing unless this is done a monopoly is difficult, going so far as to buy up land or the raw product in any part of the world it may be found.

It has also been shown in many cases that inferior goods are placed on the market when competition is done away with, and the consumer suffers in pocket or health, but the price charged remains unchanged or is advanced.

The large share of the stock of these great combines is almost always held by a few individuals, although there may be often a goodly share of minority stockholders, and if large dividends are paid the bulk of the money goes to build up the already great wealth of the heavy stockholders who manipulated the deal and obtained probably the bulk of their stock without justification.

The people of a republic especially should value highly their rights of citizenship and see to it that they dominate the government, and not allow capitalists or corporations to hide behind or evade the laws which were enacted; not, as appears to have become the rule, to rob the people, but to protect them.

A nation like ours, that can produce the daily food and material requirements of man cheaper than any other country in the world, should furnish its people accordingly, and not allow itself to longer be placed by trust methods in the strange position of charging the population at home higher for the products of its own soil than they can be purchased abroad. The statement that by so doing we pay higher wages to our workingmen is not a valid reason for so prejudicial a position, nor do I believe the fact is correct.

The trusts have undoubtedly largely built themselves up in the past by securing unjust discrimination and allowances or private rebates in freight and carrying rates, and the law should be most forcible on this point, and no common carrier under any consideration should be allowed to grant any concession, either to the shipper or receiver of goods, absolute equality of rates existing for all parties. This should apply to all lines of vessels running on our lakes or rivers, and is of equal necessity between our seacoast ports and between United States ports and those of foreign countries.

The question of publicity has been very fully discussed and undoubtedly should form a part of any bill, as much good will thereby result.

There should also be a strong clause which would absolutely prevent the carrying out of any such plans as are at present in vogue, or that may be devised later, by the trusts, to break down existing competition or keep others from entering similar fields of enterprise. The law is certainly justified in refusing to sanction any action which is clearly taken not for trade protection but for the sole and often-admitted purpose of denying others the right to build up a legitimate business.

The Democratic party have been trying very hard to join together for political purposes the questions of trusts and tariff, but it does not appear that they have any just ground to stand upon. It is doubtful if a trust was ever formed that had for its inception the tariff protection accorded American industries. Certainly the various branches of such corporation, if they had remained single and carried on their business alone, would have had the same advantages under the tariff as if combined, and there is absolutely nothing in the contention. If, however, we go further and raise the issue that these combinations are taking advantage of the tariff, the same as the individual enterprise would have done, and as certain uncombined enterprises are doing, it seems by the facts that a good case can be made out.

The present tariff may have been drawn by its framers to last, as has been said, for a quarter of a century, but the country has expanded faster than these men foresaw, and unless the Republican party will see the handwriting on the wall, and not only say they are agreeable to revise, if it is needed and demanded, but act as well as talk, they may find the people will give unto others the task, which appears so distasteful to some of the leaders on the floor, who almost have a fit and froth at the mouth even if the suggestion is advanced.

There are beyond doubt to-day combinations that are taking advantage of the high wall we have built to hold prices at a figure which they could not do if the protection accorded to them was reduced to a judicious level. Again such articles as oil, hides, hard coal, beef (dressed or on the hoof), and other articles of general consumption might well go on the free list.

The essence of true protection is to protect, not, however, to feed with pap, so that we overfeed. We have the soil, the rivers, the climate, the minerals, the timber, the labor-saving machinery, and the wonderful genius and enterprise of our people, which forces combined have shown clearly our capability of producing in time most all the world's articles as cheaply as any nation on earth.

To build up our industries, to protect them, and especially to enable payment of the highest possible wages and granting of the shortest reasonable hours of work; also to prevent inferior goods coming to our market, manufactured abroad by poorly paid labor, we are right in having tariff protection, but just so soon as the percentage of duty goes above the bare margin necessary, it is no longer needed, wise, or proper in the general interest. To illustrate, if an article to accomplish what we wish needs 20 per cent protection, gladly give it, but do not give 21 per cent. In the first case the manufacturer, knowing that if he tries to advance prices to the consumer beyond the figure his protection gives that he invites the importation of goods to be sold in competition, will not attempt to do this, but if his margin is higher and he can likely charge more with impunity, he is very apt to do so unless home competition prevents.

To accurately reach a conclusion as to what rate of duty can be charged, we should demand of every industry protected a thorough statement of facts clearly proving their necessities before any protection should be granted, and then careful watch should be kept over all enterprises and a report secured by one of our Departments each twelve months or twenty-four months, so that the duties could be reduced each Congress as recommendations were made to that effect, backed by evidence; as beyond doubt most of our manufacturers cheapen their output yearly by various saving devices and securing of cheaper raw material. By such means we might be able to gradually do away with the necessity of complete tariff revision at unstated periods, which is most unsettling to the country.

Some articles of raw products can also beyond doubt be admitted at less duty than at present, the same being required to mix with similar materials raised here to enable manufacturers to turn out higher grades of goods, and this can be done without detriment to any class of the community. I am a sincere believer in careful nursing of our own resources and industries, and a proper duty for their safeguarding, but believe to-day this can be done and yet reductions of tariff made in many cases.

I regret so important a bill came before the House under a special rule limiting general debate, and also allowing but three hours for its final reading and the offering of amendments, as it prevented many from giving their views as to desirable changes in some of its provisions.

The time limit was reached before the reading of section 2 was completed, and I therefore was not able to suggest including in section 5 the following addition:

Section 5 reads as follows:

SEC. 5. That any person, carrier, lessee, trustee, receiver, officer, agent, or representative of a carrier, subject to the act to regulate commerce, who, or which, shall offer, grant, give, solicit, accept, or receive any rebate, concession, facilities, or service, in respect to the transportation of any property, in interstate or foreign commerce, by any common carrier subject to said act, whereby any such property shall, by any device whatever, be transported at a less rate than that named in the tariffs, published and filed by such carrier, as is required by said act to regulate commerce, or shall receive any advantage by way of facilities or service, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be subject to a fine of not less than $1,000.

Addition proposed:

Page 9, section 5, line 23, after the word "dollars:" "The provisions of this section shall apply to any common carrier, trustee, receiver, officer, agent, or representative of a carrier, enjoying the advantages of our seaports, and trading between United States ports, or between United States ports and foreign ports."

This addition could have done no possible harm to the bill, and might result in great good to a large number of American citizens who are handling a shipping business between our coastal and American and foreign ports.

Sufficient attention has not been given to the fact that our exporting and commission merchants are subject, on the supposed free ocean, to the same obstacles, restrictions, and abuses of power by shipping trusts as are their neighbors who trade on the land.

Systems of rebates are adopted by which shippers are forced to pay high schedule rates, and prepayment of freight is demanded, so that the carrier may have a complete power over the shipper, and then at periods ranging from six months to one year after date of shipment a portion of the freight is returned if the shipper meanwhile has been loyal to the carrier; that is, shipped no goods by an opposition line.

The carriers engaged in our foreign commerce, also often having a complete monopoly between ports, make contracts with large corporations to carry no other cargo, and thus absolutely prevent others wishing to send similar goods abroad from doing so.

There are many equally objectionable exactions forced on the shipper by foreign carriers using our seaports, and it is only proper and fair that our people should be granted relief.

To the lasting disgrace of our nation, we have practically no American freight lines to foreign countries at present. Therefore, at least we should have protection from the foreign shipping trusts.

I wish, in fairness to the gentleman from Maine, who has so ably handled this bill, to say that he informed me he considered section 5 covered what I desired to accomplish; but as there appears to others besides myself a great doubt on this point, I wished to make sure, and therefore regret the addition as proposed could not have been submitted to the House.

It has been my endeavor in discussing this question to do so from a business man's point of view, and to present some few features which have not come out in debate; also to call attention to various changes in methods of commercial life, and how they have already affected, and will probably still more potently influence, the laborer in all branches of trade, whether his duties are manual or mental. I do not desire to be considered extreme or unwilling to accept the situation as it exists, nor do I wish to fail to give full and ample credit to all that has been done by large corporations to help create, expand, and build up our different States and the nation as a whole, but am forced by convincing evidence to the conclusion that it is our duty, while doing nothing to injure or break down the continuance of prosperity by unjustified legislation, at least to delay no longer, but have bills passed to curb existing wrongs and prevent their recurrence. The present measure, while stronger and better than anything yet presented to us, does not in my judgment go far enough.

This is an era of commercialism. Nations are striving for supremacy, and powerful government help and aid, although often veiled, is back of the people of all countries in their creating of wealth and affluence, the building up of riches, and the attempt at peaceful trade conquest the world over. No great war has taken place among civilized nations for a long period, as, while the Franco-German struggle was sharp and disastrous to France, it was also short and did not greatly affect others.

This long peace has enabled all countries to make the wonderful strides they have, and the United States must keep the proud position we have acquired and forge ahead to the further benefit of ourselves and mankind universally.

It goes without saying to accomplish this we should not, and could not if we tried, force back the irresistible tide of national progress by declining to realize that the new conditions of business have come to stay and will continue to grow.

The immense cost of the gigantic undertakings of our day make imperative the joining together of capital under some form of trust, combination, or corporation. Private means can neither furnish the necessary large amounts essential to carry out the needed public and world improvements, nor can we expect those who might have it to be willing to risk their all in such undertakings.

Our duty, therefore, as representatives of the people seems plain, and that we should, with an open mind, deal out justice by wise legislation.

Progress, prosperity, and freedom to undertake great enterprises should not be interfered with, but the sting of corruption, the disgrace of unjust methods, and the possible persecution of our citizens should be taken away forever from all public companies, for their own eventual good and the people's happiness and welfare. [Applause.]

Mr. DE ARMOND. Mr. Chairman, I yield ten minutes to the gentleman from North Carolina [Mr. WILLIAM W. KITCHEN].

Mr. WILLIAM W. KITCHIN. Mr. Chairman, I regret very much that I have not time to discuss this bill, but in the short time I have I want to call attention to what seems conclusive evidence of the insincerity of the Republican party on trusts.

In 1888 the Republicans in their national platform denounced trusts. In their platform of 1892 they more bitterly denounced trusts. In their platform of 1896, when a different class of statesmen obtained control of their party, they deliberately omitted all reference to trusts. I call these facts to the attention of the gentleman from Maine [Mr. LITTLEFIELD] for his consideration when he closes this debate. He may say that it was unnecessary for the Republican party to renew its pledges, that they would not plead the statute of limitations; but they had better plead it out of date than to let it stare them in the face as binding and absolutely ignore its obligation.

In 1900, when practically all the great monopolies had become organized under the single-corporation plan, and while the people were crying against trusts, the Republican party wrote words in its platform condemning "conspiracies and combinations." Under the Republican construction the single corporation is not a conspiracy or combination. I believe that platform deliberately informs these great trusts that the Republican party is not hostile to single-corporation monopolies.

We are not against rich men, or riches, or corporations, or big corporations. We admit that large capital or large manufacturing plants can produce more cheaply than small ones. No man denies their right to this advantage. We deny the necessity of enormous combinations for economical production. Economy of production of oil does not require a combination worth $700,000,000. Economy in the manufacture of tobacco does not require a combination of $250,000,000. A ten-million-dollar tobacco manufacturing plant would be an immense concern, and could demonstrate the greatest economy in production. Such a plant would be worth more than the wealthiest county in my district, including its factories, its banks, its railroads, its farms, and all other taxable property. Yet such a single factory would not be a monopoly. We are not against great factories, but we deny the right of monopoly to exist in enterprises naturally of a competitive character. We admit that there are natural monopolies, such as street railroads, water companies, and others.

Natural monopolies should be controlled and their prices regulated by law. All monopolies in enterprises of competitive characters should be destroyed by law. It is unnatural for tobacco factories in Durham, in St. Louis, in Richmond, in New York, and other places to combine, and it is wrong to combine for the purpose of monopolizing the tobacco business. Destruction of monopolies is not destruction of factories. Factories existed before monopoly and they will exist and flourish if monopoly is destroyed.

Monopoly injures the small towns and sends their best talent to the great trust centers. It intimidates the energetic; it shuts the doors of opportunity to the young man. In my district twenty years ago new tobacco factories were started; no men now dare to begin manufacturing tobacco. Had the tobacco trust been in control thirty years ago as it is now, probably we would not know the names of the great tobacco magnates of to-day. Had the Standard Oil Company existed forty years ago, probably we would not know the name of Rockefeller. The great trust magnates laid the foundations of their fortunes under fair competition, then organized trusts and deny opportunity to all who have no special pull with them.

Control of an article gives the monopolist the power to fix its price. Human selfishness inspires him to fix the price for the satisfaction of his own greed. Having the disposition and the power, he uses them against the people, having, however, consideration always for the greatest net returns. Since we can not deprive monopolists of their disposition to rob the public when the greatest net returns require it, it is the duty of the Government to deprive them of their power to do so.

Mr. Chairman, why does the existing law subject monopolists

to imprisonment in the penitentiary unless monopoly is a moral wrong, unless it is a crime against humanity? The man who robs by virtue of his great wealth and power is no less a robber than he who robs at the point of a pistol. His method may be more polite and refined, but he accomplishes his purpose with just as much certainty and with much the same spirit. He is guilty of wrong as certainly as is the highwayman. Why will the Republican party not enforce the criminal provision of the Sherman antitrust law?

Why did not the President, when he got after the beef trust instruct the Attorney-General to indict its members? If a band of men should combine to rob every man who passes along the highway and under that agreement rob a thousand men and a lawyer should bring a suit to enjoin the members of that band from carrying out their contract, honest men would despise that lawyer. Yet when these people combined to put up the price of beef and robbed the consumers, violating the Sherman law, the Attorney-General brought suit to dissolve their agreement. He should have indicted the men who formed that conspiracy. The law which authorized the suit to enjoin them authorized their indictment. Why did not the President then think of "shackling cunning?"

It is because the President is only human. He suffers temptations as do other men. He wants to be nominated for President, and knows that no man can be nominated by the Republican party who has not the sympathy of these great trust magnates. He knows that no man who takes a bold, unrelenting position against trusts, against monopolies, and who, under the law, advocates putting these great tyrants of the people behind bars, can receive the nomination of the Republican party in the convention. That is the reason, in my judgment, the President abandoned his idea of "shackling cunning" in this age, as heretofore our ancestors had learned to "shackle force."

Mr. Chairman, it seems a recital of these facts shows every intelligent American citizen that the Republican party is not determined to break up monopolies. It is not intelligence that gentlemen lack. It is not wisdom. They know how to frame the laws and how to execute them. It is either conscience or courage that gentlemen lack. Republicans have controlled the administration of affairs now for six long years and have allowed platform declarations to remain a dead letter. The criminal statutes they have not enforced against monopolies. There is no middle ground between those who plunder and those who are plundered. If you Republicans are determined that the law shall not be enforced, if you are determined that private monopolies shall not be destroyed, if you are determined to permit them to continue to charge the American consumer more than they charge foreigners, then have the manhood to let the American people know your position.

Can you mislead them by pressing bills at the end of Congress, when you have no hope of their becoming law? If the American people should vote intelligently and deliberately that the monopolies should control this country, we would bow to their will; but we deny that the people favor private monopolies. We deny that they favor allowing corporations or individuals to have the power to arbitrarily control prices. [Applause on the Democratic side.]

[Here the hammer fell.]

Mr. DE ARMOND. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. KLEBERG].

Mr. KLEBERG. Mr. Chairman, in the limited time allotted to me it is impossible to cover the great subject of trusts in all its bearings, but I desire to emphasize in these remarks the fact that one of the chief causes of industrial monopolies is the transportation monopoly. As long as the railways of this country remain unregulated, so long will monopoly thrive and grow. You may have free trade and publicity galore in the United States, and unless you can fix reasonable freight rates and prevent clique enterprises sustained by discriminatory freight rates, you will still have the industrial trust.

But it seems that the railways are beyond the control of legislation unless it be of a character which suits their purposes. Not since the enactment of the interstate-commerce law, eighteen years ago, creating the Commission has there been an attempt to regulate railway traffic on the part of Congress, unless it be the passage of the Elkins bill at the other end of the Capitol a few days ago, yet this bill, weak as it is, will likely fail in this House, or, if it passes, be so amended as to give no relief to shippers, and will in the end furnish but further proof that the influence of the railways is all powerful.

I insist that Congress has the power under the interstate-commerce clause of the Constitution to provide for the appointment of a commission or tribunal vested with the delegated powers, first, to fix reasonable freight, passenger, and express rates on all public carriers engaged in interstate commerce; second, to classify freights; third, to compel interstate shipments; fourth, to require public accounting; fifth, to prevent discrimination of every character, whether by rebates, terminal facilities, or by reason of the long and short haul; sixth, to enforce the freight schedules as published by the carriers, and, seventh, to enforce the orders of the commission by the aid of the courts. I further insist that by such regulation legitimate transportation lines would be benefited, as discrimination would cease and their business would be brought under orderly control, while all shippers would be placed on the same level with each other and equal opportunity restored to all.

Nothing Congress could do would do more in restoring fair competition in all commercial and industrial enterprises. It is admitted on all sides that an active assertion of the competitive principle in our commercial and industrial life is the only remedy against the trust evil, and yet we do not avail ourselves of the constitutional and practical means at hand, but resort to palliatives which at best can not go to the root of the trust evil. Modern commerce and industry are based upon cheap and efficient transportation more than all other agencies combined, and unless that transportation offers like and equal opportunities to all enterprises, large or small, competition is impossible and monopoly inevitable.

How much longer will Congress trifle with this great question? Sooner or later it must be met, if monopoly is to be suppressed. Of all monopolies the railway and transportation monopoly is the greatest and most far-reaching. Nothing that enters commerce or manufacture escapes its control, and no human being is exempt from its arbitrary power. It fixes the price of every commodity that enters into daily use, and upon its supreme will is dependent every commercial and industrial enterprise. Communities, cities, States, and sections are built up or destroyed at its behest. Clique enterprises grow up under its fostering care and independent concerns are crowded to the wall, and all shippers outside of its patrimony must pay such freight rates as the traffic will bear. The manufacturer, the trader, the farmer, the laborer, and the consumer all must submit to its inflexible and often exorbitant decrees and pay tribute to its supreme dominion. Here is the basis of the trusts, here is the soil in which they thrive, here is the field for the trust reformer. Who will lay hands to the plow? [Loud applause.]

Mr. DE ARMOND. Mr. Chairman, I shall not claim that the trust evil is easily removed, nor shall I assume that I have discovered or have learned of any sure remedy for it. I believe, however, that experience has suggested certain methods of treatment which we have every reason to believe will be largely and beneficially effective. I believe that many of those methods are not to be employed. I believe that they do not receive from our brethren upon the other side of the House that consideration which they deserve, and that they will not receive it.

To say that any remedy or any combination of remedies can suddenly and radically cure all the evils inflicted upon the American public by the trusts would be going much further than I am disposed to go. Human greed, employing in its various vocations the best of human intellect that its spoils can secure, is not to be baffled in the easiest manner, much less to be eradicated from human nature in which it inheres. It is necessary for those who would deal with this great evil to seek the best and most effective and at the same time the simplest remedies that may be applied to it. If we would deal with it with any degree of effectiveness, approaching the necessity of the case, we should be willing to reconsider our own preconceived conceptions upon this subject, test our own philosophy anew, discard, if we can, such prejudices as may possess us, and turn our best ability, coupled with our best intentions, to what is the serious problem of the day.

I am one of those who believe that the evil might be greatly mitigated, that in many respects and with regard to many things the evil might be removed, by addressing ourselves honestly and conscientiously to a revision of our tariff laws. I do not say nor do I believe that all trusts spring out of the tariff laws or that all trusts are sheltered or protected by them. But it seems to me that it passes human understanding and is at varience with human observation, how any man can doubt that in many instances and to a large extent these trust evils are due to a tariff code needing careful and prompt revision.

I shall not go into any discussion of the relative merits of this philosophy or that philosophy with respect to the tariff. Certainly those who advocate its continuance will not in speech, whatever they may do in acts, claim that any tariff duty ought to be imposed or maintained when the effect of the imposition and the retention of that duty is injurious to the general public and beneficial only to comparatively few, who derive all of the good, all of the profit, that comes from it, or most of it even.

As was well remarked by the gentleman from Mississippi [Mr. WILLIAMS], in the nature of things there does not seem to be anything particularly sacred about a tariff law more than about any other piece of man's handiwork. Times are changing, circumstances are changing. Discoveries are made and developments

are taking place constantly, and if we had to-day a perfect tariff law, if such a thing were possible—and it is by no means possible—we might find in it to-morrow not a few imperfections. We might find more of them the next day, an increasing number the third day, and so on. I do not mean to suggest that there should be any lack of reasonable stability in tariff legislation; but I do insist that there should be insured that healthful stability which ever must result from just and timely revision.

Who will say that the legislator, having regard for the welfare of the country, ought not to be vigilant and active in the study of the tariff law after it is made as well as at the time it is going through the creative process? Whenever the people have to surrender part of their substance to those who have no just claim to it, those who already have more than enough, then from whatever reason—lack of wisdom, undue influence, want of care, bad intentions in the preparation or enactment of the law, or changed conditions since the law was put in force—whenever, from any of these causes, or from any other cause, hardship and wrong shall spring, relief should not long be denied or grudgingly given.

Whenever there shall arise in the country such a state of affairs that the existing law, in any important respect, is not what it should be, then wisdom, duty, patriotism, all unite in the demand for a correction, the demand that the law shall be brought into harmony with actual conditions and with justice as it ought to be administered and meted out to all alike.

He will be a bold man—no, I will not say that—he is a reckless man who would proclaim that the existing tariff law of this country does not need revision. And some gentlemen on the other side of the House—it may be but a few of them—have been whispering that the tariff ought to be revised. Why is it not revised? They do not give the reason. What reason can there be looking to the welfare of the public? What reason can there be of a public character? That there are political reasons abundant, reasons looking to special interests rather than to public interests, is open and plain to the comprehension and observation of any and all.

Other gentlemen say, in effect, that we shall not correct the tariff wrongs, even if it were well to correct them, even if their correction would bring relief in any degree to those who suffer from unjust and improperly imposed taxes, even if revision would break the hold of any of the giant trusts. And so they withhold legislation that would bring about as much of reform, as much of relief, as much of benefit, as much, modicum though it be, of justice between man and man, between the poor and middle classes and the mighty, as they confess it would bring. They still serve as a shield for the mighty, who, by reason of their wealth and the influence that it gives, have controlled legislation too largely and too long.

We of the minority suggest an amendment by which certain articles notoriously controlled, to the great prejudice of the people, by the giant trusts of this country—not your pigmy trust, scurrying along the fences, hiding in corners, but the giant trusts, that take the highways, that monopolize wholly or in large part many of the prime necessaries of life. We suggest this amendment to take off all duties upon a few products controlled by these great corporations, and believe in reductions here and there all along the line.

How could we greatly disturb business by conservative legislation to restore to certain business operations the element of common honesty?

It is claimed that whenever we endeavor to legislate upon these lines, whenever we try to do anything in respect to reducing the tariff, we are liable to disturb business conditions—disturb the business world. Whose business is it which is going to be thus disturbed? [Applause on the Democratic side.] The people's business world, the world of those who suffer from tariff exactions, and who have earnestly labored and time and again earnestly pleaded for relief? Certainly it will not be a disturbance of their business world. The disturbance can be only that which is inevitable, if it be inevitable, in taking from those who too long have gathered what does not belong to them the privilege, the immunity, of gathering so in the future. [Loud applause on the Democratic side.]

We suggest—and the suggestion is old, as was remarked by my friend from New Jersey [Mr. PARKER]: of course we are not claiming anything in the way of originality in the suggestion—we are suggesting, as was suggested when the present tariff law was under consideration in the House, that the President be clothed with power to clip the claws of some of the trusts. It was then feared and prophesied, if not actually foreseen, that the tariff would afford a sheltering place, a breeding ground, for numerous trusts which would prove of great harm to the public. It was then suggested, and has been suggested at other times, a number of times since, and again we suggest and urge, that the bill be amended so as to provide that the President, not the President of our selection, not of our party, not entertaining our views, but the President to whom you go for advice concerning trust legislation, the President to whom you bow for favors, the President to whom you look for promotion, the President elected by your party—that he be authorized, whenever in his own judgment, not ours, it shall be made manifest to him by facts brought before him and forcing conviction upon his mind, that some of the articles needed for the welfare and comfort of the people of this country are monopolized by trusts, then he, by virtue of the authority which we propose to give him, may, in his own judgment, in the discharge of his duty, by proclamation, remove or suspend the duty. When to him it is demonstrated, against his will and against his theories and against his views of a trust, that relief from trust exactions by virtue of the tariff law is demanded by justice or necessity, he may finally by proclamation remove or suspend the duty. He need not issue the proclamation until he finds that the tariff duty is harmful to the public at large, and beneficial only to some one or more trusts.

Now, I am not hopeful enough from what I have seen and in what I have heard in this Chamber to expect that this amendment will be accepted or adopted. Upon this side we have not the power to put it into this bill or otherwise to put it into the law; and my apprehension is that, using the ample power you have upon the other side, you will prevent its going in. But why will you do it? Would you rather trust the trusts than the President? We do not fully agree with him upon many things, are out of sympathy with him upon more than a few things, but we have respect for his high office, and, having regard for the sense of duty that must possess a man in it, we would a thousand times rather set the responsibility upon him than to remain at the mercy of the trusts. We would have the people of the country look toward the White House and say, "There is the man who can afford relief;" and then let him take the responsibility, if he choose, when it is centered upon and concentrated in him, of serving the trusts instead of the people.

There is no relief in the other direction. The trusts will not grow in grace. It is not in human experience. There is not a line in history as we all must read it, there is not an element of greed in the human heart, which suggests the thought that the trusts will relent, or that the people dare submit themselves permanently to their control. Why should you not give the President of the United States the option, in his own judgment, when satisfied in his own way, and to the extent that he himself is impelled to move, to relieve the people in some degree and for some time; at least until the assembling of Congress; to relieve them of burdens too heavy longer to be borne?

As has been said on this side of the House more than once in this debate, we are not seeking to destroy, but we are seeking to preserve. We are not making an attack to pull down and to scatter, but we are trying to stand as a bulwark to prevent that sort of concentration, that sort of swelling, growing, multiplying monopoly which soon will leave to the American citizen but the husks and shadow of what was in times not long past the pride of his American citizenship.

This bill provides for publicity on the part of corporations that are yet to be, corporations in the womb of the future, corporations that are to come forth out of the abundant expanse of time approaching; but as for the corporations that to-day exist, they may or may not be called on for some measure of publicity, all in the good judgment and pleasure of the Interstate Commerce Commission!

Could ingenuity devise anything more helpful to the monopolists or more hurtful to the public than the stripping of each new corporation and the covering of each hoary trust?

Surely criticism of the bill upon this head is not fanciful and can not be denounced by any fair-minded man as mere fault-finding. Of course, I understand the reason or the excuse for this partiality, as the reason or excuse is suggested by the gentlemen on the other side. It is that the searching for publicity when applied to all the corporations, great and small, would be burdensome, would be vexatious, would, in many instances, perhaps, bring out concerning the smaller ones details the exposure or publication of which would be hurtful to them, and not beneficial to the general public, and possibly of advantage to their mighty competitors. But does not that apply just as fully, just as completely—aye, with fourfold force—to the corporations that are to come into existence, establish themselves, get the world to know that they are, get the world to have confidence in what they are going to do and what they promise, and what they can do, so they may get a share of the world's patronage and business? Certainly it does.

We have suggested an amendment to make publicity work in the present tense. I do not know whether gentlemen on the other side will let it be adopted. Possessing the power which party organization and party control give, they may not consent to the amendment, but may kill it. We would have this inquiry for publicity directed to the corporations of to-day. We submit that "sufficient unto the day is the evil thereof." How could that

wise saying be applied better than to the existing trusts? The people are not clamoring lest they be plundered or oppressed by corporations that may be created some day, and that some day may do something wrong. The public complaint is of the trusts that exist now; the trusts whose clutch the people have felt; the trusts beneath whose heavy hand multitudes of them have gone down. It is for relief from the ills that are that the people have petitioned you and have been hopefully and patiently waiting. I believe that if through your party agency you deny them that relief they will arise in their might and secure it by the aid of those who now join them in urging you to help them.

Publicity has been greatly vaunted of late. Some persons, listening to some speeches and reading some literature—knowing nothing else about the subject—may have arrived at the conclusion that publicity is all of it. They may seem ready to say, "Just devise some means by which we can find out what the trust is doing and what it is doing its work with, and straightway all ills must vanish, while all the blessings of life, resplendent, revivified, and rejuvenated, endure." This certainly is an exaggerated view of the value of publicity. Publicity with regard to corporations may be very valuable to gentlemen who desire to invest in the stocks of these corporations, who would have monetary transactions with them by way of acquiring some of their holdings.

But are we not rather dwarfing our efforts, are we not rather belittling, making exceedingly small, the importance and magnitude of a great question, a great issue, when we concentrate our efforts upon an endeavor to secure from corporations hardly more than the information which will be valuable to those who wish to speculate in stocks? Most of the people have no desire for that; the people have no means for that; they are far better off without it. Publicity is of value only as it enables the individual citizen, and more particularly as it enables the lawmaker, to detect public abuses and to apply the remedy to them.

A large part of the bill under discussion relates to publicity. And, by the way, let me remark that House bill No. 17, the bill nominally under consideration, is quite a different product, a materially different output, from the substitute for House bill No. 17. The author of House bill 17, the distinguished gentleman from Maine [Mr. LITTLEFIELD], seems to have started after the trusts with "blood in his eye" and a tomahawk in his hand [laughter]; but by the time this gentleman and his colleagues come up with the trusts, further armed with the substitute for his bill, we find that they hold in their hands the pipe of peace, and that there is to be no trouble whatever between them and the bad corporations they started out to subdue. Evidently they have been authoritatively admonished to go slow and smite not.

Of course I do not find any fault with the gentleman from Maine, individually; I do not find any fault with his colleagues, individually or collectively. It would not do to offer, especially would it not do for them to urge here, anything that by any reasonable possibility could be objectionable to those most powerful gentlemen directing the trust operations, those whose favor and whose support and whose campaign contributions have been so valuable in times past, and are so indispensable in the present, and apparently will be still more indispensable in the near future. [Applause on the Democratic side.] These legislating gentlemen are under constraint; they are in leading strings. It was necessary to submit to "the powers that be," necessary to have the "O. K." of somebody high up on anything formulated before it could be exploited here.

How far the thing exploited is to go, whether like a most pretentious bill offered in the Fifty-sixth Congress, to make more bristling and more threatening the penalties of the Sherman law, and to pass through this House with only one or two adverse votes, it is to slumber in the Senate, awaiting the trumpet of the resurrection day, I know not. Being so near the adjournment, as we are, it is useless to go into prophecy on this subject. I do not think, though, that any serious alarm, certainly none threatening a panic, prevails in the strongholds of the trusts over what these gentlemen are proposing to do, much less over what they will do. I think there is, rather, serenity and the hope that the little bit of a flurry, the little bit of a whirlwind which these gentlemen raise here, will soon pass; that soon the sky will be entirely clear, and that long the pickings will continue to be good for the trusts. [Applause on the Democratic side.]

A great truth, it seems to me, lying at the root of the trust question is this: It has become fashionable to obscure, often to entirely lose sight of, the distinction between a real man, God's creature, and the thing of man's creation called a "corporation." I do not believe it ever could have been intended by those who framed the Constitution that a corporation created, say, in New Jersey—and we all forgive, of course, our friend from New Jersey [Mr. PARKER] for speaking so touchingly of corporations there, for it is loyalty to his State and it does not mislead anyone—that a corporation created in New Jersey, for instance, and preying upon the defenseless people in Kentucky, Missouri, California, or anywhere else in the wide Union must be supposed, by a queer perversion of terms, a queer twisting of the human intellect in dealing with them, to reside in New Jersey only, as God's man might do, although it never intended to carry on any business there, although it never does any business there, although it never will do any business there.

Did the wise old Constitution makers intend that when the corporation organized in one State invades another State, according to the purposes of its original creation, or invades forty-four other States, in pursuance of its original designs, in each and every one of them it shall be regarded as a most respected citizen only of the State whose legislature made it, and that therefore the courts that are good enough for the local citizen, for the real citizen, for the man to the manor born, for the man who can have but a solitary legal residence in one State or in one country—the courts that are good enough for him, the local State courts, are without jurisdiction over the corporation, unless the corporation be pleased to allow them to exercise jurisdiction?

Various prohibitions, various statutes, where the word "person" is used necessarily must comprehend corporations, but the converse of that, carefully considered and properly determined, by no means is true, that "corporation" means "person." I am not making any attack upon corporations, nor am I going to do so. A corporation is a useful agency in the carrying on of business, in many instances probably indispensable; but why a half dozen men or a half hundred men, or any number of men, by virtue of the enactment of some legislature, may have created a fictitious being, with a particular residence, a particular citizenship according to their own choice, which wherever it does business, can hark back to the old fictitious home in order to oust local courts of jurisdiction, and deny to local litigants inherent rights, which I believe the Constitution protects, is beyond my understanding.

There is an amendment offered here by the minority, not going far, not sweeping, not dangerous, but, in my judgment, just and also beneficial if it were put into the law, providing that the corporations engaged in interstate commerce, wherever organized, shall be regarded, so far as the jurisdiction of a local State court is concerned, as amenable to that jurisdiction in each and every State in which they shall do business, to the same extent precisely as if created by that State—to the same extent precisely as the citizens of that State, with human bodies and immortal souls, are amenable to the local jurisdiction. It deals only with the corporations engaged in interstate commerce. I believe it would be constitutional, just, and wholesome to have the same provision apply to all corporations, great and small, near and far. What reasonable objection can there be to it?

If you desire to curb the power of these corporations, if you desire to give the courts a chance to get at them, what objection can there be to the incorporation of this simple little amendment in this bill? What right has a corporation doing business in the State of Missouri, no matter where it is created, when a controversy arises between it and a citizen of Missouri, to fly to the Federal court, on the ground that while it operates in Missouri it belongs or lives in New Jersey, where perhaps it has not a dollar's worth of property, never did have, never intends to have there a dollar's worth of property? If that happens to be a corporation engaged in interstate commerce and this amendment were adopted, there would be jurisdiction and control over it by the local courts.

Gentlemen will hardly charge that justice can not be obtained upon the average as surely and easily in the several State courts as in the Federal courts. I hardly look for that to be asserted. Then why is it that there is this roving citizen of the Republic, this citizen that is not a citizen, this person that is not a person, this being that has no being except artificial being—why is it that this artificial being shall range the wide Union and everywhere choose its own tribunals, while the man of flesh and blood, the man who pays the taxes, the man who fights the battles, the man who in the aggregate constitutes everything that is worthy of preserving, in these cases has to be confined, as nature as well as law confines him, to one actual residence? He can not have a residence everywhere. He can not be a citizen of Missouri and a citizen of New York. He has one legal residence. When he acquires a new one he loses the old one. Now, why should a corporation be privileged beyond the individual?

There is an amendment suggested for exercising the taxing power upon corporations. I think there is no question about its constitutionality. If the principle be correct, if its application probably would be wholesome, matters of detail and matters of form ought not to stand in the way of any who desire to make this bill the best they can make it. Why ought not the same taxing power to be used in dealing with the trusts that was used in dealing with the State banks, when the desire of the lawmakers was to put the State banks out of business, so that the

issue of bank notes might be confined to and centered in the national banks?

Why not tax so highly that they can not live (except in reasonable obedience to reasonable laws) these ruinous trusts that are fattening upon the wealth of the land, and that gradually but surely are robbing and enslaving the masses? Why can not that be done? Does it lack justice? Does it lack feasibility? It is along the line of precedent, it is along the line of human reason, it is along the line of experience. I submit it also is along the line of common sense, providing you really wish to do something effective to the trusts and with the trusts.

A trust is nothing more nor less than a monopoly; that is all, but more than enough. As a general proposition, monopoly is absolutely antagonistic to the principles of the Republic and to the welfare of its citizens. It stifles human effort, it strangles human enterprise. It robs human citizenship, and the longer it proceeds in its nefarious operations the more powerful it grows, and the more difficult becomes the task of reducing it to fair proportions, and making it amenable to wholesome laws.

If there could be such a thing as that the citizen, not depending upon the judgment or the learning or the fidelity or the courage of some particular Federal officer, but arising in his own majesty as an American sovereign, could find a court open to him where he could invoke the law, where he could set in operation the machinery of the law for the redressing of the grievances from which he suffers under trust ministration and trust robbery, very much would be done toward correcting the evils which people now endure, looking to you for the help that justice and honesty may give in the righting of wrongs of which not lightly but seriously and feelingly they complain.

One amendment suggested, which I think is at least worthy of the trial, is that which would make amenable to the bankruptcy law the offending trusts. As is well known to those who care anything about what my views upon these subjects are, I am not a champion of the bankruptcy law. I am not in favor of it, but we have it. Lately it has been amended. For the near future, at least, it is to endure. Now, if that law, odious and objectionable as it is in many of its features, burdensome and exacting in many particulars, framed and fashioned and perfected in large part as a collecting machinery for the mighty, and an engine of oppression directed against the feeble—if that law is to endure, and if we can enable the citizen by resort to the courts of bankruptcy for a redress of the grievances suffered from a trust, why not provide the way?

Some gentleman says the amendment is unconstitutional. Whether it is unconstitutional or not is merely a matter of argument until the time is reached, if it ever be reached, when the court of final resort shall pass upon that question. It has been my observation, and the observation of many of late, that whether a particular provision of the law shall be declared constitutional or unconstitutional depends not solely upon the merits of the question, not solely upon the provision of the Constitution called into view, not solely upon the ability and learning of those who pass upon it, but that something comes in from the air, that there is some sort of subtle influence that gathers about the court room, that there is some sort of unseen yet tremendous power that shapes and influences the judgments of men upon the bench as well as off of it; and that a man of resource and learning in the law may find it about as easy to give reasons, satisfactory to him and to those who are pleased with his decision, for a decision one way as for a decision the other way.

If this trust evil were properly appreciated by those who pass upon the question; if it were regarded, as it deserves to be, as a great menace not only to the individual welfare of every American citizen engaged in the effort honestly to support himself and his family, but as a tremendous engine of power directed blindly, as to all interests but its own, against the very foundations of the Republic itself; if that sort of feeling and that sort of spirit pervaded the land and pressed down upon the court room, I have reason to believe that such an enactment as this would be held to be constitutional.

But if the voice of the people, however loud, far away, has not an echo in the court room where the decisions are to be made, and if the still, small voice, so persuasive, the breath so strongly tinctured with the seductive aroma of concentrated wealth and power, were within whispering distance, then it may be that the remedial legislation might be held to be unconstitutional. But he who steps over the constitutional bounds in an honest, earnest effort to find a simple, effective, constitutional remedy within the grasp of every citizen for an intolerable abuse too long endured, and for which no adequate remedy is afforded, will escape the censure of the just.

He who crosses the bounds of the Constitution, in well-meant if misjudged efforts for the correction of such notorious and abominable abuses as the trusts are guilty of, may well be pardoned for the error of his judgment in consideration of the rectitude of his purpose. But he who, hunting for an excuse, stammers and quibbles over the possible unconstitutionality of something which would be of great advantage in a great crisis, in a time of serious unrest in the public mind, when many elements are at work stirring and lashing the public to fever heat, threatening to carry public sentiment to dangerous extremes—he can not stand guiltless. He is falling far below the standard which ought to be applied to the national lawmaker when, in a real and serious emergency, he lets his doubts and quibbles stand in the way of submitting to the highest tribunal of the land the question of the constitutionality of proposed legislation, which, if constitutional, will afford a real remedy in a case where the demand for a remedy is at once imperative and urgent.

One section in this bill denies certain corporations offending against its provisions "the facilities and instrumentalities of interstate commerce." It is proposed by the minority to specify as embraced within that phrase, the mails, the telegraph, and the telephone. Now, either under the general construction it embraces and covers these great agencies of interstate commerce or it does not. That is a question of judgment, a question of construction, possibly of law; and if the question were really to arise, it might be the cause of hair splitting as to whether the general terms include the particular facilities, the mails, the telegraph, the telephone. If they are not included they should be.

Should the offending corporation be denied facilities of interstate commerce by a general phrase and yet be permitted to use the mails, the telegraph, and the telephone for perpetuating a nefarious business? That question in morals and public policy seems to me to answer itself. Besides, the most and the worst that could happen by the express inclusion of these great agencies of interstate commerce, and of all commerce—the mails, the telegraph, and the telephone, by direct specification—the most and worst that could happen would only make this specification superfluous. Here, again, I say to those who desire really to legislate in an effective way—to actually give some relief—you can not afford to halt at such a quibble over the meaning of words.

Now, these are some of the amendments suggested. Some persons have remedies which would wipe out State laws. Some gentlemen would have all corporations chartered by the United States, would have all the powers that the States have exercised in that behalf destroyed. It seems to me that these gentlemen either have not considered carefully the question or they are ready to go posthaste through and over laws that ought to be preserved and enforced, ready to blindly rub out and remove volumes that have been written to proclaim and level landmarks that have been erected to perpetuate the rights of the States, under which men have been protected in the progress in this country for more than a century.

There ought not to be taken from the States the powers which they possess and which they can exercise helpfully in curbing these giant trusts. Instead of that, we should strive to intensify the efforts of the lawmaker, national and State, and the zeal and integrity of those who enforce the law against the machinations, the schemes and devices and reckless procedure, the utter disregard of human rights, of the monopolists. The absorbing power of human greed, to control which is now and must be to a considerable degree the work of the States, has gone so far in its wicked ways that the agency of the laws of the State, the agency of the lawmakers, and the executors of the law in the States must be exerted to the utmost, and so must the power of the General Government, if substantial, abiding relief is to come.

If the Government of the United States will use the powers it has, even pushing them to the verge, even pushing them to the point where their constitutionality might be questioned, and will leave the States and the people of the States free to exert all the power reserved by them to themselves when the Constitution was made, there will not be more accomplished by the united forces of all than is desirable and necessary in protecting the people from the trusts.

Some talk as though those who are in favor of effective legislation for the control of the trusts are hostile to wealth and abhor any such thing as its proper aggregation. That phase of the question was very well discussed and disposed of just a little while ago by my friend from Mississippi [Mr. WILLIAMS] and my friend from North Carolina [WILLIAM W. KITCHIN]. There is no such issue at all, and gentlemen know it. You should not beg the question and misrepresent the facts.

If this country is to endure as a free republic, in essence as well as in name, if the American citizen is to grow and develop and have a reasonable share of what his own industry and genius produce, there must be some agency found, and I believe the most effective agencies must be invoked, to protect him against the aggression of monopoly. To the Federal Government he naturally looks for the best that the Congress can do. It will not satisfy him to play the one House of the Congress against the other; that will not satisfy him at all, nor will it mislead or delude him.

Whatever is done here is going to be criticised and scrutinized abroad in the country, and if nothing be done as in the former Congress nothing was done, although there was great parade before the election, you will not deceive the people by believing that they will not perceive the gap, but you should fear lest you be thrown in to fill it up. [Laughter.]

Now, I believe we ought seriously, without trying to gain party advantage, without being coached by party leaders, without having things O. K.'d by party chiefs, to see whether we can devise and put upon the statute books something which promises to be effective in relieving the people from the exactions which they certainly have borne long, and which they no longer will bear patiently.

This bill will accomplish but little good. I do not look for it to become a law, but if it were to become a law it would not accomplish much. Why is it not made so that it will accomplish a great deal more? Why? Now, that question certainly calls for an answer. Why is it? I have no doubt the gentleman who will close the debate on the other side can tell us in part why it is, but, of course, not desiring to embarrass him, I would not ask or insist that he do it. I will answer. It is because the powers that be in the party, and that control the Government, are endeavoring to go far enough, if they can, to satisfy the people of their good intentions, and to stop near enough and short enough to demonstrate to the people's enemies, the trusts, that they are merely going through a form, that, in fact, they are not going to do and can not afford to do anything substantial. [Applause on the Democratic side.]

It is very difficult to execute good laws when those against whom they are to be enforced are powerful and active and ingenious and influential. That is a very difficult thing. In this House we are not charged with the execution. The responsibility will not be upon us to have the laws executed, but the responsibility is upon us if the laws are not strengthened, if the laws are not made, if the hand of the executive officer may not be allowed the most effective weapon that can be used in defense of the public against those who despoil it. This responsibility rests here with us. How does this bill meet it? I venture to say that no gentleman in this presence, whatever he may do on the hustings, will really risk his reputation, if he feels that he has any, by stating that this is, or is believed to be, an effective measure for the cure of the trust evil.

It is believed on the one hand to be enough, at least it is hoped that it is enough, to satisfy an impatient public, and the assurance no doubt is abundant and comforting upon the other hand that it is not enough to hurt anybody, the hurting of whom would have a reactionary effect. So we have it here. We have in this debate the solemn consideration of a measure, the solemn consideration of amendments proposed to it, very solemn and very learned disquisitions upon the trust problem, and all its various branches and phases, and finally we shall see the Congress end the 4th of March having accomplished practically nothing, and then gentlemen may come forward again and say "We are going slow, feeling our way; this is a serious problem; we do not mean to rush or be rash about things."

Ah, Mr. Chairman, the gentlemen are making the discrimination now in their legislation which was made some months ago on the stump between the "good trusts" and the "bad trusts;" and somehow the "bad trusts" seem to have got themselves out of the way—out of range; and of course it will not do to shoot the "good trusts," so the ordnance is not heavily charged. It is neither of long range, nor are the projectiles particularly destructive, if they do happen to hit something. "Bad trusts" out of the way; "bad trusts" difficult to identify; "bad trusts" few and far between. And as for the "good trusts," great Lord, of all things, good and bad, great and small, present and future, in this world and in the next, do not hurt the "good trusts!" [Loud laughter and applause on the Democratic side.]

APPENDIX.

VIEWS OF THE MINORITY, SUBMITTED BY MR. DE ARMOND.

The undersigned do not oppose the passage of the measure reported by the committee, but urge that it should be amended and perfected, or at least greatly improved.

We realize that there is a strong popular demand, the outgrowth of bitter experience and balked efforts for redress, for legislation, honestly and wisely conceived, for the abatement as speedily as possible of as many as possible of the ills which the people suffer from the exactions of the trusts.

Trying to respond to this righteous demand, we wish to impress upon the House the importance of making this bill the best its wisdom can devise.

We believe this great demand for antitrust legislation springs from experience, not anticipation. The people are suffering now from the evil operations of the trusts now in existence. Of course they are warranted in believing and fearing that if they longer tamely submit to trust robbery more robbers will appear and all will become more ruthless.

They understand that the best deterrent they can bring to bear upon the spoiler who may be is that which proves most effective when applied to the spoiler that is.

A large part of the bill is devoted to "publicity." Indeed, publicity is its most prominent feature. Publicity as a panacea for the trust evil is not new. But of late this remedy has been advertised so extensively that we may not unnaturally be surprised when we find that it is now prescribed mainly for the trusts that may be, while as for the trusts that are—those which have wrought and are still working much of evil, and which threaten to work still more in the future, near and far—the publicity remedy may be administered to some of them, some time, in broken doses, without being prescribed.

In other words, the bill provides for requiring every corporation hereafter organized to lay bare, at the time of entering interstate commerce, its foundation and superstructure, its strength and its weakness. No matter that it may be organized to compete with some mighty trust, that trust, covered, standing in the shadow, must have the opportunity to gaze upon the nakedness of its fledgeling rival, and thus it is easier to strike the fatal blow.

The bill requires "every corporation which may be hereafter organized," "at the time of engaging in interstate or foreign commerce," to make a full report; a report so full, it is supposed, as to advise dealers and investors in corporation stocks to buy its shares understandingly, or understandingly refrain from investing in them.

It is claimed that there is no hardship in requiring of a new corporation what is not required of an old one, for it is said that those who enter the new corporation are not under compulsion to enter it—they have the option not to call it into being. Of course that is true, but, viewed from the standpoint of the suffering public, what reason is there for exempting existing corporations from the universal, enforced scrutiny to which the new corporations are to be subjected?

Is it because the people are concerned about future corporations, whether good or bad, great or small, but have neither need nor wish to know something of existing corporations, even if they are bad? Surely that can not be the reason for flying from the ills we suffer to those we know not of.

The argument most relied upon for this partiality to corporations now in being, including numerous trusts, is that upon very many existing corporations it would be onerous, and to the public, as to them, profitless, to require the report exacted of new corporations.

A complete answer to this contention is that any publicity worthy of the name enforced through legislation must be comparatively valueless in many instances, and the compulsion required to secure it annoying, embarrassing, even prejudicial, in many instances.

If publicity is deemed of enough importance to justify an effort—not to say a pretentious effort—to secure it, then the annoyance, the embarrassment, the injury, incidental to its acquisition for the public welfare, must not prove a bar to the enactment of an effective statute for securing publicity. This does not mean that there shall not be recognized the fact that a line may be drawn between the great corporations and the small ones.

Another view: What could tend more surely and effectively to a perpetuation of the great power and baleful influence of a giant trust than this requirement that every newcomer shall be stripped naked before it, while it may remain covered? Suppose a corporation were organized to enter the lists against the sugar trust, or the steel trust, or the Standard Oil trust, or the tobacco trust, would enforced publicity applied to the new corporation be anything else than its exposure, defenseless, to the mighty forces of the colossal trust now in being?

We propose to amend the bill so as to require the great corporations, among them the trusts from which the public suffer now, to make public that information which is deemed essential to the general welfare. If what it is most important to know can not be given publicity by positive requirement, then is vaunted publicity a pretense, and not a thing of substance and value.

A number of things not specified should be reported, among them the amount of taxes paid for the preceding year, and we offer an amendment to include that additional item. We believe there can be no good objection to this simple amendment, and we hope no bad objection will be interposed, or, if it is, that it may not prevail.

The first section of the substitute, which requires returns to be filed by corporations with a view of securing the advantages of "publicity," shows a most remarkable case of omission. It provides no penalty for noncompliance. Any corporation may with impunity neglect to file its returns. The law may be practically ignored without punishment.

Not the slightest harm or inconvenience would follow that policy of inaction until the particular corporation was singled out and proceeded against by the United States in a suit for an injunction to restrain the corporation from shipping its products into another State, and then a filing of the return would end the suit. A prompt filing of returns would confer no advantage. A delayed filing of returns after suit would impose no disadvantage. We suggest an amendment.

A simple amendment, but a valuable one, we think, is suggested as an addition to sections 5, 6, and 7 of the substitute, declaring each day's violation of the respective sections to constitute a distinct offense.

Section 6 of the substitute purports to deny to certain corporations "the facilities and instrumentalities" of interstate commerce. Why not also deny these same facilities and instrumentalities to associations, trustees, and individuals under the like circumstances? We know of no good reason for the omission—we are warranted in denominating it a refusal—to do so. And we propose to enumerate, as embraced within and constituting a part of such "facilities and instrumentalities," the mails, the telegraph, and the telephone.

Why does the committee refuse to do this? Perhaps the answer will be that "facilities and instrumentalities" include the mails, the telegraph, and the telephone. But the gentlemen who answer thus, when pressed, can go no further than to say they believe what at first they appear to confidently assert.

If they wish to deny to the offending corporations such facilities and instrumentalities as the mails, the telegraph, and the telephone, how can they so strenuously object to passing from belief to certainty by expressly mentioning them? At most and worst the few words employed in the cautionary specification would be but surplusage. This bill, of many pages and little substance, is proof conclusive that its authors are not niggardly with words.

If section 6 would be valuable in dealing with corporations, the section which we recommend, containing precisely the same provisions applied to natural persons, ought to be unobjectionable.

Criticism has been directed by some against section 7 of the substitute, purporting to provide for punishing the common carrier for transporting trust-made or monopolistic goods, putting the responsibility of deciding the intricate legal question involved, not upon a court, but upon the carrier; that is to say, upon its officers. If the carrier refuses to transport goods which should be carried, it is liable to penalties. If it consents to transport goods which should not be carried, it is also liable to penalties. But how are its officers to decide whether to carry or refuse to carry the freight offered? It has taken the courts days and weeks to decide such an issue, but the officer of the transportation company must decide it instanter at his peril.

Besides, by refusing transportation on the plea, whether founded in fact or not, that it is unlawful under this act, the transportation officer of a railroad might bankrupt any shipper, and thus play into the hands of the trusts. To make the provision fair and effective, a system of branding or otherwise marking articles offered for shipment should be established, with suitable penalties for evasion of the requirement and fraud in pretending to comply with it.

The simpler the remedy, if effective, and the larger the number of those who are qualified to administer it whenever interested, the greater the good accomplished. It is not easy to find a sovereign remedy for the trust evil, nor is it wise to depend upon the zeal, industry, and integrity of just a few officials to administer the remedy prescribed. If something at once simple and easily used could be provided, so that any man aggrieved could seek and find a plain, open way to relief and redress of grievances, much good would be accomplished.

May not the bankruptcy law be extended to offending corporations? If so, the way to relief and redress is plain enough, and the multitude may walk safely and confidently therein.

Can it be a stretch of reason or of law to denounce overcapitalization as an act of bankruptcy? The individual who, having $100,000 worth of property, and only that much, floats $200,000 in paper, based upon the $100,000 worth of property, is in a fair way to be adjudged a bankrupt.

Now, why shall not the corporation whose property is worth but $100,000, but which issues $200,000 in stock, be liable to be adjudged a bankrupt by reason of that act—why may not that overissue of stock, that overcapitalizing, be justly and legally declared to be an act of bankruptcy? In what respect would a law making the overissue of stock—the stock-watering industry—an act of bankruptcy be lacking in constitutional sanction or in broad public policy? We propose an amendment of this character.

The constitutionality of an enactment providing for the forfeiture and confiscation of articles transported in interstate commerce in violation of a valid law would be questioned by but few. If the same offending were declared by a Federal statute to be an act of bankruptcy, who is authorized to denounce that Statute as being unconstitutional?

Simple insolvency, unmixed with anything else, may constitute bankruptcy, but "bankrupt" means more than "insolvent." The main ingredient in a bankruptcy may be wrong-doing. So it is not unreasonable to believe that Congress may constitutionally declare each of the potent evil performances, whereby the trusts violate the law or the fundamental principles of public policy, to the manifest injury of the public, an act of bankruptcy. Accordingly, we submit further amendments to enable anyone interested to seek redress from trust oppression, by resort to proceedings in bankruptcy.

We believe no one who permits himself to do even a little thinking upon the subject will care to question the simplicity or efficacy of a resort to bankruptcy proceeding to break the backbone of a trust; he may raise the question of constitutionality. But what more can he say than that he doubts the constitutionality of the legislation proposed, or that he believes, with varying degrees of intensity, that such legislation would be declared unconstitutional? We trust the courts would uphold it as constitutional.

Why not test the matter? That can be done by passing such a law as we urge, but can not be done otherwise in a thousand years—can never be done. If declared unconstitutional, that part of the enactment would simply be worthless—be nothing—but if adjudged constitutional, how invaluable it might be. If you really wish to do something against the trusts and for the people, try it.

Articles tainted in the clutch of a trust, when carried beyond the border of the State in which they are produced, ought to be subject to seizure and confiscation, and to that end we suggest an amendment the provisions of which are embodied in H. R. 3105, introduced by Mr. GILLETT of Massachusetts.

So, also, should every corporation engaged in interstate commerce be subject to the jurisdiction of the courts of any State in which it shall carry on any business, as completely as citizens and residents of the State are subject to such jurisdiction; and we recommend that the bill be amended accordingly. With the power of the United State over interstate commerce wisely and honestly exercised, and the corporations engaged in interstate commerce amenable to State laws, in State courts, in each State in which they shall do business, to the same extent as if created in and by that State, many trust abuses will soon be things of the past.

As a speedy, direct, and sure relief from many most grievous monopolies and exactions of the trusts, we earnestly recommend a repeal of so much of the tariff law as imposes high protective tariff duties upon certain articles of prime necessity in the American household and in the development of the material wealth and the extension of the commerce of the nation, and which are well known to be controlled by great trusts to the serious detriment of both the individual citizen and the commonwealth.

Without going into the tariff question, we submit that upon whatever theory a tariff law may be framed we are unable to conceive upon what theory, tinctured with honesty or justice, any particular item of tariff taxation can be persistently, doggedly, defiantly continued when nortoriously a greedy trust is the beneficiary and a suffering public the victims of the legislation, and of the vicious perversity which perpetuates it. We believe a fair revision of the tariff laws would afford the best of remedies for many trust abuses.

In addition to the recommendation of specific amendments of the tariff laws, we further urge that the President be clothed with the power and intrusted with the duty of withdrawing from the trusts the sheltering and fostering care of the tariff, whenever, in his judgment, on facts brought to his attention, the public welfare requires such action by him. In this is nothing of coercion—merely an appeal to the President's patriotism and sense of right, coupled with an extension of the power to act.

It was foreseen when the present tariff law was passed that in it would be found an invitation, and sheltered by it a breeding ground for the trusts, and it was then proposed to give the President the power by proclamation to take off or suspend any item of the tariff taxation, whenever he should be convinced that a trust had taken advantage of it to monopolize and rob.

A number of times since the like proposition has been made, and always it was scornfully rejected. Again we bring it forward. Will you again reject it? Have you more confidence in the trusts than you have in the President? We have not. We would far rather look to the President, charged with a solemn duty, for the protection of the people than to the trusts that have been and are despoiling them.

The taxing power of the Government has not been invoked in dealing with the trusts. We believe that much revenue may be raised and many trust abuses corrected by a resort to this great power; and so we submit an amendment for its exercise.

An apparent omission may be supplied by the adoption of an amendment which we propose, making the legislation applicable to the Territories and the District of Columbia as well as the States, as to interstate commerce.

We are not opposed to the publicity treatment; we favor it. But we do not regard it as a cure, much less as a substitute for better remedies. If, however, by the potent agency of a majority vote, publicity is to be heralded as the great cure-all, we insist that enough of it shall be administered to test its efficacy. We are opposed to playing with publicity and discarding all else. The case is too serious.

As for the prohibitions and penalties hurled at certain corporations in certain sections of the bill, they bristle somewhat upon paper, but are not likely to accomplish much, if anything, not attainable by a vigorous enforcement of existing laws. Still, if the majority in the House will not permit anything better to pass, we shall vote for the substitute bill, placing, as we believe the country will place, the responsibility for another miscarriage where it belongs.

The amendments which we recommend are appended hereto.

DAVID A. DE ARMOND.
D. H. SMITH.
HENRY D. CLAYTON.
R. L. HENRY.

We concur generally in the foregoing without committing ourselves to each specific amendment or to what is said concerning each.

WM. ELLIOTT.
WM. H. FLEMING.

The CHAIRMAN. The Chair now recognizes the gentleman from Maine [Mr. LITTLEFIELD].

Mr. LITTLEFIELD. Mr. Chairman, will you be kind enough to state what length of time I have at my disposal?

The CHAIRMAN. The gentleman from Maine has one hour and twenty-one minutes.

Mr. LITTLEFIELD. Mr. Chairman, then, if the Chair and the committee please, I should like to make a request that for at least an hour or fifty minutes I be allowed to go on without interruption. I have quite an amount of ground to traverse; I am not quite able to tell how long a time I may take; and I may make better progress if I proceed without interruption for at least a considerable portion of my time. I do not want it understood that I object to interruptions, but I want to make some progress in the debate before yielding for that purpose.

In the consideration, Mr. Chairman, of the very important subject-matter of this bill, the Judiciary Committee, I think, very soon appreciated fully the profound and infinite difficulties and complexities involved in legislating for its proper regulation and control. We have never as yet been able to find anybody that has given to this question any thought, investigation, or reflection who would undertake to assume to write a statute that he believed would adequately take care of this situation under existing conditions, with the constitutional limitations that control this body.

So far as I am personally concerned, except as to the idea of publicity, involved in the bill which I introduced at the beginning of the last session, until the committee was instructed by the House to investigate this question, I had made no attempt to formulate any legislation for that purpose, nor had I before that time agreed, or been asked to agree, to make any attempt to prepare any legislation upon this question. Any assertion to the contrary, by whomsoever made, is wholly without foundation.

The committee has, during the time that has been at its disposal, made, I think, a faithful and earnest effort to present to this body a fair, reasonable, conservative, constitutional measure—a measure that it hopes will address itself to the good sense of this body. It is not responsible for any delays that have occurred in its presentation. Before I enter upon a discussion of its provisions I wish to make some allusion to the general conditions involved in this legislation, because I think it may be instructive, if we understand the condition that confronts us, and the situation that we try to meet.

I want to say in the outset that I suppose every man who intelligently discusses, and intelligently reflects, upon the question, understands a trust to be, in substance, either a person or a corporation, or a combination of persons or corporations, that attempts to monopolize the market for the purpose of being able to unduly and improperly increase the price to the public of some article of commerce, of common consumption. That, I understand to be, in a general way, perhaps, a popular definition of what we mean by trusts. I do not think the term "trusts" is by intelligent people applied to all corporate organizations. It should be applied, and in this discussion it should be understood as applying, to this condition to which I have called attention; and I would commend right here, by the way, this general definition to my distinguished friend from Texas [Mr. HENRY], who suggested a definition containing many details and refinements as being in his judgment the proper definition to be applied to the condition—the industrial, commercial, and business condition—that we are all discussing. His definition tends to overrefine and overdefine. Every lawyer knows that a general definition, is the safer definition, in connection with any proposition. To detail and specify, is to exclude, as a rule, that which you do not include, and thus narrow the scope of a general definition.

HISTORICAL REVIEW.

I think I ought to say, Mr. Chairman, that monopolies—and that is the term I shall use throughout the discussion—either upon the part of an individual or a combination of individuals or corporations, are hardly an invention of the present day. It is not a condition that is peculiarly incident to the last ten years, twenty years, or thirty years. This is not the first time in the history of the world that the attention of the public has been directed to this great question. I want to read just for a moment

an extract from a speech upon the question of trusts or monopolies, not made, by the way, in this body, but somewhat instructive as bearing upon this suggestion to which I now call the attention of the House, and the extract reads as follows:

It is a nest of wasps, or a swarm of vermin which have overcrept the land like the frogs of Egypt. They have gotten possession of our dwellings, and we have scarcely a room free from them. They sup in our cup, they dish in our dish, they sit by our fire, we find them in the dye vat and the washbowl.

They have marked and scarred us from head to foot, they will not vote us a pin, we may not buy our own clothes without their brokerage. They are leeches that have sucked the Commonwealth so hard that it is almost become hectical. And some of them are ashamed of their right name; they shelter themselves under the name of corporation. They make by-laws which serve their turns to squeeze us and fill their purses. Unface them and they will prove as bad cards as any in the pack.

Now, the hydra-headed monster, not to make any offensive reference to that condition, was certainly at this time flourishing in all of its refulgent glory. That speech was not made on this floor by any of my distinguished friends on the other side, although in the first reading of the extract it might appear to have been taken from some of their speeches. It is perhaps a little more finished in its rhetoric than theirs, though my distinguished friend who closed the debate for the other side [Mr. DE ARMOND] would be entirely capable of duplicating this magnificent description of this condition. But it was not made here on this floor, and it was not made during the last two or three decades. It was made in the English Parliament by a man named Sir John Culpeper, in the year 1640, only two hundred and sixty-three years ago. [Laughter.] They had 'em then, and we have 'em now. Perhaps I ought to call the attention of my distinguished friend who has just taken his seat, and the attention, in fact, of every distinguished friend on the other side who has addressed the committee on this question, to the salient fact, that at that time——

Mr. MADDOX rose.

Mr. LITTLEFIELD. No, no; I beg pardon, but I wish to continue.

Mr. MADDOX. Just one question.

Mr. LITTLEFIELD. I can not yield now. I will yield later.

The CHAIRMAN. The gentleman from Maine has expressed a wish not to be interrupted until the expiration of his remarks.

Mr. LITTLEFIELD. I want to say that I desire to be entirely courteous, but I have a great deal of ground to traverse, and if I permit interruptions now I shall exhaust my time before I get over the ground which I wish to cover.

Mr. MADDOX. Let me ask just one question.

Mr. LITTLEFIELD. No, no; I can not yield.

Mr. MADDOX. Just one question.

The CHAIRMAN. The gentleman from Georgia is out of order.

Mr. LITTLEFIELD. I decline to yield. I say this. I call the attention of my distinguished friends on the other side to the fact that when this speech was made, thus graphically describing this condition, which can be so aptly applied to-day and which could be so appropriately made by any of my distinguished friends if they had the mental and intellectual ingenuity to make it and put the language together at that time, there was no Republican tariff. I want them to bear that in mind. Let me go a little further. It is said that history repeats itself. I am going a little further back into history than this date of 1640. I go back now to the year 1595, but before I make reference to this historical fact, bear in mind we are now having, and have been having since last May, quite a great deal of agitation over the coal trust. But this is not the first coal trust, and it is not the first disturbance in connection with a coal trust, as I will show in just a moment. I read an extract from The Surtees Society, from the introduction, page 43:

The earliest record extracted in this volume contains a complaint by London consumers of north country coals in 1595; that the hostmen had combined themselves to sell their coal at their own prices, for their own best advantage, and to the public detriment. The subsequent granting of the charter in 1600 sanctioned the position of the hostmen, and one of their early acts was to form a new combination for regulating the fund of coals. I find the indications of such combinations occur through the hostmen's books. The combinations were frequently dissolved at the instance of the consumer, and as the greatest consumption took place in London the greatest opposition came from the corporation of London, but the combinations were constantly renewed after they had been dissolved, and they lasted intermittently, first on the part of the hostmen, and after they had lost their exclusive privilege, on the part of coal owners generally until the latter half of the nineteenth century.

So we had a coal trust, and a coal combine, and a coal hydra-headed monster, or octopus, in 1595. Of course that does not demonstrate that there is none now, but I suppose there was no tariff on coal even then.

Now let me go back a little bit further, in order that we may understand the persistence of this condition from a historical standpoint. I am now going to read an extract from some legislation enacted only about fifteen hundred years ago. It reads substantially as follows:

Furthermore, you are to see that usurers control no class of commodities, in order that the price of provisions may not be raised by those who store up purchased wares, or by the wealthy who, in anticipation of less abundant harvests, will not sell their products at reasonable prices.

This, too, was similar legislation at that time:

Thus we have in 1.6, D. 47, II: "As a rule, particularly the corn usurers (dardanarii) are accustomed to put up provisions (annonam), in order to make them dearer." This practice was prohibited by mandates, as well as by constitutions.

And again, the Emperor Zeno enacted this proposition in his constitution, which he promulgated between 474 and 491:

We decree that no one shall be permitted to exercise a monopoly in garments of any sort * * * nor in any commodity serving as food, or put to any other use, nor in any fabric, be it of his own accord or in pursuance of an existing or proposed imperial edict or pragmatic sanction of our written decree, and that no one shall enter into an unlawful association not to sell certain commodities more cheaply than agreed. (International Monthly, No. 5. January-June, 1902, pp. 478-479.)

That might have been written in the year 1903, because the laws of 1903 upon the subject are almost a paraphrase of our friend Zeno's constitution, enacted about fifteen hundred years ago. Now, let us go back a little bit farther, in order to lay a little broader historical foundation for these suggestions, and to show the permanence of those conditions, and the fact they are not entirely incidental to the last fifteen years, or the Dingley tariff, or the McKinley tariff, or even the Wilson tariff. I now read from a description of an edict of the Emperor Diocletian, in the year 300 A. D. "It was an edict of one of the Roman Emperors, fixing a maximum throughout the Roman Empire for the prices of a great variety of commodities; that it consists of two parts, the decree itself and a list of the commodities with their prices; that the decree is long and verbose (like some of the speeches here made, perhaps I am making that kind myself), and written in a style strongly indicating the decline of Latinity." That is what happened to them when they were legislating on trusts in the year A. D. 300, under the Emperor Diocletian. Trusts then not only disturbed the State, but outlawing them deteriorated their "Latinity."

I have something here that goes even back before Christ three hundred and thirty years. I am going to read a short extract from the "Industry of Free Nations," containing a History of Industrial Conditions in Ancient Greece. It contains some very appropriate suggestions, and illustrates the fact that there is hardly anything new, as the wise man said, under the sun:

Murmurs begin to be simultaneously heard at the increased price of provisions and the difficulty of finding remunerative employment. Capital existed in greater masses probably than ever. For a certain time previous to the Macedonian conquest of the East gold had, it is true, grown scarce in Greece; why, it were no easy problem now to solve. But that Athenian embarrassment and stagnation were not caused by such comparative scarcity, is palpable from the fact, that from the death of Alexander, while unheard of and almost incredible quantities of the precious metals, liberated from the oriental treasuries, where they had for ages been accumulating, were poured with undiscriminating prodigality over the civilized world and peculiarly throughout Greece, Athenian trade seemed to languish more pitiably than ever, and all the evil symptoms of incurable decay develop themselves with more rapidity. * * *

Then arose the cry of provisions being too dear, and the populace, maddened with privation and incapable of disentangling the subtle web of mischief, in whose meshes their country lay, blindly assailed the corn dealers, as the only source to which their sufferings seemed attributable, and called for the revival of the obsolete laws which prohibited engrossing.

By one of these it had been forbidden that any person should, upon "the same occasion" purchase more than fifty times the contents of a phormus—the wicker basket ordinarily used in carrying corn. What the legal definition of "the same occasion" may have been, we know not, but the lamentations of the orators at the continued practice of monopolizing grain ceased for a time, only to break forth anew. Then we hear of novel remedies—the dealers in corn not being allowed to charge more than a certain percentage as profit, under heavy penalties.

I have heard that suggested in the year 1902 and 1903 by people who were traveling about the country with specifics for trusts and monopolies concealed about their persons.

Now, I call attention to a paragraph which tends to fix the great antiquity of that aggregation, that hoary-headed and immortal aggregation, which we know as the Democracy. Note the language:

This also proving futile, the eloquence of the demagogues waxes more and more hysterical.

[Laughter and applause.]

They were demagogues then and they are demagogues now. That would indicate, according to the gospel promulgated by my friend from Alabama the other day, that the Democracy, to use his classical English, when he gets warmed up to concert pitch, had not "evoluted," because they are now, just what they were then. [Laughter.] Let me go on reading this extract:

This also proving futile, the eloquence of the demagogues waxes more and more hysterical, and the "food usurers" must be punished with death; all of which fury naturally proves wholly ineffectual, obdurate corn dealers preferring to take the price of their goods at the risk of their lives than to

comply with the frantic law; or probably calculating, with smugglers' thrift, that they could better afford to bribe the revenue officers out of contraband profits than to do an unremunerative business upon philanthropic principles according to law. "Lysias can not say enough of the villainy of these men."

That comes very near characterizing some of our friends on this question.

"The public loss was their gain; and so much did they rejoice at the approach of national distress that they never failed in having the earliest intelligence, or they fabricated bad news—that corn ships from the Pontus had gone down, that certain ports had been blockaded, or that negotiations for peace were broken off. Even in tranquil times did they frequently annoy their fellow-citizens at large by buying up quantities of corn, and refusing to sell when it began to rise in price."

Many of these conditions we find duplicated in this year of our Lord 1903. Verily there is nothing new under the sun. Even the wise man wrote graphically upon this subject. He said:

He that withholdeth corn the people shall curse him, but blessings shall be upon the head of him that selleth it.

Now, this is three hundred and thirty years before Christ. Only a few days ago I read in the Literary Digest an extract from a code of laws promulgated by a distinguished and honorable gentleman by the name of Hammurabi, if I get the old gentleman's name right, twenty-three hundred years before Christ. I have no doubt if I could get that code in full, I would find in it a provision against monopolies controlling the prices of commodities to the injury of the public.

What does this indicate? It simply indicates that so long as civilization has been these conditions have existed. It does not indicate that they do not require control. It indicates, further, that so long as these conditions have existed they have had legislation undertaking to control and regulate them in the interest of public welfare, probably from two thousand three hundred years before Christ, down to the year 1903. It does not indicate that if during all this period legislation has not destroyed the octopus, it is futile, and attempts to regulate and control it, should be abandoned, any more than the fact that Cain murdered Abel, and since that time the law has prohibited murder, and murders have continued to be committed, indicates that the law againt murder should be repealed as ineffective. But it indicates this, further, that this is a difficult question; that it is one that involves business conditions and that it persists; that it has been with us as long as the past has been, and that its complete elimination is an extremely difficult problem.

He would be a very bold and courageous man that would sit down, even if he was not confined by constitutional limitations, and undertake to write into the law of this, or any other land, a statute that would eliminate all the difficulties, injustices, and oppressions of which we legitimately, and properly, complain. We ought to approach and discuss this subject, understanding the difficulties with which the situation is complicated, the relation of business conditions to the public welfare, and the relations of the State to the control of those business conditions. We should realize that there is without doubt a line of demarcation in business activities, which delimits a domain beyond legislative control. While it is a matter of the utmost difficulty to determine this line, it may be impossible to define it, its existence is certain, and any legislation that attempts to go beyond it, will prove inutile and powerless. Now we have these conditions. We have no common-law power of regulating and controlling monopolies. If we had common-law power, unlimited, that would be one thing; that would be a difficult proposition in, and of, itself. But in addition to that, we are confined by constitutional limitations. I do not now have in mind the tariff. It may be well to again emphasize the fact that there was no tariff during any of this long period to which I have called your attention. The committee may recollect that the distinguished gentleman who closed the debate on the other side stated that the tariff did not create, in many respects did not foster, and had very little to do with trusts, although he thought it helped some. At the same time there are other gentlemen on the other side who swallow the unqualified assertion, hook, bob, line, and sinker, and say that the repeal of the tariff is the sole remedy for this evil.

It is proper to say that they are not entitled to the credit of originating the idea, as it was suggested and discussed by Senator VEST, of Missouri, during the discussion that resulted in enacting the Sherman antitrust law, in a manner that is fully as able, to say the least, as it has been discussed by any man since. We stand here restrained by the commerce clause of the Constitution. In, and through, and by it, we must exercise all the direct control we can exercise—of course taxation is exercised under another clause—so that our power is not a common-law power, but it is restrained and restricted by the commerce clause in the Constitution.

Upon this great subject, that has existed this great length of time, from a Federal standpoint, up to date, we have simply had, two acts of legislation. The first, in 1887, known as the interstate commerce law, under which the Interstate Commerce Commission regulates and controls the great transportation companies of this country, and, second, the Sherman antitrust law, enacted in 1890. And while I do not propose to take the time to throw political suggestions into this speech, because if I did I would not have time to consider this subject, it may be proper to say that whether these laws be wise or otherwise, whether they have proved efficient or otherwise, they are both the product of legislation of the Republican party. The interstate commerce law, introduced by Senator CULLOM, and reported by a Republican committee, passed by a Republican House and Senate, and signed by a Republican President. The Sherman antitrust law has the same history. Here is where we stand to-day in legislation.

Mr. RICHARDSON of Tennessee. If the gentleman will pardon me, in 1887 Mr. Reagan, of Texas, had charge of that bill on this floor.

Mr. LITTLEFIELD. I accept the gentleman's statement. I have no doubt the gentleman may be correct. I thank the gentleman for the correction.

Mr. RICHARDSON of Tennessee. I thought the gentleman did not wish to rest under a misapprehension.

Mr. LITTLEFIELD. I thank the gentleman. I want to call attention further to this, that the business conditions that now prevail, and that have prevailed for the last ten or a dozen years, resulting in the tremendous industrial development in the United States, have not, necessarily, at least, developed the monopolistic conditions about which complaint is made. They are not especially incident, or peculiar to these times. They have always prevailed whether there was prosperity or otherwise; so that so far as the monopolies and trusts are concerned, they can not in any proper sense be said to have developed during the last two decades.

CORPORATIONS AS INCIDENT TO INDUSTRIAL DEVELOPMENT.

There is a phase of this development, however, that is to a certain extent peculiar, incident to the conditions that now exist, and which have existed for ten or fifteen years, which we are in the habit of referring to as our vast industrial commercial development, and with which every true American is gratified, and that is this: The use of corporate organization as an instrument of this development, which, though not peculiar in the sense of not being unprecedented, has, perhaps, to a certain extent been excessive and unusual during this period.

Corporations existed one hundred years ago and more. The great distinguishing feature of corporate development—the watered stock and overcapitalization—while not altogether new or peculiar to these times is, I have no doubt, the leading, characteristic feature, of the business conditions that exist. It is involved in the combinations of great interests and the large aggregation of capital required for the purpose of meeting existing business conditions. That development has used the corporate form of organization in order to accomplish results. It may be that it could not have reached its present stage without it. And here I come in a few moments to the first proposition in the bill. What is a corporation? It is not a natural being; it is an artificial creation. The legislature creates it, and when the legislature creates a corporation it confers on the corporators certain special privileges and advantages that natural persons do not, and can not, enjoy. The corporations that we are discussing are all created by the States. And by reason of having conferred these special privileges and advantages upon corporations, it becomes the duty of the State and, so far as the United States can, within its sphere, it becomes the duty of the United States, to regulate and control these corporate organizations in order that they may prove beneficial, and not injurious, to the general welfare.

Briefly, what are some of the features, privileges, and advantages that are given to stockholders by the corporate form of organization, which could not be enjoyed without legislative authority? First, and perhaps most important, is the fact that the corporation, under varying rules, eliminates personal liability upon the part of the stockholders. It enables this artificial creation to engage in business, and pledge only its property for the payment of its debts, so that its stockholders are absolved from all individual liability. Further than that, it gives unity of control to the aggregation of capital gathered together in a corporation. In this it is distinguished from a partnership or association or a joint stock company, because in a partnership every member of the partnership has the same, or equal right, to control its business, to incur indebtedness, and to pledge its faith.

On the other hand, a corporation must act through its authorized agents—its president, its managers, its board of directors; thus there is unity of control. There is another feature which is important, so far as the business operations of a corporation are concerned, and that is, its continuity of life. In the case of a partnership, the death of a member of the partnership results in dissolution and a settlement, or readjustment, of its business. In

a corporation the death of any stockholder does not disturb the business of the corporation. The stock of the deceased stockholder is simply transferred to his legal representative and sold or distributed as a part of his estate, and the legal entity, of which the decedent was simply a stockholder, continues in existence.

Then there is another feature. The corporate form of existence enables the public to distribute its investments, and thereby reduce the risk of the individual investor. No one man is obliged to carry on a great enterprise solely upon the faith and credit of his own responsibility as an individual. Through a corporation, with the limitation of its liability, he may gather together from many, large amounts of capital. Different men associate together and join in various enterprises, so that one individual may be a stockholder in a dozen different corporations, or fifty, if he chooses, and thus he may distribute his hazard, and minimize the risk in business ventures, that he would otherwise be obliged to take if he were carrying on business upon his own account.

These are all valuable privileges, and in conferring them upon corporations, it is the duty of the State to see that this legal creation, this artificial creature, operates under proper regulations and proper control. The principal points of contact of a corporation with the public are these: First, with reference to its creditors; second, with reference to investors; third, with reference to consumers. When the State makes it possible for men to limit their personal liability by becoming members of a corporation, and leaves the corporation alone responsible to its creditors, it is the duty of the State to see—what? That the corporation shall not be able, by failing to disclose proper information, by the undue exercise of its corporate privileges, to place its creditor at a disadvantage, compared with the creditor of an individual in business. The investor, too, ought to know what the condition of the corporation is when he buys its bonds or invests in its stocks, because the governmental authority should not be allowed by statute to so create a corporation as to enable it to issue bonds and stocks, without giving to the investor an opportunity to know what he is investing in, in order that he may be able to protect himself. The authority that makes bonds and stock possible, should compel such disclosures as would place them on a par with other kinds of investments, as to the knowledge that the investor could obtain.

And when we come to large aggregations of capital—when these vast corporations are thus created—the interest of the consumer appears distinctly and readily upon the surface. It is the great overcapitalization resulting in the effort and purpose to declare dividends thereon that involves the increase of price of the product to the consumer. These last two considerations will be elaborated hereafter in the discussion of publicity.

STATE AND FEDERAL COMITY.

The State that creates the corporation has the power to regulate and control it. But that is not all. Corporations do business in other States than those in which they are organized, and any State in which a foreign corporation (and, of course, it is understood that I use the term "foreign" here in the sense of being organized in a State other than that in which it is doing business) is doing business has great power over it. It has the power to control and regulate the foreign corporation thus doing business.

My distinguished friend from Missouri [Mr. DE ARMOND], in the magnificent speech which he made in concluding this debate, suggested that the State of New Jersey organized corporations and sent them out upon defenseless States. I submit to the candid legal judgment of my distinguished friend that that statement is not sound, as a legal proposition. No corporation does business in any State other than that in which it is organized, except by virtue of—what? By comity. What is comity? Comity is the rule established by the courts of this country from the beginning down till now, which recognizes the legal existence of a foreign corporation within a State. Let me read a moment from the opinion of the Supreme Court in the case of Paul *v.* Virginia, 8 Wallace, 168, so as to get this legal proposition well stated:

> Having no absolute right of recognition in other States, but depending for such recognition and the enforcement of its contracts upon their assent, it follows as a matter of course that such assent may be granted upon such terms and conditions as those States may think proper to impose.

I commend this language to my distinguished friend from Missouri [Mr. DE ARMOND]. No State in the whole forty-five is defenseless against any corporation that undertakes to do business within its borders, provided the Supreme Court of the United States knows what it is talking about in this opinion. To continue:

> They may exclude the foreign corporation entirely; they may restrict its business to particular localities, or they may exact such security for the performance of its contract with their citizens as in their judgment will best promote the public interests. The whole matter rests in their discretion.

In the absence of affirmative, or, if I may use the term, negative, legislation, of course we all understand that every foreign corporation does business in every State without let or hindrance; but it is by reason of the fact that the decisions of the court have recognized the growing up and existence of this comity, that they are able to do business. They assume it in the absence of legislation, but it is within the power of a State to at any time legislate to exclude the foreign corporation, except, of course, so far as they may be engaged in interstate and foreign commerce. If any of my friends do not want the Standard Oil Company, or the United States Steel Company, or any of these vast corporations that are doing large business within the limits of their State, except subject to certain conditions, it is open to the legislatures of these States to impose those conditions, and, if the court is correct, to absolutely exclude them from the States, providing they do not encroach upon the Federal jurisdiction of interstate and foreign commerce.

I am not certain, but my impression is that one time in Texas there was enacted some very drastic legislation on this subject, which practically drove out a great many corporations. But there is a difficulty about legislation of that sort. We are all bound together. Each State does business with every other State, and our interests are interdependent. No one State can afford to stand apart from any other State and drive out business corporations, practically, of any character. No State can afford to isolate itself in business, as its own business would languish and die. I think the experience of Texas was unsatisfactory. Here, then, is State comity, by virtue of which, and only by virtue of which, in the absence of affirmative legislation, can a foreign corporation do business in a State.

Now, I submit as a suggestion that may well be considered when we determine the constitutionality of the legislation suggested by the first four sections of this bill, whether or not there may not be a Federal comity. What is State jurisdiction and what is Federal jurisdiction? Why, the State jurisdiction is over the business and the corporations doing business in the States and within the States. Corporations engaged in interstate commerce, individuals engaged in interstate commerce, as to such commerce are not the subjects of State comity. They are not within the State jurisdiction. In what jurisdiction are they? They are in the exclusive Federal jurisdiction. I suppose there is no corporation of any size in this country to-day engaged in any business of any consequence, that does not do business in at least one of two jurisdictions, and probably ninety-nine one-hundredths of them in two jurisdictions; first, in the jurisdiction of the State, exclusive for certain purposes; and second, in the jurisdiction of the United States, exclusive for its purpose, because the power of Congress over interstate commerce is exclusive and the State can not interfere with it or impair it. Nearly every corporation does business in both jurisdictions.

Now, can anyone be heard to say that while foreign corporations can only do business in a State by virtue of this principle of comity, that it has the power to do business in the Federal jurisdiction under this exclusive jurisdiction irrespective of the question of comity? Is there not, and may there not be, both State and Federal comity? Can it be tolerated or suggested that a corporation, when it goes into a State, goes as a suppliant, subject to the power of the "imperial" State, to use the language of my friend from Alabama, and at the same time that same corporation, which has no legal existence outside of the State of its organization, can go into the exclusive jurisdiction of the United States—interstate commerce—and be there imperial, autocratic, despotic, and do as it likes without any power in the Federal jurisdiction to control it?

And I submit for the consideration of some of my friends who elsewhere seem be a little bit disturbed about what they call the unconstitutionality of this proposition, whether or not they can suggest from a legal standpoint, by any means of logical analysis, a substantial distinction in this respect between State comity and Federal comity? If they do not stand upon the same basis, you vest the corporation in case of Federal jurisdiction, with vastly greater powers than the Federal Government has itself. Instead of the Federal Government being supreme under its exclusive jurisdiction, it would be dominated by the corporation. If Federal comity and State comity stand upon the same basis—and it seems to me there is sound parity of legal reason behind the two propositions—why, then, this bill relating to publicity has a perfectly constitutional and legal foundation, to say nothing of the general and unlimited power over interstate commerce upon which it is based. The committee submits that for consideration, upon the part of our friends, who say they are disturbed by the fact of its alleged unconstitutionality.

Now, I want to say just one word further in relation to State regulation and control. I have discussed at some length, because I think it should be borne in mind, the proper relation of the corporation to the State. I suppose that to-day a very large percentage of the business of this country is being done through the corporate form of organization, and I do not now refer to great

combinations known as trusts. The reasons that I have suggested why the corporate form of doing business, is feasible and wise, are sufficient to induce the investment of capital for that purpose. Perhaps 90 per cent of the business of the country is done by corporations. Every lawyer knows, and every citizen knows, that the tendency during the last ten or fifteen years has been inevitably, and surely, toward the corporate form of organization. It is not confined to mere manufacturing companies. It affects wholesale dealers in all lines of business. You will find them everywhere, in every city and town.

CARE EXERCISED BY STATES OVER CORPORATIONS.

Now, here is a practical question for us when we come to discuss this question in the line of publicity upon the part of the General Government. What regulation and control do the 45 States now exercise over this corporate form of organization? What care do they exercise to see whether or not their creations use their privileges to the detriment of the public? What attention, if any, do they pay to these organizations vested with such vast possibilities for good or evil?

In the absence of some Federal legislation tending to give the requisite information, to what extent could we learn to-day by applying to each of the 45 States, for instance, for these few salient facts: The number of corporations, the amount of capitalization, the amount of capital paid in. I hazard the suggestion that you could not learn anything. I do not base that upon a mere guess. During the last session of this Congress, when I was thinking this matter over somewhat with reference to the matter of corporate organizations, and was anxious to ascertain, if I could, to what extent the business of this country was carrying a large burden of overcapitalization, to be inevitably reflected in the price of the products sold, I made application to the Industrial Commission, several weeks before it expired by statutory limitation, to get for for me, from every State in the Union, the information which would disclose the number of corporations, the amount of capitalization, and the amount of capital paid in.

An officer of that Commission wrote to the secretary of state, or the proper officer, of every State in the forty-five United States. The answers that he received show the amount of regulation and control that is now exercised by these States over this vast army of industrial corporate organizations. I am sorry that I am not able to present here the letters that he received, but in moving the property of the Industrial Commission, after its expiration, to the Library of Congress, the correspondence seems to have been lost. But I have this statement from Mr. Durand, who wrote for me. After explaining about the loss of the correspondence, he says:

I may add that the correspondence failed entirely in the case of almost every State to elicit the facts or any of the facts which Mr. LITTLEFIELD desired. It would be of value merely as showing the ignorance of the State officers regarding the corporations which they charter.

This demonstrates how little control the States exercise over, and how little the States know of, these corporate organizations, vast in size and vast in number, almost innumerable, thousands upon thousands, throughout the country.

Not having been able to get this information from the proper public authorities, I have, through the courtesy of the Congressional Information Bureau—an energetic and efficient medium for the investigation and ascertainment of data on public questions—been able to obtain what I have no doubt is the most complete list of large corporations in existence, and is the nearest approach to the information I desired. I append it as "Exhibit A." I understand they use the term "trust" as meaning a corporation resulting from the combination of other corporations. The introduction to the statement is prepared by them.

PUBLICITY—WE NOW HAVE PRACTICALLY NO PUBLICITY.

I do not go so far as to say that publicity will regulate and control all these conditions, but as I go on, I hope to be able to satisfy you, that it is certainly a step in the right direction. While no one claims that publicity in and of itself will necessarily prove to be a specific for any of the evils which it is expected to alleviate, there does, however, seem to be a general consensus of opinion as to its necessity, both as a remedial measure, and as one tending to lay the foundation for more intelligent legislative action in the line of direct control of such combinations.

PRESIDENT ROOSEVELT.

In discussing the general question of combinations and their relation to the public and the importance of publicity in connection therewith the idea was well stated by Theodore Roosevelt, in his message to the New York State legislature when governor of that State, on the 23d of January, 1900, as follows:

We do not wish to put any burden on honest corporations. Neither do we wish to put an unnecessary burden of responsibility on enterprising men for acts which are immaterial; they should be relieved from such burdens, but held to a rigid financial accountability for acts that mislead the upright investor or stockholder or defraud the public.

The first essential is knowledge of the facts—publicity. Much can be done at once by amendment of the corporation laws so as to provide for such publicity as will not work injustice as between business rivals.

The chief abuses alleged to arise from trusts are probably the following: *Misrepresentation or concealment regarding material facts connected with the organization of an enterprise; the evils connected with unscrupulous promotion; overcapitalization;* unfair competition, resulting in the crushing out of competitors who themselves do not act improperly; raising of prices above fair competitive rates; the wielding of increased power over the wage-earners. * * * Some of these evils could be partially remedied by a modification of our corporation laws; here we can safely go along the lines of the more conservative New England States, and probably not a little further. Such laws will themselves provide the needed publicity and the needed circumstantiality of statement.

We should know authoritatively whether stock represents actual value of plants, or whether it represents brands, or good will; or, if not, what it does represent, if anything. It is desirable to know how much was actually bought, how much was issued free, and to whom, and, if possible, for what reason. In the first place, this would be invaluable in preventing harm being done as among the stockholders, for many of the grossest wrongs that are perpetrated are those of promoters and organizers at the expense of the general public who are invited to take shares in business organizations. * * * Care should be taken not to stifle enterprise or disclose any facts of a business that are essentially private; but the State for the protection of the public should exercise the right to inspect, to examine thoroughly all the workings of great corporations just as is now done with banks; and wherever the interests of the public demand it, it should publish the results of its examinations. Then, if there are inordinate profits, competition or public sentiment will give the public the benefit in lowered prices; and if not, the power of taxation remains. *It is therefore evident that publicity is the one sure and adequate remedy which we can now invoke.* There may be other remedies, but what these others are we can only find out by publicity, as the result of investigation. *The first requisite is knowledge, full and complete.*

Directly in line and consistent with these recommendations were those made by President Roosevelt in his first message to the first session of the Fifty-seventh Congress. In this message, in discussing this question, he said:

All this is true; and yet it is also true that there are real and grave evils, *one of the chief being overcapitalization, because of its many baleful consequences;* and a resolute and practical effort must be made to correct these evils.

There is a widespread conviction in the minds of the American people that the great corporations known as trusts are in certain of their features and tendencies hurtful to the general welfare. This springs from no spirit of envy or uncharitableness, nor lack of pride in the great industrial achievements that have placed this country at the head of the nations struggling for commercial supremacy. It does not rest upon a lack of intelligent appreciation of the necessity of meeting changing and changed conditions of trade with new methods, nor upon ignorance of the fact that combination of capital in the effort to accomplish great things is necessary when the world's progress demands that great things be done. It is based upon sincere conviction that combination and concentration should be, not prohibited, but supervised and within reasonable limits controlled; and in my judgment this conviction is right.

It is no limitation upon property rights or freedom of contract to require that when men receive from Government the privilege of doing business under corporate form, which frees them from individual responsibility, and enables them to call into their enterprises the capital of the public, they shall do so upon absolutely truthful representations as to the value of the property in which the capital is to be invested. Corporations engaged in interstate commerce should be regulated if they are found to exercise a license working to the public injury. It should be as much the aim of those who seek for social betterment to rid the business world of crimes of cunning as to rid the entire body politic of crimes of violence. Great corporations exist only because they are created and safeguarded by our institutions; and it is therefore our right and our duty to see that they work in harmony with these institutions.

The first essential in determining how to deal with the great industrial combinations is knowledge of the facts—publicity. In the interest of the public the Government should have the right to inspect and examine the workings of the great corporations engaged in interstate business. *Publicity is the only sure remedy which we can now invoke.* What further remedies are needed in the way of governmental regulation or taxation can only be determined after publicity has been obtained, by process of law and in the course of administration. *The first requisite is knowledge, full and complete—knowledge which may be made public to the world.*

In his message to the second session of the present Congress upon this subject, he said:

In my message to the present Congress at its first session I discussed at length the question of the regulation of those big corporations commonly doing an interstate business, often with some tendency to monopoly, which are popularly known as trusts. *The experience of the past year has emphasized, in my opinion, the desirability of the steps I then proposed.* * * * A fundamental base of civilization is the inviolability of property; but this is in no wise inconsistent with the right of society to regulate the exercise of the artificial powers which it confers upon the owners of property, under the name of corporate franchises, in such a way as to prevent the misuse of these powers. Corporations, and especially combinations of corporations, should be managed under public regulation. Experience has shown that under our system of government the necessary supervision can not be obtained by State action. It must therefore be achieved by national action. * * * *Publicity can do no harm to the honest corporation, and we need not be over tender about sparing the dishonest corporation.* * * *

I believe that monopolies, unjust discriminations which prevent or cripple competition, fraudulent overcapitalization, and other evils in trust organizations and practices which injuriously affect interstate trade can be prevented under the power of the Congress to "regulate commerce with foreign nations and among the several States" through regulations and requirements operating directly upon such commerce, the instrumentalities thereof, and those engaged therein.

It will be observed here that the publicity upon which the President insists is publicity that results in "knowledge full and complete—knowledge which may be made public to the whole world." This demand is clearly not satisfied by any scheme or plan that does not result in such knowledge. A mere inquisition into the management of the affairs of a corporation, while it

might be offensive to the corporation and might develop facts valuable to the Department of Justice in proceedings under the statutes, is clearly not "knowledge, full and complete, made to the whole world." To characterize such a scheme as "publicity" is idle.

ATTORNEY-GENERAL KNOX.

Attorney-General Knox, a clear-headed and able lawyer and especially familiar with great corporate organizations, in his Pittsburg speech, October 14, 1902, advocated publicity as a leading feature in the line of remedies. In discussing this branch of the question he said:

The conspicuous noxious features of trusts existent and possible are these: *Overcapitalization, lack of publicity of operation*, discrimination in prices to destroy competition, insufficient personal responsibility of officers and directors for corporate management, tendency to monopoly, and lack of appreciation in their management of their relations to the people, for whose benefit they are permitted to exist.

"Publicity of operation," not inquisitorial investigation in lieu thereof, the Attorney-General evidently had clearly in mind when he made this speech.

Overcapitalization is the chief of these and the source from which the minor ones flow. It is the possibility of overcapitalization that furnishes the temptations and opportunities for most of the others. Overcapitalization does not mean large capitalization or capitalization adequate for the greatest undertakings. *It is the imposition upon an undertaking of a liability without a corresponding asset to represent it. Therefore overcapitalization is a fraud upon those who contribute the real capital either originally or by purchase, and the efforts to realize dividends thereon from operations is a fraudulent imposition of a burden upon the public.* When a property worth a million dollars upon all the sober tests of value is capitalized at five millions and sold to the public it is rational to assume that its purchasers will exert every effort to keep its earnings up to the basis of their capitalization. When the inevitable depression comes, wages must be reduced, prices enhanced, or dividends foregone. As prices are naturally not increased but lowered in dull periods, it usually resolves itself into a question of wages or dividends.

While this condition may exist under any circumstances, it is exaggerated by overcapitalization in the illustrating case five to one. *The overcapitalized securities enter into the general budget of the country, are bought and sold, rise and fall, and they fluctuate between wider ranges and are more sensitive in proportion as they are further removed from intrinsic values, and, in short, are liable to be storm centers of financial disturbances of far-reaching consequence. They also, in the same proportion, increase the temptation to mismanagement and manipulation by corporate administrators.*

In discussing the remedy he said:

They should be subject to visitorial supervision, and full and accurate information as to their operations should be made regularly at reasonable intervals. Secrecy in the conduct and results of operation is unfair to the nonmanaging stockholders, and should, as well for reasons of state, be prohibited by law.

INDUSTRIAL COMMISSION.

The Industrial Commission, after a very long and exhaustive investigation and mature consideration of the whole question, made, early in 1900, certain recommendations in accordance with the requirements of the statute under which they were acting, on this point saying:

To prevent the organizers of corporations or industrial combinations from deceiving investors and the public, either through suppression of material facts or by making misleading statements, your Commission recommend—

(*a*) That the promoters and organizers of corporations or industrial combinations which look to the public to purchase or deal in their stocks or securities should be required to furnish full details regarding the organization, the property or services for which stocks or securities are to be issued, amount and kind of same, and all other material information necessary for safe and intelligent investment.

(*b*) That any prospectus or announcement of any kind soliciting subscriptions which fails to make full disclosures as aforesaid, or which is false, should be deemed fraudulent, and the promoters, with their associates, held legally responsible.

(*c*) That the nature of the business of the corporation or industrial combination, all powers granted to directors and officers thereof, and all limitations upon them or upon the rights or powers of the members should be required to be expressed in the certificate of incorporation, which instrument should be open to inspection by any investor. * * *

The larger corporations—the so-called trusts—should be required to publish annually a properly audited report, showing in reasonable detail their assets and liabilities, with profit or loss, such report and audit under oath to be subject to Government inspection. The purpose of such publicity is to encourage competition when profits become excessive, thus protecting consumers against too high prices and to guard the interests of employees by a knowledge of the financial condition of the business in which they are employed.

On February 10, 1902, this Commission in its final report said:

The further consideration given to the subject by the Commission has justified in nearly all particulars our former conclusions and recommendations.

It recommended the establishment of a bureau, the duties of which should be—

To register all State corporations engaged in interstate or foreign commerce; to secure from such corporations all reports needed to enable the Government to levy a franchise tax with certainty and justice and to collect the same; to make such inspection and examination of the business and accounts of such corporations as will guarantee the completeness and accuracy of the information needed to ascertain whether such corporations are observing the conditions prescribed in the act and to enforce penalties against delinquents, and to collate and publish information regarding such combinations and the industries in which they may be engaged, so as to furnish to the Congress proper information for possible future legislation.

The publicity secured by the governmental agency should be such as will prevent the deception of the public through secrecy in the organization and management of industrial combinations or through false information. Such agency would also have at its command the best sources of information regarding special privileges or discriminations, of whatever nature, by which industrial combinations secure monopoly or become dangers to the public welfare. It is probable that the provisions herein recommended will be sufficient to remove most of the abuses which have arisen in connection with industrial combinations. The remedies suggested may be employed with little or no danger to industrial prosperity and with the certainty of securing information which should enable the Congress to protect the public by further legislation, if necessary.

In conclusion, after having further discussed the whole question, it said:

In the meantime the separate States should amend their corporation laws *so as to require greater publicity*, as outlined in our preliminary report.

Thus emphasizing the importance and necessity of publicity.

JOHN D. ROCKEFELLER.

Even Mr. John D. Rockefeller, who is understood to be at the head of one of the largest industrial corporations in existence, in effect advised publicity in his statement before the Industrial Commission. In his answer to the following question, "What legislation, if any, would you suggest regarding industrial combinations?" he said:

First. Federal legislation under which corporations may be created and regulated, if that be possible.

Second. In lieu thereof, State legislation as nearly uniform as possible, encouraging combinations of persons and capital for the purpose of carrying on industries, *but permitting State supervision*, not of a character to hamper industries, *but sufficient to prevent frauds upon the public.*

Publicity, such as is provided for in this bill, would seem to be one of the most feasible methods of preventing frauds upon the public. In the absence of State supervision "as nearly uniform as possible" the only thing that can take its place is Federal legislation, operating uniformly upon all State corporations engaged in interstate commerce, which is precisely the idea involved in the legislation recommended.

MR. DILL.

Mr. Dill, who has had very large experience in the organization of corporations, is the author of several works upon corporations, and was the attorney organizing the United States Steel Company, testifying upon the question of overcapitalization before the Industrial Commission, said:

Q. From your experience in the organization of some of the large corporations, have you been able to form any judgment on the question of overcapitalization, as to whether or not they are in many cases capitalized for considerably more than the real value of the properties put in?

A. If you will let me answer that question in my own way, I will do so by saying that there are corporations and corporations. There are very many corporations, which we will call combines, which are organized on a basis that presents no dangerous aspects to the public; but there are very many also organized with a good deal of capital that, in my judgment, *if not intended originally for fraudulent purposes, will become the cause of fraudulent action.*

Q. Will you explain that a little more in detail?

A. I assume that there are corporations that are grossly overcapitalized for various reasons and with various purposes. *Any corporation that is grossly overcapitalized is presumably organized in the first instance for the purpose of getting the stock to the public. Now, in order to get such stock to the public, there must be either a misrepresentation of facts, or, what in my judgment is just as bad, a concealment of material facts; and in my judgment in many of the so-called combines there is a concealment of material facts.*

Q. Do you base your opinion on what has come under your own observation?

A. Yes; if you do not take that answer to mean that I am of that opinion with respect to corporations I have organized myself. I have declined many organizations. Now, without calling names at all, a corporation was brought to my attention—I will say two months ago, so as not to bring it too near—concerning which, after a careful examination of the assets, *the conclusion was reached in our office that $500,000 would be a maximum fair valuation. We declined to organize that corporation for $8,000,000 and float it.* I should not want to be brought into any unpleasant position by having you ask the name; but it is advertised before the public to-day at $8,000,000. *Well, I do not know from reading the prospectus that any man could be indicted for making false representations; but I do know that it lacks dreadfully in the statement of material facts—facts that the public ought to know.*

Q. Does this overcapitalization and misrepresentation, in your judgment, chiefly affect the buyers of stock, or does it affect the consumers of goods through prices?

A. *It affects industry in general, and I can not agree with very many of my colleagues, who say that the question of the amount of capitalization is simply a matter of adjustment with the public;* because the ordinary company, largely capitalized, does not, as a rule, have the same directors as it has at first. It does not, as a rule, consist of exactly the same men the second year as the first. Now, whoever is in office as a director the first or second year feels it necessary, in order to keep his standing, and especially with concerns that have a Wall street end, either to make a showing of a dividend earned or to declare one that is not earned. In other words, so far as the race with honest competitors is concerned, the fraudulently capitalized company is bound to make an equal showing of honest earnings; *and it results either in a robbing of the capital or in a resorting to artificial means to earn that dividend, which artificial means commonly consist, in addition to putting up the price of material, in putting down the price of labor. So, I say, I can not agree with the statement so frequently made, that the question of capital is merely a matter of adjustment. Inflation always, in my judgment, leads to a material error and possible wrongdoing.*

Mr. Dill's experience with great corporations has led him to the conclusion that publicity in connection therewith is both necessary and proper. In another part of his testimony before the Commission he made the following statement:

The English law, which in my judgment will have to be passed in all States that desire to stand as proper charter-granting States, is about as follows: All stock issued by any company, in whosesoever hands it shall be or shall

come, shall be deemed to be held subject to be paid in full or in cash, unless before the stock is issued a contract shall have been filed in the office of the company, *and open to the public, which shall show which part of the stock has been issued for cash and which for property*, and which shall disclose the character and value of the property thus taken. The statute then goes on to provide that anybody may have a copy of that contract on payment of a fixed fee. That is publicity.

This statement of his is a fairly good general description of the publicity provided for in this bill, except that it goes further than the provisions of the bill.

CHICAGO TRUST CONFERENCE.

Some time in 1900 there was held in Chicago what has since been known as a trust conference, in which the question of combinations and business conditions connected therewith was quite fully discussed. Mr. Howe, of New Orleans, a lawyer of ability and experience, was chairman of the conference. At its conclusion he summed up its results by saying:

It seems to me—simply as an individual, of course—that almost every paper or address we have heard has made some admissions or concessions which may form a basis for some conclusions, and if you will allow me I will formulate some of them, as follows:

Upon the question of overcapitalization, he said:

As for issues of stock, they should be safeguarded in every possible way. They should only be allowed either for money or for property actually received by the company, and dollar for dollar. And when the property is so conveyed it should be on an honest appraisement of actual value, so that there may be no watering of stock.

Upon the question of publicity relating to the business condition of corporations, he said, as a final summing up of his conclusions as to what was in substance agreed upon by all of the parties to the conference:

4. *And finally there should be a thorough system of reports and Government inspection, especially as to issue of bonds and stock and the status and value of property.* Yet at the same time, in the matter of trading, business, and industrial companies, there are many legitimate secrets which must be respected by the general public.

In short, we need frankly to recognize the fact that trading and industrial corporations are needed to organize the activities of our country, and they are not to be scolded or belied, but controlled, as we control steam and electricity, which are also dangerous if not carefully managed, but of wonderful usefulness if rightly harnessed to the car of progress.

What he meant by control is very obvious, as he emphasizes the idea as to what control should be imposed when he says that the "*reports and Government inspection, especially as to issues of bonds and stock and the status and value of property*," should be thorough.

It is generally conceded that publicity will tend to prevent overcapitalization, and even James J. Hill rises to remark that "what is wanted is legislation preventing the watering of stock. Make that restriction, and a great good will be accomplished."

The only publicity that is now required with reference to corporate organizations, is that required by the interstate-commerce law with reference to railroad companies engaged in interstate commerce, by the statutes of the United States with reference to national banks, and by the various States with reference to banks, building and loan associations, insurance companies, railroad companies, other public-service corporations, and business corporations.

The returns required from railroad companies under the interstate-commerce law are "such annual reports as shall show in detail the amount of capital stock issued, the amount paid therefor, and the manner of payment for the same, the dividends paid, the surplus fund, if any, and the number of stockholders, the funded and floating debt, and the interest paid thereon, the cost and value of the carriers' property, franchises, and equipments," so far as they relate to the financial basis of the corporation and its capitalization.

While these are directed to the business condition of the corporation, they are not as full and complete as the requirements under this bill. These returns are not required by the statute to be made on oath. While the Commission may require an oath thereto and does, it is not a requirement of the law. Such an oath, even if false, could not be punished as perjury and adds nothing to the verity of the return. The returns now filed under these conditions with that Commission are practically valueless for the purpose of disclosing the financial condition of the railroad corporation and its capital stock. A statement by the corporation officers that has not behind it the obligations of a valid oath, is of very trifling value for these purposes. It is proper to say here, as bearing upon the verity of returns to States, that I have not found a statute in any State where an oath is required that requires the oath to be made within the limits of the State where the corporation is organized. Every lawyer knows that a State statute can not operate extraterritorially, and that oaths to reports made outside of the State add nothing to their verity.

The returns made by the national banks, and the supervisory power exercised over them under the statutes of the United States, are far more drastic and inquisitorial than the provisions of this bill. The returns made by, and the examination of, insurance companies, by the various State authorities are also much more searching than the provisions of this bill. The same is true of building and loan associations and of State banks. All of these various institutions have had apparently no difficulty in flourishing and prospering, notwithstanding the publicity involved by their returns and examinations. In the case of all meritorious organizations of that character, the returns and examinations have, in fact, facilitated, rather than retarded, their growth and success. The greater the publicity, the more they have inspired public confidence.

I will annex as Exhibit B an abstract of the laws of the various States showing the amount of publicity now required by the various State legislatures. With the exception of Massachusetts and Pennsylvania and one or two other States, you will see that there is practically no requirement on the question of publicity. There is not a single State outside of Pennsylvania, that contains requirements anything like the requirements contained in this bill. Many of them contain no requirements. The State of New Jersey—and I want to make this suggestion now in behalf of my friend [Mr. PARKER]—the State of New Jersey, contains practically nothing upon the question of making reports, in the line of publicity. It does not begin to disclose the conditions that we disclose under the terms of this bill.

This, then, is the condition: We have 45 different States, no one of which gives you any adequate publicity, except possibly Pennsylvania and Massachusetts, and the Massachusetts law does not begin to have the details contained in the provisions that are contained in the first provision of this bill, which is sneered at by my distinguished friends on the other side as being practically of no avail and able to accomplish nothing. I will reach that later on if I have the time. But here is a variety of legislation. It is impossible to expect uniformity upon the part of the States, and if there is to be any publicity that is to be of any use in connection with corporate organizations it must undoubtedly come from the action of Congress under the commerce clause of the Constitution, requiring all corporations engaged in interstate commerce to file such returns as may be thought necessary in order to produce the degree of uniform publicity requisite for the purposes suggested and desired. That is the purpose of this legislation.

It might well be contended that within the domain of its exclusive jurisdiction, interstate and foreign commerce, having excluded the States therefrom, it is incumbent upon the Federal Government to discharge the duties and exercise the control that would otherwise devolve upon the State, were it not thus excluded therefrom; but, in any event, it is submitted there are important features which justify the exercise of the regulating power of publicity.

FUTURE INVESTMENTS AND THEIR RELATION TO OVERCAPITALIZATION.

Investors are by no means confined to speculators on Wall street. If they were all the persons concerned in corporate bonds and stocks it might well be that we should not need to be especially solicitous on their account. The total wealth of the United States, according to provisional figures of the census of 1900, is $90,000,000,000. The sum total of railroad securities of the United States at par in 1901 was $11,688,147,091. In the table annexed statistics are given of industrial corporations which represent the combination of previously existing independent interests. The aggregate of the securities of these 451 industrial corporations actually issued are $9,231,136,698.

Here we have a total of $20,919,283,789 in steam railroads and industrial combinations—in round numbers $20,000,000,000, or more than 20 per cent of the total wealth of the country. When the securities of gas, electric-light, water, street-railway, telegraph, and telephone companies are added to this $20,000,000,000, the 340 corporations shown in the table aggregating $4,519,597,819, it will be seen how vast is the stake of the investing public in the integrity of corporate investments. Such securities are the common medium for investment by banks and trust companies, institutions for saving, life-insurance companies, as well as individual investors. Their investments aggregate billions.

The governor of New Jersey tells us that the stockholders of New Jersey corporations alone run up into hundreds of thousands, if not millions. All classes invest; the rich, the well-to-do, the poor, the widow, and the orphan. In the case of stocks, large dividends furnish the inducement to allure the investor. The corporate bond, if based upon a first mortgage of the corporate property, is clearly the safest form of investment. Who is there to-day not intimately connected with the management of the corporation that holds a corporate bond of any kind that knows what value there is behind it? Where can the intending purchaser of such a bond go to ascertain that information? He can not find it anywhere outside of Massachusetts and Pennsylvania, and possibly one or two other States, where comparatively few

corporations are organized by reason of the greater facilities for concealment offered elsewhere. Even there the information is inadequate.

None of the great combinations of which complaint is made could exist if their bonds could not be floated. It is doubtful if any of the large overcapitalized combinations now in existence could have been financed if the facts as to value involved in their organization had been fully known to the public. In a great many instances the bonds negotiated represent all of the actual investment in the corporation, the stock being largely speculative. It is certainly doubtful if the public would buy a bond when it knew that the only cash capital invested in the enterprise was the proceeds of the bonds in which it was invited to invest. If upon a public statement it appeared that the bondholders were the only parties assuming any real hazard, and that the only hazard undergone by the promoters was the ability to so control and manipulate the market as to be able to declare a dividend on a fictitious capitalization in order to give it simply a market value, and thus unload upon the public, fewer combinations would be floated, or be successful if floated. Where is the individual who, purposing to engage in any enterprise, would have the courage to go into the market and endeavor to borrow, secured by a mortgage on the enterprise, all the capital to be invested therein? If a man contemplated the purchase of a piece of real estate for the sum of $10,000 he would hardly expect to borrow upon the security of the real estate the whole of the purchase price. Yet, he can take with him two other men—dummies—organize as a corporation, make a bond issue to cover the full investment, comply with every provision of the law, and in that respect, in a perfectly legitimate manner, accomplish that result.

A corporate bond seems to impart an air of security not found in a secured promissory note, although the note does have, in addition to the security, which is all there is behind the bond so far as individual liability is concerned, the individual responsibility of the promisor. It does not meet the situation to say, "Let the purchaser take heed." When the purchaser buys an article of food or clothing, a horse, a dwelling, a farm, or any other tangible property it may well be that he must "take heed," as there he has, or can have, full opportunity to learn of the qualities and attributes of the subject of the purchase. The inspection of a bond, or stock certificate, or the reading of the ordinary prospectus, does not give the slightest idea as to the intrinsic value of the property represented by the bond or stock. The State makes it possible for the corporation to place bonds and stock upon the market and conceal every material fact essential to a determination of its value.

In the absence of a knowledge of these facts it is an absolute impossibility for a purchaser to form any idea of the real value of the stock or bond. "Surely in vain," says the sacred writer, "the net is spread in the sight of any bird." When the requisite degree of publicity shall place within the reach of the purchaser the information that will disclose the true value of the stock or bond, then the maxim "caveat emptor" may be properly invoked. To carefully keep from him the necessary information, to enable a corporation to dig a pitfall and then cover it up so as to ensnare the unwary, and then say, "Look out for yourself," is an unjustifiable use of the maxim. There is a simple test that will settle the propriety of these essential disclosures. If an article is intrinsically desirable and valuable the more its special qualities are made known and advertised, the quicker it will sell and the better price it will bring.

If a capital stock is all paid in, the corporation is doing a large and profitable business, and has accumulated a handsome surplus, the greater publicity that is given to these important facts the more the market value of the stock will be increased. Such a corporation seeks publicity. On the other hand, suppose the stock is only partly paid in, the corporation is doing a losing business, and has accumulated a deficit. The more these facts are known the more the market value of the stock becomes a negligible quantity. In other words, if a man has a good bond or stock, the more publicity he gets the better he likes it. If he has a poor bond or stock, the less publicity he receives the better he is satisfied. But why are not the public, the insurance companies, and the saving banks, which are relied upon as the final depositories of these securities, entitled to the same information in each case?

A sound corporation will make no objection to such publicity; an unsound one always objects. It is only corporations that have facts to conceal that object to publicity. The States, or some of them, legislate so as to enable the corporation to place the questionable bond and stock upon the market under apparently the same conditions that obtain in case of a first-class security. The information, if the financial foundation is wanting, will tend to deter investment. The States that charter these corporations can not be relied on to give it. The nearest approach to a uniform rule is for the United States to require returns that will give this information from all corporations engaged in interstate commerce. It is the fear that the prospective invester will be deterred that leads the promoters and organizers of great combines to insist upon the maintenance of conditions that will enable them to continue to create fictitious wealth.

THE PUBLIC INTEREST FROM THE BROAD STANDPOINT OF THE CONSUMERS.

It is through the medium of consumers, the purchasers of its products, that the overcapitalized combination finds its most extensive and oppressive contact with the public. Successful overcapitalization involves the necessity of declaring a dividend upon the overcapitalization equal to a dividend upon actual value, thus giving to the stock an earning capacity and creating an artificial market value. If all of the overcapitalization were held by the promoters and organizers, and was not held for the purpose of increasing the return, there would be no object in overcapitalizing. So long as the aliquot interest of the stockholder remained the same his share of the earnings would be the same, whether he held one share of stock or ten. It would be of no consequence to him whether his rate of dividend was 10 or 1 per cent so long as the aggregate of the dividend remained the same. His relative control in the affairs of the corporation would be the same.

From this point of view, if no other result was sought or attained, the overcapitalization would be immaterial so far as the public is concerned, and it is only from this view that overcapitalization is a matter of no concern to the public. If there is no other purpose, overcapitalization is meaningless and valueless to the stockholder. The real purposes of overcapitalization are believed to be of an entirely different character, and they all have an injurious effect upon the public. The purpose to create for the stock a fictitious value, and thus arbitrarily increase the wealth of the persons interested, is undoubtedly the main purpose of overcapitalization.

In order to accomplish this, in nearly every instance the price to the consumer must either be increased, or maintained, above its natural normal level. It is no doubt true that by a consolidation of a number of competing firms, or corporations, business economies may be produced by having one management instead of a number, by having one instead of a number of sets of traveling men, and by running one instead of a number of lines of advertising, etc. It is also true that an increase in the volume of business done, with practically the same cost of operation results in a larger return to the operator, or that a smaller percentage of profit, will on the larger volume of business, produce the same aggregate return, and enable the producer to sell to the consumer at a less price.

This aggregation of large capital, great volume of business on a small margin, giving a fair return to the capital invested, with a reduction in price to the consumer, is what is termed the new phase of modern industrial development; and the corporate form of organization, with its evils of overcapitalization, is the medium through which the development has largely taken place. Theoretically, on paper, this reasons well, looks well, and works well. The chief ultimate result in which the public has an abiding interest, the reduction of the price to the consumer, is in practice seldom attained. This result is the only fact that can justify this phase of industrial development from the public standpoint. It is not believed that any of these corporations yet organized have ever been dominated by, or organized for, the altruistic purpose of reducing the price to the consumer. The controlling purpose in such organizations is believed to be what it naturally would be—the profit of the parties thereto. If the public receives any benefit, it is incidental. Profit to the persons in control inspires their operation as well as organization.

That overcapitalization, which in every one of its attributes is sought to be made equivalent to actual capital, is an unjust burden upon our industrial and commercial energies seems to me clear. As capital is entitled to a fair return, the public is vitally interested in the amount of capital necessary to carry on a given enterprise. Such fair return is a proper element of the cost of the article, and the public must pay for it, and the other elements of cost involved, when it buys the article. An actual investment of $1,000,000 would require a price for the product that after the payment of operating expenses and fixed charges would yield in profit, say, $60,000. On the other hand, if $10,000,000 actual investment were employed in the same enterprise, with the same output, the net earnings would have to be $600,000 in order to give the same fair return on the investment.

Assuming, for the purpose of testing this idea, that all the other elements, such as cost and output remain the same, clearly in the last instance the public must pay a largely increased price by reason of the large investment. If, for the purpose of the illustration, $9,000,000 of this were overcapitalization or inflation, the public would be clearly paying in price $540,000 more than it ought to pay, or enough more in price, to produce nine times the return that ought properly to be received, or more than it naturally would pay independent of a monopoly of the market and

the transaction of the business through the medium of an overcapitalized corporation. For the purpose of showing that the illustration is not exaggerated, I give one instance that has come within my observation.

I know of one great combination that has now, as one of its constituent elements, a corporation that in the year 1901 had an actual cash capital of $150,000. It was building its plant and it had not got its plant completed when a promoter came along who desired to purchase this corporation, and its plant, in order to make up a prospectus and show that in his proposed scheme he had the entire control of the market, and was going to take in every corporation engaged in the production of that particular kind of product. He paid $750,000 for this particular plant. That plant to-day is a part of a great aggregation of capital, at a valuation of a million and a half, and that plant can be duplicated to-day, because it was not built on patents, it was not erected on trade-marks or special privileges—that plant can be duplicated to-day for $150,000.

Again, as a business proposition, if it is legitimate and proper for one corporation to thus place fictitious stock upon a par with actual value, it is for all, and every corporation should do so, for the purpose of placing its stockholders on a par with others, as to earning and dividend-paying capacity. In such case the consumers of all articles of commerce would be paying an abnormal price, in order to produce a return upon constructive capital employed, that would be from five to ten times as large as it ought to be, or, as in the instance cited by Mr. Dill, of capitalizing $500,000 at $8,000,000, sixteen times the return that ought to be made. How long could even our great resources stand that drain? I do not say that every great corporation has that degree of capitalization in its make-up. If it has, and all the corporations engaged in business, and my friend from Texas tells us that 75 per cent is controlled by great corporations, I do not know how correct he may be, but if all the corporations engaged in the business and are what he calls trusts, constitute 75 per cent of the business of this country, then 75 per cent of the business of this country, is carrying as an industrial burden, six to eight or ten times as large as it ought to carry, and here is one of the salient features that shows the evils of monopoly.

To what extent we are now paying exorbitant prices, to produce such abnormal returns no one can tell, as no reports are now made to any authority, State or national, that give any adequate information on that point. This is one of the things that this bill seeks to accomplish. It is through the facility offered for overcapitalization that the promoters of great combinations, formed from independent corporations and competing business concerns, get their enormous fees. The desire to get these fees in many instances, no doubt contributes as largely to the launching of the scheme as does the fact that the constituent companies see an opportunity to double, treble, quadruple—yes, increase ten to sixteen fold, perhaps—their original holdings, and thus by the alchemy of a new corporation lithograph themselves rich.

The attempt to monopolize the market is not the principal purpose, but an incident thereto, and follows as a necessary corollary of the condition. In order to perfectly realize the Crœsus-like dream of wealth by arithmetical progression, it becomes necessary to absorb all similar business interests, and thus eliminate competition and enable the resultant corporation to fix the price of the product at will, so as to produce the dividend essential to the creation of apparent market value. The fact that the promoter is able to advertise that his scheme involves the monopoly of the product, and will thereby enable the combination to fix at will the price to the consumer, is believed to be a potent element in successfully financing it. Unwarranted dividends and not monopoly are the moving cause. Monopoly is invoked to produce that result.

CAPITALIZATION OF EARNING CAPACITY.

One of the elements involved for the purpose of justifying this artificial process of accumulating wealth is what is called the capitalization of earning capacity or profits. While it is undeniable that the dividend paid upon a stock, or the interest paid upon a bond, largely determines its market value, it by no means follows that capitalization can be based upon earning capacity. As the Attorney-General has very aptly said, by this method shrewd men capitalize for their own benefit the country's prosperity. Profits are greater in times of prosperity. The consumer is then better able to pay larger prices. Capitalization at high-water mark would be grossly unjust when low-water mark was reached.

Again, profits are based upon the selling price. If the price is such as to yield a disproportionately large return upon the capital actually invested, then competition, if unimpeded by unlawful restraints or combinations, will by the operation of natural laws, reduce the price so as to bring the return down to the general level enjoyed by capital in like employments.

Then, by the operation of natural laws, the price to the consumer would be lowered, while a fair return upon the actual capital would be assured. If it is assumed that you can legitimately capitalize the profits or earning capacity, you exclude the operation of this natural law and permanently impose upon the consumer the payment of a price away above the natural level. You insure to the corporation the price in prosperity through the season of adversity. Once capitalized, the price can not be cut down without impairing the capital, and you have no right to impair the capital. By capitalizing the profits you deliver the public bound hand and foot to the capitalist, whom they must continue to serve that he may receive the stipulated reward.

OVERCAPITALIZATION ENABLES CONCEALMENT OF PROFITS.

Overcapitalization furnishes the convenient opportunity for concealing the profitable character of the enterprise. It is said that it was first employed for that purpose. There are instances where corporations have increased their capitalization 100 per cent in order that what was really, say, a 12 per cent dividend would appear to be only a 6 per cent dividend, and thus avoided the danger of making their employees uneasy and restive because they were not receiving in wages a fair proportion of the earnings of the business. Concealment of this character tends to minimize the dangers of successful competition. An annual dividend of $600,000 would be 60 per cent on an actual investment of $1,000,000. If an ordinary business enterprise unprotected by patents or copyrights was known to be paying 60 per cent annually, competition would as surely engage therein as water runs down hill, resulting in a reduction of price to the consumer. This laudable result is rendered improbable in so far as the facts as to the real rate of dividends are more or less successfully concealed.

But where there is practically no competition, as is the case with many of the large industrial combinations, the public have no means of determining whether the price charged is a reasonable one or not, for the reason that the public have no knowledge whether the combination is overcapitalized or not; nor have they any knowledge as to what proportion of the profits made by the combination go into new construction and are not paid out in dividends upon the overcapitalized stock. Even if we assume that the combination is greatly overcapitalized in the beginning, the profits may be sufficiently large so that after a period of years profits may have been reserved for the improvement and enlargement of the plant, so that the corporation ceases to be overcapitalized; but it is the consumer in that instance who has paid not only dividends, but has contributed to make up the deficiency in the overcapitalization.

Publicity, by creating an intelligent public sentiment, will go far toward ameliorating oppressive conditions. If it is a fact that competitors are ruthlessly destroyed and prices are increased in order that enormous returns may be received upon a relatively insignificant investment, and the searchlight of publicity can be turned thereon, it is doubtful if the persons who are responsible for such a reprehensible condition could long stand the well-directed public indignation that would thus be aroused.

It is not claimed that publicity is a cure-all. It is hoped that by its application the operation of natural laws may in an appreciable degree alleviate existing conditions. The whole subject, unhampered by constitutional provisions that circumscribe and limit us, is intricate, involved, and extremely difficult of solution. All legislation should be conservative and tentative. Full publicity should add materially to our information upon this abstruse subject, and enable us, in the light of the decisions of the court construing existing and new legislation, to act more intelligently and efficiently in enacting legislation that will more effectively regulate and control these conditions, so far as they are susceptible of legislative regulation and control.

It is idle to wait for the States to pass uniform legislation upon this subject. The financial incentive to furnish an asylum and breeding place for vicious, unrestrained, corporate vagrants is too strong for human nature to withstand. In 1884 the State of New Jersey conceived the laudable idea that it could add materially to its revenue by opening up great possibilities for corporations. They then began to revise their legislation with that end in view. Its revenue then was $195,273.15 annually in fees and taxes from corporations. After eighteen years of endeavor in this direction they have increased their revenues from this source so that they now receive the tidy sum of $3,447,310.11, which, it is understood, pays the running expenses of the State and leaves a comfortable margin for contingencies. They can hardly be expected to surrender this revenue.

Other States are engaging in friendly rivalry with New Jersey for a portion of this sum. They have become envious of the prosperity of New Jersey, and within the past few years have enacted fresh statutes under the provisions of which incorporators residing in any State in the Union may obtain a charter from those States without ever entering the State from which the charter is

granted, and not being required to ever hold a stockholders' meeting within the State, or ever doing any business therein, and its officers and stockholders being relieved of all personal liability for whatever acts they may commit in connection with said corporation. It is only by the enactment of a uniform law as to all corporations engaged in interstate commerce, as is proposed by this bill, that an approximation of the result desired can be reached.

Mr. PATTERSON of Tennessee rose.

Mr. LITTLEFIELD. Excuse me, but I want to hurry on and get to a proposition I want to state.

Mr. PATTERSON of Tennessee. I simply wanted to ask one question.

Mr. LITTLEFIELD. Well; if it is only a question.

Mr. PATTERSON of Tennessee. You say that overcapitalization is an evil and that the public is bearing these burdens. Why is it that you do not propose in your bill any remedy for the evil?

Mr. LITTLEFIELD. I will come to that now. I am glad to have the gentleman suggest it. The remedy that we propose is this section of publicity. I do not believe that if this Congress had the power, it ought to prohibit every corporation that is overcapitalized from engaging in interstate commerce. I believe that would produce profound depression and a panic, shock the business interests of the country, and ruin innocent investors, because it must be remembered that the innocent stockholders of these corporations aggregate millions.

Now, this bill proposes by publicity to place this situation where, by the operation of natural laws, it may work itself out. That is the object of the bill. It does not go as far, perhaps, as it might go; it does not go so far as it could go.

I am going to discuss in a few moments the provisions of the bill in detail.

Mr. PATTERSON of Tennessee. Will the gentleman allow me one more question? I will be very brief.

Mr. LITTLEFIELD. I yield.

Mr. PATTERSON of Tennessee. Does not the gentleman think that corporations that may hereafter be organized, if their returns should show, under this publicity clause, that they are overcapitalized, should not be allowed to engage in interstate business?

Mr. LITTLEFIELD. I do not think I should go so far as that. This is a new remedy—a new proposition. No legislation like this has ever before been adopted by Congress. No legislation like this has ever before been suggested in Congress. I know that my friends on the other side sneer about our "moving slowly" and about our "looking around quietly," about traveling around in the dark, and not desiring to disturb people. I can stand such suggestions, because I say that this is a new proposition. It is new legislation, and no man can tell what the effect of this legislation may be. I believe it will be salutary and wise, but I can not be certain about that. I can not demonstrate it. I think we can begin with this bill. If this bill in its operation as practically applied proves wise and beneficial, a step in the right direction, we can take further steps in the same direction.

I do not think any man here, in his senses, when he comes to reflect upon these questions, desires to pass any legislation, the tendency of which might be to disturb vast business interests, for the purpose of reaching what is, as a matter of fact, a relatively small percentage of all corporations engaged in interstate commerce.

Now, this bill does not read as House bill No. 17 did when introduced on the first day of last session by "the gentleman from Maine," as has been well suggested by the gentleman from Missouri [Mr. DE ARMOND]. As I have already stated, the bill perhaps goes further in some respects than some gentlemen on the committee wanted to go, and not so far as some other gentlemen wanted to go. I have not modified my views upon this proposition since I introduced the bill, though I have modified the bill to meet the views of others. I do not, however, claim that the bill at that time was as well prepared and as well drawn as the bill that has finally resulted from conversations and consultations and discussions with other men who have thought upon and studied this question.

This bill as first introduced provided that all existing corporations engaged in interstate commerce should file these returns. There was this objection suggested to that provision: That a large majority of the corporations to-day engaged in interstate business are legitimate business organizations; that the filing of returns, as required under the provisions of the bill, might prove, not only burdensome and inconvenient, but to many of these organizations perhaps a hardship; that, as my friend from Georgia [Mr. FLEMING] suggested—I believe that was his idea—such a requirement might lumber up the files of the Interstate Commerce Commission. That was a trivial consideration in my view, but it was vigorously urged that such a requirement might have that result. A modification, therefore, of the bill in that respect has been made. Instead of requiring every corporation engaged in interstate commerce to file these returns under all circumstances and at all times, the present provision is that the Interstate Commerce Commission may require returns to be filed by any corporation now engaged in interstate commerce. What does that mean? It means that if the Interstate Commerce Commission discharges its duty under this bill properly, fairly, and honorably every corporation that needs to be reached by a provision of this kind will be reached under regulations to be adopted by the Commission.

It hardly will do in discussing this bill to assume in advance that the Interstate Commerce Commission, a very distinguished and honorable body of men, who have discharged their duties so far faithfully and well, would be remiss in the discharge of their duties under this bill. While I might feel that the bill ought arbitrarily to include every corporation, I do not feel like going so far as to say that this Commission can not be trusted to properly administer this law.

Mr. WM. ALDEN SMITH. I should like to ask the gentleman whether in this bill we are not giving the Interstate Commerce Commission unusual power, in the clause beginning at line 22, page 6, which allows them to waive any return if, in their judgment, it is impracticable to get it?

Mr. LITTLEFIELD. No; I think that is an entirely proper provision. Of course it is unusual. The Commission has never been invested with any power of this kind by any prior legislation. It must be an unusual provision, because it is new. Necessarily what is new is unusual; and this is new because there has never been any occasion for such a provision until we were engaged in legislation of this kind.

Just for a moment; upon that proposition I will read this provision of the bill:

> That every corporation which may be hereafter organized shall, at the time of engaging in interstate or foreign commerce, file the return hereinafter provided for, and every corporation, whenever organized and engaged in interstate or foreign commerce, shall file a return with the Interstate Commerce Commission for the year ending December 31, whenever, and at such time, as requested by said Commission, stating its name, date of organization, where and when organized, giving statutes under which it is organized, and all amendments thereof; if consolidated, naming constituent companies and where and when organized, with the same information as to such constituent companies, so far as applicable, as is herein required of such corporation.

Now, it is very obvious that that is a provision of this bill in all its details with which many corporations, railroad and otherwise, might not be able to comply. What do we provide in this bill? The bill provides that if return is not filed that they may be restrained from engaging in interstate commerce until it is filed. It goes further than that with an amendment which we propose to offer. It provides if the return is not filed the corporation shall be subjected to a fine; and if its officers do not answer the question, to imprisonment. It would be a very curious piece of legislation that would compel a corporation, under penalty of fine and under penalty of being restrained from engaging in interstate commerce, to file things that it probably might not be able to file without giving some tribunal, at least, an opportunity to relieve the corporation from the difficulty that might arise under those circumstances. Do I answer the gentleman's question?

Mr. WM. ALDEN SMITH. Yes; I think the language should be such as to require them to furnish all they can.

Mr. LITTLEFIELD. The bill says "that is impracticable." If they furnish all that is practicable, they furnish all they can. They have to furnish all that is practicable.

Mr. WM. ALDEN SMITH. Does the gentleman believe they will be required to furnish all they can?

Mr. LITTLEFIELD. I answer that the same as the question in respect to the returns to be required by the Interstate Commerce Commission. I shall assume in this discussion that the Interstate Commerce Commission is a body of honorable men and that they will faithfully discharge that duty.

Mr. TAYLER of Ohio. Mr. Chairman, I would ask the gentleman if the history of the Interstate Commerce Commission suggests a fear that it will not seize upon all the responsibilities and powers that any law will pretend to give it? [Laughter.]

Mr. LITTLEFIELD. I have never seen any disposition on their part to let go of anything.

Mr. GAINES of Tennessee. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. LITTLEFIELD. Just for a question.

Mr. GAINES of Tennessee. Just for a question. The bill the gentleman from Maine first introduced, H. R. 17, and the substitute, at the very beginning read very differently, the first bill reading that every corporation engaged in interstate commerce shall do so and so. Now, then, the substitute reads like this, that every corporation which may hereafter be organized shall do so and so. As I understand the bill, it does not touch any existing corporations, but treats of those that are yet to be created

Mr. LITTLEFIELD. It puts all existing corporations under the Interstate Commerce Commission, with power to require returns from every one it sees fit. I have just gone over that.

PROVISIONS OF THE SUBSTITUTE BILL.

SECTION 1.

Section 1 describes in detail the character of the return to be made. These details are expected to disclose with a reasonable degree of accuracy the financial foundation of the corporation and its capitalization, demonstrating approximately the amount of overcapitalization. The information made public is an abstract of this return. In addition to the return the commission is authorized to make inquiries in writing of the officer having the requisite knowledge of corporations in order to clear up any ambiguity or uncertainty that may result from the returns filed. These inquiries are confined to the items specified.

The returns and answers are to be made on oath, and if they are false in any material particular the persons making the oath shall be deemed guilty of perjury and punished accordingly. While it is true that the act requires many details, as to some of which the information in some cases may not be obtainable, provision is made for that difficulty by authorizing the commission to excuse a corporation in writing wherever it is impracticable, without fault of the corporation, to furnish any such items. After the first return is filed, if there is no change in the condition of the corporation as to the items involved, the next return is not required to restate the details, as a simple statement under such circumstances that it is a duplicate will be sufficient. If a corporation fails to file the return the court may restrain it from engaging in interstate commerce until such return is made.

As to all corporations hereafter organized, returns are absolutely required to be filed at the time of their engaging in interstate commerce. It is expected that this requirement will tend to discourage the promotion and organization of any more overcapitalized industrial combinations. As to all existing corporations engaged in interstate commerce, the returns are to be filed only upon the request of the Interstate Commerce Commission. It is no doubt true that the bill could have required a return from all corporations engaged in interstate commerce. It is no doubt also true that a very large majority of the corporations that would thus be required to file returns are such as are not only legitimately organized, but in their business operation produce no injurious effect upon the public. And as to them, they would be subjected not only to unnecessary inconvenience, but in many instances, perhaps, to great hardship, and as to such returns there is not only no necessity but no public demand therefor.

SECTION 2.

Section 2 relates to the oath and provides for punishment in case the returns are false in any material particular. It also provides that whoever knowingly prepares a return that is false in any material particular shall be guilty of subornation of perjury and punished accordingly.

SECTION 3.

Section 3 provides for making public the abstract of the returns. They are to be published in such number for free distribution as the Commission may deem necessary and to be distributed under its direction.

SECTION 4.

Section 4 gives the Commission the same authority to inquire into the management of affairs of corporations relating to interstate and foreign commerce as is provided in the act to regulate commerce. The particular provisions of that act are found in section 12 of the act approved February 4, 1887, as amended March 2, 1889, and February 10, 1891, and reads as follows:

SEC. 12. That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created, * * * and for the purposes of this act the Commission shall have power to require, by subpœna, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation.

Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. And in case of disobedience to a subpœna the Commission, or any party to a proceeding before the Commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses, and the production of books, papers, and documents under the provisions of this section.

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers, if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. * * *

The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation depending before the Commission, by deposition at any time after a cause or proceeding is at issue on petition and answer. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any commissioner of a circuit, or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinbefore provided.

Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so requests) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

Witnesses whose depositions are taken pursuant to this act, and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

These provisions are applicable so far as they relate to the subject-matter of this bill. This section also provides a penalty for neglecting or refusing to make returns or attend and testify or answer any lawful inquiry or produce books, papers, contracts, or agreements.

SECTION 5.

Section 5 of this act covers the suggestions of the Attorney-General in his communication of January 3, 1903, to the special subcommittee on trusts of this committee. Upon this point, among other things, he made the following suggestions:

I believe the rebates and kindred advantages granted by carriers to large operators in the leading industries of the country as against their competitors in many years amounted to a sum that would represent fair interest upon the actual money invested in the business of such operators. * * *

My suggestion, therefore, is that as a first step in a policy to be persistently pursued until every industry, large and small, in the country can be assured of equal rights and opportunities, and until the tendency to monopolization of the important industries of the country is checked, that all discriminatory practices affecting interstate trade be made offenses to be enjoined and punished. Such legislation to be directed alike against those who give and those who receive the advantages thereof, and to cover discrimination in prices as against competitors in particular localities resorted to for the purpose of destroying competition in interstate and foreign trade, as well as discrimination by carriers.

Such practices are so obviously unreasonable that to inhibit them would be a measure of regulation of commerce to keep it free and unrestrained and not an attempt to exercise arbitrary power.

Upon the necessity of this legislation he says:

It may be said that under the "act to regulate commerce" a shipper may be punished for receiving rebates or special rates less than the lawful published rates, and that it is unnecessary to provide additional legislation in this respect to curb trusts, monopolies, and combinations. This, however, is an erroneous statement.

Whatever the Congress may have designed in the act to regulate commerce regarding the punishment of shippers for participation in violation of that act, as construed by the courts, their punishable offenses fall under two heads:

First. Where the shipper has solicited or participated in instances of unjust discrimination, and

Second. In cases of fraud perpetrated by him against the carrier, e. g., by false representation of the contents of a package.

As to the first, the courts have held that to constitute unjust discrimination it is necessary to prove that at the time the lower unlawful rate was being granted to the favored shipper the higher lawful rate was imposed against another shipper on like commodities between the same points.

In many cases of departure by a carrier from its published tariffs the favored shipper has enjoyed his advantage for so long a time that all rivals have disappeared. In such cases, and they are the most numerous, no illegal discrimination exists; consequently the recipient of the unlawful rebates escapes the penalties of the act to regulate commerce.

The act prohibits the carrier from charging anyone a greater or less rate than the rates named in its schedules; but the penalties provided therefor have been held by the courts not to be applicable to any carrier that is an incorporated company.

The officers or agents of such incorporated company, who grant the rebate or make the unlawful concession in rates, are subject to indictment and punishment. That, however, is generally an impracticable remedy, because the agent who makes the concession is usually the only person by whom it can be ascertained that the rebate has been paid, and when he has testified in relation to the matter he has thereby obtained amnesty from prosecution.

Even if the corporation and its officers could be effectively reached by criminal proceedings, the law leaves unrestrained the persons, corporations, and combinations who are beneficiaries of the unlawful rebates.

This casus omissus of the act to regulate commerce should be supplied by imposing a penalty upon the incorporated carrier and beneficiary alike, and the right of the courts to restrain such practices at the suit of the United States—a right not settled and now vigorously challenged—should be made certain.

I think the operation of such an act should be limited to the transportation by common carriers subject to the act to regulate commerce. This is necessary for the reason that there is no requirement of law that rates shall be published by common carriers, except by railroad, or railroad and water carriers acting as one line. When the act to regulate commerce was under consideration, it was deemed impracticable, if not unwise, to attempt to regulate the rates of water or other common carriers. It was understood that in the nature of things water rates could not be stable.

In addition to that, it was believed that water competition must be unrestricted. As it is the least expensive means of transportation, it, wherever

it could directly or indirectly compete with carriers by rail, would, approximately, furnish a basis for rates by railroad, and measurably keep such rates within the limits of extortion.

So that if provision is made by law to prevent rebates, a standard or established schedule must be referred to; and as the admitted abuse of magnitude has been in the favors granted by railroad companies, their rates, which the law requires shall be made public, should be taken as the rates which must be adhered to and made equal to all the people under similar conditions.

It should therefore be made unlawful to transport traffic by carriers subject to the "act to regulate commerce" at any rate less than such carriers' published rate, and all who participate in the violation of such law should be punished.

The section herewith reported is substantially a section of the bill drawn by the Department of Justice, the particular distinction being the insertion of the language "or shall receive any advantage by way of facilities or service," the occasion for its insertion being that it was as necessary to prohibit the undue advantage conferred upon the shipper by way of facilities which placed his competitor at a disadvantage as it was to prohibit the shipper from receiving annual rebates and thus making the cost of carriage less for him than his competitor, this branch of the proposition being inadvertently omitted in the draft made by the Department of Justice. With this exception the section is substantially its draft, and it is also in substance the first section of a bill introduced in the Senate by Senator NELSON February 5, 1902, S. 3575. The necessity for the adoption of this section for the reasons given by the Attorney-General in his suggestions has been urged upon Congress for the past five or six years by the Interstate Commerce Commission. There can be no question about its propriety, as all concur as to its necessity.

SECTION 6.

Section 6 prohibits any corporation engaged in the production, manufacture, or sale of any article of commerce violating the provisions of the bill, in relation to rebates or facilities, or attempting to monopolize or control the production, manufacture, or sale by destroying competition in any particular locality by a discrimination in prices or special privileges from using in aid of that purpose any of the facilities or instrumentalities of interstate commerce. This is in response to the suggestion of the Attorney-General, which reads as follows:

An additional provision should be made to reach corporations, combinations, and associations which produce and manufacture wholly within a State, but whose products or sales enter into interstate commerce. It should relate, first, to such concerns as fatten on rebates in transportation (this has already been provided for in our section 5); and, second, to concerns which sell below the general price of a commodity in particular localities, or otherwise in particular localities wantonly seek to destroy competition. These could be excluded with their commodities, products, or manufactures from crossing State lines.

Section 6 of this bill I wish to call particularly to the attention of the committee. I do not understand that anybody, except, possibly, one of my distinguished friends on the committee, and I do not know that he does seriously—I was not quite able to get just exactly what he does claim from the desultory manner in which I listened to what he had to say—I do not mean the desultory manner in which he said it, for I was not able to listen consecutively—I do not understand that anybody seriously questions the constitutionality of this section.

It prohibits any corporation engaged in the production, manufacture, or sale of any article of commerce violating the provisions of the bill, in relation to rebates or facilities, or attempting to monopolize or control the production, manufacture, or sale by destroying competition in any particular locality by a discrimination in prices or special privileges, from using in aid of that purpose any of the facilities or instrumentalities of interstate commerce. This is in response to the suggestion of the Attorney-General, which reads as follows:

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Section 6 is intended to answer the second suggestion. It will be observed that this section proceeds to a certain extent upon a new idea, or perhaps a departure from the existing method of reaching the desired result. The Sherman antitrust law proceeds in effect upon the hypothesis that contracts and agreements are being made that in their operation restrain interstate trade and commerce, and it is directed against such contracts and agreements and such acts upon the part of individuals. This section proceeds upon the theory of the existence of the same conditions and reaches them from another direction. It in effect provides that no corporation manufacturing, producing, or selling an article of commerce and discriminating in prices for the purpose of destroying competition in any particular locality shall in any way use, directly or indirectly, in aid of accomplishing that purpose, any of the facilities or instrumentalities of interstate commerce. It goes as far as we can go for the purpose of reaching this particular object within constitutional lines.

GENESIS OF THIS SECTION.

Instead of undertaking to control the manufacture, production, and sale directly in the State, it attempts to exercise control when the purpose is illegal by depriving the manufacture, production, or sale within a State of the use of the facilities and instrumentalities of interstate commerce in aid of such illegal purpose. It says, while we can not control your illegal act in the State, you shall not use the instrumentalities of interstate commerce in aid thereof. There is probably no instance where the production, manufacture, and sale is carried on for the purposes indicated in the act where the facilities and instrumentalities of interstate commerce are not absolutely essential to the success of the business.

To meet the suggestion that the provisions of this act could be easily evaded by the principal corporation selling its output in the State where it is produced or manufactured to other persons or corporations, who would necessarily engage in interstate commerce for the purpose of distributing the article of commerce thus produced, manufactured, or sold, and thus enable the principal corporation to carry on its business with the prohibited purpose without being engaged in interstate commerce, we provide that no other person or corporation shall use any of the facilities of interstate commerce in order to enable the first-mentioned corporation to continue its production, manufacture, or sale for the prohibited purpose. While it is not insisted that this statute can not to some extent be evaded, it is believed that the last paragraph of this section goes as far as we can go in providing against such contingencies.

This section, as I have shown, does not proceed upon the theory that contracts and agreements are made that interfere with or impair interstate trade and commerce, but it proceeds upon the theory that the illegal purpose or unlawful act shall not be consummated by the aid of the facilities of interstate commerce. And in this respect this section suggests an entirely new legal proposition under the interstate-commerce power.

Mr. SMITH of Kentucky rose.

Mr. LITTLEFIELD. I can not yield now. I have only a few minutes left.

Mr. GAINES of Tennessee. Tell us what you mean by facilities, whether it includes the post-office facilities.

Mr. LITTLEFIELD. I can not stop to do that, except to state that in this respect the section is based upon the language used by Supreme Court where it defines interstate commerce, as follows:

Contracts to buy, sell, or exchange goods to be transported among the several States, the transportation and its instrumentalities and articles bought, sold, or exchanged for the purposes of such transit among the States or put in the way of transit may be regulated, but this is because they form part of interstate trade or commerce. (U. S. *v.* Knight, 156 U. S., 13.)

And—

Definitions as to what constitute interstate commerce are not easily given so that they shall clearly define the full meaning of the term. We know from the cases decided in this court that it is a term of very large significance. It comprehends, as it is said, intercourse for the purposes of trade in any or all of its forms, including transportation, purchase, sale, and exchange of commodities between the citizens of the different States, and the power to regulate it embraces all the instruments by which such commerce may be conducted. (Hopkins *v.* U. S. 171, U. S., 591.)

I have called attention to the peculiarity of this statute, proceeding as it does upon entirely different lines, having an entirely different genesis, and having a broader scope, a scope that can accomplish more than the theory of the original Sherman antitrust law.

THE KNIGHT CASE.

This section is an effort, within constitutional limitations, to enlarge the scope of the Sherman antitrust law to reach the situation indicated by the opinion of the case of E. C. Knight & Co. (156 U. S., 1.) It should be said, however, in reference to that case, that its scope is ordinarily somewhat misconceived, and it is supposed to go farther in narrowing the scope of the Sherman antitrust law than it really does. That case was an equity suit brought for the purpose of annulling certain agreements under which the unlawful combinations were alleged to have been made, and for preventing and restraining violations of the Sherman antitrust act. The bill was based mainly upon the written contracts, and it appears from the examination of the opinion that the court felt confined to the terms of these contracts in determining the issue raised by the bill.

The Government does not seem to have made a case, as it might have done, upon general principles against the defendants, relying upon these contracts as one of the elements making out their case, but by the allegations in the bill appear to have narrowed the contention to the construction of the written contracts themselves. That this was the view of a majority of the court in reaching its

conclusion and pronouncing its opinion is, I think, clear. The court say:

> But the monopoly and restraint denounced by the act are the monopoly and restraint of interstate and international trade or commerce, while the conclusion to be assumed *on this record* is that the result of the transaction complained of was the creation of a monopoly in the *manufacture* of a necessary of life.

Note the question which the court here assert was the only question raised upon the record, and that was that the contracts resulted in the "creation" of a monopoly in the *manufacture* of a "necessary of life," not a monopoly and restraint of interstate commerce, a very different and very much broader proposition. If the bill and the record had made a case coming within the last alternative above suggested, the result might have been and undoubtedly would have been exactly the reverse. It does not appear that there were any difficulties in the way of laying a foundation in the bill and sustaining it by proper evidence for such a case as would have shown a contract or agreement in restraint of interstate commerce, which would have been, therefore, restrainable under the act. It is because of this circumscribed foundation made by the bill and disclosed by the record, to which the court were very obviously confined in their conclusion, that led it to make all along through the opinion the very clear and obvious distinction between manufacture and commerce. They say, for instance:

> The fundamental question is whether, conceding that the existence of a monopoly *in manufacture* is established by the evidence, *that* monopoly can be directly suppressed under the act of Congress in the mode attempted by this bill.

That is to say, a monopoly in manufacture alone can not be shown to have any connection by the record with interstate commerce. Could such a monopoly be suppressed?

Again, "commerce succeeds to manufacture and is not a part of it." The record disclosed simply a contract to manufacture, not a contract to enter in, or engage in, or regulate, or control, interstate commerce. Hence the court say:

> The power to regulate commerce is the power to describe the rule by which commerce shall be governed, and is a power independent of the power to suppress monopoly. But it may operate in repression of monopoly whenever that comes within the rules by which commerce is governed or whenever the transaction is itself a monopoly of commerce.

But the record did not show that the monopoly in question had anything to do with commerce. The court emphasizes this point throughout the opinion, saying later, with this precise question in mind as to what was disclosed by the record in that case:

> The object was manifestly private gain in the *manufacture* of the commodity, *but not through the control of interstate or foreign commerce.*

That is to say, that object was the only object disclosed by the contract and the record. In order to have been reached under the antitrust act, however, the contract should have disclosed the object of controlling interstate or foreign commerce, which neither the contract nor the record did show. The fact that there was an incidental allegation that the product of the refineries was to be distributed among the several States, in the judgment of the court added nothing to the substance of the case under the bill, as they say:

> It is true that the bill alleged that the products of these refineries were sold and distributed among the several States, and that all the companies were engaged in trade or commerce with the several States and with foreign nations; but this was no more than to say that trade and commerce served manufacture to fulfill its function.

Again:

> There was nothing in the proofs *to indicate any intention to put a restraint upon trade or commerce*, and the fact, as we have seen, that trade or commerce might be indirectly affected was not enough to entitle complainants to a decree.

And again:

> The subject-matter of the sale was shares of manufacturing stock, and the relief sought was the surrender of the property which had already passed and the suppression of the *alleged monopoly in manufacture* by the restoration of the status quo before the transfers; yet the act of Congress only authorized the circuit courts to proceed by way of preventing and restraining violations of the act in respect of contracts, combinations, or conspiracies in restraint of interstate or international trade or commerce.

Note the significance of the language. Here, in summing up the whole case, the court expressly say that the relief sought was "the suppression of the alleged monopoly in manufacture," not an alleged monopoly or restraint of interstate or international trade or commerce. Very clearly, from the view taken by the court of the allegations in the bill and the facts disclosed by the record, the whole controversy was absolutely narrowed and confined to the construction to be placed upon the written contracts, which by their terms did not either directly, or indirectly, relate to, or undertake to control, interstate trade and commerce, and it is very clear that under the act, which only prohibited the control of interstate trade and commerce, the court could not declare a contract void which in terms was confined to manufacture alone.

THE SHERMAN ANTITRUST LAW.

The Sherman antitrust law proceeds upon the theory that there are contracts and agreements monopolistic in their character which are in restraint of interstate trade and commerce. It is aimed throughout at contracts and agreements that tend to monopoly. That is its genesis.

Section 1 provides that "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce," etc., and "every person who shall make any such contract or engage in any such combination or conspiracy," etc.

Section 2 provides that "every person who shall monopolize or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of the trade or commerce among the several States, or with foreign nations," etc.

Section 3 provides that "every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce," etc., and "every person who shall make any such contract, or engage in any such combination or conspiracy, shall be deemed guilty," etc.

Section 6 provides that "any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof)," etc. While the literal language of this act might include what is known at common law as contracts in restraint of trade, it is very clear that its dominating controlling purpose is to prevent contracts, agreements, combinations, and conspiracies resulting in or attempting to create monopoly. It is at least doubtful if a common-law contract in restraint of trade can be predicated upon the Sherman antitrust law. It is because the words "in restraint of trade or commerce" are used that the idea has obtained that the qualification of reasonableness or unreasonableness should be imported into this statute by construction.

It is very ably suggested by Mr. Justice White, in his dissenting opinion in the Trans-Missouri case, that the Sherman antitrust law should be construed upon the basis as to whether or not the combinations or conditions that it undertakes to attack, are or are not reasonable or unreasonable, and it has been suggested by distinguished men since that the law is open to that criticism. It was suggested—I heard a distinguished gentleman in another tribunal the other day say—that it was intended by the framers of that law to subject it to the test, as to whether the conditions attacked were reasonable or unreasonable. I beg leave to submit that such a construction can not be sustained. There is a contract in restraint of trade at common law. A contract in restraint of trade at common law is a contract by virtue of which a man disables himself from engaging in a particular occupation, business, or profession. He agrees not to practice his profession or engage in his business for a certain number of years, or within a certain locality, or a corporation agrees not to sell its goods within a certain locality or during a certain time, or, as the note in Angier *v.* Webbar (92 Comp. Dec., 751) puts it, "contracts which impose an unreasonable restraint upon the exercise of a business, trade, or profession are void, but contracts in reasonable restraint thereof are valid."

Now, that is the common-law contract in restraint of trade. But there are other conditions that disturb us vastly more than these contracts in restraint of trade, because contracts in restraint of trade at the common law were simply constructively against public policy and very few of them ever did any appreciable injury. The combinations and conspiracies that tend to monopoly and therefore increase the price of a product are an entirely distinct legal proposition. They are the status against which the Sherman antitrust law is aimed. It is contracts and combinations in the form of trusts or otherwise or conspiracies, not contracts that restrain one individual from engaging in a profession or in a business for a certain number of years or in a certain locality that are clearly within the intention of that statute.

Now, I wish to call the attention of the House to this fact: That at common law and under the decisions of the courts, from the days of the early common law down even until now, the idea of reasonableness or unreasonableness has never been predicated upon a combination or a conspiracy that tends to monopoly. It is always and only predicated upon contracts technically in restraint of trade, or that tend to exclude a man for a certain number of years or within a certain space. Every case referred to by the distinguished justice of the Supreme Court who dissented in the Trans-Missouri case as sustaining his view that reasonableness or unreasonableness should, under the Sherman antitrust law, be the test, is a case at the common law where the court were passing upon a contract technically in restraint of trade. No single case that he refers to involves contracts or agreements or conditions that tended to monopoly. In that respect his citations were foreign to the controlling purpose of that statute.

There are two distinct legal propositions—contracts in restraint of trade and combinations and agreements that tend to monopolies. I will put in as Exhibit C an abstract of more than 100 cases, taken from the English and American reports, showing this distinction, and I make this suggestion: I have not had the time myself carefully to examine every case upon this subject, but I have had them examined by a man in whose legal ability I have

confidence, and I think I can safely say that from the time when monopolies were first discussed, the books do not contain a single case based upon contracts or agreements that tend to monopoly, and therefore improperly and unduly increasing the price of a product; in which the term "reasonable" or "unreasonable" is predicated upon that condition—no case where that is relied upon as an element under such circumstances. On the other hand, where the facts satisfy the court that the condition tends to monopoly it is held unlawful without qualifications or limitations. While the term "restraint of trade" is used in defining the offense in the Sherman antitrust law, it is evidently used upon the theory that a monopoly or an attempt to monopolize trade would operate as a restraint upon interstate and foreign commerce, rather than in the artificial sense that a contract between two individuals, that impaired the right of one to engage in trade for a certain time or within a certain locality would be a restraint of that commerce. The definition inaptly is in part based upon the common-law term "restraint of trade," while the act is not intended to apply to such contract, but to such contracts and combinations as tend to monopoly.

Now, if I am correct about this—and I believe I am—the criticism that this statute ought to be construed upon the basis of whether or not the conditions against which it is aimed are reasonable or unreasonable, is unsupported.

SECTION 7.

Section 7 of the act is in response to another suggestion of the Attorney-General, which reads as follows:

Such legislation, to certainly reach producers guilty of practices injurious to national and international commerce, should, in my judgment, take the form of penalizing the transportation of the goods produced by the guilty parties, and the Federal courts should be given power to restrain such transportation at the suit of the Government.

This section prohibits, in effect, transportation companies now subject to the provisions of the act to regulate commerce from knowingly transporting any property produced, manufactured, or sold in violation of the provisions of this bill and of the act to protect trade and commerce against unlawful restraints and monopolies. This section is in substance a bill introduced by Mr. GILLETT of Massachusetts at the first session of this Congress, H. R. 3105, which in turn is a bill introduced by him in the Fifty-fourth Congress, H. R. 10249, and favorably reported by the Committee on the Judiciary to the House, House Report No. 3062. It is also in substance section 10 of a bill reported by the Judiciary Committee to the House during the Fifty-sixth Congress, H. R. 10539, Report No. 1506.

The propriety and the necessity of a section like this is also suggested by a remark of Judge Harlan in his dissenting opinion in the case of United States against E. C. Knight Co. (156 U. S., p. 40), where he says:

If it be suggested that Congress might have prohibited the *transportation* from the State in which they are manufactured of any articles, by whomsoever at the time owned, that had been manufactured by combinations formed to monopolize some designated part of trade or commerce among the States, my answer is that it is not within the functions of the judiciary to adjudge that Congress shall employ particular means in execution of a given power, simply because such means are, in the judgment of the courts, best conducive to the end sought to be accomplished. Congress, in the exercise of its discretion as to choice of means conducive to an end to which it was competent, determined to reach that end through civil proceedings instituted to prevent or restrain these obnoxious combinations in their attempts to burden interstate commerce by obstructions that interfere in advance of transportation with the free course of trade between the people of the States.

From this quotation it is reasonably to be inferred that during the consultations of the court and as a part of their discussion it was probably assumed that Congress could legally prohibit the transportation from the State in which they are manufactured of any articles by whomsoever at the time owned that had been manufactured by combinations. And it may, perhaps, be further assumed that in the judgment of the court this would have been a measure that could properly have been enacted to accomplish the purposes in view, and to that extent it may be said that the citation is an approval of this section.

This section is easily the most oppressive provision of the bill, and I like it the least. But it is earnestly urged by the Attorney-General and is much less drastic than a similar provision in the bill drawn by him.

SECTION 8.

Section 8 is a section relating to the testimony of witnesses and deprives them of the privilege of claiming their constitutional exemption from testifying upon the ground of criminating themselves and applies to all prosecutions, hearings, and proceedings under this bill, as well as under the act to protect trade and commerce against unlawful restraints and monopolies. This is in substance the act in relation to testimony before the Interstate Commerce Commission approved February 11, 1893, which has the same purpose in view, this last-mentioned act having been sustained by the United States Supreme Court as constitutional. (Brown *v.* Walker, 161 U. S., 591.)

An examination of the case of Brown *v.* Walker will show that the courts have held that a section that only went far enough to provide "that no evidence given by a witness shall be used against him, his property, or estate, in any manner, in any court in the United States, in any criminal proceeding," did not afford that complete protection to the witness which the amendment was intended to guarantee, and was therefore unconstitutional.

SECTION 9.

Section 9 vests the circuit courts of the United States with jurisdiction to restrain the violations of any provisions of this act, and with a little condensation is one of the sections drawn by the Department of Justice.

SECTIONS 10 AND 11.

Sections 10 and 11 are taken verbatim from the bill drawn by the Department of Justice, and with section 9, are understood to be essential to the efficient administration of the law.

The provision as to threefold damages is the same provision that has been in existence since 1890 as a part of the act to protect trade and commerce against unlawful restraints and monopolies, known as the Sherman antitrust law.

This section appears to be somewhat drastic in its terms, and may be thought to be open to abuse. It should, however, be borne in mind that the similar section of the Sherman antitrust law has been in force nearly thirteen years, and the committee are not advised of a single instance where it has been improperly used. While the legislation proposed by this bill is along the lines of the Sherman antitrust law, it is obvious from a comparison between the two that this section is not so comprehensive and far-reaching, and it is therefore fairly to be assumed that no injurious results may be expected from its adoption.

It is not believed that any of the provisions of this bill are open to successful criticism from a constitutional standpoint. All of its provisions are along the lines of the legislation which has already been sustained by the Supreme Court as constitutional, and are confined to and depend upon their relation to and connection with interstate commerce.

With these suggestions I shall have to leave this bill with the committee. It is suggested by a great many of my friends, as I have said, that the bill does not go far enough. I say it does not go as far, perhaps, as it might go. A word as to the suggestion made by the distinguished gentleman from Massachusetts [Mr. THAYER], that another distinguished gentleman in another place had said that this bill, and no other bill, on trusts should become law. I have no comment to make on the motives of men sitting in another place. I want to say to this House that it must be responsible for sending to the Senate a reasonable bill.

I want to say that it should send to the Senate a sane bill, a bill that upon these new lines proceeds slowly and conservatively. Whether or not the Senate, in the exercise of its wisdom, approves of the action of this House, is not a matter that concerns us. We act upon our own responsibility, and it is for us to formulate in this tribunal what we believe to be wise, reasonable, consistent, sane, and safe legislation. When we have done that we have discharged our duty. If the Senate, in its wisdom, does not agree with us, then the Senate and the House can appeal in the end to the people, whose servants we are. I want to see such a bill go to the Senate. I do not want to see this bill loaded up with extraordinary and unusual provisions. I do not want to see this bill go to the Senate under such circumstances and conditions, with such provisions engrafted upon it that a reasonable man in the Senate can say that the House has sent to it a measure that is unreasonable and too drastic. Let us send to the Senate a safe measure, and then, whatever the result, the House can rest satisfied that it has discharged its full and patriotic duty upon this great question. [Loud applause on the Republican side.]

EXHIBIT A.

LIST OF TRUSTS.

[Compiled by the Congressional Information Bureau, Washington, D. C.]

The list of trusts compiled by the Congressional Information Bureau, of Washington, D. C., is believed to be by far the most complete and accurate list in existence. It is the work of experts connected with the bureau, who have access to and have carefully and intelligently compared and collated all the authentic information on the subject, derived from the best financial authorities. In preparing this list the bureau, which is an entirely nonpartisan institution, has been actuated simply by a desire to ascertain and present the actual facts in the case. It has avoided all political prejudice in the matter, and has excluded from the list all alleged trusts based on wild and sensational rumors.

New trusts are constantly being formed and old trusts dissolved or reorganized, but this list, it is confidently claimed, affords a correct view of the trusts as they stand in this country at the present time.

The list is in two parts. The first part embraces all the great industrial trusts affecting the whole country or large sections of the country. The second part contains the so-called "natural trusts," mainly local in effect, such as monopolies in gas, water, electric traction, telegraph, express, insurance, etc.

The list of industrial trusts contains 453 trusts, with a total capitalization of over $9,000,000,000. The list of "natural trusts" contains, in addition, 340 trusts, with a total capitalization of more than four and a half billions.

The list as a whole, therefore, contains the grand total of nearly 800 trusts, with a total capitalization of nearly fourteen billions. These totals are fully 33 per cent larger than those of any other list hitherto published.

List of trusts in the United States January 1, 1903.

PART I. INDUSTRIAL TRUSTS.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
Alabama and Georgia Iron Co.	$650,000	$650,000		$1,300,000
Alabama Consolidated Coal and Iron Co	2,500,000	2,500,000	$495,000	5,495,000
Allied Securities Co	25,000,000			25,000,000
Allis-Chalmers and Wisconsin Bridge Co	20,000,000	16,250,000		36,250,000
Amalgamated Copper Co	155,000,000			155,000,000
American Agricultural Chemical Co	16,715,600	17,153,000		33,868,600
American Alkali Co	24,000,000	6,000,000		30,000,000
American Automatic Weighing Machine Co	3,000,000	600,000		3,600,000
American Axe and Tool Co	2,000,000			2,000,000
American Beet Sugar Co	15,000,000	5,000,000		20,000,000
American Bicycle Co	20,000,000	10,000,000	10,000,000	40,000,000
American Book Co	5,000,000			5,000,000
American Brake, Shoe and Foundry Co	1,500,000	3,000,000	1,000,000	5,500,000
American Brass Co	20,000,000			20,000,000
American Can Co	44,000,000	44,000,000		88,000,000
American Car and Foundry Co.	30,000,000	30,000,000		60,000,000
American Caramel Co	1,000,000	1,000,000	600,000	2,600,000
American Cement Co	2,000,000		930,000	2,930,000
American Cereal Co	3,400,000		1,600,000	5,000,000
American Chicle Co	6,000,000	3,000,000		9,000,000
American Cigar Co	10,000,000			10,000,000
American Coal Co	1,500,000			1,500,000
American Cotton Co	4,000,000	3,000,000		7,000,000
American Cotton Oil Co	20,237,100	14,562,300	5,000,000	39,799,400
American Felt Co	2,500,000	2,500,000	500,000	5,500,000
American Fire Engine Co	500,000		370,000	870,000
American Fork and Hoe Co	2,400,000	2,400,000	800,000	5,600,000
American Fruit Products Co	1,750,000			1,750,000
American Ginning Co	5,000,000			5,000,000
American Glue Co	800,000	1,600,000		2,400,000
American Graphophone Co	1,200,000	800,000	300,000	2,300,000
American Grass Twine Co	15,000,000			15,000,000
American Hard Rubber Co	2,500,000			2,500,000
American Hardware Corporation	5,000,000			5,000,000
American Hide and Leather Co	17,500,000	17,500,000	10,000,000	45,000,000
American Hominy Co	2,500,000	1,250,000	1,250,000	5,000,000
American Ice Co	25,000,000	15,000,000	1,705,000	41,705,000
American Iron and Steel Manufacturing Co	17,000,000	3,000,000		20,000,000
American Jute Bagging Manufacturing Co	2,800,000			2,800,000
American Lamp Chimney Co	500,000	250,000		750,000
American Last Co	2,000,000	1,500,000		3,500,000
American Linseed Co	16,750,000	16,750,000		33,500,000
American Lithographic Co	4,000,000		3,000,000	7,000,000
American Locomotive Co	25,000,000	25,000,000	1,312,500	51,312,500
American Machine and Ordnance Co	10,000,000			10,000,000
American Malting Co	15,000,000	15,000,000	5,000,000	35,000,000
American Nickel Steel Co	1,500,000			1,500,000
American Packing Co	20,000,000			20,000,000
American Pastry and Manufacturing Co	2,000,000	1,000,000		3,000,000
American Patent Kid Co	300,000	100,000		400,000
American Pegamoid Co	2,500,000	2,500,000		5,000,000
American Perfume Co	5,000,000			5,000,000
American Pipe Manufacturing Co	2,000,000			2,000,000
American Plow Co	37,500,000	37,500,000		75,000,000
American Pneumatic Service Co	10,000,000	5,000,000	464,000	15,464,000
American Powder Co	1,500,000			1,500,000
American Radiator Co	5,000,000	5,000,000		10,000,000
American Railway Equipment Co	12,000,000	10,000,000		22,000,000
American Refractories Co	2,250,000			2,250,000
American Rice Co	650,000	350,000		1,000,000
American Saddle Co	1,000,000	800,000		1,800,000
American Sash and Door Co	3,500,000	2,500,000		6,000,000
American School Furniture Co	15,000,000	15,000,000		30,000,000
American Screw Co	3,250,000			3,250,000
American Sewer Pipe Co	10,000,000		2,500,000	12,500,000
American Shipbuilding Co	15,000,000	15,000,000		30,000,000
American Shot and Lead Co	3,000,000			3,000,000
American Silk Manufacturing Co	7,500,000	5,000,000		12,500,000
American Smelting and Refining Co	32,500,000	32,500,000	35,000,000	100,000,000
American Snuff Co	12,500,000	12,500,000		25,000,000
American Soda Fountain Co	1,250,000	2,500,000		3,750,000
American Sparklets Co	13,500,000	1,500,000		15,000,000
American Steel Casting Co	2,750,000	1,450,000	490,000	4,690,000
American Steel Foundries Co	30,000,000			30,000,000
American Stopper Co	1,000,000			1,000,000
American Stove Co	5,000,000			5,000,000
American Stove Board Co	100,000			100,000
American Sugar Refining Co	37,500,000	37,500,000	10,000,000	85,000,000
American Thread Co	6,000,000	6,000,000	6,000,000	18,000,000
American Tube and Stamping Co	2,800,000			2,800,000
American Typebar Machine Co	5,000,000			5,000,000
American Typefounders Co	4,000,000	2,000,000	975,000	6,975,000
American Warp Drawing Machine Co	2,300,000	700,000		3,000,000
American Whip Co	250,000			250,000
American Window Glass Co	13,000,000	4,000,000		17,000,000
American Wood Fireproofing Co	500,000			500,000

List of trusts in the United States January 1, 1903—Continued.

PART I. INDUSTRIAL TRUSTS—continued.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
American Woodworking Machinery Co	$2,000,000	$2,000,000	$2,000,000	$6,000,000
American Woolen Co	40,000,000	25,000,000		65,000,000
American Wringer Co	850,000	1,650,000		2,500,000
American Writing Paper Co	12,500,000	12,500,000	17,000,000	42,000,000
Ames Shovel and Tool Co	3,000,000	2,000,000		5,000,000
Ammunition Manufacturers' Association	4,000,000			4,000,000
Anthony & Scoville Co	1,000,000	600,000		1,600,000
Anthracite Coal Trust	150,000,000			150,000,000
Artificial Lumber Company of America	8,500,000	3,500,000		12,000,000
Associated Merchants Co	5,000,000	10,000,000		15,000,000
Association of Boat-Oar Manufacturers of the United States	500,000			500,000
Atlantic Dynamite Co	2,500,000			2,500,000
Atlantic Rubber Shoe Co	2,500,000	7,500,000		10,000,000
Atlas Portland Cement Co	6,000,000	1,500,000		7,500,000
Atlas Tack Co	700,000		1,250,000	1,950,000
Automatic Weighing Machine Co	3,000,000	600,000		3,600,000
Automobile and Cycle Parts Co	5,000,000			5,000,000
Baltimore Brick Co	1,500,000	600,000	1,500,000	3,600,000
Bessemer Ore Association	20,000,000			20,000,000
Biglow Carpet Co	4,030,000		425,000	4,455,000
Bolt and Nut Association	10,000,000			10,000,000
Booth, A., & Co. ("Fish Trust")	3,000,000	2,500,000		5,500,000
Borax Consolidated, Limited	3,000,000	4,000,000	4,000,000	11,000,000
Borden's Condensed Milk Co	17,500,000	7,500,000		25,000,000
Boston Breweries Co	3,250,000	6,500,000		9,750,000
Boston Fruit Co	10,000,000			10,000,000
Box Makers' Combine (California and Oregon)	1,000,000			1,000,000
Brass Foundry and Machine Co	6,000,000			6,000,000
Brooklyn Wharf and Warehouse Co	5,000,000	7,500,000		12,500,000
Broom Makers' Association of the United States	5,000,000			5,000,000
Broom Twine Selling Combine	500,000			500,000
Brunswick-Balke-Collendar Co	1,500,000			1,500,000
California Fruit Canners' Association	3,500,000			3,500,000
California Raisin Growers' Association	5,000,000			5,000,000
California Wine Association	10,000,000			10,000,000
California Wire Co	5,000,000			5,000,000
Cambria Steel Co	50,000,000		206,000	50,206,000
Carter Steel and Iron Co. of East Tennessee	5,000,000			5,000,000
Casein Co. of America	5,500,000	1,000,000		6,500,000
Castner Electrolytic Alkali Co.	2,000,000		1,000,000	3,000,000
Cedar Shingles Manufacturers' Association	5,000,000			5,000,000
Celluloid Co	6,000,000			6,000,000
Central Car Trust Co	500,000		1,046,000	1,546,000
Central Coal and Coke Co. (Columbus, Ohio.)	500,000			500,000
Central Coal and Coke Co. (Kansas City, Mo.)	1,500,000	1,500,000		3,000,000
Central Fireworks Co	1,750,000	1,750,000		3,500,000
Central Foundry Co	7,000,000	7,000,000	4,000,000	18,000,000
Central Lumber Co. of California	70,000,000			70,000,000
Central New York Brewing Co.	2,200,000	1,800,000		4,000,000
Central Walnut Association of California	2,000,000			2,000,000
Chain Manufacturers' Association	3,000,000			3,000,000
Chemical Co. of America	5,000,000			5,000,000
Chemical and Pharmaceutical Manufacturers' Combine	50,000,000			50,000,000
Cherokee-Lanyon Spelter Co	600,000		600,000	1,200,000
Chicago and Northwest Granaries Co	600,000	600,000	600,000	1,800,000
Chicago Breweries Co., Ltd	3,000,000		1,948,000	4,948,000
Chicago Milk Co	3,000,000	3,000,000		6,000,000
Chicago Pneumatic Tool Co	5,000,000	2,500,000	2,500,000	10,000,000
Chicago Railway Terminal and Elevator Co	1,330,850	1,402,920	1,365,500	4,099,270
City of Chicago Brewing and Malting Co	3,043,750	3,043,750	3,166,000	9,253,500
Clairton Steel Co			10,025,000	10,025,000
Cleveland and Sandusky Brewing Co	3,000,000	3,000,000	6,000,000	12,000,000
Colonial Box and Lumber Co	15,000,000			15,000,000
Colorado Fuel and Iron Co	23,000,000	2,000,000	15,300,000	40,300,000
Columbia Spring Co	2,000,000			2,000,000
Commercial Chemical Co	2,000,000			2,000,000
Compressed Air Co	7,245,000	755,000	500,000	8,500,000
Connecticut Breweries Co., Limited	350,000	350,000		700,000
Consolidated Car Heating Co	1,250,000			1,250,000
Consolidated Fruit Jar Co	500,000			500,000
Consolidated Ice Co	2,000,000	2,000,000		4,000,000
Consolidated Lake Superior Co	82,000,000	35,000,000		117,000,000
Consolidated Lime Co	1,500,000	1,500,000		3,000,000
Consolidated Rosendale Cement Co	500,000	1,000,000	1,100,000	2,600,000
Consolidated Rubber Tire Co	4,000,000	1,000,000	3,000,000	8,000,000
Consolidated Tobacco Co	94,844,600		167,844,600	262,689,200
Consolidated Wagon and Machine Co	1,200,000			1,200,000

List of trusts in the United States January 1, 1903—Continued.

PART I. INDUSTRIAL TRUSTS—continued.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
Consumers' Brewing Co	$1,900,000	$1,900,000	$1,700,000	$5,500,000
Continental Cement Co	5,000,000	5,000,000		10,000,000
Continental Coal Co (Ohio)	3,500,000		2,750,000	6,250,000
Continental Cotton Oil Co	3,000,000	3,000,000		6,000,000
Continental Gin Co	3,000,000		750,000	3,750,000
Copper Sheets and Bolts Manufacturers' Association	5,000,000			5,000,000
Corn Products Co	50,000,000	30,000,000		80,000,000
Coxe Bros. & Co	3,320,100			3,320,100
Crucible Steel Company of America	25,000,000	25,000,000		50,000,000
Denver United Breweries Co., Limited	2,000,000			2,000,000
Diamond Match Co	15,000,000			15,000,000
Diamond State Steel Co	4,250,000		1,000,000	5,250,000
Distilleries Securities Corporation	32,500,000		16,000,000	48,500,000
Dominion Securities Co	3,000,000			3,000,000
East Coast Milling Co	7,000,000	2,000,000		9,000,000
Eastman Kodak Co	25,000,000	10,000,000		35,000,000
Edison Portland Cement Co	11,000,000	2,000,000		13,000,000
Electric Boat Co	5,000,000	5,000,000		10,000,000
Elk Tanning Co	12,500,000			12,500,000
Empire Steel and Iron Co	5,000,000	5,000,000		10,000,000
Erie Brewing Co	1,000,000	500,000	1,000,000	2,500,000
Fairmont Coal Co	12,000,000		6,000,000	18,000,000
Federal Sewer Pipe Co	10,750,000	10,750,000		21,500,000
Federal Sugar Refining Co	25,000,000	25,000,000		50,000,000
Fireproofine Co	1,000,000	1,000,000		2,000,000
Fisheries Co	1,000,000	2,000,000	500,000	3,500,000
Flour combine (San Francisco, Cal.)	20,000,000			20,000,000
General Aristo Co	2,500,000	2,500,000		5,000,000
General Chemical Co	12,500,000	12,500,000		25,000,000
Graniteware trust	20,000,000			20,000,000
Grape growers' pool (Ohio)	2,000,000			2,000,000
Great Lakes Towing Co	3,627,850			3,627,850
Great Western Cereal Co	3,000,000		1,500,000	4,500,000
Hall Signal Co	1,900,000	100,000		2,000,000
Harbison-Walker Refractories Co	22,250,000		3,500,000	25,750,000
Havana Tobacco Co	45,000,000			45,000,000
Hawaiian Commercial Sugar Co	10,000,000		2,356,328	12,356,328
Hecker-Jones-Jewell Milling Co	2,000,000	3,000,000		5,000,000
Herring-Hall-Marvin Safe Co	1,650,000	1,650,000		3,300,000
Heywood Bros. & Wakefield Co	2,000,000	4,000,000		6,000,000
Hydraulic Press Brick Co	3,000,000			3,000,000
Illinois Brick Co	5,000,000	4,000,000		9,000,000
Indiana Portland Cement Co	5,000,000		2,000,000	7,000,000
Indianapolis Breweries Co	675,000	675,000	800,000	2,150,000
Indurated Fiber Industries Co	1,000,000			1,000,000
International Elevating Co	2,200,000			2,200,000
International Emery and Corundum Co	1,150,000		500,000	1,650,000
International Fire Engine Co	5,000,000	4,000,000		9,000,000
International Harvester Co	120,000,000			120,000,000
International Heater Co	900,000	900,000		1,800,000
International Mercantile Marine Co	60,000,000	60,000,000	75,000,000	195,000,000
International Nickel Co	12,000,000	12,000,000	10,000,000	34,000,000
International Paper Co	20,000,000	25,000,000	9,169,000	54,169,000
International Pulp Co	3,000,000	2,000,000		5,000,000
International Salt Co	30,000,000		12,000,000	42,000,000
International Steam Pump Co	15,000,000	12,500,000	3,650,000	31,150,000
Jefferson and Clearfield Coal and Iron Co	3,000,000		3,000,000	6,000,000
Johns (H. W.)-Manville Co	3,000,000			3,000,000
Jones (Frank) Brewing Co	4,000,000		2,500,000	6,500,000
Jones & Laughlin Steel Co	20,000,000			20,000,000
Kanawha and Hocking Coal and Coke Co	3,500,000		2,750,000	6,250,000
Keystone Coal and Coke Co	2,500,000			2,500,000
Keystone Watch Case Co	3,240,000			3,240,000
Kirby Lumber Co	10,000,000			10,000,000
Knickerbocker Ice Co	4,000,000	3,000,000	1,962,000	8,962,000
Lackawanna Iron and Steel Co	20,000,000		1,800,000	21,800,000
Lake Carriers' Association	10,000,000			10,000,000
Lake Dredgers' Association	5,000,000			5,000,000
Linen Thread Co	4,000,000			4,000,000
Locomobile Company of America	5,000,000			5,000,000
Lumber Carriers' Association	6,000,000			6,000,000
Macbeth-Evans Glass Co	2,000,000	200,000	600,000	2,800,000
Magnus Metal Co	1,500,000	1,500,000		3,000,000
Manhattan Spirit Co	5,000,000			5,000,000
Manufacturers and Consumers' Coal Co	5,000,000			5,000,000
Manufacturers' Paper Co	10,000,000			10,000,000
Manville Co	4,000,000	2,000,000		6,000,000
Maple Flooring Manufacturers' Association	2,000,000			2,000,000
Marsden Co. (cellulose trust)	35,000,000	15,000,000		50,000,000
Martin Kalbfleisch Chemical Co	1,450,000			1,450,000
Martin, The L., Co	600,000			600,000
Maryland Brewing Co	3,250,000	3,250,000	9,125,000	15,625,000
Massachusetts Breweries Co	15,000,000		1,200,000	16,200,000
Medina Quarry Co	2,000,000	1,200,000	1,140,000	4,340,000
Metropolitan Securities Co	30,000,000			30,000,000
Michigan Salt Association	4,000,000			4,000,000

List of trusts in the United States January 1, 1903—Continued.

PART I. INDUSTRIAL TRUSTS—continued.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
Milwaukee and Chicago Breweries, Ltd	$3,774,250	$3,774,250	$3,500,000	$11,048,500
Mississippi Wire Glass Co	1,500,000			1,500,000
Monongahela River Consolidated Coal and Coke Co	20,000,000	10,000,000	9,479,000	39,479,000
National Abrasive Manufacturing Co	1,000,000			1,000,000
National Asphalt Co	19,600,000		35,963,000	55,563,000
National Association of Axle Manufacturers	5,000,000			5,000,000
National Association of Chamber Suit and Case Manufacturers	25,000,000			25,000,000
National Biscuit Co	30,000,000	25,000,000	1,683,000	56,683,000
National Candy Co	5,200,000	2,200,000		7,400,000
National Carbon Co	5,500,000	4,500,000		10,000,000
National Cash Register Co	4,000,000	1,000,000		5,000,000
National Casket Co	6,000,000			6,000,000
National Enameling and Stamping Co	20,000,000	10,000,000		30,000,000
National Fireproofing Co	2,000,000	3,000,000	7,500,000	12,500,000
National Glass Co	2,317,900		2,000,000	4,317,900
National Harrow Co	2,000,000			2,000,000
National Lead Co	15,000,000	15,000,000		30,000,000
National Malleable Castings Co	3,000,000			3,000,000
National Mirror Manufacturers' Association	5,000,000			5,000,000
National Rice Milling Co	3,000,000	2,000,000		5,000,000
National Roofing and Corrugating Co	5,000,000			5,000,000
National Saw Co	400,000	600,000		1,000,000
National Shear Co	1,500,000	1,500,000		3,000,000
National Ship Copperplating Co	1,500,000			1,500,000
National Steel and Wire Co	2,500,000	2,500,000		5,000,000
National Sugar Refining Co	10,000,000	10,000,000		20,000,000
National Tin Plate and Stamp Ware Co	10,000,000	10,000,000		20,000,000
National Wall Paper Co	30,000,000		8,000,000	38,000,000
New England Breweries Co	2,050,000		1,000,000	3,050,000
New England Brick Co	2,000,000	3,000,000	750,000	5,750,000
New England Consolidated Ice Co	16,000,000			16,000,000
New England Cotton Yarn Co	5,000,000	6,500,000	5,577,000	17,077,000
New England Lime Combination	1,500,000			1,500,000
New Jersey Zinc Co	10,000,000		10,000,000	20,000,000
New Orleans Brewing Co	1,690,000	1,100,000	13,000,000	15,790,000
New York Air Brake Co	10,000,000			10,000,000
New York and Kentucky Co	1,000,000	1,000,000		2,000,000
New York Arch Terra Cotta Co	2,000,000			2,000,000
New York Auto-Truck Co	10,000,000			10,000,000
New York Breweries Co., Ltd	3,000,000		1,890,000	4,890,000
New York Dock Co	17,000,000		11,580,000	28,580,000
Nicholson File Co	2,000,000			2,000,000
Niles-Bement-Pond Co	5,000,000	3,000,000		8,000,000
Norfolk Refrigerating, Storage, and Ice Co	1,000,000		1,000,000	2,000,000
North American Co	12,000,000			12,000,000
North American Copper Co	20,000,000			20,000,000
North Carolina Pine Timber Association	20,000,000			20,000,000
Northern Commercial Co	1,622,800		2,620,000	4,242,800
Northern Securities Co	400,000,000			400,000,000
Osborne Oil Combine (Pittsburg, Pa)	14,000,000			14,000,000
Otis Elevator Co	6,500,000	4,500,000		11,000,000
Pacific American Fisheries Co	5,000,000			5,000,000
Pacific Coast Biscuit Co	2,500,000	1,500,000	1,000,000	5,000,000
Pacific Coast Co	12,145,800		4,446,000	16,591,800
Pacific Hardware and Steel Co	10,000,000			10,000,000
Pacific Packing and Navigation Co	6,150,000	6,100,000	3,000,000	15,250,000
Park Steel Co	10,000,000			10,000,000
Paterson Brewing and Malting Co	3,000,000		3,000,000	6,000,000
Penn Tanning Co	13,500,000			13,500,000
Pennsylvania Central Brewing Co	2,800,000	2,800,000	2,700,000	8,300,000
Pennsylvania Furnace Co	2,100,000			2,100,000
Pennsylvania Salt Manufacturing Co	3,000,000			3,000,000
Pennsylvania Steel Co	27,250,000		7,000,000	34,250,000
People's Brewing Co., of Trenton	1,100,000			1,100,000
Pepperell Manufacturing Co	2,556,000			2,556,000
Photographic Paper Association	2,000,000			2,000,000
Pittsburg Brewing Co	13,000,000	6,500,000	6,500,000	26,000,000
Pittsburg Coal Co	32,000,000	32,000,000		64,000,000
Pittsburg Plate Glass Co	9,850,000	150,000		10,000,000
Pittsburg Stove and Range Co	1,000,000	1,000,000		2,000,000
Pittsburg Valve and Foundry Co	1,150,000			1,150,000
Planters' Compress Co	10,000,000			10,000,000
Pneumatic Signal Co	3,000,000			3,000,000
Pressed Steel Car Co	12,500,000	12,500,000	5,000,000	30,000,000
Print Cloth Pool	50,000,000			50,000,000
Puget Sound Packing Co	500,000			500,000
Pullman Co	74,000,000			74,000,000
Pure Oil Co	8,000,000	2,000,000		10,000,000
Quaker Oats Co	11,500,000			11,500,000
Railroad Securities Co	10,000,000		8,000,000	18,000,000
Railway Steel Car Co	25,000,000			25,000,000

List of trusts in the United States January 1, 1903—Continued.

PART I. INDUSTRIAL TRUSTS—continued.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
Railway Steel Spring Co	$10,000,000	$10,000,000		$20,000,000
Railways Company General	1,200,000			1,200,000
Reece Buttonhole Machine Co	1,000,000			1,000,000
Refrigerator trust	8,000,000			8,000,000
Republic Iron and Steel Co	30,000,000	25,000,000		55,000,000
Rochester Optical and Camera Co	1,750,000	1,750,000		3,500,000
Rock Island Co	150,000,000			150,000,000
Rocky Mountain Paper Co	750,000	600,000		1,350,000
Rogers, William A., Limited	750,000	600,000		1,350,000
Rope combine (Cleveland, Ohio)	11,000,000			11,000,000
Royal Baking Powder Co	10,000,000	10,000,000		20,000,000
Rubber Goods Manufacturing Co	25,000,000	25,000,000		50,000,000
Safety Car Heating and Lighting Co	4,125,000			4,125,000
St. Louis Breweries, Limited	4,383,000	4,383,000	$4,961,600	13,727,600
San Francisco Breweries, Ltd	412,200	611,100	2,425,000	3,448,300
Sanitary Laundry Co	2,000,000		100,000	2,100,000
Santy Kalsomine Co. (plaster trust)	3,000,000			3,000,000
Sash and door combine	15,000,000			15,000,000
Sea Coast Packing Co	5,000,000	3,000,000		8,000,000
Sheet lead and pipe manufacturers' combine	25,000,000			25,000,000
Shovel makers of the United States and Canada	6,000,000			6,000,000
Sloss-Sheffield Steel and Iron Co	10,000,000	10,000,000	4,000,000	24,000,000
Soap makers' combine	25,000,000	25,000,000		50,000,000
Somerset Coal Co	4,000,000		4,000,000	8,000,000
Southern Car and Foundry Co	1,750,000	1,750,000		3,500,000
Southern Cotton Oil Co	11,000,000			11,000,000
Southern States Cement Co	2,000,000			2,000,000
Springfield Breweries Co	1,150,000	1,150,000	1,250,000	3,550,000
Squire, John P., & Co. (pork packing)	6,000,000	1,500,000		7,500,000
Standard Chain Co	1,500,000	1,500,000	700,000	3,700,000
Standard Milling Co	4,600,000	6,900,000	5,750,000	17,250,000
Standard Oil Co	97,000,000			97,000,000
Standard Quarrying and Construction Co	1,000,000			1,000,000
Standard Rope and Twine Co	12,000,000		10,335,000	22,335,000
Standard Sanitary Manufacturing Co	2,500,000	2,500,000	2,500,000	7,500,000
Standard Sardine Co	3,000,000	2,000,000		5,000,000
Standard Screw Co	1,500,000			1,500,000
Standard Shoe Machinery Co	3,000,000	2,000,000		5,000,000
Standard Table Oilcloth Co	5,000,000	5,000,000		10,000,000
Standard Typewriter Co	1,000,000		925,000	1,925,000
Standard Wheel Co	500,000	500,000	300,000	1,300,000
Steel Tired Wheel Co	4,000,000			4,000,000
Sterling Co., The	625,000	1,250,000		1,875,000
Stillwell-Bierce and Smith-Vaile Co	1,100,000		300,000	1,400,000
Street's Western Stable Car Line	4,000,000	1,000,000	300,000	5,300,000
Susquehanna Iron and Steel Co	1,500,000		300,000	1,800,000
Tacoma Co. (steel and ore)	25,000,000			25,000,000
Tennessee Coal, Iron, and Railroad Co	22,553,600	248,000	13,893,000	36,694,600
Theatrical trust	30,000,000			30,000,000
Thomas Iron Co	2,500,000			2,500,000
Trenton Potteries Co	1,750,000	1,250,000		3,000,000
Tubular Despatch Co	2,100,000		600,000	2,700,000
Umbrella Hardware Co	2,000,000			2,000,000
Union Bag and Paper Co	16,000,000	11,000,000		27,000,000
Union Bleaching and Finishing Co	2,500,000			2,500,000
Union Carbide Co	6,000,000		500,000	6,500,000
Union Steel and Chain Co	30,000,000	30,000,000		60,000,000
Union Steel Co	85,000,000			85,000,000
Union Switch and Signal Co	1,495,550		530,000	2,025,550
Union Tanning Co	10,000,000			10,000,000
Union Typewriter Co	10,000,000	10,000,000		20,000,000
Union Waxed and Parchment ment Paper Co	1,800,000	800,000	600,000	3,200,000
United Box Board and Paper Co	30,000,000			30,000,000
United Breweries Co	11,063,000		3,413,000	14,476,000
United Button Co	5,000,000			5,000,000
United Copper Co	75,000,000	5,000,000		80,000,000
United Engineering and Foundry Co	3,000,000	2,500,000		5,500,000
United Fruit Co	20,000,000		3,000,000	23,000,000
United Mattress Machinery Co	800,000	210,000		1,010,000
United Paper Co (tissue paper)	1,500,000	1,500,000		3,000,000
United Shoe Machinery Co	12,500,000	12,500,000		25,000,000
United Starch Co	3,500,000	2,500,000	1,250,000	7,250,000
United States Bobbin and Shuttle Co	1,200,000	800,000	300,000	2,300,000
United States Brewing Co. (Chicago)	5,000,000		3,500,000	8,500,000
United States Brewing Co. (Newark)	1,750,000	1,750,000	2,000,000	5,500,000
United States Cast Iron Pipe and Foundry Co	15,000,000	15,000,000	15,000,000	45,000,000
United States Cigar Co. (Delaware, Ohio)	6,000,000			6,000,000
United States Cigar Co. ("Stogie trust")	5,000,000	2,500,000		7,500,000
United States Cotton Duck Corporation	25,000,000	18,100,000		43,100,000
United States Dyewood and Extract Co	4,000,000	6,000,000		10,000,000

List of trusts in the United States January 1, 1903—Continued.

PART I. INDUSTRIAL TRUSTS—continued.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
United States Eaves, Trough, and Conductor Pipe Association	$2,000,000			$2,000,000
United States Envelope Co	1,000,000	$4,000,000	$2,000,000	7,000,000
United States Finishing Co	1,000,000	2,000,000	1,750,000	4,750,000
United States Furniture Co	10,000,000			10,000,000
United States Glass Co	5,000,000	1,000,000		6,000,000
United States Gypsum Co	3,000,000	4,500,000		7,500,000
United States Leather Co	64,000,000	64,000,000	52,800,000	180,800,000
United States Paving Co	2,000,000			2,000,000
United States Playing Card Co	3,600,000			3,600,000
United States Printing Co	3,500,000			3,500,000
United States Realty and Construction Co	66,000,000			66,000,000
United States Reduction and Refining Co	6,000,000	6,000,000	3,000,000	15,000,000
United States Rubber Co	25,000,000	25,000,000	12,000,000	62,000,000
United States Shipbuilding Co	45,000,000		9,000,000	54,000,000
United States Silver Corporation	3,000,000		3,000,000	6,000,000
United States Steel Corporation	550,000,000	550,000,000	304,000,000	1,404,000,000
United States Varnish Co	18,000,000	18,000,000		36,000,000
United States Voting Machine Co	1,000,000			1,000,000
United States Whip Co	1,000,000	1,200,000	800,000	3,000,000
United Wire and Supply Co	1,000,000	1,000,000		2,000,000
Universal Tobacco Co	10,000,000			10,000,000
Utah Fuel Co	10,000,000			10,000,000
Utica Steam and Mohawk Valley Cotton Mills	2,000,000			2,000,000
Virginia-Carolina Chemical Co	38,000,000	12,000,000		50,000,000
Virginia Iron, Coal, and Coke Co	10,000,000		10,000,000	20,000,000
Vulcan Detinning Co	3,500,000			3,500,000
Washburn Wire Co	1,250,000	2,500,000		3,750,000
Western Consolidated Granite Co	300,000	300,000		600,000
Western Drug Jobbers	15,000,000	15,000,000		30,000,000
Western Stone Co	2,250,000		488,000	2,738,000
Westinghouse Air Brake Co	11,000,000			11,000,000
Westinghouse Automatic Air and Steam Coupler Co	5,000,000			5,000,000
Westinghouse Electric and Manufacturing Co	21,000,000	4,000,000	3,200,000	28,200,000
Wheeling Consolidated Coal Co	5,000,000			5,000,000
Wheeling Steel and Iron Co		5,000,000	600,000	5,600,000
White Mountain Paper Co	10,000,000	5,000,000	10,000,000	25,000,000
Wholesale Druggists' National Association	25,000,000			25,000,000
Wholesale Grocers of New England	75,000,000			75,000,000
Window Shade Manufacturers' Association	2,000,000			2,000,000
Wire Cloth Manufacturers' Association	5,000,000			5,000,000
Wisconsin Lime and Cement Co	5,000,000			5,000,000
Yarn Manufacturers' Combine	3,000,000			3,000,000
Yellow Pine Co	1,500,000	1,000,000		2,500,000
Total	5,973,853,850	2,091,508,320	1,165,774,528	9,231,136,698

PART II. LOCAL AND "NATURAL" MONOPOLIES.

Adams Express Co	$12,000,000		$12,000,000	$24,000,000
Akron Gas Co	200,000	$200,000	400,000	800,000
Alabama and Hudson Rwy. and Power Co	2,500,000			2,500,000
American District Telegraph Co	3,844,700			3,844,700
American Electric Heating Corporation	10,000,000			10,000,000
American Electric Telephone Co	200,000	1,000,000	500,000	1,700,000
American Express Co	18,000,000			18,000,000
American Gas Co. (Philadelphia)	1,000,000			1,000,000
American Home Telephone Co	2,000,000		1,000,000	3,000,000
American Indies Co	13,000,000	5,000,000		18,000,000
American Light and Traction Co	15,000,000	25,000,000		40,000,000
American Railways Co	25,000,000		2,500,000	27,500,000
American Street Railway Generator and Power Co	2,500,000			2,500,000
American Telephone and Telegraph Co	114,748,000		38,000,000	152,748,000
American Wireless Telephone and Telegraph Co	5,000,000			5,000,000
Association of Fire Underwriters for Arkansas	39,694,226			39,694,226
Auto-Electric Co	1,000,000			1,000,000
Baltimore Electric Light Co	5,000,000			5,000,000
Bay State Gas Co	100,000,000		12,000,000	112,000,000
Bell Telephone Co. of Missouri	4,000,000			4,000,000
Binghamton Rwy. Co	1,150,000		1,199,000	2,349,000
Boston and New York Telephone and Telegraph Co	5,000,000			5,000,000
Boston Electric Light Co	3,000,000		1,250,000	4,250,000
Boston Elevated Railway Co	20,000,000		14,336,000	34,336,000
Boston Suburban Electric Companies	3,000,000	3,000,000	840,000	6,840,000
Brooklyn Ferry Co	8,500,000		7,500,000	16,000,000

List of trusts in the United States January 1, 1903—Continued.
PART II. LOCAL AND "NATURAL" MONOPOLIES—continued.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
Brooklyn Rapid Transit Combine	$45,000,000			$45,000,000
Brooklyn Union Gas Co	15,000,000			15,000,000
Buffalo Gas Co	7,000,000	$2,000,000	$5,900,000	14,900,000
Buffalo General Electric Co	2,400,000		2,400,000	4,800,000
California Central Gas and Electric Co	1,000,000			1,000,000
California Gas and Electric Corporation	30,000,000			30,000,000
Central District Printing and Telegraph Co	10,000,000			10,000,000
Central Electric Railway of Kansas City, Mo	500,000			500,000
Central Hudson Steamboat Co	600,000	400,000	500,000	1,500,000
Central New York Telephone and Telegraph Co	1,000,000		100,000	1,100,000
Central Union Gas Co. (Ohio and Indiana)	5,000,000	9,000,000		14,000,000
Central Union Telephone Co. (Illinois and Indiana)	10,000,000		6,000,000	16,000,000
Charleston (S.C.) Consolidated Rwy., Gas, and Electric Co	1,500,000			1,500,000
Chesapeake and Potomac Telephone Co	2,650,000		1,500,000	4,150,000
Chicago City Rwy. Co	19,000,000			19,000,000
Chicago Edison Co	7,590,000		7,483,000	15,073,000
Chicago Sectional Electric Underground Co	300,000		260,000	560,000
Chicago Telephone Co	15,000,000			15,000,000
Chicago Union Traction Co	20,000,000	12,000,000	88,394,200	120,394,200
Cincinnati Gas and Electric Co	28,000,000		1,300,000	29,300,000
Cincinnati, Newport and Covington Railway	4,000,000		3,000,000	7,000,000
Cincinnati Street Railway Co	20,000,000		692,000	20,692,000
Citizens' Lighting Company of Louisville, Ky	1,000,000		1,000,000	2,000,000
Cleveland Electric Illuminating Co	1,500,000	1,000,000	2,500,000	5,000,000
Cleveland Electric Railway Co	13,000,000		4,350,000	17,350,000
Columbia Car Electric Lighting and Brake Co	10,000,000			10,000,000
Columbus, Ohio, Gas Light and Heating Co	1,700,000	3,600,000	1,500,000	6,800,000
Commercial Cable Co	15,000,000		10,952,000	25,952,000
Commonwealth Electric Co. (Chicago)	5,000,000		3,100,000	8,100,000
Connecticut Railway and Lighting Co	11,000,000	4,000,000	15,000,000	30,000,000
Consolidated City Water Co. (Los Angeles)	2,480,000			2,480,000
Consolidated Gas Co. (Baltimore)	11,000,000		10,584,500	21,584,500
Consolidated Gas Co. (Long Branch)	1,000,000		1,000,000	2,000,000
Consolidated Gas Co. (Newark, N. J.)	6,000,000			6,000,000
Consolidated Gas Co. (New York)	80,000,000		71,235,000	151,235,000
Consolidated Gas Co. (Pittsburg)	4,000,000	2,500,000		6,500,000
Consolidated Railway Electric Lighting and Refrigerating Co	22,000,000			22,000,000
Consolidated Water Co. (Utica)	1,500,000	1,000,000	2,100,000	4,600,000
Cumberland Valley Telephone Co	200,000			200,000
Denver City Tramway Co	5,000,000			5,000,000
Denver Gas and Electric Co	3,500,000		5,500,000	9,000,000
Denver Union Water Co	5,000,000	2,500,000		7,500,000
Detroit City Gas Co	5,000,000		6,000,000	11,000,000
Detroit United Railway Co	12,500,000		25,000,000	37,500,000
Duluth General Electric Co	300,000		1,200,000	1,500,000
East Jersey Electric Co	1 000,000			1,000,000
East St. Louis and Suburban Co	5,000,000		8,000,000	13,000,000
Edison Electric Co. (Los Angeles)	2,000,000		1,641,000	3,641,000
Edison Electric Illuminating Co. (Boston)	8,750,000			8,750,000
Edison Electric Illuminating Co. (New York)	9,200,000			9,200,000
Electric Co. of America	25,000,000			25,000,000
Electric Storage Battery Co	13,000,000	5,000,000		18,000,000
Electric Vehicle Co	10,000,000	8,000,000	1,675,000	19,675,000
Electrical Lead Reduction Co	2,000,000			2,000,000
Electrotypers' Combine (New York)	5,000,000			5,000,000
Elgin, Aurora and Southern Traction Co	2,000,000		2,000,000	4,000,000
Elizabeth, Plainfield and Central Jersey Rwy	3,000,000		2,500,000	5,500,000
Equitable Gaslight Co. (Memphis)	1,000,000		1,005,000	2,005,000
Factory Insurance Association	34,655,000			34,655,000
Fairhaven and Westville (Conn.) Rwy. Co	5,000,000		2,543,000	7,543,000
Federal Telephone Co	10,000,000			10,000,000
Fort Pitt Gas Co	2,500,000		1,000,000	3,500,000
Fort Scott Consolidated Supply Co	250,000		200,000	450,000
Gas and Electric Co. (Bergen County, N. J.)	2,000,000		1,500,000	3,500,000
General Carriage Co	20,000,000			20,000,000
General Electric Co	45,000,000	865,000	3,720,000	49,585,000

List of trusts in the United States January 1, 1903—Continued.
PART II. LOCAL AND "NATURAL" MONOPOLIES—continued.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
General Electric Co. (Minneapolis)	$2,100,000			$2,100,000
General Electric Railway Co. (Chicago)	5,000,000		$3,000,000	8,000,000
Georgia Railway and Electric Co. (Atlanta)	5,000,000	$1,800,000	11,000,000	17,800,000
Hamilton Otto Coke Co. (Ohio)	500,000		500,000	1,000,000
Helena (Mont.) Power and Light Co	1,000,000		1,750,000	2,750,000
Herkimer County Light and Power Co	400,000		355,000	755,000
Hudson County Gas Co. (Jersey City)	10,500,000		10,500,000	21,000,000
Hudson River Telephone Co	4,000,000			4,000,000
Hudson River Water-Power Co	2,000,000		2,000,000	4,000,000
Hudson Valley Railway Co	3,000,000		4,000,000	7,000,000
Illinois State Board of Fire Underwriters	49,430,760			49,430,760
Imperial Electric-Light, Heat, and Power Co	1,500,000		1,000,000	2,500,000
Indiana League of Fire Underwriters	10,028,568			10,028,568
Indianapolis Street Railway Co	5,000,000		10,000,000	15,000,000
Interborough Rapid Transit Co	25,000,000			25,000,000
International Express Co	1,000,000			1,000,000
International Light, Heat, and Power Co. (Philadelphia)	500,000			500,000
International Power Co	7,400,000	600,000	225,000	8,225,000
International Traction Co. (Buffalo)	10,000,000	5,000,000	30,000,000	45,000,000
Interocean Telephone and Telegraph Co	2,000,000			2,000,000
Interstate Telephone Co. (Trenton)	5,000,000		1,100,000	6,100,000
Iowa Telephone Co	4,000,000		275,000	4,275,000
Jersey Central Traction Co	1,000,000		350,000	1,350,000
Jersey City, Hoboken, and Paterson Railway Co	20,000,000		20,000,000	40,000,000
Johnstown Light, Heat, and Power Co	500,000			500,000
Kansas City Electric Light Co	2,500,000		750,000	3,250,000
Kansas City Gas Co	5,000,000		3,942,000	8,942,000
Kentucky Heating Co	700,000		100,000	800,000
Keystone Telephone Co. (Philadelphia)	5,000,000	5,000,000		10,000,000
Kings County Electric Light and Power Co	2,500,000		11,951,000	14,451,000
Kinloch Telephone Co. (St. Louis)	2,000,000		2,000,000	4,000,000
Knoxville Electric Light and Power Co	110,000			110,000
Laclede Gas Light Co. (St. Louis)	8,500,000	2,500,000	10,750,000	21,750,000
La Crosse Gas and Electric Co	375,000	125,000	500,000	1,000,000
Lake Shore Electric Rwy. Co	4,500,000	1,500,000	4,000,000	10,000,000
Lake Street Elevated R. R. Co. (Chicago)	10,000,000		7,574,000	17,574,000
Lehigh Traction Co	1,000,000		585,000	1,585,000
Lehigh Valley Traction Co	3,000,000		6,652,000	9,652,000
Lexington (Ky.) Rwy. Co	1,500,000		875,000	2,375,000
Light, Heat, and Power Corporation (Boston)	1,000,000	250,000	100,000	1,350,000
Louisville Gas Co	3,600,000		500,000	4,100,000
Louisville Home Telephone Co	1,000,000		2,500,000	3,500,000
Louisville Railway Co	3,500,000		7,412,300	10,912,300
Lynchburg Traction and Light Co	750,000		1,000,000	1,750,000
Mahoning Valley Rwy. Co. (Youngstown, Ohio)	1,500,000		1,200,000	2,700,000
Manchester (N. H.) Traction, Light, and Power Co	5,000,000		1,500,000	6,500,000
Manhattan Rwy. Co	48,000,000		40,000,000	88,000,000
Manhattan Transit Co	10,000,000			10,000,000
Manufacturers' Light and Heat Co. (Pittsburg)	5,000,000		750,000	5,750,000
Marconi Wireless Telegraph Company of America	6,500,000			6,500,000
Market Street Railway Co. (San Francisco)	18,750,000		12,091,000	30,841,000
Massachusetts electric companies	14,293,100	15,057,400	3,500,000	32,850,500
Mauch Chunk, Lehighton and Slatington Street Rwy. Co	600,000		600,000	1,200,000
Memphis Light and Power Co	500,000		100,000	600,000
Memphis Street Rwy. Co	500,000		900,000	1,400,000
Metropolitan Securites Co. (New York)	52,000,000		95,449,000	147,449,000
Metropolitan Street Rwy. Co. (Kansas City)	8,500,000		15,600,000	24,100,000
Metropolitan West Side Elevated Rwy. Co. (Chicago)	7,500,000	9,000,000	11,907,000	28,407,000
Michigan Telephone Co	5,000,000		3,285,000	8,285,000
Middlesex and Somerset Traction Co	1,500,000		1,500,000	3,000,000
Mill Creek Valley Street Rwy. Co. (Cincinnati)	1,000,000	750,000		1,750,000
Milwaukee Electric Railway and Light Co	15,000,000	4,500,000	10,000,000	29,500,000
Minneapolis General Electric Co	1,500,000	750,000	3,008,000	5,258,000
Minnesota and Dakota Fire Underwriters	45,119,740			45,119,740
Missouri and Kansas Telephone Co	5,000,000		1,250,000	6,250,000

List of trusts in the United States January 1, 1903—Continued.
PART II. LOCAL AND "NATURAL" MONOPOLIES—continued.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
Missouri Edison Electric Co	$2,000,000	$2,000,000	$4,000,000	$8,000,000
Mobile Light and Railroad Co	2,250,000		2,250,000	4,500,000
Monongahela Street Railway Co	7,000,000		4,400,000	11,400,000
Montgomery Light and Power Co	750,000			750,000
Montgomery Railway Co	350,000		350,000	700,000
Municipal Gas Co. (Albany)	2,000,000		500,000	2,500,000
Nashville Railway Co	6,500,000		6,500,000	13,000,000
National Electric Car Lighting Co	2,000,000			2,000,000
National Gas and Construction Co	1,000,000			1,000,000
New Amsterdam Gas Co	12,000,000	9,000,000		21,000,000
New England Gas and Coke Co	17,500,000		17,500,000	35,000,000
New England Insurance Exchange	58,537,167			58,537,167
New England Telephone and Telegraph Co	20,000,000		4,000,000	24,000,000
New Hampshire Traction Co. (Exeter)	1,000,000			1,000,000
New Orleans Lighting Co	2,000,000		1,500,000	3,500,000
New Orleans Traction Lines	80,000,000			80,000,000
New Orleans Waterworks Co	2,000,000			2,000,000
Newport News and Old Point Railway and Electric Co	1,075,000		3,075,000	4,150,000
New York and New Jersey Telephone Co	15,000,000		1,324,000	16,324,000
New York and Pennsylvania Telephone and Telegraph Co	1,000,000		566,500	1,566,500
New York and Queens Electric Light and Power Co	1,250,000	1,250,000	2,500,000	5,000,000
New York Telephone Co	30,000,000		1,925,000	31,925,000
New York Transportation Co	5,000,000			5,000,000
Niagara Falls and Power Co	10,000,000		10,000,000	20,000,000
Norfolk, Portsmouth and Newport News Railway Co	550,000		1,000,000	1,550,000
Norfolk Railway and Light Co	1,650,000		4,000,000	5,650,000
North American Co. (electric financiering)	12,000,000			12,000,000
North Jersey Street Rwy. Co	30,504,000		28,500,000	59,004,000
North Shore Traction Co	4,000,000	2,500,000		6,500,000
Northern Ohio Traction Co (Akron)	2,500,000	1,000,000	3,300,000	6,800,000
Northwestern Elevated Railroad (Chicago)	5,000,000	5,000,000	15,000,000	25,000,000
Northwestern Telephone Exchange Co	4,354,300			4,354,300
Oakland (Cal.) Transit Co	6,000,000		3,000,000	9,000,000
Ohio and Indiana Air Line Railway Co. (Toledo)	750,000			750,000
Ohio and Indiana Consolidated Natural and Illuminating Gas Co	10,000,000		7,350,000	17,350,000
Ohio River Electric Railway and Power Co	300,000		300,000	600,000
Old Colony Street Railway Co	5,777,700		4,671,000	10,448,700
Old Dominion Railway Co. (Portsmouth, Va.)	2,000,000		542,000	2,542,000
Omaha and Council Bluffs Railway and Bridge Co	1,500,000		1,350,000	2,850,000
Omaha Street Railway Co	5,000,000		2,350,000	7,350,000
Pacific Lighting Co. (San Francisco)	4,000,000			4,000,000
Pacific States Telephone and Telegraph Co	15,000,000		750,000	15,750,000
Paterson and Passaic Gas and Electric Co	5,000,000		3,632,000	8,632,000
Peninsular and Occidental Steamship Co	3,000,000			3,000,000
Pennsylvania Electric Vehicle Co	800,000	400,000		1,200,000
Pennsylvania Manufacturing Light and Power Co	15,000,000			15,000,000
Pennsylvania Street Railway and Lighting Plants	8,000,000			8,000,000
Pennsylvania Telephone Co	3,000,000		500,000	3,500,000
People's Gas and Electric Co. (Oswego)	450,000		450,000	900,000
People's Gas Light and Coke Co. (Buffalo)	4,975,000	3,025,000		8,000,000
People's Gas Light and Coke Co. (Chicago)	35,000,000		29,046,000	64,046,000
People's Light and Power Co. (Newark, N. J.)	20,000,000			20,000,000
People's Mutual Telephone Co. (San Francisco)			500,000	500,000
Philadelphia Co. (natural gas)	15,000,000	6,000,000	20,250,000	41,250,000
Philadelphia Electric Co	25,000,000		28,307,300	53,307,300
Phoenix Gas and Electric Co	800,000		1,000,000	1,800,000
Pittsburg-Birmingham Traction Co	2,000,000		3,064,000	5,064,000
Pittsburg, McKeesport and Connellsville Railway Co	3,500,000		3,500,000	7,000,000
Portland Lighting and Power Co	300,000	100,000	400,000	800,000
Portland (Me.) Railroad Co	1,000,000		2,000,000	3,000,000
Portland (Oreg.) Railway Co	700,000	100,000	800,000	1,600,000
Pottsville Union Traction Co	1,250,000		1,117,000	2,367,000
Poughkeepsie City and Wappinger Falls Electric Railway Co	750,000		404,000	1,154,000
Providence-Pawtucket Suburban Railway Co	8,000,000		13,702,000	21,702,000
Public Works Co. (Bangor, Me.)	600,000		600,000	1,200,000

List of trusts in the United States January 1, 1903—Continued.
PART II. LOCAL AND "NATURAL" MONOPOLIES—continued.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
Pueblo Traction and Lighting Co	$1,500,000		$1,000,000	$2,500,000
Quaker City Cab Co	1,000,000			1,000,000
Quincy Gas and Electric Co	600,000		600,000	1,200,000
Railways Company General (Philadelphia)	1,200,000			1,200,000
Rapid Transit Co. (Chattanooga)	350,000		300,000	650,000
Rapid Transit Ferry Co. (New York)	1,000,000			1,000,000
Rapid Transit Rwy. Co. (Dallas)	100,000		200,000	300,000
Richmond Passenger and Power Co	1,000,000	$1,000,000	4,000,000	6,000,000
Richmond Traction Co	1,000,000		500,000	1,500,000
Rochester Gas and Electric Co	2,150,000		3,000,000	5,150,000
Rochester Rwy. Co	5,000,000		4,524,500	9,524,500
Rochester Telephone Co	700,000		400,000	1,100,000
Rockford (Ill.) Railway, Light, and Power Co	350,000		300,000	650,000
Rocky Mountain Bell Telephone Co	2,500,000			2,500,000
Sacramento Electric, Gas and Rwy. Co	2,500,000		2,100,000	4,600,000
Saginaw Valley Traction Co	700,000	400,000	705,000	1,805,000
St. Louis and Suburban Rwy. Co	3,000,000		2,300,000	5,300,000
St. Paul Gas Light Co	1,500,000			1,500,000
San Francisco Gas and Electric Co	20,000,000		623,000	20,623,000
Savannah Electric Co	2,500,000	1,000,000	1,500,000	5,000,000
Schenectady Rwy. Co	600,000		1,050,000	1,650,000
Schuylkill Traction Co	1,500,000		2,000,000	3,500,000
Schuylkill Valley Traction Co	500,000		500,000	1,000,000
Scott-Janney Electric Co	15,000,000	15,000,000		30,000,000
Scranton Rwy. Co	6,000,000		3,655,500	9,655,500
Seattle Electric Co	5,000,000	3,000,000	5,000,000	13,000,000
Shamokin Light, Heat and Power Co	350,000		225,000	575,000
Sioux City Traction Co	1,200,000		750,000	1,950,000
South Chicago Elevated R. R. Co	10,323,800		1,500,000	11,823,800
South Jersey Gas, Electric and Traction Co	6,000,000		6,000,000	12,000,000
Southeastern Tariff Association	41,424,318			41,424,318
Southern Light and Traction Co	2,500,000		2,500,000	5,000,000
Southern New England Telephone Co	5,000,000		1,000,000	6,000,000
Southern Ohio Traction Co	2,000,000		2,300,000	4,300,000
Southwest Missouri Electric Rwy. Co	800,000		800,000	1,600,000
Sprague Electric Co. (N. J.)	500,000			500,000
Standard Carbide Gas Co	5,000,000			5,000,000
Standard Telephone Co. (Kansas City)	10,000,000			10,000,000
Stanley Electric Manufacturing Co	2,000,000			2,000,000
Staten Island Midland Railway Co	1,000,000		1,000,000	2,000,000
Storey General Electric Co	3,500,000			3,500,000
Stowger Automatic Telephone Exchange (Chicago)	5,000,000			5,000,000
Strohm Automatic Electric Block Signal Co	5,000,000			5,000,000
Suburban Gas Co. (Philadelphia)	1,500,000		1,550,000	3,050,000
Syracuse Gas Co	2,500,000		2,500,000	5,000,000
Syracuse Lighting Co	3,000,000	1,000,000	2,000,000	6,000,000
Syracuse Rapid Transit Railway Co	2,750,000	1,250,000	4,086,000	8,086,000
Tacoma Railway and Power Co	2,000,000		1,700,000	3,700,000
Tampa Electric Co	500,000		500,000	1,000,000
Taylor Signal Co	400,000	100,000	200,000	700,000
Telephone Company of America	5,000,000			5,000,000
Telephone, Telegraph and Cable Company of America	9,000,000			9,000,000
Terre Haute Electric Co	1,000,000		1,500,000	2,500,000
Toledo, Bowling Green and Southern Traction Co	1,500,000		1,191,000	2,691,000
Toledo, Columbus, Springfield and Cincinnati Railway Co	5,000,000			5,000,000
oledo Railways and Light Co	12,000,000		9,875,000	21,875,000
Topeka Railway Co	1,250,000		450,000	1,700,000
Trenton Gas and Electric Co	2,000,000			2,000,000
Trenton Street Railway Co	1,000,000		2,000,000	3,000,000
Triple State National Gas and Oil Co	2,000,000		800,000	2,800,000
Twin City Rapid Transit Co	17,000,000	3,000,000	10,888,000	30,888,000
Twin City Telephone Co	1,500,000		750,000	2,250,000
Underwriters' Association of New York	56,428,711			56,428,711
Union Electric Co. (Dubuque)	500,000	500,000		1,000,000
Union Electric Construction Co	5,000,000			5,000,000
Union Elevated Railroad Co. (Chicago)	5,000,000		5,000,000	10,000,000
Union Ferry Co. (New York)	3,000,000		2,200,000	5,200,000
Union Light and Power Co. (Utah)	4,250,000	300,000		4,550,000
Union Light, Heat, and Power Co. (Covington)	1,500,000		1,500,000	3,000,000
Union Telephone Co. (Alma, Mich)	400,000			400,000

List of trusts in the United States January 1, 1903—Continued.

PART II. LOCAL AND "NATURAL" MONOPOLIES—continued.

Name.	Authorized capitalization.			
	Common stock.	Preferred stock.	Bonds.	Total.
Union Traction Company of Indiana	$4,000,000	$1,000,000	$5,000,000	$10,000,000
Union Traction Company of Philadelphia	30,000,000		42,341,684	72,341,684
United Electric Company of New Jersey	20,000,000		16,110,000	36,110,000
United Electric Light and Power Co. (Baltimore)	2,000,000	1,000,000	4,500,000	7,500,000
United Electric Securities Co.	500,000	1,000,000	2,231,000	3,731,000
United Express Companies	1,000,000	500,000		1,500,000
United Gas and Electric Co. (New York)	2,500,000	1,500,000	3,000,000	7,000,000
United Gas Improvement Co.	12,500,000	12,500,000	3,250,000	28,250,000
United Illuminating Co. (New Haven)	1,000,000		2,000,000	3,000,000
United Lighting and Heating Co.	6,000,000	6,000,000		12,000,000
United Power and Transportation Co. (Philadelphia)	12,500,000		8,787,630	21,287,630
United Railways Co. (Detroit)	12,500,000	1,000,000	8,280,000	21,780,000
United Railways Co. (St. Louis)	25,000,000	20,000,000	45,000,000	90,000,000
United Railways and Electric Co. (Baltimore)	24,000,000	14,000,000	52,000,000	90,000,000
United Railways Investment Co. (San Francisco)	10,000,000	15,000,000	20,000,000	45,000,000
United States Automatic Telephone Co	1,000,000			1,000,000
United States Express Co	10,000,000			10,000,000
United States Telephone Co. (Ohio)	2,000,000		1,800,000	3,800,000
United Telegraph, Telephone, and Electric Co.	1,000,000		500,000	1,500,000
United Telephone Co	300,000			300,000
United Telephone and Telegraph Co. (Maryland and Pennsylvania)	5,000,000	2,500,000		7,500,000
United Traction Co. (Albany)	5,000,000		4,121,300	9,121,300
United Traction Co. (Reading, Pa.)	403,700		594,900	998,600
United Traction and Electric Co. (Rhode Island)	8,000,000			8,000,000
Universal Gas Co.	1,000,000			1,000,000
Utica and Mohawk Valley Rwy. Co	2,500,000	600,000	4,000,000	7,100,000
Utica Electric Light and Power Co	1,000,000		1,000,000	2,000,000
Virginia Consolidated Street Railway System of Tidewater (Norfolk, Portsmouth, and Newport News)	6,000,000			6,000,000
Washington (D. C.) Gas Light Co.	2,600,000		600,000	3,200,000
Washington (D. C.) Railway and Electric Co.	6,500,000	8,500,000	17,500,000	32,500,000
Washington Water Power Co. (Spokane)	2,000,000		2,000,000	4,000,000
Wells-Fargo Express Co	8,000,000			8,000,000
Westchester Lighting Co. (New York)	10,000,000	2,500,000	4,450,000	16,950,000
Western Factory Insurance Association	23,862,500			23,862,500
Western Gas Co. (Milwaukee)	4,000,000		4,000,000	8,000,000
Western Telephone and Telegraph Co.	16,000,000	16,000,000	19,000,000	51,000,000
Western Union Fire Insurance Association	47,902,368			47,902,368
Western Union Telegraph Co	146,051,360			146,051,360
Wheeling Traction Co	2,000,000		2,500,000	4,500,000
Wilkesbarre and Wyoming Valley Traction Co.	5,000,000		2,175,000	7,175,000
Wilmington and Chester Traction Co.	2,000,000		4,000,000	6,000,000
Wilmington Gas and Electric Co	500,000	1,000,000	1,000,000	2,500,000
Woods Motor Vehicle Co	7,500,000	2,500,000		10,000,000
Worcester Railways and Investment Co	6,000,000			6,000,000
Wyandotte Gas Co. (Bethlehem, Pa.)	600,000		500,000	1,100,000
York County Traction Co. (Pa.)	1,500,000		971,000	2,471,000
York Telephone Co	200,000		200,000	400,000
Youngstown-Sharon Railway and Light Co	2,500,000		2,500,000	5,000,000
Total	2,938,618,600	296,922,400	1,284,056,819	4,519,597,819

EXHIBIT B.

The following abstract of the legislation of the various States will show to what extent publicity is required of the ordinary business corporation:

ALABAMA.

Annual return for taxation.—The president or chief officer of every corporation is required to make an annual return under oath to the assessors of the county where the corporation is located, showing the number of shares of the capital stock and par value, names and residences of the stockholders, actual par value and market value of shares, date of the last sale with names of seller and purchaser and price obtained, amount of dividends declared for the last three years, value of shares as shown by the books of such corporation and by the last report of the officers to stockholders, amount of surplus, amount of undivided profits not included in surplus, together with sworn statement of all taxable property, real and personal estate in the State, and the valuation and assessment thereof. (Alabama Code, sec. 3942.)

ARKANSAS.

President and secretary are required to make and file with the county clerk on or before February or August 15, annually, certificate showing the condition of the affairs of the corporation on January 1 or July 1, next preceding, containing the following particulars: Amount of capital stock actually paid in, cash value of real estate, cash value of personal estate, cash value of its credits, amount of indebtedness, names of shareholders and number of shares held by each. (Arkansas Statutes (Sanders & Hill, 1894), § 1337.)

Return from taxation.—In addition to the other property required to be listed, every corporation except those specially provided for shall, through the president, secretary, or principal accounting officer annually, during July, deliver to the assessor of the county a sworn statement of capital stock setting forth name and location of corporation, amount of capital stock authorized and number of shares, amount paid up, market value, or, if no market value, then the actual value, total indebtedness (except current expenses, excluding from current expenses purchase or improvement of property, and true value of all tangible property belonging to such corporation. (§ 6462, Id.)

CALIFORNIA.

Every corporation shall keep an office in the State and books for the inspection of any person having an interest therein in which shall be recorded the amount of the capital stock subscribed and by whom, names of owners and amount owned by each, respectively, amount paid in and by whom, transfers, amount of assets and liabilities, and names and residences of officers. (Const., art. 12, § 14.)

COLORADO.

An annual report shall be made within sixty days of January 1, showing the amount of capital stock, names of officers, residences, and addresses, amount of capital stock, amount paid in and how paid, amount of indebtedness, whether in active business in the State, other information to show with fullness and reasonable certainty the condition of its real and personal property and financial condition. (Mills Annotated Statutes of Colorado, § 491.)

If stock issued for property at value, the facts to be stated in reports. § 490, id.

Foreign corporations to file copy of charter, etc. § 500, id. See also § 499, id.

Every corporation except those assessed by State assessors to make return, sworn to by president or officer, to assessor of county, containing a sworn statement and schedule showing name and location of corporation, amount of capital stock and number of shares, amount of capital stock paid in and bonds outstanding, market value of stock and bonds or actual value, total indebtedness except for current expenses, excluding purchase or improvement of property, value and location of all property, gross earnings for the year ending April 30 preceding, net earnings for the same period, difference in value between tangible property and capital stock, and the mortgage or bonded indebtedness, name and description of each franchise or privilege owned or enjoyed, and its value.

CONNECTICUT.

The president and secretary of every corporation not required to make a similar report to the general assembly or some officer on or before the 15th of February or August shall file in the offices of the secretary of state and county clerk, where located, a certificate signed and sworn to by them (does not state where or before whom), showing condition on the 1st of December or January or June or July next preceding, and showing—

Amount of capital stock paid in—amount paid in cash and amount paid in property.

Cash value of real estate.

Name, residence, and number of shares of each stockholder.

Amount of its debts.

Cash value of personal estate.

Cash value of its credits. (General Statutes, § 3344.)

President and treasurer annually, on or before February 15 or August 15, shall file with the secretary of state and town clerk a certificate setting forth as of January 1 or July 1—

Names, residences, and post-office addresses of officers and directors.

Name, residence, and post-office address of each of the shareholders whose stock is not paid in full, with amount due thereon.

Location of the principal office in the State.

Number of shares and amount of other securities issued by other corporations owned by it, with their names and locations. (Id., § 3382.)

Report made by officer to assessors of names of stockholders residing in assessment district, with amount and value of stock held by each.

DELAWARE.

The president and secretary of every corporation shall annually, on December 1, make a return to the assessors, under oath, showing the number of shares of capital stock, market value per share, aggregate market or real value of all the shares, with names of owners and number of shares owned by each. (Chap. 381, Laws 1897, as amended by chap. 25, Laws 1898.)

Chapter 15, Laws 1901, section 2 (tax law), contains requirements as to certain corporations. All others shall file a report with the secretary of state January 1, showing location of office in State, names of officers, amount of authorized capital stock, amount paid in, amount invested in real estate, tax annually paid thereon, and amount invested in manufacturing and mining in the State.

President, with the secretary and treasurer, upon payment of each installment of capital stock, shall make and file with the secretary of state a certificate, stating the amount of the installment paid and whether in cash or property, also total amount of capital stock, if any, previously paid and reported. (Chap. 167, Laws 1901, § 23.)

FLORIDA.

Annual return shall be made to controller by the treasurer of every corporation, showing—

Names and residences of stockholders and number of shares owned by each.

Par and cash market value of shares.

Whole amount of capital stock and amount paid in.

Real and personal estate subject to taxation. (R. S., Florida, § 2134.)

GEORGIA.

Whenever corporations are required to make returns of property, etc., for taxation, such returns shall contain an itemized statement of property, each class or species to be separately named and valued or an itemized account of gross receipts, or business, or income, as above defined, or other matters required to be returned, and in case of net income only an itemized account of gross receipts and expenditures to show how the income returned is ascertained, etc. (Code, 1895, § 812.)

IDAHO.

Records and stock books open to directors, stockholders, members, and creditors. (Statutes of Idaho, §§ 2639, 2640.)

ILLINOIS.

A sworn statement shall be made to assessors giving the name and location of the corporation, amount of capital stock and number of shares, amount of

capital stock paid up, market value of shares, or, if no market value, the actual value, total indebtedness except for current expenses, excluding from current expenses purchase or improvement of property, assessed valuation of all tangible property.

Certificate of vote filed with secretary of state and recorder of deeds affecting changes as to name, place, enlargement or change of objects, increase or decrease of stock, or in number of directors, etc., or consolidation. (R. S. 1899, p. 443.)

Corporations annually, between February 1 and March 1, to report to secretary of state location, names of officers, with residences, and date of expiration of office, whether pursuing active business and kind of business, made under seal, signed, and sworn to by president, secretary, or other officer or assignee or receiver. (Laws 1901, p. 124.)

INDIANA.

Manufacturing and mining corporations shall make annual report within twenty days from January 1, under oath of president and majority of directors, and verified by them and the secretary, to be published in some newspaper in the county, showing the amount of capital stock, amount of assessments made and actually paid in, amount of existing debts.

The president or other accounting officer of every corporation shall annually, between April 1 and June 1, return a sworn statement to the assessor of its capital stock, setting forth particularly the name and location of the corporation, amount of capital stock and number of shares, amount paid up, market value, or if no market value, the actual value of shares, total indebtedness except current expenses, excluding from current expenses purchase and improvement of property, value of tangible property, difference in value between all tangible property and capital stock, name and value of each franchise or privilege owned or enjoyed by such corporation. (Thornton's Indiana Statutes, § 8988 et seq.) Officers may be examined.

IOWA.

In January, annually, corporations shall file with the secretary of state a list of officers and directors and any change in location. (Code of Iowa (1897), § 1612.)

Statement of amount of capital stock subscribed and amount actually paid in and amount of indebtedness in a general way, to be posted in like manner and corrected as often as changes occur. (§ 1625, id.)

Stock book shall be open to general inspection. (§ 1626, id.)

Corporations, on or before January 25, annually, shall furnish to the assessor of the district a verified statement showing specifically, with reference to the year next preceding January 1, total authorized capital stock and number of shares, number of shares issued and par value of each, amount paid into treasury on each share and total capital paid in, description and value of each tract of real estate owned by said corporation, date, rate per cent, and amount of each dividend declared and amount of capital on which declared, gross and net earnings, respectively, during the year, and amount of surplus, amount of profit added to sinking fund, highest price of sale of stock between 1st and 10th of January of current year, and highest price of sale during preceding year, and average of such sales. (§ 1323, id.)

KANSAS.

The president and secretary of every corporation shall annually as of June 30 make a statement to the secretary of state, showing the amount of authorized capital stock, amount of paid-up capital, par and market value per share, complete and detailed statement of assets and liabilities, a complete and detailed statement of the receipts of the corporation for the year next preceding, complete list of stockholders and post-office address of each, number of shares held and paid for by each, names and post-office addresses of trustees and manager and of directors. (General Statutes, Dassler, 1901, §§ 1283, 1263.) The secretary of state may at any time require a report as above.

KENTUCKY.

Public service corporations shall annually, between September 15 and October 1, make a statement to the auditor of public accounts, verified by the president or other officer, showing name of the corporation and principal place of business, kind of business, amount of capital stock, preferred and common, and number of shares of each, amount of capital stock paid up, par and real value, highest price at which sold within twelve months, amount of surplus and undivided profits, and value of other assets, total indebtedness as principal, amount of gross and net earnings or income, amount and kind of tangible property in the State and where situated and the fair cash value thereof, and such other facts as the auditor may require. (Statutes, Carroll, 1899, §§ 4077, 4078.)

LOUISIANA.

President, cashier, secretary, or agent of each corporation on or before March 1, annually, shall make a written statement under oath to the State collector or assessors of the parish or district, specifying the real estate owned by the corporation and where situated in the State, the amount of capital stock paid in and not invested in real estate, the principal place of business or where principal operations are carried on in which the corporation is liable to be taxed. (R. S., § 736.)

Stock book and books containing amount of capital stock subscribed, names of owners of stock and amounts owned by them, respectively, amount of stock paid and by whom, transfers of stock, with dates, amount of assets and liabilities, and names and places of residence of officers, to be open to public inspection. (Const., art. 273.)

MAINE.

The cashier, clerk, or treasurer of each corporation shall, between November 1 and December 8, annually, make return to the secretary of state of the names of stockholders and residences, amount of stock owned by each, and the whole amount of stock paid in as of November 1. The secretary of state shall lay the same before the legislature within the first thirty days. (R. S. Maine, ch. 46, § 31.)

Cashiers, clerks, or treasurers holding property liable to be taxed shall, by the 8th of April, annually, return under oath to assessors of town in which any of stockholders reside names of such holders, amount of stock owned by them on the 1st of April, and amount of stock paid in to such corporation. (§ 30, id.)

MARYLAND.

During the first week in January and July in each year a full and particular statement of affairs of every corporation shall be made, verified by oath of the president and treasurer or chief finance officer, which statement shall consist of a particular account of its assets and liabilities in minute detail to date. Recorded in book kept in principal office in State. (Public General Laws, Art. 23, § 73.)

The president and directors of every corporation shall keep full, fair, and correct accounts of their transactions, which shall be open at all times to the inspection of stockholders or members, and they shall annually prepare a full and true statement of the affairs of the corporation, which shall be certified to by the president and secretary and submitted at the annual meeting of the stockholders or members. (§ 5, id.)

MASSACHUSETTS.

Every corporation shall annually, within thirty days of the annual meeting, file with the secretary of state a report, sworn to by the president, treasurer, and a majority of the directors, showing the amount of capital stock, amount paid in, names of shareholders and the number of shares of each, assets and liabilities in form and detail as the commissioner of corporations shall require or approve. (Revised Laws of Mass., 1902, ch. 110, § 51.)

If the capital stock is over $100,000, such certificate shall be accompanied by a statement under oath of an auditor to be employed by three stockholders not directors, stating that such certificate represents the true condition as shown by the books. (§ 52, id.)

MICHIGAN.

Every manufacturing and mining corporation shall, in the month of January, annually file in the office of the secretary of state a statement under oath of the president or a director, giving names and number of shares held by each stockholder and places of residence, as of January 1. (Compiled Laws, 1897, § 6975.)

Every manufacturing corporation shall annually, in January or February, file with the secretary of state and county clerk a report, signed by a majority of the directors and verified by the oath of the secretary, showing the amount of the capital stock, the amount paid in, amount invested in real estate and in personal estate, amount of debts and credits, names of stockholders and number of shares of each, and such other information as the secretary of state may require. (§ 7048, id.)

It shall be the duty of the attorney-general, whenever and as often as required by the governor, to examine into the affairs of corporations and report examination in detail, with statement of facts, to the governor, who shall lay the same before the legislature. The attorney-general has power to administer oaths and to examine officers and directors on oath in relation to the affairs and condition of corporations and to examine vaults, books, papers, and documents.

The legislature has authority to make examinations, and may appoint a committee for that purpose which shall have the same powers as above. (§ 8551, id.)

MINNESOTA.

Corporations authorized to acquire private property.—By-laws shall be posted in principal place of business, subject to inspection. (§ 2597, Stats.)

A statement of the amount of capital stock subscribed, paid, and indebtedness in a general way, kept posted in principal place of business and corrected for changes. (§ 2598, id.)

Other corporations for profit.—The attorney-general, when required by the governor, shall examine into the affairs of corporations and report his examination in writing to the governor, with a detailed statement of facts, who shall lay the same before the legislature. The attorney-general has power to administer oaths to officers and directors and to examine vaults, books, papers, and documents belonging to the corporation or pertaining to its business. The legislature has same powers. (§ 3436, id.)

MISSISSIPPI.

No general requirement for publicity.

MISSOURI.

Foreign corporations shall file a copy of articles of incorporation in the office of the secretary of state and a certificate accompanying the same showing the location of its principal officer or agent in the State, and a sworn statement of the proportion of its capital stock represented by property and business transacted in Missouri. (Revised Laws, § 1025.)

Corporations shall make annual reports July 1, showing location of its principal business office, the names of the president and secretary, amount of capital stock subscribed and the amount paid up, par value and actual value of shares, cash value of all its personal property and of all its real estate within the State, and the amount of taxes paid for the preceding year. (§ 1013, id.)

Foreign corporations shall make annual report in July to secretary of state, signed and sworn to by principal officer in the State, showing the name of the principal officer in the State, location of principal office in the State, cash value of all real estate and personal property in the State as of June 1, amount of taxes paid in the State for the preceding year. (§ 1014, id.)

MONTANA.

Foreign corporations shall file with the secretary of state and county clerk a copy of charter or articles of incorporation, verified by oath of president and secretary and attested by a majority of the board of directors, showing name, location of principal place of business, out of State and in State, amount of capital stock, amount paid in in money, amount paid in in other ways, and in what amount of assets, and of what they consist and actual value, liabilities, and, if secured, how and on what property, also consent to be sued in State on cause arising in State, and designating person to be served. (Civil Code (1895), § 1030.)

Foreign corporations shall annually give statement containing same information as above. (L. 1901, p. 150.)

Domestic corporations shall make annual reports within twenty days from September 1, showing amount of capital stock and proportion paid in and amount of existing debts. The report shall be signed by president and a majority of directors and verified by the president, vice-president, or secretary, and published in a newspaper of the village or city of principal office and filed in county clerk's office. (Code, § 451.)

NEBRASKA.

By-laws of corporations shall be posted in conspicuous places at place of doing business, subject to public inspection. (Statutes (1899), § 1838.)

Corporations shall give notice annually in some newspaper printed in the county or counties where business transacted, or nearest newspaper in State, of amount of indebtedness. Signed by president and majority of directors. (§ 1839, id.)

Corporations shall make sworn statement to assessor showing name and location, amount of capital stock, and number of shares, amount of stock paid up, market value, and if no market value, then real value of shares, total amount of indebtedness, except current expenses, excluding from expense account amount paid for purchase or improvement of property, assessed valuation of real and personal property, same to be listed. (§ 4313, id.)

NEVADA.

Stock book and all other books of corporations shall be open to stockholders. Creditors and stockholders may have certified copy of any entry or of any paper on file in the office of such corporations and the same shall be presumptive evidence against such corporations. (Compiled Laws, § 881.)

NEW HAMPSHIRE.

All records, accounts, and papers of corporations should be open to the inspection of every member and stockholder and such petitions as relate to overdue and unpaid demand of creditor open to such creditor. (Pub. Stats. (1901), ch. 148, § 12.)

Certified copy furnished on payment of fee. (§ 13, id.)

Until capital stock fully paid and certificate thereof filed and recorded clerk shall annually, in May, file in office of town or city clerk at place of

business a list of names and residence stockholders certified under oath. (Ch. 150, § 10, id.)

Directors and treasurer to file certificate when stock fully paid under oath with town or city clerk. (§ 14, id.)

Corporations shall make annual return in May, under oath, of treasurer and majority of directors to secretary of state and town clerk of amount of assessments voted by corporation and actually paid, amount of all debts due to and by corporation, and value of all property and assets as of May 1. (§ 16, id.)

NEW JERSEY.

Contracts or agreements for sale, letting, leasing, consolidating, merging, or in any way disposing of or transferring the franchises, privileges, or any part thereof, shall be recorded in office of secretary of state.

Changes in name, amount of capital stock, par value of shares, etc., shall be certified to secretary of state.

List of corporations and names of officers and location of offices published annually by secretary of state (p. 949, § 200).

Corporations shall file list of officers within thirty days of annual meeting, date of election or appointment, term of office and residence of each, and place of business or corporation in State (p. 970, § 293, id.), character of business, and name of agent in charge of office on whom to serve.

Stock books open to stockholders thirty days prior to annual election (p. 914, id.).

Certificate filed when whole capital stock paid (p. 965, § 272, id.).

Every certificate filed must state location of office in State and name of agent in charge thereof on whom process may be served.

NEW YORK.

[Extract from volume entitled "Revised Statutes, Codes, and General Laws of New York," compiled by Clarence F. Birdseye, third edition, 1901, volume 3, page 3414.]

SEC. 30. *Annual report.*—Every domestic stock corporation and every foreign stock corporation doing business within this State, except moneyed and railroad corporations, shall, annually, during the month of January, or, if doing business without the United States, before the 1st day of May, make a report as to the 1st day of January, which shall state—

1. The amount of its capital stock and the proportion actually issued.
2. The amount of its debts, or an amount which they do not exceed.
3. The amount of its assets, or an amount which its assets at least equal.

Such report shall be made by the president or a vice-president or the treasurer or a secretary of the corporation, and shall be filed in the office of the secretary of state. If such report be not so made and filed, any such officer who shall thereafter neglect or refuse to make and file such report, within ten days after written request so to do shall have been made by a creditor or by a stockholder of the corporation, shall forfeit to the people the sum of $50 for every day he shall so neglect or refuse.

Stock or bonds shall only be issued for money, labor done, or property actually received, and in all statements and reports of the corporation stock issued for property purchased shall be so stated. (Page 3416, id.)

Increases or reductions of capital stock, changes in number of shares, place of business, etc., to be certified.

NORTH CAROLINA.

Property of corporations shall be listed for taxation in a statement showing the name and location of the corporation, amount of capital stock and number of shares, amount of capital stock paid up, market value of shares, or if no market value, actual value, assessed valuation of real property and of personal property listed and valued by items. (Act March 12, 1895, § 39.)

NORTH DAKOTA.

Such corporations (business) annually within twenty days from January 1 shall make a report and publish the same in a newspaper in the nearest place in the State, showing: Capital stock and amount paid in, amount and nature of indebtedness and amount due corporation, number and amount of dividends and when paid, and net amount of profits. Such report to be signed by president and majority of directors and verified by oath of president or secretary. Filed in office of register of deeds of county. (Revised Code of North Dakota (1895), § 3158, id.)

OHIO.

An annual report of the financial condition setting forth assets and liabilities of corporations shall be made and furnished to each stockholder with a list of the stockholders and residences. (Bate's Annotated Statutes of Ohio (1902), § 3268.)

Property of corporations shall be listed for taxation. (§ 2744, id.)

Books and records of corporations shall be open to stockholders. (§ 3254, id.)

OREGON.

Stock book of corporations open to any person interested therein. (Hill's Annotated Laws, § 3228.)

PENNSYLVANIA.

Certificate of incorporation states, among other things, what property is taken in payment for capital stock, and that such property is necessary for the purposes of the corporation. (Act of April 29, 1874, P. L. 73, as amended.)

Corporations shall make annual report in November by president, chairman, or treasurer, showing "total authorized capital stock, total authorized number of shares, number of shares of stock issued, par value of each share, amount paid into treasury on each share, amount of capital paid in, amount of capital on which dividend was declared, date of each dividend declared during said year ended with the first Monday of November, rate per centum of each dividend declared, amount of each dividend during the year ended with the first Monday of said month, gross earnings during the year, net earnings during the year, amount of surplus, amount of profits added to sinking fund during said year, highest price of sales of stock between the first and fifteenth days of November aforesaid, highest price of sales of stock during the year aforesaid, average price of sales of stock during the year; and in every case any two of the following-named officers, president, chairman, secretary, and treasurer, after being duly sworn or affirmed to do and perform the same with fidelity and according to the best of their knowledge and belief, shall, between the 1st and 15th days of November of each year, estimate and appraise the capital stock of the said company at its actual value in cash, not less, however, than the average price which said stock sold for during said year, and not less than the price or value indicated or measured by net earnings or by the amount of the profit made and either declared in dividends or carried into surplus or sinking fund, and when the same shall have been so truly estimated and appraised they shall forthwith forward to the auditor-general a certificate thereof, accompanied with a copy of their said oath or affirmation, signed by them and attested by a magistrate or other person duly qualified to administer the same: *Provided*, That if the auditor-general and State treasurer, or either of them, is not satisfied with the appraisement and valuation so made and returned, they are hereby authorized and empowered to make a valuation thereof based upon the facts contained in the report herein required, or upon any information within their possession or that shall come into their possession, and to settle an account on the valuation so made by them for the taxes, penalties, and interests due the Commonwealth thereon," etc. (Act of June 8, 1891, § 4 P. L., amending the act of June 1, 1889, § 20.)

RHODE ISLAND.

Manufacturing corporations shall file in the office of the town clerk annually, on or before February 15, a certificate signed by a majority of directors truly stating the amount of capital stock paid in, the value as last assessed for a town tax of its real estate, the value of its personal assets, and amount of its debts and liabilities on December 31 of the year next preceding. (General Laws, title 19, ch. 180, § 11.)

Corporations shall make returns of stockholders and amount owned by each to assessors of towns where stockholders reside.

SOUTH CAROLINA.

All subscriptions to the capital stock of any corporation shall be payable in money or in labor or in property at its money value, and shall be listed, the labor or the property, and the value thereof to be specified in the list of subscriptions; but no subscription in labor or in property shall be received unless such labor or property and the value thereof, so to be specified as aforesaid, be approved by said board of corporators, etc. (Civil Code (1902), § 1882.)

SOUTH DAKOTA.

The president, secretary, or principal accounting officer shall make and deliver to the assessor a sworn statement of the amount of capital stock, specifically setting forth the name and location of the corporation, amount of capital stock and number of shares, amount paid up, market value, if any, and, if not, the actual value, total indebtedness, except for current expenses, excluding from current expenses purchase and betterment of property, value of real estate and personal property. (Act of March 9, 1891.)

TENNESSEE.

The president of every corporation shall, annually, during the month of January, make and publish in a newspaper printed in the county of its principal place of business a sworn statement showing the amount of its capital stock and existing liabilities and list of names of stockholders. (Code (1884), § 1855.)

TEXAS.

When required by one-third of the stockholders of any corporation, a report shall be made of the situation and amount of business by the directors, and they shall declare and make such dividend as they shall deem expedient or the by-laws require. (Civil Code, art. 663.)

UTAH.

If property taken in payment of stock subscriptions, the same must be described and the value given in the articles of incorporation, and an affidavit filed of three persons that such property is worth the amount at which it is taken. (R. S., § 316.)

VERMONT.

Every corporation shall annually, on or before April 15, make to the clerk of the town in which stockholders reside a return giving a list of the names of such, number of shares standing in the name of each on April 1, the amount paid on the same, and to the clerk where the principal place of business is located a full list of stockholders with the same information. (Statutes, § 380.)

Before commencement of business, certificate to be filed of amount of capital stock paid in. (§ 3722.)

VIRGINIA.

Manufacturing and mining corporations shall exhibit books and statement of property and condition to such agent as the general assembly may from time to time appoint to examine same. (Code, § 1142.)

WASHINGTON.

The president, secretary, or principal accounting officer of each corporation shall make sworn return or statement to assessor, setting forth the name and location of the corporation, its real estate and where situated, the nature and value of its personal property. (Act March 15, 1897, § 20.)

WEST VIRGINIA.

The board of directors of every corporation shall make a report to stockholders at the annual meeting, showing property and funds and estimated value, debts due it and from it, amount of capital paid in and estimated surplus or deficiency, dividends declared, and losses or profits for year.

Copy report, with list of stockholders, delivered to stockholders. (Code, p. 551.)

Property, books, correspondence, and funds open to inspection by board or committee.

Every corporation to exhibit books and property to such agent or committees as the legislature may appoint to examine same and to report when legislature requires full, fair, and detailed statement on oath of president and secretary or principal bookkeeper. (Page 554, id.)

WISCONSIN.

The attorney-general, when required by the governor, shall examine into the affairs of corporations and report his examination in writing to the governor, with a detailed statement of facts, who shall lay the same before the legislature. The attorney-general has power to administer oaths to officers and directors and to examine vaults, books, papers, and documents belonging to corporation or pertaining to business. Legislature has same power. (Statutes, § 1766.)

Books of stock and accounts open to stockholders, and every creditor shall be informed at any time of amount of capital stock subscribed, amount paid in, who are stockholders, number of shares of each, amount unpaid by each, and if any unpaid shares transferred within six months, by whom, and amount unpaid at the time of transfer thereon. (§ 1757, id.)

Foreign corporations shall, within sixty days after request by any resident creditor, and annually thereafter, file with the secretary of state a statement showing the capital stock subscribed, amount paid in, and full names of stockholders, and amount of stock held by each. (§ 1770, id.)

WYOMING.

On request of 15 per cent of the capital stock the treasurer of any corporation shall render a statement of the affairs of the corporation, under oath, embracing a particular account of all assets and liabilities in minute detail, within twenty days after such request, and the same shall be kept on file in the office of the corporation for six months, open to the inspection of stockholders, but such statement shall not be required oftener than once in six months. (R. S. (1899), § 3057.)

DISTRICT OF COLUMBIA.

Annual reports.—Every such company (manufacturing, etc.) shall annually, except insurance companies, within twenty days from the 1st day of January, make a report, which shall be published in a newspaper in the District, which shall state the amount of capital and of the proportion actually paid, and the amount of existing debts, which report shall be signed by the president and a majority of the trustees, and shall be verified by the oath of the

president or secretary of the company, and filed in the office of the recorder of deeds of the District. (U. S. Stat. L., vol. 31, ch. 854, § 617.)

Many States require returns as a basis of taxation which are not included in the foregoing, the only purpose in this report being to give a general summary as to general publicity, with references to aid in verification.

PUBLICITY IN OTHER COUNTRIES.

In the matter of publicity of the facts involved in the organization and the operation of business corporations, our existing legislation and regulations fall very far short of similar legislation in other commercial countries. England is undoubtedly one of the most important industrial and commercial nations, and has very large and widely diffused business interests, many of which are necessarily operated through corporate organizations. Their requirements as to corporations, and the elements of publicity, are applied to the original prospectuses issued as the basis of their organization and for the purpose of inducing investment therein rather than in the line of making a report, but the same principles are involved. The English statutes as to the requirements necessary to be inserted in the prospectus was adopted in 1900, and reads as follows:

"SEC. 6. SPECIAL REQUIREMENTS AS TO PARTICULARS OF PROSPECTUS.—Every prospectus issued by or on behalf of a company, or any person engaged or interested in the formation of the company, must state (*a*) the contents of the memorandum of association, with the names, descriptions, and addresses of the signatories, and the number of shares subscribed for by them, respectively, and the number of founders' or management shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company; and (*b*) the number of shares, if any, fixed by the articles of association as the qualification of a director, and any provisions in the articles of association as to the remuneration of directors; and (*c*) the names, descriptions, and addresses of the directors or proposed directors; and (*d*) the minimum subscription on which the directors may proceed to allotment and the amount payable on application and allotment on each share, and in the case of a second or subsequent offer of shares the amount offered for subscription on each previous allotment and the amount actually allotted, and the amount, if any, actually paid on such shares; and (*e*) the number and amount of shares and debentures issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which such shares or debentures have been issued or are proposed or intended to be issued; and (*f*) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed to be so acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of publication of the prospectus, and the amount payable in cash, shares, or debentures to the vendor, and where there is more than one separate vendor, or the company is a subpurchaser, the amount so payable to each vendor; and (*g*) the amount, if any, paid or payable as purchase money in cash, shares, or debentures of any such property as aforesaid, specifying the amount payable for good will; and (*h*) the amount paid or payable as commission for subscribing or procuring or agreeing to procure subscriptions for any shares in the company, or the rate of any such commission; and (*i*) the amount or estimated amount of preliminary expenses; and (*j*) the amount paid or intended to be paid to any promoter and the consideration for any such payment; and (*k*) the dates and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected, provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or to any contract entered into more than three years before the date of publication of the prospectus; and (*l*) the names and addresses of the auditors, if any, of the company; and (*m*) full particulars of the nature and extent of the interest, if any, of every director in the promotion of or in the property proposed to be acquired by the company, with a statement of all sums paid or agreed to be paid to him in cash or shares by any person either to qualify him as a director or otherwise for services rendered by him in connection with the formation of the company. In this section the term "vendor" includes lessor, and "purchase money" includes rent. Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specially referred to in the prospectus, shall be void.

The statutes of Victoria, an important colony of Great Britain, which in some respects follows and in other notable respects leads the mother country upon its legislation upon this and similar subjects, read as follows with reference to the prospectus:

SEC. 10. PROSPECTUS TO GIVE NAMES OF DIRECTORS AND STOCK HELD BY EACH—THE CONTRACTS MADE BY COMPANY OR ITS OFFICERS—MEMORANDUM OF ASSOCIATION—CONSIDERATION GIVEN FOR PROPERTY, BONUS GIVEN FOR OBTAINING SUBSCRIPTIONS, ALLOTMENT, DIRECTORS' STOCK QUALIFICATION SHARES PAID FOR OTHERWISE THAN IN MONEY—THE VENDORS OF PROPERTY TO THE COMPANY—PRELIMINARY EXPENSES—WORKING CAPITAL—AUDITORS—LIABILITY FOR FAULTY PROSPECTUS.—Every prospectus, however published or issued, which is published or issued with a view of obtaining subscriptions for shares in a company, or directly or indirectly inviting persons to subscribe for shares in a company, shall specify (*a*) the names, addresses, and occupations of the promoters and directors and the number of shares held or agreed to be taken up by them, respectively, and whether wholly paid up or partly paid up, and the consideration, remuneration, or reward (if any) to the directors, promoters, or members of the company; (*b*) the date of and the names of the parties to any contract directly or indirectly relating to the company, or to the promotion thereof, entered into by the company, or the promoters, directors, or trustees thereof, within two years before the issue of such prospectus; and shall also state a place where such contract, if in writing, may be inspected: *Provided*, That this subdivision of this section shall not apply to a contract entered into by the company after its incorporation in the ordinary course of the business carried on by the company; (*c*) the contents of the memorandum of association (if any), with the names and addresses of the signatories and the number of shares subscribed for by them respectively; (*d*) the consideration paid or to be paid (and if so, how and when) for any property purchased or acquired or to be purchased or acquired by the company, and from whom and when purchased or acquired, and whether any part (and if so, how much) of such consideration money is for good will; (*e*) the amount (if any) payable as commission, bonus, or reward for subscribing or agreeing to subscribe, or procuring or agreeing to procure, subscriptions for any shares in the company, or the rate of any such commission; (*f*) the minimum subscription upon which directors will proceed to allotment; (*g*) the number of shares (if any) fixed by the articles of association as the qualification of a director; (*h*) the minimum amount payable on application and allotment on each share; (*i*) the number and amount of shares issued or agreed to be issued as fully paid or partly paid up otherwise than in money, and in the latter case the extent to which they are so paid up, and in either case the consideration for which and the person or persons to whom such shares have been issued or are proposed or intended to be issued; (*j*) the names, addresses, and occupations of the vendors of any property purchased or acquired by the company, or to be so purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has been contemplated at the date of publication of the prospectus, and where there is more than one vendor or the company is a subpurchaser, the amount payable in money or shares to each vendor; (*k*) the amount or estimated amount of preliminary expenses; (*l*) the amount paid or intended to be paid and the shares allotted or intended to be allotted to or for any promoter and the consideration therefor; (*m*) the amount intended to be reserved for working capital; (*n*) the proposed application of the proceeds of the issue of the shares, and (*o*) the names and addresses of the auditors or intended auditors (if any) of the company. A prospectus which does not comply with the foregoing requirements shall be deemed fraudulent on the part of every promoter or director, and every person having authorized the insertion of his name in the prospectus as a director or as having agreed to become a director, and unless they show the fault was neither willful nor negligent they shall be jointly and severally liable for all damages caused thereby, and any person taking shares on the faith of such prospectus may, besides suing for damages, rescind the contract.

This section became a law in 1896. They have a further section which provides that no applicant for shares can waive any condition, such waiver being expressly declared to be void.

EXHIBIT C.

A DIGEST OF THE PRINCIPAL BRITISH AND AMERICAN DECISIONS UPON WHAT CONSTITUTES MONOPOLY, ILLEGAL COMBINATION, OR RESTRAINT OF TRADE, AT COMMON LAW.

BRITISH DECISIONS.

1. CONTRACTS IN RESTRAINT OF TRADE.

THE DYER'S CASE (BRITISH, 1415), THE EARLIEST REPORTED CASE.

In the reign of Henry V a dyer bound himself not to exercise his trade for six months in the same town with the plaintiff. An action on the bond was brought, but the case was dismissed. The court said:

"If the plaintiff were here he should go to prison till he had paid a fine to the King." (Yearbook, 2 Hen. V.)

RESTRICTING THE TRADE OF A HABERDASHER (BRITISH, 1602).

A workman agreed to pay £20 if he should use the trade of haberdasher within the county of Kent. The court held that to prohibit or restrain any one to use a lawful trade at any time, or at any place, was against the law, and said:

"Although it were alleged that here he is not prohibited or obliged absolutely that he shall not exercise the trade of an haberdasher, but that if he exercise it, he shall pay to the plaintiff £20, and so it differs from the Dyer case, yet it was all one; for he ought not be abridged of his trade and living." (Colgate *v.* Bacheler, 1 Croke's Rep., 872.)

THE IPSWICH TAILORS' CASE (BRITISH, 1602).

Certain workmen bound themselves not to work at a certain trade, but the court held the bond void at common law, and said:

"No man could be prohibited from working in any lawful trade, for the law abhors idleness, the mother of all evil, and especially in young men, who ought in their youth (which is the seed time) to have lawful sciences and trades, which are profitable to the commonwealth, and whereof they might reap the fruit in their old age, for idle in youth, poor in age; and therefore the common law abhors all monopolies which prohibit any from working in any lawful trade." (Ipswich Tailors' case, 11 Coke's Rep., 53a.)

CONTRACT NOT TO EXERCISE TRADE OF JOINER (BRITISH, 1635).

A man agreed that he would not exercise the trade of joiner in a certain shop in London for twenty-one years. Subsequently he leased the shop to a joiner who exercised his trade therein during the period. The entire court agreed that a man can not bind himself that he shall not use his trade generally, but that he might bind himself not to use it for a time certain in a place certain. (Rogers *v.* Parry, 2 Bulstrode, 136.)

AGREEMENT NOT TO USE A TRADE (BRITISH, 1649).

A woman, in consideration of a marriage to be had between a certain man and her daughter, promised £100 to the man and £10 for apparel for her daughter, and agreed to assign over her shop with divers wares in it, and her trade to the man. She further agreed not to use her trade in a certain town. While on a suit to enforce the contract the man obtained verdict, yet it was thus early urged that the agreement not to use her trade was contrary to law and void. (Prugnell *v.* Gosse, Alleyn, 67.)

AGREEMENT NOT TO EXERCISE A TRADE (BRITISH, 1711).

[The celebrated case of Mitchell *v.* Reynolds.]

A baker assigned to a man the lease of a certain bakehouse for the term of five years, and agreed not to exercise the trade of a baker within the parish during that period, upon a penalty of £50. Upon a suit to recover, the defendant urged that he was a baker by trade, that he had served his regular apprenticeship, and that the bond was void in law. The court said:

"The general question upon this record is whether this bond, being made in restraint of trade, be good. And we are all of opinion that a special consideration being set forth in the condition, which shows it was reasonable for the parties to enter into it, the same is good; and that the true distinction of this case is not between promises and bonds, but between contracts *with* and *without* consideration, and that wherever a sufficient consideration appears to make it a proper and useful contract, and such as can not be set aside without injury to a fair contractor, it ought to be maintained; but with this constant diversity, viz, where the restraint is general not to exercise a trade throughout the kingdom, and where it is limited to a particular place; for the former of these must be void, being of no benefit to either party, and only oppressive, as shall be shown by and by. * * *

"To conclude: In all restraints of trade, where nothing more appears, the law presumes them bad; but if the circumstances are set forth, that presumption is excluded, and the court is to judge of those circumstances and determine accordingly; and if upon them it appears to be a just and honest contract, it ought to be maintained."

This case is frequently cited in England and America as the leading case upon the subject. (Mitchell *v.* Reynolds, 1 P. Wms., 181.)

CONTRACT PROHIBITING SALE OF GUNS UNDER CERTAIN CONDITIONS (BRITISH, 1742).

The Gunmakers' Company had a by-law prohibiting the sale of guns under certain conditions to any person engaged in London or within 4 miles thereof not a member of the company, and certain other restrictions. The validity of the by-law was challenged on the ground that it was in unlawful restraint of trade. The court held the by-law illegal, and said:

"To oblige a man after he has finished his barrels not to sell them to anyone but one who is admitted of the company is a great restraint upon trade

So, likewise, not to put his mark or to suffer his mark to be put upon the barrel of any person not admitted of the company is a very great hardship and restraint, unless there was a particular reason for it." (The Master, etc., of Gunmakers *v.* Fell, Willes R., 384.)

CONSPIRACY TO IMPOVERISH A CERTAIN TAILOR (BRITISH, 1783).

Indictment stated that Eccles and six others, intending unlawfully and by indirect means to impoverish a certain tailor and to hinder him from using his trade, unlawfully conspired and combined for that purpose. The indictment was held good. Said the court:

"The conspiracy is to prevent both from working, the consequence is poverty. Both the conspiracy and the consequence are stated; but it is objected that there is no allegation of the means. Such an allegation is unnecessary." (King *v.* Eccles, 3 Doug., 337.)

ENGROSSING THE MARKET (BRITISH, 1800).

The defendant was charged with spreading rumors with intent to enhance the price of hops, and with engrossing large quantities of hops with the intent to resell the same for an unreasonable profit. He was convicted and heavily fined. Lord Kenyon said:

"That our law books do declare practices of the sort with which the defendant is charged to be offenses at common law can not be denied." (King *v.* Waddington, 1 East, 143.)

NOTES.—"These [forestalling, engrossing, and regrating] are kindred offenses, indictable both under the ancient common law and by early English statutes, yet seldom made the subject of a criminal prosecution in modern times. And in England they were abolished in 1844 by 7 and 8 Vict., c. 24, both as common-law offenses and as statutory." (Bishop's New Criminal Law, sec. 518.)

King *v.* Waddington "has been sharply criticised as not in harmony with modern political economy; and it no doubt goes beyond what would be considered proper among us. It has never been judicially disapproved." (Spelling's Trusts and Monopolies, p. 253.)

Mr. W. F. Dana, in 7 Harv. Law Rev., 338 (1894), denied that "engrossing" at common law had any relation to "monopolizing." (See Cooke's Trade and Labor Combinations, p. 159.)

"Entirely apart from these statutes, we must hold it to be indictable, on general principles of common law, to engross and absorb any particular necessary staple or constituent of life so to impoverish and distress the mass of the community for the purpose of extorting, by terror or other coercive means, prices above the real value. Questions of this kind have usually come before the courts on indictments for conspiracy, for it is by conspiracies that extortions of this kind are generally wrought. But on an indictment against an individual for buying up all the grain or other necessary staple so as to produce a famine in the market, and thus to obtain grossly extortionate prices, wrung through a sense of misery from the community, the offense may be held indictable at common law." (2 Whart. Crim. Law, sec. 1851.)

NOTE.—"The common law against these offenses of forestalling, engrossing, regrating, and monopolies has borne the test of ages, and has been wise and useful. The fault has not been in this law in the United States, but in the nonexecution of it." (7 Dane Abr., 39.)

REGRATING A CRIME AT COMMON LAW (BRITISH, 1800).

It is conceded that the statute of 12 George III has repealed all existing statutes relating to regrating; nevertheless regrating is a crime at common law. (Rex *v.* Busby, Peake's Add. Nisi Prius Cas., 189.)

NOTE.—Blackstone in his Commentaries has the following to say of regrating, forestalling, engrossing, and monopoly at common law:

BLACKSTONE ON REGRATING, FORESTALLING, ENGROSSING, AND MONOPOLY AT COMMON LAW (BRITISH, 1765).

"The offense of forestalling the market is also an offense against public trade. This, which (as well as the two following) is also an offense at common law, was described by statute 5 and 6 Edward VI, chapter 14, to be the buying or contracting for any merchandise or victual coming in the way to market, or dissuading persons from bringing their goods or provisions there, or persuading them to enhance the price, when there; any of which practices make the market dearer to the fair trader.

"Regrating was described by the same statute to be the buying of corn or other dead victual in any market and selling it again in the same market or within 4 miles of the place, for this also enhances the price of the provisions, as every successive seller must have a successive profit.

"Engrossing was also described to be the getting into one's possession, or buying up, large quantities of corn or other dead victuals, with intent to sell them again. This must of course be injurious to the public by putting it in the power of one or two rich men to raise the price of provisions at their own discretion. And so the total engrossing of any other commodity, with intent to sell it at an unreasonable price, is an offense indictable and finable at the common law. And the general penalty for these three offenses by the common law (for all the statutes concerning them were repealed by 12 George III, c. 71) is, as in other minute misdemeanors, discretionary fine and imprisonment. Among the Romans these offenses and other malpractices to raise the price of provisions were punished by a pecuniary mulct.

"Monopolies are much the same offense in other branches of trade that engrossing is in provisions, being a license or privilege allowed by the King for the sole buying and selling, making, working, or using of anything whatsoever, whereby the subject in general is restrained from that liberty of manufacturing or trading which he had before. These had been carried to an enormous height during the reign of Queen Elizabeth, and were heavily complained of by Sir Edward Coke in the beginning of the reign of King James the First, but were in a great measure remedied by statute (21 Jac. I, c. 3), which declares such monopolies to be contrary to law and void (except as to patents, not exceeding the grant of fourteen years, to the authors of new inventions, and except also patents concerning printing, saltpeter, gunpowder, great ordnance, and shot), and monopolists are punished with the forfeiture of treble damages and double costs to those whom they attempt to disturb; and if they procure any action brought against them for these damages to be stayed by any extrajudicial order other than of the court wherein it is brought they incur the penalties of præmunire.

"Combinations, also among victualers or artificers, to raise the price of provisions, or any commodities, or the rates of labor, are in many cases severely punished by particular statutes; and in general by statutes 2 and 3 Edward VI, capita 15, with the forfeiture of £10, or twenty-one days' imprisonment, with an allowance of only bread and water, for the first offense; £20 or the pillory for the second, and £40 for the third, or else the pillory, loss of one ear, and perpetual infamy. In the same manner, by a constitution of the Emperor Zeno, all monopolies and combinations to keep up the price of merchandise, provisions, or workmanship were prohibited upon pain of forfeiture of goods and perpetual banishment." (4 Blackstone, pp. 158-160.)

WHAT IS A REASONABLE RESTRAINT OF TRADE (BRITISH, 1831)?

A surgeon dentist agreed not to practice his trade within 100 miles of the city of York, where the plaintiff carried on that business. This was held by the court to be an unreasonable restraint, because it was larger than was necessary to afford a fair protection to the plaintiff in the enjoyment of his trade. The court said:

"We do not see how a better test can be applied to the question whether this is or not a reasonable restraint of trade than by considering whether the restraint is such only as to afford a fair protection to the interests of the party n favor of whom it is given, and not so large as to interfere with the interests of the public Whatever restraint is larger than the necessary protection of the party requires can be of no benefit to either. It can only be oppressive. It is, in the eye of the law, unreasonable. Whatever is injurious to the interests of the public is void on the ground of public policy." (Horner *v.* Graves, 7 Bing., 735.)

CONTRACT NOT TO BE A CARRIER DURING LIFE (BRITISH, 1837).

An owner of an express abandons his express business between two places, and covenants not to exercise the trade of carrier during his life. The purchaser gave him life employment as his assistant. This covenant was held valid by the court. (Wallis *v.* Day, 2 M. and W., 273.)

CONTRACT UNLIMITED AS TO TIME (BRITISH, 1837).

A clerk entering into the service of a druggist agreed that if he (the clerk) shall at any time thereafter exercise the trade or business of chemist and druggist in a certain town he should pay £500 in liquidated damages. The court held that the restraint was not shown to be unreasonable or oppressive by the circumstance that its duration was not limited to the life of the employer, or to the time during which he should carry on the business. (Hitchcock *v.* Coker, 6 Ad. and El., 438.)

CONTRACT NOT TO BE EMPLOYED IN A CERTAIN BUSINESS FOR A CERTAIN TIME (BRITISH, 1839).

A clerk, in consideration of employment, agreed that he would not within two years after leaving his employer's service solicit any of his employer's customers, or within nine months thereafter be employed in the business of a coal merchant. The court held the contract void as it was unlimited in point of space, and said: "It is against the principles and policy of the law as to any restraints on trade, and the right of every man to be at liberty to struggle for his own existence in the exercise of any lawful employment; and it is beyond what is necessary for the protection of the plaintiff, or what the justice of the case demands." (Ward *v.* Byrne, 5 M. and W., 548.)

A CONTRACT NOT TO PRACTICE A PROFESSION ANYWHERE (BRITISH, 1843).

A surgeon dentist covenanted not to carry on his profession in London or any of the towns or places in England or Scotland where the plaintiffs or the defendant, on their account, might have been practicing before the expiration of service. The court declared the contract void, and said:

"According to the terms of this covenant, the defendant is prohibited from carrying on his business, not merely at such place or places as the plaintiffs might be practicing at the time of the expiration of the service, but at any place where they might have been practicing before, though for ever so short a time. * * *

"Contracts for the partial restraint of trade are upheld, not because they are advantageous to the individual with whom the contract is made, and a sacrifice pro tanto of the rights of the community, but because it is for the benefit of the public at large that they should be enforced. Many of these partial restraints on trade are perfectly consistent with public convenience and the general interest, and have been supported. Such is the case of the disposing of a shop in a particular place, with a contract on the part of the vendor not to carry on a trade in the same place. It is in effect the sale of a good will, and offers an encouragement to trade by allowing a party to dispose of all the fruits of his industry. * * *

"And such is the class of cases of much more frequent occurrence, and to which this present case belongs, of a tradesman, manufacturer, or professional man taking a servant or clerk into his service, with a contract that he will not carry on the same trade or profession within certain limits. * * * In such a case the public derives an advantage in the unrestricted choice which such a stipulation gives to the employer of able assistants, and the security it affords that the master will not withhold from the servant instruction in the secrets of his trade and the communication of his own skill and experience, from the fear of his afterwards having a rival in the same business." (Mallan *v.* May, 11 Mees. and W., 652.)

CONTRACT NOT TO SELL BREAD ON PREMISES FOR SPECIFIED TIME (BRITISH, 1844).

A baker agreed that he would not, during a certain term, solicit the custom of or knowingly supply bread or flour to any of the customers then dealing at the premises, without the consent of the man to whom he had assigned his business. The court held the agreement not to be in unreasonable restraint of trade, and said:

"Contracts in partial restraint of trade, limited as to time and territory, founded on a reasonable consideration, confined to particular persons, are valid." (Rannie *v.* Irvine, 7 Man. and G., 976.)

CONTRACT RESTRICTING RIGHT OF TRAVELING SALESMAN TO SELL FOR ANOTHER (BRITISH, 1859).

A salesman agreed with his employers that in case he traveled for any other house in the same trade, after he had left his employers' service, he would forfeit £50. The court held that this contract was not an unreasonable restraint of trade, and said:

"Contracts for the partial restraint of trade are upheld, not because they are advantageous to the individual with whom the contract is made, and a sacrifice pro tanto of the rights of the community, but because it is for the benefit of the public at large that they should be enforced. Many of these partial restraints are perfectly consistent with public convenience and the general interest, and have been supported." (Mumford *v.* Gething, 7 C. B. N. S., 305.)

EXCLUSIVE ENJOYMENT OF THE BENEFITS PURCHASED (BRITISH, 1869).

A company was formed for the purchase and working of a process in the manufacture of leather cloth introduced into England from America. The contract of purchase contained a stipulation that the vendors "will not, directly or indirectly, carry on, nor will they, to the best of their power, allow to be carried on by others, in any part of Europe, any company or manufactory having for its object the manufacture or sale of productions now manufactured in the business or manufactory of the vendors, and will not communicate to any person or persons the means or processes of such manufacture, so as in any way to interfere with the exclusive enjoyment by the purchasing company of the benefits hereby agreed to be purchased."

The court held such a restriction was reasonable, the entire business and the subject-matter of the contract being considered. (Leather Cloth Co. *v.* Lorsont, 39 L. J., ch. 86.)

CONTRACT NOT TO PROCURE ORDERS (BRITISH, 1872).

A salesman agreed not at any time during his service for his present employers, or within two years from his quitting their service, either directly or indirectly, to sell, procure orders for sale, or recommend or be in any wise concerned in the sale or recommendation, either on his own account or for

any other person, of any Burton ale or beer or porter. The court held this contract void, and said:

"There has been a natural inclination of the courts to bring within reasonable limits the doctrine as to these covenants laid down in the earlier cases, but it has been generally considered in the later, as well as in the earlier, cases that a covenant not to carry on a lawful trade, unlimited as to space, is on the face of it void. * * * And the rule, if not obviously just, is at any rate simple and very convenient." (Allsopp *v.* Wheatcroft, 42 L. J., ch. 12.)

NOTE.—Allsopp v. Wheatcroft "was disapproved of in Rousillon *v.* Rousillon." (See Lopes, L. J., in Mills *v.* Dunham, 1 ch. Div., 1891, 576.)

RESTRICTIONS UPON THE CHAMPAGNE TRADE (BRITISH, 1879).

Defendant addressed a letter to the plaintiff, in which he undertook not to represent any house in the champagne business for a period of two years after leaving the plaintiff, or to establish himself or associate himself with other persons or firms in the champagne business for a period of ten years. These undertakings were made upon assurances that defendant's position was assured in the house, barring the happening of unforeseen events or negligence on defendant's part. The agreement was made upon the continent. Within the time fixed the defendant started in the prohibited business in London. The restriction applied to the champagne trade, and it clearly appeared that this trade extended over all Europe.

The court held that, considering the peculiar nature of the trade, the restraint was not unreasonable either in point of time or extent of territory. As to the rule that the extent of the territory determines the validity of the contract rather than the nature of the trade, the court said:

"I have, therefore, upon the authorities, to choose between two sets of cases, those which recognize and those which refuse to recognize this supposed rule; and, for the reasons which I have already mentioned, I have no hesitation in saying that I adhere to those authorities which refuse to recognize this rule, and I consider that the cases in which an unlimited prohibition has been spoken of as void relate only to circumstances in which such a prohibition has been unreasonable." (Rousillon *v.* Rousillon, L. R. 14, Ch. Div., 351.)

CONTRACT NOT TO DO BUSINESS "SO FAR AS THE LAW ALLOWS" RESTRAINS TRADE (BRITISH, 1887).

A retiring partner covenanted to retire from business "so far as the law allows." The court held such a covenant was too vague for the court to enforce. "The old rule," said the court, "that the law does not allow an absolute covenant in restraint of trade is still binding. The covenant is void on that ground also." (Davies *v.* Davies, 36 L. R., Ch. Div., 359.)

AGREEMENT CONTAINING NO LIMITATIONS AS TO SPACE (BRITISH, 1892).

A German company engaged in the manufacture and sale of aniline and soda made a contract with certain agents in England, whereby the agents were to have exclusive agency for certain articles, and to be paid over a very substantial sum during the life of the agreement. In consideration therefor the agents bound themselves for three years after the determination of the agreement not to enter into any similar business or give any information of any kind about the business of their principals. The court held the contract good, notwithstanding the fact that it contained no limitations as to space, and said:

The result of the authorities down to the present time on this question of a covenant in restraint of trade appears to be as follows: Where the restraint is general—that is, without qualification—the covenant is bad as being unreasonable and contrary to public policy. Where the restraint is partial—that is, subject to some qualification either as to time or space—then the question is whether the restraint *is reasonable; and if reasonable*, it is good in law. In considering this question of reasonableness the points to which the attention of the court is specially directed are the limits of time and space and the protection required for the trade of the covenantee, this latter point involving the examination of the nature and extent of the trade. The reasonableness depends on all the circumstances, and these must be duly weighed in each case. If the restraint is greater than the protection that the business of the covenantee can possibly require, the covenant is unreasonable and void. (Badische Anilin und Soda Fabrik *v.* Schott & Segner, 61 L. J. R., ch. 698.)

UNREASONABLE RESTRICTION UPON A CLERK AND BOOKKEEPER (BRITISH, 1892).

A clerk and bookkeeper agreed not to accept any situation as clerk or agent, nor to establish himself in a similar business within a certain distance without the written permission of his employer, for a period of three years after leaving the employer's service. There was a proviso in the contract that such permission should not be withheld if it should be shown to the satisfaction of the employer that the situation accepted was not with a firm dealing in the same class of goods as the employer. The court said that "the employer has put upon this clerk the outside limit, and stipulated that he shall not engage in any business," and therefore declared the agreement void. (Perls *v.* Solfeld, 61 L. J., ch. 409.)

RESTRICTIONS UPON MANUFACTURE OF GUNS (BRITISH, 1894).

Nordenfelt agreed with a gun company that he would not engage for a period of twenty-five years, either directly or indirectly, in the business of manufacturing guns and their accessories, except on behalf of the gun company. The consideration was that the gun company purchased the plant and good will of Nordenfelt, he being retained as manager on a salary. The consideration was held sufficient to sustain the contract.

"It has been determined judicially," said the court, "that in cases where the purchaser for his own protection obtains an obligation restraining the seller from competing with him within bounds which, having regard to the nature of the business, *are reasonable* and are limited in respect of space, the obligation is not obnoxious to public policy, and is therefore capable of being enforced." (Nordenfelt *v.* Maxim-Nordenfelt Co., 63 L. J. R. Ch., 908.)

2. ILLEGAL COMBINATIONS AND MONOPOLIES.

MONOPOLY IN PLAYING CARDS (BRITISH, 1602).

The plaintiff was given the sole right to import playing cards and the entire traffic in them and the sole right to make such cards within the realm. The defendant, in disregard of this grant, made and sold some gross of such cards and imported others, and was accordingly sued for infringing upon the exclusive privileges of the plaintiff. As to a portion of the cards made and sold within the realm he pleaded that he was a haberdasher in London and a free citizen of that city, and as such had a right to make and sell them. The court held the plea good and the grant void as against the common law and divers acts of Parliament. (Case of Monopolies, 11 Coke, 84b.)

CONFEDERATION AMONG BREWERS TO PUT DOWN THE GALLON TRADE (BRITISH, 1665).

Information was filed against brewers of London for confederating and conspiring to put down the gallon trade by which the poor are supplied, which caused mutiny against the farmers of excise. It was moved to quash the information on the ground that it is no crime by our law to *depauperate another in order to enrich oneself*. But after several debates the king's bench gave judgment for the King. They all agreed that the conspiracy here is an act punishable. (Starling Case, 1 Keb., 650.)

NOTE.—"Down to the end of the seventeenth century there appears to be no reason to suppose that, apart from the determination in Starling's case—a determination which was recognized by Lord Holt in 1704 as exceptional—the word 'unlawful' or 'illegal,' as used to describe the purposes, a combination for which is an indictable offense, was ever used by the courts in any other sense than that of 'criminal,' or at most 'punishable.'" (Wright on Crim. Consp., p. 51.)

COMBINATION TO FIX THE PRICE OF SALT (BRITISH, 1738).

This was a motion for leave to file an information against the defendants, who were separate proprietors of salt works in Droitwich, for a conspiracy to raise the price of salt there, by entering into an article whereby they bound themselves under a penalty of £200 not to sell salt under a certain price, which exceeded the price then received for it. The information was granted, and Lord Mansfield declared "that if any agreement was made to fix the price of salt or any other necessary of life (which salt emphatically was) by people dealing in that commodity, the court would be glad to lay hold of an opportunity, from what quarter soever the complaint came, to show their sense of the crime; and that at what rate soever the price was fixed, high or low, made no difference, for all such agreements were of bad consequence and ought to be discountenanced. He mentioned an indictment upon one of the last home circuits against the bakers of the town of Farnham for such an agreement." (King *v.* Norris et al., 2 Kenyon, 300.)

COMBINATION OF MASTER MANUFACTURERS OF COTTON (BRITISH, 1855).

Eighteen master manufacturers of a large district formed a combination by which they were bound to carry on their trade as the majority might direct. They might be compelled to shut up their manufactories and dismiss their hands even though that action should be against the interests of individual members of the association and the manufacturing community. The contract was held void.

"This bond," remarked the court, "takes away the freedom of action of the individual to carry on the trade, and to open and close his works according as it may be for his interest or that of the public." (Hilton *v.* Eckersley, 6 El. and Bl., 47.)

JOINT PURSE ARRANGEMENT BETWEEN RAILWAY COMPANIES (BRITISH, 1859).

Two railway companies agreed that their profits and loss should be brought into one common fund, and the net receipts divided into two shares of nine-tenths and one-tenth, without the authority of an act of Parliament. This contract was held void.

"It appears to me," said the court, "so clearly and palpably illegal that I do not think the court ought to hesitate in its views in that respect; otherwise it might be that all the railways in the Kingdom might be collected into one large joint stock concern." (Charlton *v.* Newcastle, etc., R. Co., 5 Jur., N. S., 1096.)

AGREEMENT BETWEEN CANADIAN SALT COMPANIES (CANADIAN, 1871).

Several incorporated companies and individuals in the salt business agreed to combine. The agreement provided that all the parties to it should sell all salt manufactured by them through the trustees of the association, and should sell none in any other manner. The agreement was held valid, the court saying that it was out of the question that this agreement had for its object the formation of a monopoly, as there are other parties than those to the agreement engaged in the manufacture of salt, and this agreement is nothing more than the agreement of two persons carrying on the same trade not to undersell each other. (Ontario Salt Co. *v.* Merchants' Salt Co., 18 Grant's Ch. Rep., 540.)

NOTE.—"But the view is taken [in this case] that, even if such acts were once 'illegal' at common law, 'long usage' has brought about a change in the common law in this respect." (Cooke's Trade and Labor Combinations, p. 159, n. 1.)

COMBINATION AMONG STEVEDORES TO PARCEL OUT THE STEVEDORING BUSINESS OF A PORT (BRITISH, 1879).

The stevedores of Melbourne, Australia, agreed to parcel out the stevedoring business of the port among themselves, so as to prevent competition, and to keep up the price to be paid for the work. The privy council court of Great Britain held that such agreement is not invalid if carried into effect by provisions reasonably necessary for the purpose, though the effect of them might be to create a partial restraint upon the power of the parties to exercise their trade.

But it held that the provision in the agreement that in the case of ships passing out of the hands of merchants named in the contract into the hands of other merchants, who should not choose to employ the party entitled under the agreement, all the parties thereto are deprived of work, can not be justified. It is obviously detrimental to the public, is entirely beyond anything the legitimate interests of the parties required, and is utterly unprofitable and unnecessary, at least for any purpose which can be avowed. (Collins *v.* Locke, L. R. 4 App. Cas., 674.)

COMBINATION OF MANUFACTURERS OF MINERAL WATER (BRITISH, 1890).

"If a contract for raising prices against the public interest is a contract in restraint of trade, this is undoubtedly such a contract. During the last one hundred years great changes have taken place in the views of the public, of the legislature, and therefore of the judges, on the matter, and many old-fashioned offenses have disappeared; but the rule still obtains that combination for the mere purpose of raising prices is not enforceable in a court of law. This contract is illegal in the sense of not being enforceable. It is not necessary that it should be such as to form the ground of criminal proceedings."

The action in this case was brought to enforce a penalty under the rules of a mineral-water association, which recited that the object of the association was to maintain the price of mineral water, and bound the members for ten years not to sell at less than 9d. a dozen bottles, or not less than any higher price fixed by the committee, on penalty of £10 for each violation. (Urmston *v.* Whitelegg, 63 L. T. (N. S.), 455.)

ASSOCIATION OF TEA-CARRYING COMPANIES (BRITISH, 1892).

[The very important case of Mogul S. S. Co.]

A suit for damages was brought by a company engaged in the tea-carrying trade at Hankow, China, against six other companies engaged in the same trade for loss inflicted by an alleged unlawful conspiracy entered into by them to drive the plaintiff out of the trade and to obtain control of the trade themselves. It appeared that the defendants agreed to conform to a plan of association by which they should constantly underbid the plaintiff, and take away his trade by offering exceptional and very favorable terms to customers dealing exclusively with members of the association, and that they did this to control the business the next season after he had been thus driven out of competition.

It was held by the House of Lords that this was not an unlawful and indictable conspiracy, giving rise to a cause of action by the person injured thereby; but it was not held that the contract of association entered into by the defendants was not void and unenforceable at common law. On the contrary, Lords Bramwell and Hannen distinctly say that the contract of association was void as in restraint of trade, but all the law lords were of

opinion that contracts void as in restraint of trade were not unlawful in a criminal sense, and gave no right of action for damages to one injured thereby. (Mogul S. S. Co. *v.* McGregor, etc., Co., L. R. App. Cas. (1892), p. 25.)

NOTE.—"Though the question was not in the case, it seems to have been the view of the court in Mogul Steamship Company *v.* McGregor that what are here called agreements 'in restraint of trade' were not indictable at common law." (Cooke's Trade and Labor Combinations, p. 159, n. 1.)

AMERICAN DECISIONS.

1. CONTRACTS IN RESTRAINT OF TRADE AT COMMON LAW.

AGREEMENT NOT TO RUN A STAGE ON A CERTAIN ROAD UNDER PENALTY (MASS., 1811).

A man ran a stage on the road between Boston and Providence. A rival contemplated setting up a stage on the same road. The man who was running the stage sold his stage coach and horse to his rival and entered into a bond not to run the stage on such road under a certain penalty. The court held the bond void, and said:

"If it does not appear whether the contract was or was not made on good consideration, so that the contract may be either good or bad, it is the prima facie presumption of law that the contract is bad, because it is to the prejudice of trade and honest industry, because the mischief to one party is apparent, and the benefit only presumptive; and because the apparent mischief is not merely private, but also public. Therefore all contracts barely in restraint of trade, where no consideration is shown, are bad." (Pierce *v.* Fuller, 8 Mass., 222.)

THE EVILS OF CONTRACTS IN RESTRAINT OF TRADE (MASS., 1837).

"The *unreasonableness* of contracts in restraint of trade and business is very apparent from several obvious considerations:

"(1) Such contracts injure the parties making them, because they diminish their means of procuring livelihoods and a competency for their families. They tempt improvident persons, for the sake of present gain, to deprive themselves of the power to make future acquisitions, and they expose such persons to imposition and oppression.

"(2) They tend to deprive the public of the services of men in the employments and capacities in which they may be most useful to the community as well as themselves.

"(3) They discourage industry and enterprise, and diminish the products of ingenuity and skill.

"(4) They prevent competition and enhance prices.

"(5) They expose the public to all the evils of monopoly; and this especially is applicable to wealthy companies and large corporations who have the means, unless restrained by law, to exclude rivalry, monopolize business, and engross the market. Against evils like these, wise laws protect individuals and the public by declaring all such contracts void." (Alger *v.* Thacker, 19 Pick., Mass., 51.)

COMBINATION AMONG OWNERS OF CANAL BOATS TO REGULATE PRICE OF TRANSPORTATION (PA., 1841).

Certain carriers by canal combined to regulate the price of transportation, and entered into a written agreement to that effect. They were indicted and the court held it was an indictable offense at common law, saying:

"The objects of the confederation are plainly stated, and its consequences and effects upon the community are obvious to the most careless observers. It is nothing less than a combination between the chief capitalists and carriers in this line of our public works to raise or depress the rate of freight, as it may suit their own interests, either to increase their profits or crush a competitor. Does such a combination come within the description of those which are punishable by indictment as conspiracies at common law?" Judge Grier, then presiding in the Pittsburg common pleas, and afterwards of the Supreme Court of the United States, declared that it does. (2 Whart. Precedents, No. 658 note m.)

A CONTRACT NOT TO ENGAGE IN BUSINESS WITHIN A CERTAIN STATE (N. Y., 1851).

"We can not say, therefore, that a restraint which is coextensive with this State leaves the residue of the Union open to the party to pursue unrestrained the same trade. Again, it is repugnant to the general frame and policy of our Government to regard the Union, in respect to our ordinary internal and domestic interests, as one consolidated nation. For all these purposes each State is a separate community with separate and independent public interests.

"It is by no means the same thing to the people of this State whether an individual carries on his trade within or without its borders. I am therefore of the opinion, independent of authority, that a contract prohibiting to an individual the pursuit of any trade or employment throughout the State of New York should be regarded as a contract in total restraint of trade within the rule of the common law." (Lawrence *v.* Kidder, 10 Barb., 641.)

To same effect see Taylor *v.* Blanchard (1866), 13 Allen (Mass.), 370.

But per contra, see Beal *v.* Chase (1875), 31 Mich., 490.

AN AGREEMENT NOT TO MANUFACTURE CANDLES (OHIO, 1853).

A certain party agreed that he would not be connected with the manufacture of certain candles in the county of Hamilton, State of Ohio, or at any other place in the United States. The court deemed the contract divisible and good as regards Hamilton County, but void as regards other places in the United States, as being too general. (Lange *v.* Werk, 2 Ohio St., 519.)

REPEAL OF STATUTES REVIVES COMMON LAW (ME., 1859).

A contract void against public policy because inhibited by statute does not become valid by reason of the subsequent repeal of the statute. (Baucher *v.* Mansel, 47 Me., 58.)

CONTRACT MAY BE AGAINST PUBLIC POLICY THOUGH ATTENDED WITH NO CRIMINAL INTENT (N. Y., 1862).

The object of a contract may be against public policy so as to render it void, though the contracting parties had no criminal or unlawful animus. (Saratoga Co. Bank *v.* King, 44 N. Y., 87.)

CONTRACT IN RESTRAINT OF TRADE VOID AS AGAINST PUBLIC POLICY (U. S. SUP. CT., 1874).

"There are two principal grounds on which the doctrine is founded that a contract in restraint of trade is void as against public policy. One is the injury to the public by being deprived of the restricted party's industry; the other is the injury to the party himself by being precluded from pursuing his occupation, and thus being prevented from supporting himself and family. It is evident that both these evils occur when the contract is general, not to pursue one's trade at all, or not to pursue it in the entire realm or country.

"The country suffers the loss in both cases; and the party is deprived of his occupation, or is obliged to expatriate himself in order to follow it. A contract that is open to such grave objection is clearly against public policy. But if neither of these evils ensue, and if the contract is founded on a valid consideration and a reasonable ground of benefit to the other party, it is free from objection, and may be enforced." (Oregon Steam Navig. Co. *v.* Winsor, 20 Wall., 64.)

CONTRACTS TO ELEVATE OR DEPRESS PRICES ARE IN RESTRAINT OF TRADE (WIS., 1876).

"All combinations between merchants, speculators, or any class of men to elevate or depress the market are injurious to the public interest and in restraint of trade. When such a purpose is apparent in a contract, it strikes the agreement with nullity." (Fairbank *v.* Leary, 40 Wis., 637.)

A CONTRACT BETWEEN TWO COAL COMPANIES TO MONOPOLIZE THE COAL TRADE (N. Y., 1877).

This case involved the validity of a contract between two coal companies, the object and effect of which was to give one of them the monopoly of the trade in coal in a particular region, by which the price of that commodity could be artificially enhanced. The court of appeals of New York held that "a combination to effect such a purpose is inimical to the interests of the public and that all contracts designed to effect such an end are contrary to public policy, and therefore illegal. * * *

"If they should be sustained, the prices of articles of pure necessity, such as coal, flour, and other indispensable commodities, might be artificially raised to a ruinous extent, far exceeding any naturally resulting from the proportion between supply and demand. No illustration of the mischief of such contracts is perhaps more apt than a monopoly of anthracite coal, the region of the production of which is known to be limited." (Arnot *v.* Pittston and E. Coal Co., 68 N. Y., 558.)

THE PUBLIC INTEREST THE CRITERION IN JUDGING OF REASONABLENESS OF THE RESTRAINT (W. VA., 1883).

"From the principles which underlie all the cases, the inference must be necessarily drawn that if there be any sort of business which from its particular character can be restrained to no extent whatever without prejudice to the public interest, then the courts would be compelled to hold void any contract imposing any restraint, however *partial*, on this particular business, provided, of course, it be shown clearly that the peculiar business thus attempted to be restrained is of such a character that any restraint upon it, however *partial*, must be regarded by the court as prejudicial to the public interest." (West Va. Trans. Co. *v.* Ohio River Pipe Line Co., 22 W. Va., 600.)

SPACE, PRACTICALLY THE ENTIRE UNITED STATES; TIME, NINETY-NINE YEARS (N. Y., 1887).

Roeber was engaged in the manufacture of matches in New York and the sale of the same throughout the United States. He sold his factory, business, and good-will to the Diamond Match Company, and covenanted that he would not at any time within ninety-nine years engage in the manufacture and sale of matches, unless in the service of the purchasing company, within any of the States and Territories of the Union except Nevada and Montana. He executed a bond with a penalty of $15,000 as liquidated damages in case of a breach of contract. "We are of opinion," said the court, "that the covenant, being supported by a good consideration, and constituting a partial and not a general restraint, and being, in view of the circumstances disclosed, reasonable, is valid and not void." (Diamond Match Co. *v.* Roeber, 106 N. Y., 473.)

AGREEMENT OF BED-QUILT MANUFACTURER NOT TO SELL, UNLIMITED AS TO SPACE (MASS., 1888).

A manufacturer of bed-quilts and comfortables conveyed to defendant his entire business and agreed not to engage in such business for five years. The court held that this was clearly illegal and void as being in restraint of trade because not limited as to space. (Bishop *v.* Palmer, 146 Mass., 469.)

AGREEMENT TO SELL SANDPAPER MACHINES UNLIMITED AS TO TIME AND TERRITORY (WIS., 1888).

An inventor of sandpaper machines sold his interest in the patents and business and agreed that he would not thereafter manufacture, sell, or cause to be sold any sandpaper machines of any description "unless the purchaser of the patents and business consented thereto." The court held the agreement void, as it was general and unrestricted and greater than was reasonably necessary to protect the purchaser in the enjoyment of the rights and business purchased. (Berlin Machine Works *v.* Perry, 71 Wis., 495.)

A CONTRACT NOT TO MANUFACTURE THERMOMETERS WITHIN THE UNITED STATES (N. Y., 1889).

A party sold to a corporation the trade-mark used on thermometers and stormglasses, and agreed "not to engage in the manufacture of any thermometers of any kind or description, nor of any stormglasses, at any place within the United States, at any time within a period of ten years from date." In this case it was urged that the contract was void inasmuch as it covered the entire country, but this contention was overruled by the court, which held that the restriction was no greater than the necessity of the vendee required, and the contract was enforced. (Watertown Ther. Co. *v.* Pool, 4 N. Y. Supp. 861.)

CONTRACT NOT TO SELL MEDICINE WITHIN A CERTAIN TERRITORY (U. S. SUP. CT., 1889).

A contract was entered into by which defendants, for a valuable consideration, agreed not to sell a certain medicinal preparation within the territory which it was covenanted complainants should occupy exclusively, nor sell to others for sale there. The court held such a contract limited as to space, though unlimited as to time, is reasonable and enforceable. (Fowle *v.* Park, 131 U. S., 88.)

EXCLUSIVE RIGHT TO FURNISH A RAILROAD COMPANY WITH SLEEPING CARS (U. S. SUP. CT., 1890).

A palace-car company contracted with a railroad company to furnish it with drawing-room and sleeping cars on all of its passenger trains and to have this right exclusively for fifteen years, the railroad company binding itself not to contract with any other company to run the same class of cars over its lines during that period. The Supreme Court of the United States held that such contract was not in restraint of trade, but may be enforced. That court said:

"Such a contract, it is argued, is in general restraint of trade. The authorities cited in support of this contention have no application to such a contract as the one before us. The defendant was under a duty, arising from the public nature of its employment, to furnish for the use of passengers on its lines such accommodations as were reasonably required by the existing conditions of passenger traffic. Its duty as a carrier of passengers was to make suitable provisions for their comfort and safety. Instead of furnishing its own drawing room and sleeping cars, as it might have done, it employed the plaintiff, whose special business was to provide cars of that character to supply as many as were necessary to meet the requirements of travel. It thus used the instrumentality of another corporation, in order that it might properly discharge its duty to the public.

"So long as the defendant's hnes were supplied with the requisite number of drawing room and sleeping cars it was a matter of indifference to the public who owned them. We can not perceive that such a contract is at all in restraint of trade. The plaintiff was at liberty, so far as this contract was concerned, to make similar arrangements for the accommodation of passengers on all other railroads in the country, even those that are rivals or competitors in business with the defendant. It is, however, a fundamental

condition in all such contracts that their provisions must not be injurious to the public." (Chicago, St. L., etc., R. R. Co. *v.* Pullman Southern Car Co., 139 U. S., 79.)

AGREEMENT NOT TO REVEAL TRADE SECRETS FOR A SPECIFIED TIME (U. S. C. C., 1890).

Complainants were manufacturers of ink, and their business extended throughout the United States and Canada. Defendant was employed by complainants to canvass for purchasers, and he covenanted that he would not reveal their trade secrets and would not enter the employ of any competitor of complainants for three years after his employment should terminate. The court held the restriction as to time of three years as proper and the territory reasonable, saying:

"It has been well said that trade has obliterated State lines. The modern agencies of commerce have enlarged the field for the manufacturer and salesman to, or even beyond, the limits of the continent." (Carter *v.* Alling, 43 Fed. Rep., 208.)

CONTRACTS IN RESTRAINT OF TRADE NOT A CRIMINAL OFFENSE AT COMMON LAW (U. S. C. C., 1892).

"The antitrust act, in declaring that contracts, combinations, and conspiracies in restraint of trade and commerce between the States and foreign countries are not only illegal, but constitute criminal offenses, goes beyond the common law, for while contracts in restraint of trade were unlawful at the common law they were not misdemeanors or indictable." (In re Greene, 52 Fed. Rep., 104.)

NOTE.—"As to prices of merchandise, however, I have been unable to discover a single reported case of a prosecution for a combination to raise or maintain such prices. * * * But as to mere combinations to raise or maintain the prices of merchandise I have failed to find any evidence that such a combination was ever practically treated as a criminal offense, save that it was nominally made such by the language of the statute above quoted. That statute was repealed, as a matter of form, by the statute 5, George IV, chapter 95. But, as a matter of fact and substance, it had been ignored by the entire community from the time of its passage. At the time of the writing of Blackstone's Commentaries it had become an obsolete antiquity. * * * The case, Mogul S. S. Co. *v.* McGregor, necessarily holds that such a contract of combination, independently of any statute, though the courts might not enforce it, never constituted a crime or a legal wrong." (Stickney's State Control of Trade and Commerce, pp. 46, 47, 83.)

CONTRACT NOT TO USE PLANT (U. S. C. C., 1892).

A manufacturer agreed, in consideration of a percentage on the sales made by the purchaser, not to use his plant for the production of strap and T hinges for five years, the contract to be void in case the purchaser increases his facilities for the production of such hinges. This contract was held void by the court.

"A contract extending over a period of five years," said the court, "intended, like this at bar, for restricting production, and absolutely binding manufacturers and dealers, while still retaining their plants and establishments, to operate them in a particular way, or to shut them down in whole or in part, is such an incumbrance on the freedom of individual action, necessary to the public good, as to be invalid." (Oliver *v.* Gilmore, 52 Fed. Rep., 562.)

RESTRAINT OF TRADE AT COMMON LAW VOID AS BETWEEN PARTIES (MINN., 1893.)

"No case can be found in which it was ever held that at common law a contract or agreement in general restraint of trade was actionable at the instance of third parties, or could constitute the foundation for such an action. The courts sometimes call such contracts 'unlawful' or 'illegal,' but in every instance it will be found that these terms were used in the sense merely of 'void' or 'unenforceable' as between the parties; the law considering the disadvantages so imposed upon the contract a sufficient protection to the public." (Bohn Mfg. Co. *v.* Hollis, 54 Minn., 223.)

AN AGREEMENT NOT TO MANUFACTURE FIRE ALARMS (MASS., 1893).

An inventor and manufacturer of fire-alarm apparatus sold his machinery, stock, business, and patents to another person, and agreed not to engage in such business and not to enter into competition with the purchaser, either directly or indirectly, for a period of ten years. The court held the agreement good as regards the letters patent and the improvements which the inventor agreed to convey; but it was void in so far as it purported to bind the inventor not to manufacture or sell fire alarms under other patents or under no patents. (Gamewell Fire Alarm Tel. Co. *v.* Crane, 160 Mass., 50.)

THE KNIGHT SUGAR CASE (U. S. SUPT. CT., 1895).

The Supreme Court of the United States held in this case that the Federal antitrust law does not authorize the prevention of contracts which relate exclusively to the acquisition of sugar refineries and the business of sugar refining in a State, which bear no direct relation to commerce between the States; and the court said:

"Contracts, combinations, or conspiracies to control domestic enterprise in manufacture, agriculture, mining, production in all its forms, or to raise or lower prices or wages, might unquestionably tend to restrain external as well as domestic traffic, but the restraint would be an indirect result, however inevitable and whatever its extent, and such result would not necessarily determine the object of the contract, combination, or conspiracy.

"Again, all the authorities agree that in order to vitiate a contract or combination it is not essential that its result should be a complete monopoly. It is sufficient if it really tends to that end and to deprive the public of the advantages which flow from free competition. Slight reflection will show that if the national power extends to all contracts and combinations in manufacture, agriculture, mining, and other productive industries whose ultimate result may affect external commerce, comparatively little of business operations and affairs would be left for State control." (United States *v.* E. C. Knight & Co., 156 U. S., 1.)

Mr. Justice Harlan dissented in this case, and said:

"In my judgment, the citizens of the several States composing the Union are entitled, of right, to buy goods in the State where they are manufactured, or in any other State, without being confronted by an illegal combination whose business extends throughout the whole country, which, by the law everywhere, is an enemy to the public interests, and which prevents such buying, except at prices arbitrarily fixed by it. I insist that the free course of trade among the States can not coexist with such combinations. When I speak of trade I mean the buying and selling of articles of every kind that are recognized articles of interstate commerce.

"Whatever improperly obstructs the free course of interstate intercourse and trade, as involved in the buying and selling of articles to be carried from one State to another, may be reached by Congress, under its authority to regulate commerce among the States. The exercise of that authority so as to make trade among the States, in all recognized articles of commerce, absolutely free from unreasonable or illegal restrictions imposed by combinations is justified by an express grant of power to Congress, and would redound to the welfare of the whole country. I am unable to perceive that any such result would imperil the autonomy of the States, especially as that result can not be attained through the action of any one State."

INCOMPETENT AT COMMON LAW FOR ONE CORPORATION TO SUBSCRIBE FOR STOCK OF ANOTHER (U. S. C. C., 1895.)

"The general rule may be stated to be that it is incompetent for a corporation to subscribe for stock in another corporation. It must be acknowledged that there are exceptions to this rule, founded upon a variety of peculiar circumstances, which it is not necessary here to enumerate." (Merz Capsule Co. *v.* U. S. Capsule Co., 67 Fed. Rep., 414.)

"A contract by a corporation created under the laws of Ohio, while solvent and engaged in a profitable business, to sell its plants and assets for a consideration, the greater part of which is stock and bonds of another corporation to be organized to carry on the business, no exigency making such sale necessary for the protection of stockholders, is *ultra vires*, as, under the State laws, one corporation can not become the owner of stock in another unless authority to do so is clearly conferred by statute." (Easun *v.* Buckeye Brewing Co., 1892, 51 Fed. Rep., 156.)

GENERAL RESTRAINT OF TRADE (ILL., 1896).

A party bound himself not to carry on his trade or business at all, or not to pursue it within the limits of a particlar county or State. The court held this contract to be in such general restraint of trade as necessarily works an injury to the public at large and to the party himself, and to be void. (Hurson *v.* Gavin, 162 Ill., 377.)

PERTINENT EXTRACTS FROM THE TRANSMISSOURI FREIGHT ASSOCIATION CASE (U. S. SUP. CT., 1897).

A contract among those engaged in the latter business by which the prices for the transportation of commodities traded in or manufactured by the others is greatly enhanced from what it otherwise would be if free competition were the rule, affects and, to a certain extent, restricts trade and commerce and affects the price of the commodity. Of this there can be no question. Manufacturing or trading companies may also affect prices by joining together in forming a trust or other combination and by making agreements in restraint of trade and commerce, which when carried out affect the interests of the public. * * *

In business or trading combinations they may even temporarily, or perhaps permanently, reduce the price of the article traded in or manufactured, by reducing the expenses inseparable from the running of many different companies for the same purpose. Trade or commerce under these circumstances may nevertheless be badly and unfortunately restrained by driving out of business the small dealers and worthy men whose lives have been spent therein and who might be unable to readjust themselves to their altered surroundings. Mere reduction in the price of the commodity dealt in might be dearly paid for by the ruin of such a class and the absorption of control over one commodity by an all-powerful combination of capital. * * *

"It is wholly different, however, when such changes are effected by combinations of capital, whose purpose in combining is to control the production or manufacture of any particular article in the market, and by such control dictate the price at which the article shall be sold, the effect being to drive out of business all the small dealers in the commodity and to render the public subject to the decision of the combination as to what price shall be paid for the article. In this light it is not material that the price of an article may be lower. It is in the power of the combination to raise it, and the result in any event is unfortunate for the country by depriving it of the services of a large number of small but independent dealers who were familiar with the business and who had spent their lives in it, and who supported themselves and their families from the small profits realized therein.

"Whether they be able to find other avenues to earn their livelihood is not so material, because it is not for the real prosperity of any country that such changes should occur which result in transferring an independent business man, the head of his establishment, small though it might be, into a mere servant or agent of a corporation for selling the commodities which he once manufactured or dealt in, having no voice in shaping the business policy of the company, and bound to obey orders issued by others. Nor is it for the substantial interests of the country that any one commodity should be within the sole power and subject to the sole will of one powerful combination of capital. Congress has, so far as its jurisdiction extends, prohibited all contracts or combinations in the form of trusts entered into for the purpose of restraining trade and commerce. * * *

"The next question to be discussed is as to what is the true construction of the statute, assuming that it applies to common carriers by railroad. What is the meaning of the language as used in the statute, that 'every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States or with foreign nations, is hereby declared to be illegal?' Is it confined to a contract or combination which is only in unreasonable restraint of trade or commerce, or does it include what the language of the act plainly and in terms covers—all contracts of that nature?

"We are asked to regard the title of this act as indicative of its purpose to include only those contracts which were unlawful at common law, but which require the sanction of a Federal statute in order to be dealt with in a Federal court. It is said that when terms which are known to the common law are used in a Federal statute those terms are to be given the same meaning that they received at common law, and that when the language of the title is 'to protect trade and commerce against unlawful restraint and monopolies,' it means those restraints and monopolies which the common law regarded as unlawful, and which were to be prohibited by the Federal statute.

"We are of opinion that the language used in the title refers to and includes and was intended to include those restraints and monopolies which are made unlawful in the body of the statute. It is to the statute itself that resort must be had to learn the meaning thereof, though a resort to the title here creates no doubt about the meaning of and does not alter the plain language contained in its text.

"It is now with much amplification of argument urged that the statute in declaring illegal every combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce, does not mean what the language used therein plainly imports, but that it only means to declare illegal any such contract which is in *unreasonable* restraint of trade, while leaving all others unaffected by the provisions of the act; that the common-law meaning of the term 'contract in restraint of trade' includes only such contracts as are in *unreasonable* restraint of trade, and when that term is used in the Federal statute it is not intended to include all contracts in restraint of trade, but only those which are in unreasonable restraint thereof.

"The term is not of such limited signification. Contracts in restraint of trade have been known and spoken of for hundreds of years both in England and in this country, and the term includes all kinds of those contracts which in fact restrain or may restrain trade. Some of such contracts have been held void and unenforceable in the courts by reason of their restraint being unreasonable, while others have been held valid because they were not of that nature. A contract may be in restraint of trade and still be valid at common law. Although valid, it is nevertheless a contract in restraint of trade, and would be so described either at common law or elsewhere.

"By the simple use of the term 'contract in restraint of trade,' all contracts of that nature, whether valid or otherwise, would be included, and not alone that kind of contract which was invalid and unenforceable as being in unreasonable restraint of trade. When, therefore, the body of an act pronounces as illegal every contract or combination in restraint of trade or commerce among the several States, etc., the plain and ordinary meaning of such language is not limited to that kind of contract alone which is in unreasonable restraint of trade, but all contracts are included in such language, and no exception or limitation can be added without placing in the act that which has been omitted by Congress.

"Proceeding, however, upon the theory that the statute did not mean what its plain language imported, and that it intended in its prohibition to denounce as illegal only those contracts which were in unreasonable restraint of trade, the courts below have made an exhaustive investigation as to the general rules which guide courts in declaring contracts to be void as being in restraint of trade, and therefore against the public policy of the country. In the course of their discussion of that subject they have shown that there has been a gradual though great alteration in the extent of the liberty granted to the vendor of property in agreeing, as part consideration for his sale, not to enter into the same kind of businesss for a certain time or within a certain territory.

"So long as the sale was the bona fide consideration for the promise, and was not made a mere excuse for an evasion of the rule itself, the later authorities, both in England and in this country, exhibit a strong tendency toward enabling the parties to make such a contract in relation to the sale of property, including an agreement not to enter into the same kind of business, as they may think proper, and this with the view to granting to a vendor the freest opportunity to obtain the largest consideration for the sale of that which is his own.

"A contract which is the mere accompaniment of the sale of property, and thus entered into for the purpose of enhancing the price at which the vendor sells it, which in effect is collateral to such sale, and where the main purpose of the whole contract is accomplished by such sale, might not be included within the letter or spirit of the statute in question. But we can not see how the statute can be limited, as it has been by the courts below, without reading into its text an exception which alters the natural meaning of the language used, and that, too, upon a most material point, and where no sufficient reason is shown for believing that such alteration would make the statute more in accord with the intent of the lawmaking body that enacted it." * * *

The arguments which have been addressed to us against the inclusion of all contracts in restraint of trade, as provided for by the language of the act, have been based upon the alleged presumption that Congress, notwithstanding the language of the act, could not have intended to embrace all contracts, but only such contracts as were in unreasonable restraint of trade. Under these circumstances we are therefore asked to hold that the act of Congress excepts contracts which are not in unreasonable restraint of trade, and which only keep rates up to a reasonable price, notwithstanding the language of the act makes no such exception. In other words, we are asked to read into the act by way of judicial legislation an exception that is not placed there by the lawmaking branch of the Government, and this is to be done upon the theory that the impolicy of such legislation is so clear that it can not be supposed Congress intended the natural import of the language it used.

"This we can not and ought not to do. That impolicy is not so clear, nor are the reasons for the exception so potent as to permit us to interpolate an exception into the language of the act, and to thus materially alter its meaning and effect. It may be that the policy evidenced by the passage of the act itself will, if carried out, result in disaster to the roads and in a failure to secure the advantages sought from such legislation. Whether that will be the result or not we do not know and can not predict. These considerations are, however, not for us.

"*If the act ought to be read as contended for by defendants, Congress is the body to amend it and not this court, by a process of judicial legislation wholly unjustifiable.* Large numbers do not agree that the view taken by defendants is sound or true in substance, and Congress may and very probably did share in that belief in passing the act. The public policy of the Government is to be found in its statutes, and when they have not directly spoken, then in the decisions of the courts and the constant practice of the Government officials; but when the lawmaking power speaks upon a particular subject, over which it has constitutional power to legislate, public policy in such a case is what the statute enacts. If the law prohibit any contract or combination in restraint of trade or commerce, a contract or combination made in violation of such law is void, whatever may have been theretofore decided by the courts to have been the public policy of the country on that subject.

"The conclusion which we have drawn from the examination above made into the question before us is that the antitrust act applies to railroads, and that it renders illegal *all* agreements which are in restraint of trade or commerce as we have above defined that expression, and the question then arises whether the agreement before us is of that nature." (Mr. Justice Peckham's opinion in U. S. *v.* Trans-Mo. Frt. Assn., 166 U. S., 290.)

The following extracts were made from Mr. Justice White's dissenting opinion in the same case:

"Is it correct to say that at common law the words 'restraint of trade' had a generic signification which embraced all contracts which restrained the freedom of trade, whether reasonable or unreasonable, and, therefore, that all such contracts are within the meaning of the words 'every contract in restraint of trade?' I think a brief consideration of the history and development of the law on the subject will not only establish the inaccuracy of this proposition, but also demonstrate that the words 'restraint of trade' embrace only contracts which unreasonably restrain trade, and, therefore, that reasonable contracts, although they, in some measure, 'restrain trade,' are not within the meaning of the words.

"It is true that in the adjudged cases language may be found referring to contracts in restraint of trade which are valid because reasonable. But this mere form of expression, used not as a definition, does not maintain the contention that such contracts are embraced within the general terms 'every contract in restraint of trade.' The rudiments of the doctrine of contracts in restraint of trade are found in the common law at a very early date. The first case on the subject is reported in Yearbook 2, Henry V, folio 5, page 23, and is known as *Dier's case*. That was an action of damages upon a bond conditioned that the defendant should not practice his trade as a dyer at a particular place during a limited period, and it was held that the contract was illegal.

"The principle upon which this case was decided was not described as one forbidding contracts in restraint of trade, but was stated to be one by which contracts restricting the liberty of the subject were forbidden. The doctrine declared in that case was applied in subsequent cases in England prior to the case of Mitchell *v.* Reynolds, decided in 1711, and reported in 1 P. Wms., 181. There the distinction between general restraints and partial restraints was first definitely formulated, and it was held that a contract creating a partial restraint was valid and one creating a general restraint was not.

"The theory of partial and general restraints established by that case was followed in many decided cases in England, not, however, without the correctness of the difference between the two being in some instances denied and in others questioned, until the matter was set finally at rest by the House of Lords in Nordenfelt *v.* Maxim Nordenfelt Guns and Ammunition Co., reported in (1894) A. C., 535. In that case it was held that the distinction between partial and general restraint was an incorrect criterion, but that whether a contract was invalid because in restraint of trade must depend upon whether, on considering all the circumstances, the contract was found to be reasonable or unreasonable. If reasonable, it was not a contract in restraint of trade, and if unreasonable, it was.

"The decisions of the American courts substantially conform to both the development and ultimate results of the English cases. Whilst the rule of partial and general restraint has been either expressly or impliedly admitted, the exact scope of the distinction between the two has been the subject of discussion and varying adjudication. And although it is accurate to say that in the cases expressions may be found speaking of contracts as being in form in restraint of trade and yet valid, it results from an analysis of all the American cases, as it does from the English, that these expressions in no way imply that contracts which were valid because they only partially restrained trade were yet considered as embraced within the definition of contracts in restraint of trade. On the contrary, the reason of the cases, where contracts partially restraining trade were accepted and hence held to be valid, was because they were not contracts in restraint of trade in the legal meaning of those words.

"This court has not only recognized and applied the distinction between partial and general restraints, but has also decided that the true test whether a contract be in restraint of trade is not whether in a measure it produces such effect, but whether under all the circumstances it is reasonable. (Oregon Steam Nav. Co. *v.* Winsor, 87 U. S., 20; 20 Wall., 64, 68 (22:315, 318); Gibbs *v.* Consolidated Gas Co., 130 U. S., 396, 409 (32:979, 984).) As it is unnecessary here to enter into a detailed examination of the cases I append in the margin a reference to decisions of some of the State courts and to several writers on the subject of contracts in restraint of trade, by whom the doctrine is reviewed and the authorities very fully referred to.[a]

"It follows from the foregoing statement that at common law contracts which only partially restrain trade, to use the precise language of Maule, justice, in Rannie *v.* Irvine (7 Man. and G., 977), were '*an exception engrafted upon that rule*'—that is, the rule as to contracts in restraint of trade—'*and that the exception is in furtherance of the rule itself.*' I submit also, manifestly, that the further development of the doctrine by which it was decided that if a contract was reasonable it would not be held to be included within contracts in restraint of trade, although such contract might in some measure produce such an effect, was also an exception to the general rule as to the invalidity of contracts in restraint of trade.

"The theory, then, that the words 'restraint of trade' define and embrace all such contracts without reference to whether they are reasonable, amounts substantially to saying that by the common law and the adjudged American cases, certain classes of contracts were carved out of and excepted from the general rule, and yet were held to remain embraced within the general rule from which they were removed. But the obvious conflict which is shown by this contradictory result to which the contention leads rests not upon the mere form of statement, but upon the reason of things.

"This will, I submit, be shown by a very brief analysis of the reasons by which partial restraints were held not to be embraced in contracts in restraint of trade, and by which ultimately all reasonable contracts were likewise decided not to be so embraced. That is to say, that the reasoning by which the exceptions were created conclusively shows the error of contending that the words 'contracts in restraint of trade,' continued to embrace those reasonable contracts which those words no longer described.

"It is perhaps true that the principle by which contracts in restraint of the freedom of the subject or of trade were held to be illegal was first understood to embrace all contracts which in any degree accomplished these results. But as trade developed it came to be understood that if contracts which only partially restrained the freedom of the subject or of trade were embraced in the rule forbidding contracts in restraint of trade, both the freedom of contract and trade itself would be destroyed. Hence, from the reason of things, arose the distinction that where contracts operated only a partial restraint of the freedom of contract or of trade they were not in contemplation of law contracts in restraint of trade.

"And it was this conception also which, in its final aspect, led to the knowledge that reason was to be the criterion by which it was to be determined whether a contract which in some measure restrained the freedom of contract and of trade was, in reality, when considered in all its aspects, a contract of that character or one which was necessary to the freedom of contract and of trade. To define, then, the words, 'in restraint of trade,' as embracing every contract which in any degree produced that effect would be violative of reason, because it would include all those contracts which are the very essence of trade, and would be equivalent to saying that there should be no trade, and therefore nothing to restrain.

"The dilemma which would necessarily arise from defining the words 'contracts in restraint of trade' so as to destroy trade by rendering illegal the contracts upon which trade depends, and yet presupposing that trade would continue and should not be restrained, is shown by an argument advanced, and which has been compelled by the exigency of the premise upon which it is based. Thus, after insisting that the word 'every' is all-embracing, it is said from the necessity of things it will not be held to apply to covenants in restraint of trade which are collateral to a sale of property, because not 'supposed' to be within the letter or spirit of the statute.

"But how, I submit, can it be held that the words 'every contract in restraint of trade' embrace all such contracts, and yet at the same time it be said that certain contracts of that nature are not included? The asserted exception not only destroys the rule which is relied on, but it rests upon no foundation of reason. It must either result from the exclusion of particular classes of contracts, whether they be reasonable or not, or it must arise from the fact that the contracts referred to are merely collateral contracts. But many collateral contracts may contain provisions which make them unreasonable. The exception which is relied upon, therefore, as rendering possible the existence of trade to be restrained is either arbitrary or it is unreasonable."

WHEN COVENANTS IN PARTIAL RESTRAINT OF TRADE ARE VALID (U. S. C. C. A., 1898).

Covenants in partial restraint of trade are generally upheld as valid when they are agreements (1) by the seller of property or business not to compete with the buyer in such a way as to derogate from the value of the property or business sold; (2) by a retiring partner not to compete with the firm; (3)

[a] Diamond Match Co. *v.* Roeber, 106 N. Y., 473 (60 Am. Dec., 464); Leslie *v.* Lorillard, 110 N. Y., 519, 533 (1 L. R. A., 456); Beal *v.* Chase, 31 Mich., 90, 518; National Benefit Co. *v.* Union Hospital Co., 45 Minn., 272 (11 L. R. A., 437); Ellerman *v.* Chicago Junction R. and U. S. Y. Co., 49 N. J. Eq., 215, 217; Richards *v.* American Desk and S. Co., 87 Wis., 503, 514; 2 Parsons Cont., 748, note; Angier *v.* Webber (1867), 92 Am. Dec., 751, note; Mitchell *v.* Reynolds, 1 Smith Lead. Case, 705, note, and supplemental note, 9th Am. ed. (1888), 716; Review of cases by A. M. Eaton in 4 Harv. L. Rev. (1890), 129; Patterson, Restraint of Trade (1891).

by a partner pending the partnership not to do anything to interfere, by competition or otherwise, with the business of the firm; (4) by the buyer of property not to use the same in competition with the business retained by the seller; and (5) by an assistant, servant, or agent not to compete with his master or employer after the expiration of his time of service.

Before such agreements are upheld, however, the court must find that the restraints attempted thereby are reasonably necessary (1, 2, and 3) to the enjoyment by the buyer of the property, good will, or interest in the partnership bought; or (4) to the legitimate ends of the existing partnership; or (5) to the prevention of possible injury to the business of the seller from use by the buyer of the thing sold; or (6) to protection from the danger of loss to the employer's business caused by the unjust use on the part of the emyloyee of the confidential knowledge acquired in such business. * * *

"It would be stating it too strongly to say that these five classes of covenants in restraint of trade include all of those upheld as valid at the common law." (Judge Taft in U. S. *v.* Addyston Pipe and Steel Co., 85 Fed. Rep., 281, 282.)

AN EXTRACT FROM THE JOINT TRAFFIC CASE (U. S. SUP. CT., 1898).

The formation of corporations for business or manufacturing purposes has never, to our knowledge, been regarded in the nature of a contract in restraint of trade or commerce. The same may be said of the contract of partnership. It might also be difficult to show that the appointment by two or more producers of the same person to sell their goods on commission was a matter in any degree in restraint of trade. (U. S. *v.* Joint Traffic Assn., 171 U. S., 505.)

CONTRACT OF SALE IN RESTRAINT OF TRADE OF LUMBER RULES (OHIO, 1898).

A manufacturer of lumber rules sells his business to a competitor and stipulates that he will not, directly nor indirectly, engage in the same business in the State nor in the United States for the period of twenty-five years. The supreme court of Ohio held such an agreement illegal, as it necessarily tends to create a monopoly.

"It is to the interest of the Republic," said the court, "that there should be, measurably, an equality in the fortunes of its citizens; and one of the best modes of accomplishing this, without the use of arbitrary means, is by encouraging separate and independent employments, and discouraging by law, and its administration in the courts, all tendencies to the concentration of property in the hands of the few—a condition in which there will be a constant unrest and dissatisfaction among the masses that can bode no good to the nation.

"It may be safely affirmed that free institutions can not long be maintained among a people where a few, possessed of great wealth, are the employers, and the many are mere laborers, wholly dependent on wages as a means of supporting themselves and families. These considerations and others of a like character constitute in great measure that sound public policy which looks with distrust upon all agreements in restraint of trade, and particularly such as may be used in the formation of monopolies and the control by a few of all individual pursuits." (Lufkin Rule Co. *v.* Fringeli, 57 Ohio St., 596.)

2. ILLEGAL COMBINATIONS.

COMBINATION OF BOAT OWNERS (N. Y., 1848).

A large portion of the proprietors of boats on certain canals made an agreement to regulate the rates of freight and passage by a uniform scale. This scale was established by a committee selected from among the proprietors. It was provided that the proprietors' business should be divided in proportion to the number of boats employed by each proprietor, and also that members should not engage in similar business outside the association. This agreement was held illegal because it tended to increase prices and to prevent competition. The court said:

"The rule that contracts and agreements are void when contrary to public policy, when properly understood and applied, is one of the great preservative principles of a State. Sound morality is the corner stone of the social edifice. Whatever, therefore, disturbs that is condemned under that fundamental rule." (Stanton *v.* Allen, 5 Denio, 434.)

COMBINATION OF DEALERS IN COTTON BAGGING (LA., 1849).

Eight commercial firms in New Orleans holding a large quantity of cotton bagging entered into an agreement by which they stipulated that for three months no member should sell a bale except by a vote of the majority. It was held that the contract was "palpably and unequivocally a combination in restraint of trade, and to enhance the price in the market of an article of primary necessity to cotton planters. Such combinations are contrary to public order, and can not be enforced in a court of justice." (India Bagging Association *v.* Kock, 14 La. Ann., 168.)

COMBINATION OF COAL DEALERS (PA., 1871).

Five coal companies controlling the bituminous coal trade of northern Pennsylvania agreed to allow a committee to fix prices and rates of freight, and to fix proportion of sales by each. Competition was not destroyed, because the anthracite coal and Cumberland bituminous coal were sold in competition with this coal. The association was, nevertheless, held void, as in illegal restraint of trade and competition, and tending to injure the public. (Morris Run Coal Co. *v.* Barclay Coal Co., 68 Pa. St., 173.)

NOTE.—The judge in this case said that a combination between miners in a particular market, controlling the coal in that market, to hold up the price of coal in such market, is indictable at common law. (See 2 Whart. Crim. Law, sec. 1369.)

MONOPOLIES VOID AT COMMON LAW (U. S. SUP. CT., 1872).

"A monopoly is defined 'to be an institution or allowance from the sovereign power of the State, by grant, commission, or otherwise, to any person or corporation, for the sole buying, selling, making, working, or using of anything whereby any person or persons, bodies politic or corporate, are sought to be restrained of any freedom or liberty they had before or hindered in their lawful trade.'

"All such grants relating to any known trade or manufacture have been held by all the judges of England, whenever they have come up for consideration, to be void at common law as destroying the freedom of trade, discouraging labor and industry, restraining persons from getting an honest livelihood, and putting it into the power of the grantees to enhance the price of commodities. The definition embraces, it will be observed, not merely the sole privilege of buying and selling particular articles, or of engaging in their manufacture, but also the sole privilege of using anything by which others may be restrained of the freedom or liberty they previously had in any lawful trade, or hindered in such trade." (Slaughter-House Cases, Field's dissenting opinion, 16 Wall., 102.)

COMBINATION OF GRAIN DEALERS (ILL., 1875).

Five grain dealers in Rochelle, Ill., agreed to conduct their business as if independent of each other, but secretly to fix prices at which they would sell grain, and to divide profits in a certain proportion. This was held void, as in restraint of trade, and tending to create a monopoly. (Craft *v.* McConoughy, 79 Ill., 346.)

COMBINATION OF BOAT OWNERS (N. Y., 1877).

Rival and competing steamboat companies, organized under the laws of New York, acted together and entered into an agreement for the purpose of running the boats of their respective lines for joint account, thereby making a complete union of the interests of the companies. Such combination was held illegal under the section of the incorporation act, which provides that "no such company shall combine with any other company formed under this act for any purpose;" but that such combination was also illegal as creating a monopoly and was contrary to public policy. (Watson *v.* Harlem and N. Y. Nav. Co., 52 How., Pr., 348.)

COMBINATION OF SALT MANUFACTURERS (OHIO, 1880).

The salt manufacturers of a salt-producing territory in Ohio, with some exceptions, combined to regulate the price of salt by preventing ruinous competition between themselves, and agreed to sell only at prices fixed by a committee of their number. The supreme court of Ohio, in holding the contract void, said:

"The clear tendency of such an agreement is to establish a monopoly, and to destroy competition in trade, and for that reason, on the ground of public policy, courts will not aid its enforcement. It is no answer to say that competition in the salt trade was not in fact destroyed, or that the price of the commodity was not unreasonably advanced. Courts will not stop to inquire as to the degree of injury inflicted upon the public. It is enough to know that the inevitable tendency of such contracts is injurious to the public." (Central Ohio Salt Co. *v.* Guthrie, 35 Ohio St., 666.)

COMBINATION OF TOBACCO WAREHOUSEMEN (OHIO, 1884).

All the owners of tobacco warehouses in the city of Cincinnati entered into a written agreement, the object of which was to promote and protect the trade and harmonize their conflicting interests. They adopted the plan of pooling a portion of the receipts of the business. The owner of each warehouse was to make to the pool trustee on the first day of each month a sworn statement as to the amount of business done and pay to the pool so much per package. At the end of the year the pooled fund was to be distributed in proportion to the business ordinarily done by each warehouse.

The association fixed the rates for drayage, storage, and inspection. In holding the agreement invalid and the combination illegal, the court said: "Where agreements include all those engaged in any business in a large city or district, are unlimited in duration, and are manifestly intended, by the surrender of individual discretion, by the arbitrary fixing of prices, or by any of the methods to which the hope of gain makes human ingenuity so fruitful, to strangle competition outright and breed monopolies, the law, while it may not punish, will not enforce them." (Hoffman *v.* Brooks, 23 Am. Law Reg., 648.)

COMBINATION OF BOAT OWNERS (N. Y., 1886).

One steamship company agreed to pay to another certain sums of money as consideration for the others agreeing not to enter into competition upon a certain steamship route. This agreement was held illegal and void, and the stockholders in the former company could restrain the paying of the money. (Leslie *v.* Lorillard, 40 Hun., 392.)

COTTON-SEED OIL COMBINATION (TENN., 1888).

Four corporations manufacturing cotton-seed oil in Memphis formed a syndicate. They selected a committee to which it turned over the properties and machinery of each mill, to be managed and operated by this committee—the profits and loss to be shared in proportions agreed upon. The board of directors of the Hanaur Oil Works, one of the corporations in the syndicate, afterwards declared the agreement void, and brought action to secure possession of its property. The supreme court of Tennessee held that the contract between Hanaur and the other corporations was a contract of partnership between corporations, which, under its charter, the Hanaur Oil Works had no power to make, and it was therefore void. (Mallory *v.* Hanaur Oil Works, 86 Tenn., 598.)

COMBINATION OF STEAMBOAT OWNERS (KY., 1889).

Two owners of steamboats running on the Kentucky River made an agreement to keep up rates and divide net profits to prevent ruinous competition and reduced rates. The contract was held void. (Anderson *v.* Jett, 89 Ky., 375.)

COMBINATION OF LUMBER MANUFACTURERS (CAL., 1889).

A company owning certain sawmills leased all the mills it could and contracted with other mill owners to make a delivery to the corporation first named of a certain amount of lumber at a certain price, and also agreed not to manufacture and sell any lumber in certain specified counties, during the period covered by the agreement, to any other party under penalty of so many dollars per 1,000 feet so sold, which penalty was payable to the corporation first named. The purpose was to form a combination in order that the price of lumber might be increased and the amount manufactured limited. The combination was held illegal, and the agreement was held void as against public policy. (Santa Clara Valley M. and L. Co. *v.* Hayes, 76 Cal., 387.)

COMBINATION OF MANUFACTURERS OF MATCHES (MICH., 1889).

"The organization of a corporation for the purpose of controlling the manufacture and trade in matches, by getting all manufacturers of matches to enter into a combination, giving it the whole control of the business, and by buying out all others who might be competitors, is an unlawful enterprise, being an attempt to create a monopoly.

"*Monopoly in trade or in any kind of business in this country is odious to our form of Government.* It is sometimes permitted to aid the Government in carrying on a great public enterprise, or public work under governmental control, in the interest of the public. Its tendency is, however, destructive of free institutions, and repugnant to the instincts of a free people, and contrary to the whole scope and spirit of the Federal Constitution, and is not allowed to exist under express provision in several of our State constitutions. *Indeed, it is doubtful if free government can long exist in a country where such enormous amounts of money are allowed to be accumulated in the vaults of corporations, to be used at discretion in controlling the property and business of the country against the interests of the public and that of the people, for the personal gain and aggrandizement of a few individuals.*

"It is always destructive of individual rights, and of that free competition which is the life of business, and it revives and perpetuates one of the great evils which it was the object of the framers of our form of government to eradicate and prevent. It is alike destructive to both individual enterprise and individual prosperity, whether conferred upon corporations or individuals, and therefore public policy is, and ought to be, as well as public sentiment, against it. All combinations among persons or corporations for the purpose of raising or controlling the prices of merchandise, or any of the necessaries of life, are monopolies and intolerable, and ought to receive the condemnation of all courts." (Richardson *v.* Buhl, 77 Mich., 632.)

COMBINATION OF SUGAR REFINERIES (N. Y., 1889).

The general object of the organization of what was called the Sugar Refineries Company was to bring together the manufacturers of and dealers in sugar. It was to be governed by a board of 11 persons, was not intended to be a corporation, but a partnership of the trust form of combination, and

was designed to include the sugar business of the United States. The general company was to hold the stock of all its members, to transfer to them its stock in exchange, and to designate the dividend, which should be proportionately distributed to the holders of its shares.

The agreement closed with a provision for strict secrecy. Action in the nature of *quo warranto* was begun to dissolve the North River Sugar Refining Company because it was a party to this combination. This combination was held by Judge Barrett of the supreme court to be illegal, as contravening the State corporation law, and because generally it tended to monopoly and in restraint of trade. Said the judge:

"Any combination, the tendency of which is to prevent competition in its broad and general sense and to control, and thus at will enhance, prices to the detriment of the public, is a legal monopoly. And this rule is applicable to every monopoly, whether the supply be restricted by nature or susceptible of indefinite production. The difficulty of effecting the unlawful purpose may be greater in one case than in the other, but it is never impossible. Nor need it be permanent or complete. It is enough that it may be even temporarily and partially successful."

On appeal the appellate division of the supreme court affirmed the decision of Judge Barrett, and said:

"A manufacturing corporation which, instead of manufacturing its product and disposing of it to the public on what might be fair competitive prices, becomes a party to a combination, in part at least, designed to create a monopoly and exact from the public prices which could not be otherwise obtained, is liable to have its charter vacated and annulled for such subversion of the object for which it was created."

The court of appeals affirmed the decisions of the courts below, but wholly upon the general principles applicable to corporation law, and passed over "without either approval or disapproval" the argument urged that the defendant became part of an illegal monopoly. (People *v.* North River Sugar Refining Co., 5 Ry. and Corp. Law Journal, 56; 54 Hun., 354; 121 N. Y., 586.)

COMBINATIONS BETWEEN THOSE ENGAGED IN PUBLIC BUSINESS (U. S. SUP. CT., 1889).

"Innumerable cases, however, might be cited to sustain the proposition that combinations among those engaged in business impressed with a public or quasi public character, which are manifestly prejudicial to the public interest, can not be upheld. The law 'can not recognize as valid any undertaking to do what fundamental doctrine or legal rule directly forbids. Nor can it give effect to any agreement the making whereof was an act violating law. So that, in short, all stipulations to overturn, or in evasion of, what the law has established; all promises interfering with the workings of the machinery of the Government in any of its departments, or obstructing its officers in their official acts, or corrupting them; all detrimental to the public order and public good, in such manner and degree as the decisions of the courts have defined; all made to promote what a statute has declared to be wrong, are void.'" (Bishop on Contracts, sec. 546.)

In this case a gas company tried to disable itself by contract from the performance of public duties which it had undertaken. The court held that it could not make public accommodation or convenience subservient to its private interests. (Gibbs *v.* Cons. Gas Co., 130 U. S., 396.)

COMBINATION OF CANDLE MAKERS (OHIO, 1890).

Manufacturers of 95 per cent of a certain variety of candles in a certain portion of the United States organized an association. Its object was to increase the price and decrease the manufacture of candles in the territory covered by the agreement. The members were required to pay into the treasury 2½ cents per pound on every pound of candles disposed of on their own account within the territory.

No member was bound to operate his factory; and whether he did or not, he received at stated times his proportion of the profits of the pool, which was based upon the business that had been done by him in previous years, thus making it to the interest of each member to operate his factory when the price of candles was high and to remain idle when the price was low. The combination, on a suit by a member for his profits, was held to be contrary to public policy. "Its suit," said the Ohio supreme court, "is to recover its portion of the ill-gotten gains." (Emery *v.* Ohio Candle Co., 47 Ohio St., 320.)

COMBINATION OF MANUFACTURERS OF WOODENWARE (MICH., 1890).

Certain persons engaged in the manufacture and sale of woodenware contracted to sell to the Western Woodenware Association their assets and business and agreed, upon penalty, not to go into such business during the next five years. Contrary to this provision of the contract, such parties engaged in such business, whereupon the association filed a bill to enjoin them from continuing such business. In denying the relief sought and in holding the contract void as contrary to public policy, the court said that it was manifest that the association simply intended to take the parties in question out of the manufacturing business and close the shops; that it did not enter into the contracts for the purpose of carrying on the business. (Western Woodenware Assn. *v.* Starkie, 84 Mich., 76.)

ASSOCIATION OF GROCERYMEN (IOWA, 1891).

The grocerymen in a town, in order to avoid a trade in butter which was burdensome, agreed not to buy any butter or take it in trade except for use in their own families, so as to throw the business into the hands of one man who dealt in butter exclusively. The agreement was held invalid, because in restraint of trade and tending to create a monopoly. (Chapin *v.* Brown, 83 Iowa, 156.)

COMBINATION OF BISCUIT COMPANIES (U. S. C. C., 1891).

The American Biscuit and Manufacturing Company purchased the bakery business of a certain partnership and leased the premises, the vendors contracting to carry on the business for a certain time as agents of the American Company. After a time the vendors repudiated the contract, tendered back the stock of the American Company, and resumed business under the old name. The American Company filed a bill for an injunction and accounting and a receiver; but the court found that the American Company was engaged in an attempt to monopolize the biscuit industry and refused the prayer for relief. The court said:

"We are not satisfied that the complainant's business is legitimate. While the nominal purpose of the complainant's corporation, as stated in its charter, is the manufacture and sale of biscuit and confectionery, its real scope and purpose seems to be to combine and pool the large competing bakeries throughout the country into practically what is known and called a 'trust,' the effect of which is to partially, if not wholly, prevent competition, and enhance prices of necessary articles of food, and secure, if not a monopoly, a large control of the supply and prices in leading articles of breadstuffs." (Amer. Bis. and Mfg. Co. *v.* Klotz, 44 Fed. Rep., 721.)

COMBINATION OF MAKERS OF SPRING-TOOTH HARROWS (N. Y., 1891, 1897; U. S. C. C., 1896).

Several independent corporations organized the National Harrow Company under the laws of New York. It seems that this corporation was formed solely for the purpose of receiving assignments of the various patents under which the manufacturers were engaged in making harrows, and to grant licenses to the various manufacturers to continue to make the same kind of harrows they had previously made and to fix the price at which the harrows should be sold.

By the terms of the contracts it appeared conclusively that it was the purpose of the combination to restrict the right of the several manufacturers who should receive licenses to the manufacture of the same kind of harrows which they had previously made. The legality of this company was challenged in three cases. In all it was held to be a combination to control the price and production of an implement necessary to agriculture and therefore illegal. (Strait *v.* Nat. Harrow Co., 18 N. Y. Supp., 224; Nat. Harrow Co. *v.* Hinch, 76 Fed. Rep., 667; Nat. Harrow Co. *v.* Bement & Sons, 21 App. Div., 290.)

COMBINATION OF OWNERS OF COAL MINES (U. S. C. C., 1891).

The owners of coal mines in Kentucky entered into a contract of association with coal dealers in Nashville, by which they agreed that the mine owners should only sell to dealers who were members, and the members should only buy from mine owners who were members, and that the dealers should sell at certain fixed prices, of which the mine owner should receive a proportionate part, after payment of freight, and that prices might be raised by a vote of the association, in which case the addition to the price should be divided between the dealers and the mine owners. The contract recited that it was intended to establish and maintain the price of coal at Nashville. It was held to be an attempt to create a monopoly in the interstate trade in coal between Kentucky and Nashville, Tenn., and it was enjoined. (United States *v.* Jellico M. C. & C. Co., 46 Fed. Rep., 432.)

COMBINATION OF WIRE CLOTH MANUFACTURERS (N. Y., 1891).

Three corporations and two copartnerships, all engaged in the manufacture and sale of wire cloth, entered into a combination for the avowed object of regulating the price of their product. They formed an association and agreed to abide by certain schedules of prices, and engaged that they "will sell no cloth at less than the prices set forth," and to insure the observance of the agreement subjected themselves to a heavy penalty for its violation. In holding the combination illegal the court said:

"That such a contract is repugnant to public policy, and so unlawful, is a settled principle in the jurisprudence of this country. The people have a right to the necessaries and conveniences of life at a price determined by the relation of supply and demand, and the law forbids any agreement or combination whereby that price is removed beyond the salutary influence of legitimate competition." (De Witt Wire Cloth Co. *v.* N. J. W. C. Co., 14 N. Y. Supp., 277.)

ASSOCIATION OF CHICAGO STENOGRAPHERS (ILL., 1892).

Certain articles of association were entered into by only a part of the stenographers of Chicago to fix a schedule of prices, and prevent competition among their members and a consequent reduction of prices. This agreement was held void. The supreme court of Illinois said:

"A combination among a number of persons engaged in a particular business to stifle or prevent competition, and thereby to enhance or diminish prices to a point above or below what they would be if left to the influence of unrestricted competition, is contrary to public policy. Contracts in partial restraint of trade which the law sustains are those entered into by a vender of a business and its good will with its vendee, by which the vendor agrees not to engage in the same business within a limited territory, and the restraint, to be valid, must be no more extensive than is reasonably necessary for the protection of the vendee in the enjoyment of the business purchased." (More *v.* Bennett, 140 Ill., 69.)

AGREEMENT BETWEEN LUMBER DEALERS (U. S. D. C., 1892).

A number of lumber dealers agreed to raise the price of lumber 50 cents per thousand feet in advance of the market price. The court held that this agreement can not operate as a restraint upon trade, within the meaning of the antitrust act, unless such agreement involves an absorption of the entire traffic and is entered into for the purpose of monopolizing trade in that commodity with the object of extortion. (U. S. *v.* Nelson, 52 Fed. Rep., 646.)

COMBINATION OF MANUFACTURERS OF COTTON-SEED OIL (TEXAS, 1892).

Five owners of cotton-seed oil mills in Texas made an agreement not to sell at less than certain agreed prices. One guaranteed profits to the four others, and suit was brought on the guaranty. It was held void, as restraining trade and tending to a monopoly, even though the evidence failed to establish that it effected a monopoly. (Texas Standard Oil Co. *v.* Adoue, 83 Tex., 650.)

CONTRACT BETWEEN POWDER COMPANIES (CAL., 1892).

Four powder companies of California agreed that each should sell at a price to be fixed by a committee of their representatives, and should pay over to the others the profits on any excess of sales over a fixed proportion of the total sales. The contract was held void. (Vulcan Powder Co. *v.* Hercules Powder Co., 96 Cal., 510.)

COMBINATION OF INSURANCE COMPANIES NOT ILLEGAL AT COMMON LAW (TEXAS, 1893).

Fifty-seven foreign insurance companies doing business in Texas combined to establish uniform rates of insurance and of commissions to agents. The supreme court of Texas held that such combination was not illegal at common law. (Queen Insurance Co. *v.* Texas, 22 L. R. A. (Tex.), 483.)

COMBINATION OF COAL DEALERS (N. Y., 1893).

"If agreements and combinations to prevent competition in prices are or may be hurtful to trade, the only sure remedy is to prohibit all agreements of that character. If the validity of such agreement was made to depend upon actual proof of public prejudice or injury, it would be very difficult in any case to establish the invalidity, although the moral evidence might be very convincing."

In this case all the coal dealers in Lockport, N. Y., entered into a contract of association, forming a coal exchange to prevent competition by constituting the exchange the sole authority to fix the price to be charged by members for coal sold by them, and the price was thus fixed. The court approved a charge to the jury that even if this was merely a combination between independent coal dealers to prevent competition between themselves for the due protection of the parties to it against ruinous rivalry, and although no attempt was made to charge unreasonable or excessive prices, it was inimical to trade and commerce, whatever might be done under it, and was within the State statute making a conspiracy injurious to trade indictable. (People *v.* Sheldon, 139 N. Y., 251.)

COMBINATION AMONG BUYERS OF SHEEP (NEW YORK, 1893).

Certain dealers and brokers in sheep organized an association for the purpose of protecting their business interests from loss by unreasonable competition. By the terms of the agreement they were to pool their commissions, except such commissions as were to be paid to a certain butchers' association, and an agreement was entered whereby the dealers' association in shipping were to sell only to the butchers who were members of the butchers' association, and the butchers on their side were to buy only of the brokers belonging to the brokers' association.

The combinations and agreements were held illegal on the ground that

their purpose was to control the markets, fix prices, and destroy competition. Said the court:

"The real purpose and intent of the agreement was to suppress competition in an article of food, and as such agreements tend to enhance the price, they are regarded as detrimental to the public interest and forbidden by public policy. That such agreements are illegal and void has been settled by the decisions of the courts from the earliest times." (Judd *v.* Harrington, 139 N. Y., 105.)

COMBINATION OF BREWERS (TEX., 1894).

Certain persons and firms in a city combined for the control of the sale of beer and the cessation of competition *inter se*. The supreme court of Texas held that such combination is not void at common law as against public policy, although in restraint of trade, since beer is not an article of prime necessity, and its sale is closely restricted by public policy. But it was held that the combination was contrary to the Texas act of 1889 relating to conspiracies against trade. (Annheuser-Busch Brew. Assn. *v.* Houck, 27 S. W. Rep., 692.)

COMBINATION OF BREWERS (PENN., 1894).

Forty-five brewers in Philadelphia made an agreement to sell beer in Philadelphia and Camden at a certain price to be fixed by a committee of their number. Though beer could hardly be said to be an article of prime necessity like coal, yet, as it was an article of merchandise, the contract was held void, as in restraint of trade, and tending to a monopoly. (Nester *v.* Continental Brewing Co., 161 Pa. St., 473.)

A COMBINATION OF MILK DEALERS (N. Y., 1895).

A large number of milk dealers and parties engaged in the creamery and milk business in the State of New York organized a corporation called the Milk Exchange. The object of this organization was to fix the price at which milk should be purchased by the stockholders of the company, who were the dealers in question. It appeared that the exchange was the instrument of the retail dealers and used by them for the purpose of regulating the price of milk. The combination was held illegal as being in restraint of trade and contrary to public policy. The court of appeals said:

"It appears to us that a case is presented in which the jury might have found that the combination alluded to was inimical to trade and commerce, and therefore unlawful. It may be claimed that the purpose of the combination was to reduce the price of milk, and that, it being an article of food, such reduction was not against public policy. But the price was fixed for the benefit of the dealers, and not the consumers, and the logical effect upon the trade of so fixing the price by the combination was to paralyze the production and limit the supply, and thus leave the dealers in a position to control the market, and, at their option, to enhance the price to be paid by the consumers." (People *v.* Milk Exchange, 145 N. Y., 267.)

COMBINATION OF BLUESTONE PRODUCERS (N. Y., 1897).

The Union Bluestone Company agreed with 14 producers of bluestone to control the bluestone trade in the city of New York and increase the price of bluestone over the rates then prevailing in the market. The Union Company was to be the sales agent for the others for the purpose of controlling prices. The court held this agreement illegal, and said:

"It seems to me quite clear that this agreement between the wholesale dealers in bluestone, who then controlled 90 to 95 per cent of the manufactured stock sold in the State, was a contract inimical to trade and commerce, under the authority of People *v.* Sheldon (139 N. Y., 251) and the cases therein cited. It is true that the combination which was the subject of consideration in that case had for its object the prevention of competition between dealers in coal, which may be regarded as an article of necessity, in the ordinary sense, while there is no such need or demand for bluestone as to bring it within that category. Nevertheless, a production the sales of which within this State in a single year amount to $1,500,000 is sufficiently useful and important to the community to bring it within the operation of that rule of law which invalidates agreements to prevent competition in trade." (Cummings *v.* Union Bluestone Association, 44 N. Y. Supp., 787.)

COMBINATION OF LIVE STOCK AND COMMISSION MEN (U. S. SUP. CT., 1898).

An unincorporated voluntary association of commission men did business at the stock yards, received, bought, sold, and handled live stock received from different States and sold for shipment to different States and Territories. The court held this association is not illegal. (Hopkins *v.* United States, 171 U. S., 578.)

It was held that the Sherman Act did not apply, as they were not engaged in interstate commerce.

COMBINATION OF IRON PIPE MANUFACTURERS (U. S. C. C. A., 1898).

A number of companies manufacturing iron pipe in different States formed a combination whereby the territory in which they operated (comprising a large part of the United States) was divided into "reserved" cities and "pay" territory. The reserved cities were allotted to particular members of the combination, free of competition from the others, though provision was made for pretended bids by the latter at prices previously arranged. In the pay territory all offers to purchase pipe were submitted to a committee, which determined the price, and then awarded the contract to that member of the combination which agreed to pay the largest "bonus" to be divided among the others. *Held*, that this was an unlawful combination, both at common law and under the act of 1890, against trusts and monopolies.

"Contracts that were in unreasonable restraint of trade at common law were not unlawful in the sense of being criminal or as giving rise to an action for damages to one prejudicially affected thereby, but were simply void and not enforceable. The effect of the antitrust law of 1890 is to render such contracts, as applied to interstate commerce, unlawful in an affirmative or positive sense and punishable as a misdemeanor, and also to create a right of civil action for damages in favor of persons injured thereby, and a remedy by injunction in favor both of private persons and the public against the execution of such contracts and the maintenance of such trade restraints.

"No contractual restraint of trade is enforceable at common law unless the covenant embodying it is merely ancillary to some lawful contract (involving some such relations as vendor and vendee, partnership, employer and employee), and necessary to protect the covenantee in the enjoyment of the legitimate fruits of the contract, or to protect him from the dangers of an unjust use of those fruits by the other party. The main purpose of the contract suggests the measure of protection needed, and furnishes a sufficiently uniform standard for determining the reasonableness and validity of the restraints. But where the sole object of both parties in making the contract is merely to restrain competition, and enhance and maintain prices, the contract is void." (U. S. *v.* Addyston Pipe and Steel Co., 85 Fed. Rep., 271.)

COMBINATION OF COAL DEALERS (U. S. C. C., 1898).

A certain number of coal dealers in the city of San Francisco formed an unincorporated association for the purpose of controlling the prices of coal and the coal trade in that city. By contracts with importers and wholesale dealers the association controlled all the mines in California, adjoining States and Territories, and British Columbia, from which the city of San Francisco derived its supply of coal. The association sought to control not only the manner of handling, but the price of coal and coke, defining who were retail dealers, and imposing fines upon dealers found guilty of selling coal in violation of coal rates or rules.

The wholesale dealers agreed not to sell coal at trade rates to anyone not having an established yard, and not to sell coal at less than card rates to consumers except in special cases to be provided for by agreement, and they agreed to charge $2 per ton additional to retail dealers who were not members of the association. A schedule of rates was adopted for different classes of coal in San Francisco. The circuit court held the association to be illegal under the antitrust act, and said:

"It is claimed on the part of the defendants that the Coal Dealers' Association is a beneficial organization; that it protects the coal consumers from the dishonest methods of some of the coal dealers in giving short weights and in substituting lower grades of coal for better grades; and that it also protects the wholesale dealers in enabling them to collect their bills from the retail dealers. All this may be true, but it is clear that the power of the association extends much further, and that it has another purpose. It establishes arbitary rates for coal from which the dealer is not permitted to deviate in any particular. It stifles all competition between retail dealers, restricts trade within prescribed limits, and establishes a monopoly of the most odious character in an article of daily consumption and prime necessity." (U. S. *v.* Coal Dealers' Assn., 85 Fed. Rep., 252.)

COMBINATION OF MANUFACTURERS OF GLUCOSE (ILLINOIS, 1899).

The Glucose Sugar Refining Company secured option contracts upon various glucose plants. These option contracts ran to a Chicago trust company and provided that the vendor corporations should not engage in the handling or manufacture of glucose for certain terms of years within 1,000 miles of Chicago. Subsequently the several properties were duly transferred to the Glucose Sugar Refining Company. A stockholder in one of the vendor corporations, with its plant in Illinois, objected to the transfer of the plant and filed a bill to enjoin the same. The Illinois supreme court granted the relief prayed for, and said:

"The material consideration in the case of such combinations is, as a general thing, not that prices are raised, but that it rests in the power and discretion of the trust or corporation taking all the plants of the several corporations to raise prices at any time, if it sees fit to do so. It does not relieve the trust of its objectionable features that it may reduce the price of the article which it manufactures, because such reduction may be brought about for the express purpose of crushing out some competitor or competitors. In the case at bar, however, the proof shows, upon the completion of the new organization, and as soon as it began to operate the several plants conveyed to it, the price of glucose and its various products began to go up." (Harding *v.* Amer. Glucose Co., 182 Ill., 551.)

COMBINATION OF MANUFACTURERS OF SANITARY POTTERY WARE (N. J., 1899).

Eight manufacturers of sanitary pottery ware, who produced nearly all of that ware manufactured in this country, formed an association and agreed to regulate the price of such ware according to the vote of a majority of its members. *Held*, That, assuming that such ware has become a commodity of so great importance to public health and comfort that the public has an interest in its manufacture and sale, such a combination is opposed to public policy, as creating or tending to create a monopoly. Contracts among independent and unconnected manufacturers looking to the control of the prices of their manufacture by limitation of production, by restriction or distribution, or by express agreements are opposed to public interest and unenforceable. (Trenton Potteries Co. *v.* Oliphant, 46 L. R. A. (N. J.), 255.)

COMBINATION OF IRON-PIPE MANUFACTURERS (U. S. SUP. CT., 1899).

"A combination may illegally restrain trade by preventing competition for contracts and enhancing prices, although it does not prevent the letting of any particular contract.

"We have no doubt that where the direct and immediate effect of a contract or combination among particular dealers in a commodity is to destroy competition between them and others, so that the parties to the contract or combination may obtain increased prices for themselves, such contract or combination amounts to a restraint of trade in the commodity, even though contracts to buy such commodity at the enhanced price are continually being made. Total suppression of the trade in the commodity is not necessary in order to render the combination one in restraint of trade. It is the effect of the combination in limiting and restricting the right of each of the members to transact business in the ordinary way, as well as its effect upon the volume or extent of the dealing in the commodity, that is regarded." (Addyston Pipe and Steel Co. *v.* United States, 175 U. S., 211.)

COMBINATION RESTRICTING THE PRODUCTION OF WOODEN DISHES (U. S. C. C. A., 1899).

At a convention of manufacturers of wooden ware, in which 80 per cent of the production of the country was represented, a combination was formed for the purpose of restricting the production of wooden dishes throughout the country, and keeping up the price thereof. To this end it was expected and intended that all the factories would be brought under the control of a central organization, which was to regulate the prices. The articles to which the combination related were such as are in common use. *Held*, That a contract made in pursuance of such combination, by which a manufacturer was guaranteed a certain sum as dividends on his stock in the central company in consideration of the closing of his factory for a year, was contrary to public policy, and therefore unlawful, and would not be enforced by the courts. (Cravens *v.* Carter-Crume Co., 92 Fed. Rep., 479.)

COMBINATION OF DEALERS IN DRUGS (GEORGIA, 1902).

The druggists of Atlanta, Ga., formed a retailers' association to protect themselves from cutting prices by other druggists. They would write wholesalers not to sell to the cutters and would refuse to buy of the wholesalers if they did sell to the cutters. One of the cut-rate concerns brought suit for damages and to enjoin further injuries. The court held the Georgia antitrust act under which the suit was brought unconstitutional, but gave the plaintiff relief under common law, holding the association contrary to public policy and void. In this case the principal English decisions are ably reviewed. (Brown & Allen *v.* Jacobs, etc., Co., 57 L. R. A., Ga., 547.)

COMBINATION OF MANUFACTURERS OF RED CEDAR SHINGLES (U. S. C. C. A., 1902).

The manufacturers of and dealers in red cedar shingles in the State of Washington formed a combine for the purpose of controlling the production and the price of such shingles, which are made only in that State. But they are principally sold and used in other States. By this action mills were closed, production reduced, and prices arbitrarily increased. The court held this to be a combination in restraint of interstate commerce, and said:

"There can be no doubt that at common law it is an unlawful combination in restraint of trade. It has the effect to diminish production, abolish competition, and enhance prices. Its illegality is not relieved by the fact that it was induced by the keen competition and the unprofitable condition of the shingle-manufacturing business which existed before it was entered into, or by the fact that the prices fixed by the combination may have been reasonable. The antitrust act goes as far, if not farther, than the common

law, and declares unlawful all combinations in restraint of interstate trade." (Gibbs *v.* McNeeley, 118 Fed. Rep., 120.)

3. TRUSTS.

CHICAGO GAS TRUST (ILL., 1889).

The Chicago Gas Trust Company organized for the purpose of operating gas plants in the city of Chicago, and acquired a majority of the shares of the four gas companies then doing business in Chicago, thereby controlling the company. Quo warranto proceedings were filed to test the legality of the trust, and the court held that the trust tended to create a monopoly, and was therefore unlawful.

"It is the duty of the judiciary," said the court, "to refuse to sustain that which is against the public policy of the State, when such public policy is manifested by the legislation or fundamental law of the State. Public policy is that principle of the law which holds that no subject or citizen can lawfully do that which has a tendency to be injurious to the public or against the public good. This principle owes its existence to the very sources from which the common law is supplied. The common law will not permit individuals to oblige themselves by a contract either to do or not to do anything when the thing to be done or omitted is in any degree clearly injurious to the public." (People *v.* Chicago Gas Tr. Co., 130 Ill., 268.)

AMERICAN CATTLE TRUST (U. S. C. C., 1889).

Thirteen parties in the city of New York organized an association to encourage and develop the production, transportation, distribution, handling, and sale of cattle, sheep, hogs, and other animals. The object of the trust was to receive from the various owners and holders the stock of corporations engaged in the business described. The trustees were to hold the stock in trust for the original owners, and to issue in lieu thereof trust certificates; by this means it was expected to secure control of the various corporations engaged in live stock business. The legality of the trust came before the courts upon the filing of a bill by a party who had exchanged his stock in one of the constituent corporations for trust certificates, and who sought to get his original stock back, and the relief prayed for was granted. (Gould *v.* Head, 38 Fed. Rep., 886.)

DISTILLERS AND CATTLE FEEDERS' TRUST (NEB., 1890).

In 1887 certain parties interested in certain distilleries located northwest of the Ohio River formed an unincorporated association known as "The Distillers and Cattle Feeders' Trust," with its headquarters at Peoria, Ill., the object of which trust was to control the production of high wines, alcohol, spirits, and other liquors, and to regulate prices of same, and to control competition. The stock of the members was transferred to trustees of the general company which controlled the entire business. The court held that the trust agreement was in restraint of trade, tended to destroy competition and create a monopoly, and was therefore contrary to public policy and void. (State *v.* Neb. Dist. Co., 29 Neb., 700.)

AMERICAN PRESERVERS' TRUST (U. S. C. C., 1891).

Seven corporations located in different parts of the United States, engaged in the fruit-preserving business, formed an association. The trust agreement provided for a transfer of stock of the original corporations to a board of nine trustees, which should organize the fruit-preserving business. A Missouri corporation became a party to the trust and agreed to go out of the business for twenty-five years. The trust sought to enforce this agreement by an application for an injuction restraining the Missouri corporation from doing business contrary to the agreement. The prayer for injunction was denied upon the ground that the organization of the trust was contrary to law. (Amer. Preserv. Trust *v.* Taylor Mfg. Co., 46 Fed. Rep., 152.)

In another decision it was held by the Illinois supreme court that such a trust was a combination in restraint of trade and forbidden by public policy. (Bishop *v.* Amer. Preserv. Co., 157 Ill., 284.)

STANDARD OIL TRUST (OHIO, 1892).

It seemed that the Standard Oil Company had abused its corporate franchises by becoming a party to certain trust agreements that were against public policy. The trust agreements provided, generally, that a corporation should be organized in Ohio, New York, Pennsylvania, and New Jersey; that all assets and business of the parties to the trust agreements situated in each State should be transferred to the corporation organized in that particular State, and payment made therefor in the stock of the transferee company, which stock should be delivered to nine trustees, and no stock of any of said companies should ever be issued except to the trustees, to be held subject to the trust specified.

In return for the stock so delivered the trustees were to issue trust certificates of like value to the several stockholders. Complete power to manage the several companies was vested in the trustees. The court held the organization invalid, and said:

"Its object was to establish a virtual monopoly of the business of producing petroleum, and of manufacturing, refining, and dealing in it and all its products through the entire country, and by which it might not merely control the production, but the price, at its pleasure. All such associations are contrary to the policy of our State and void." (State *v.* Standard Oil Co., 49 Ohio St., 137.)

The CHAIRMAN. The time limited for general debate under the rule adopted by the House has expired.

Mr. LITTLEFIELD. Mr. Chairman, I move that the committee do now rise.

The committee accordingly rose; and Mr. LACEY having resumed the chair as Speaker pro tempore, Mr. BOUTELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17 and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. FOSS, for three days, on account of sickness in his family.

To Mr. SAMUEL W. SMITH, for one week, on account of important business.

WITHDRAWAL OF PAPERS.

Mr. NEEDHAM, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of Merced Security Savings Bank, Fifty-seventh Congress, no adverse report having been made thereon.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker pro tempore signed the same.

H. R. 16604. An act making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1904;

H. R. 14899. An act to amend an act entitled "An act to incorporate the National Florence Crittenton Mission;"

H. R. 7007. An act for the relief of the representative of Maj. William Kendall;

H. R. 2441. An act for the relief of William M. Bird, James F. Redding, Henry F. Welch, and others;

H. R. 15198. An act defining what shall constitute and providing for assessments on oil-mining claims; and

H. R. 15747. An act directing the issue of a check in lieu of a lost check drawn by George A. Bartlett, disbursing clerk, in favor of Fannie T. Sayles, executrix, and others.

The SPEAKER pro tempore announced his signature to enrolled bills of the following titles:

S. 4722. An act for the erection of a building for the use and accommodation of the Department of Agriculture;

S. 475. An act to refer the claim of Joseph W. Parish to the Secretary of the Treasury for examination and payment of any balance found due;

S. 2450. An act to establish a fog bell and lens-lantern light on the southeastern end of Southampton Shoal, San Francisco Bay, California;

S. 3546. An act for the relief of L. A. Noyes;

S. 5212. An act granting to the State of California 640 acres of land in lieu of section 16, township 7 south, range 8 east, San Bernardino meridian, State of California, now occupied by the Torros band or village of Mission Indians;

S. 5505. An act adjusting certain conflicts respecting State school indemnity selections in lieu of school sections in abandoned military reservations;

S. 4222. An act authorizing the appointment of John Russell Bartlett, a captain on the retired list of the Navy, as a rear-admiral on the retired list of the Navy; and

S. 7124. To provide for the removal of persons accused of crime to and from the Philippine Islands for trial.

ENROLLED BILLS PRESENTED TO THE PRESIDENT OF THE UNITED STATES.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had presented this day to the President of the United States for his approval bills of the following titles:

H. R. 159. An act providing for free homesteads on the public lands for actual and bona fide settlers in the north one-half of the Colville Indian Reservation, State of Washington, and reserving public lands for that purpose;

H. R. 647. An act for the relief of William P. Marshall;

H. R. 5756. An act for the relief of the officers and crew of the U. S. S. *Charleston*, lost in the Philippine Islands November 2, 1899;

H. R. 9503. An act to authorize the Oklahoma City and Western Railroad Company to construct and operate a railway through the Fort Sill Military Reservation, and for other purposes;

H. R. 16099. An act to cancel certain taxes assessed against the Kall tract;

H. R. 16330. An act to detach the county of Dimmit from the southern judicial district of Texas and to attach it to the western judicial district of Texas;

H. R. 16651. An act to fix the time for holding United States district and circuit courts in the northern and middle districts of Alabama;

H. R. 16724. An act to provide for an additional judge of the district court of the United States for the southern district of New York; and

H. J. Res. 184. Joint resolution requesting State authorities to cooperate with the Census Office in securing a uniform system of births and death registration.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 6881. An act for the relief of James L. Elmer—to the Committee on Claims.

S. 7223. An act providing for the interment of the remains of Marie Irene Donaldson and her daughter, Marie Irene Donaldson—to the Committee on the District of Columbia.

Senate concurrent resolution 64:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he hereby is, authorized and directed to cause to be made an examination and survey of the Delaware River at Philadelphia, with a view to extending the improvement thereof above Christian street as far as Allegheny avenue, and to submit plans and estimates for such improvement, the cost of the work herein directed to be paid from the amount available for the improvement of said river below Christian street—

to the Committee on Rivers and Harbors.

Mr. LITTLEFIELD. I move that the House do now adjourn.

The motion was agreed to.

And accordingly (at 5 o'clock and 40 minutes p. m.) the House adjourned.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. BOUTELL, from the Committee on the Post-Office and Post-Roads, to which was referred the bill of the Senate (S. 2644) to promote the circulation of reading matter among the blind, reported the same without amendment, accompanied by a report (No. 3657); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ESCH, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 11652) to amend section 2 of chapter 438 of volume 26, United States Statutes at Large, "An act to authorize the President of the United States to cause certain lands heretofore withdrawn from market for reservoir purposes to be restored to the public domain, subject to entry under the homestead law with certain restrictions," so that any isolated or disconnected tract or parcel thereof may be ordered into market and sold for not less than $1.25 per acre, reported the same without amendment, accompanied by a report (No. 3659); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6641) granting an increase of pension to Sophie S. Shaffer, reported the same without amendment, accompanied by a report (No. 3555); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6841) granting an increase of pension to Charles S. Boyington, reported the same without amendment, accompanied by a report (No. 3556); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6842) granting an increase of pension to Stephen R. Swett, reported the same without amendment, accompanied by a report (No. 3557); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6981) granting an increase of pension to Lorenzo P. Duncklee, reported the same without amendment, accompanied by a report (No. 3558); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6982) granting an increase of pension to Linda F. Moulton, reported the same without amendment, accompanied by a report (No. 3559); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6983) granting an increase of pension to Gilman B. Johnson, reported the same without amendment, accompanied by a report (No. 3560); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6984) granting an increase of pension to Maria A. Marden, reported the same without amendment, accompanied by a report (No. 3561); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6985) granting an increase of pension to George Cummings, reported the same without amendment, accompanied by a report (No. 3562); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 7060) granting an increase of pension to Ann M. Jackman, reported the same without amendment, accompanied by a report (No. 3563); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 7076) granting an increase of pension to Charles L. Pinkham, reported the same without amendment, accompanied by a report (No. 3564); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 7077) granting an increase of pension to Cyrus B. Norris, reported the same without amendment, accompanied by a report (No. 3565); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16201) granting an increase of pension to Jeffrey Hufford, reported the same with amendments, accompanied by a report (No. 3566); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13004) granting an increase of pension to Peter B. Rouch, reported the same with amendments, accompanied by a report (No. 3567); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17110) granting an increase of pension to Robert Tracy, reported the same with amendments, accompanied by a report (No. 3568); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3929) granting an increase of pension to Leman A. Brace, reported the same without amendment, accompanied by a report (No. 3569); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4087) granting a pension to Lemuel Kingsbury, reported the same without amendment, accompanied by a report (No. 3570); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4337) granting an increase of pension to Elizabeth Thompson, reported the same without amendment, accompanied by a report (No. 3571); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4429) granting a pension to Alvira Randall, reported the same without amendment, accompanied by a report (No. 3572); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4466) granting an increase of pension to Archibald McIntire, reported the same without amendment, accompanied by a report (No. 3573); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4544) granting an increase of pension to Phineas L. Squires, reported the same without amendment, accompanied by a report (No. 3574); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4760) granting an increase of pension to John Hamilton, second, reported the same without amendment, accompanied by a report (No. 3575); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4807) granting an increase of pension to Emmet C. Hill, reported the same without amendment, accompanied by a report (No. 3576); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4892) granting an increase of pension to John Doberrer, reported the same without amendment, accompanied by a report (No. 3577); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5006) granting a pension to Annie P. Pinney, reported the same without amendment, accompanied by a report (No. 3578); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5053) granting a pension to Deborah Edwards, reported the same without amendment, accompanied by a report (No. 3579); which said bill and report were referred to the Private Calendar.

Mr. APLIN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5123) granting an increase of pension to James McMorrow, reported the same without amendment, accompanied by a report (No. 3580); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5507) granting an increase of pension to Jarrot F. Rigg, reported the same without

amendment, accompanied by a report (No. 3581); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5526) granting an increase of pension to Benjamin F. Cornman, reported the same without amendment, accompanied by a report (No. 3582); which said bill and report were referred to the Private Calendar.

Mr. APLIN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5568) granting an increase of pension to Emma R. Cropsey, reported the same without amendment, accompanied by a report (No. 3583); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5953) granting a pension to Ann M. Green, reported the same without amendment, accompanied by a report (No. 3584); which said bill and report were referred to the Private Calendar.

Mr. APLIN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5967) granting an increase of pension to Mary E. Craig, reported the same without amendment, accompanied by a report (No 3585); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5991) granting an increase of pension to William Barrett, reported the same without amendment, accompanied by a report (No. 3586); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6096) granting an increase of pension to Hester A. R. Landers, reported the same without amendment, accompanied by a report (No. 3587); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6191) granting an increase of pension to Samuel L. Thompson, reported the same without amendment, accompanied by a report (No. 3588); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6192) granting an increase of pension to Austin H. Patterson, reported the same without amendment, accompanied by a report (No. 3589); which said bill and report were referred to the Private Calendar.

Mr. APLIN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6220) granting an increase of pension to Walter G. Tebbetts, reported the same without amendment, accompanied by a report (No. 3590); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6305) granting an increase of pension to James B. Taylor, reported the same without amendment, accompanied by a report (No. 3591); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6348) granting an increase of pension to Napoleon B. Stockbridge, reported the same with amendment, accompanied by a report (No. 3592); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6367) granting an increase of pension to Edmund P. Fox, reported the same without amendment, accompanied by a report (No. 3593); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6415) granting an increase of pension to Samuel J. Radcliffe, reported the same without amendment, accompanied by a report (No. 3594); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6431) granting an increase of pension to James Greenman, reported the same without amendment, accompanied by a report (No. 3595); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6437) granting a pension to Frederick S. Woodward, reported the same without amendment, accompanied by a report (No. 3596); which said bill and report were referred to the Private Calendar.

Mr. APLIN, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6530) granting an increase of pension to Austin L. Topliff, reported the same without amendment, accompanied by a report (No. 3597); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6563) granting an increase of pension to William A. Dougan, reported the same without amendment, accompanied by a report (No. 3598); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6586) granting an increase of pension to Othniel P. Parcher, reported the same without amendment, accompanied by a report (No. 3599); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6623) granting an increase of pension to Gilbert E. Bushnell, reported the same without amendment, accompanied by a report (No. 3600); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6631) granting an increase of pension to Mitchell Hunt, reported the same without amendment, accompanied by a report (No. 3601); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6632) granting an increase of pension to Frank Cleaves, reported the same without amendment, accompanied by a report (No. 3602); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6668) granting an increase of pension to Charles Graham, reported the same without amendment, accompanied by a report (No. 3603); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6703) granting a pension to Henrietta V. West, reported the same without amendment, accompanied by a report (No. 3604); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6731) granting an increase of pension to Benjamin N. Bond, reported the same without amendment, accompanied by a report (No. 3605); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6748) granting an increase of pension to Ann M. Haskell, reported the same without amendment, accompanied by a report (No. 3606); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6795) granting an increase of pension to Hannah J. Hopkins, reported the same without amendment, accompanied by a report (No. 3607); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6798) granting an increase of pension to Charles F. Sheldon, reported the same without amendment, accompanied by a report (No. 3608); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6845) granting an increase of pension to Martin G. Cushing, reported the same without amendment, accompanied by a report (No. 3609); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15730) granting an increase of pension to Hans A. Grove, reported the same with amendments, accompanied by a report (No. 3610); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17120) granting an increase of pension to Charles Shirar, reported the same without amendment, accompanied by a report (No. 3611); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4723) granting a pension to George A. Liston, reported the same with amendment, accompanied by a report (No. 3612); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16858) granting an increase of pension to James P. Foster, reported the same with amendments, accompanied by a report (No. 3613); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16996) granting an increase of pension to John Bougher, reported the same without amendment, accompanied by a report (No. 3614); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11739) granting an increase of pension to S. N. Northway, reported the same with amendments, accompanied by a report (No. 3615); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16374) granting

an increase of pension to Alonzo S. Bowden, reported the same without amendment, accompanied by a report (No. 3616); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16714) granting an increase of pension to Mary A. F. Gilmore, reported the same with amendments, accompanied by a report (No. 3617); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15645) granting a pension to Capt. Wilson French, reported the same with amendments, accompanied by a report (No. 3618); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11833) granting an increase of pension to Albanis L. Anderson, reported the same with amendments, accompanied by a report (No. 3619); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16712) granting an increase of pension to Josephine A. Rettig, reported the same with amendments, accompanied by a report (No. 3620); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4553) granting an increase of pension to Samuel S. Mitchell, reported the same with amendments, accompanied by a report (No. 3621); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17119) granting an increase of pension to James Flannigan, reported the same with amendments, accompanied by a report (No. 3622); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5762) granting a pension to William H. T. Hostetler, reported the same with amendments, accompanied by a report (No. 3623); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17101) granting an increase of pension to Joanna Glaser, reported the same with amendments, accompanied by a report (No. 3624); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 11701) granting an increase of pension to John C. Wright, reported the same with amendments, accompanied by a report (No. 3625); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16696) to increase the pension of Freeling H. Amick, reported the same with amendments, accompanied by a report (No. 3626); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8061) granting a pension to Frances E. Wild, reported the same with amendments, accompanied by a report (No. 3627); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12822) granting an increase of pension to Michael O. Sullivan, reported the same with amendment, accompanied by a report (No. 3628); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3681) granting an increase of pension to Joseph A. Wilson, reported the same with amendment, accompanied by a report (No. 3629); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17094) granting an increase of pension to Augustus L. Kidder, reported the same with amendments, accompanied by a report (No. 3630); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17233) granting a pension to John Haynes, reported the same with amendment, accompanied by a report (No. 3631); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6101) granting an increase of pension to Amanda E. McQuiddy, reported the same with amendment, accompanied by a report (No. 3632); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14160) granting an increase of pension to Ira J. S. Holmes, reported the same with amendment, accompanied by a report (No. 3633); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1062) granting an increase of pension to E. P. Stearns, reported the same with amendments, accompanied by a report (No. 3634); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 14236) granting an increase of pension to William E. Chatfield, reported the same with amendments, accompanied by a report (No. 3635); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17026) granting a pension to Jerome W. Turner, reported the same with amendments, accompanied by a report (No. 3636); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10506) granting a pension to Frances E. Luse, widow of Jesse B. Luse, reported the same with amendments, accompanied by a report (No. 3637); which said bill and report were referred to the Private Calendar.

Mr. WHITE, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16476) granting a pension to Katharine Rayle, reported the same with amendments, accompanied by a report (No. 3638); which said bill and report were referred to the Private Calendar.

Mr. WILEY, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16351) granting an increase of pension to Austin P. Merrell, reported the same with amendments, accompanied by a report (No. 3639); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 2813) granting a pension to Emily Hawkins, reported the same with amendments, accompanied by a report (No. 3640); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15962) granting a pension to Catharine T. R. Mathews, reported the same with amendments, accompanied by a report (No. 3641); which said bill and report were referred to the Private Calendar.

Mr. BOREING, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16275) granting a pension to Isaac B. Price, reported the same with amendments, accompanied by a report (No. 3642); which said bill and report were referred to the Private Calendar.

Mr. WHITE, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16755) granting an increase of pension to Fannie T. Fisher, reported the same with amendment, accompanied by a report (No. 3643); which said bill and report were referred to the Private Calendar.

Mr. PATTERSON of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15629) granting an increase of pension to Edward Tattersall, reported the same with amendments, accompanied by a report (No. 3644); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15665) granting an increase of pension to John H. Carr, reported the same with amendment, accompanied by a report (No. 3645); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 14091) granting a pension to Charles A. Warrick, reported the same with amendments, accompanied by a report (No. 3646); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 6189) granting an increase of pension to Eli Potts, reported the same with amendment, accompanied by a report (No. 3647); which said bill and report were referred to the Private Calendar.

Mr. WHITE, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16939) granting an increase of pension to Alexander T. Sullenger, reported the same with amendments, accompanied by a report (No. 3648); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16077) granting a pension to Leighton M. Perveil, alias Charles H. Hunt, reported the same with amendments, accompanied by a report (No. 3649); which said bill and report were referred to the Private Calendar.

Mr. BOREING, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17090) granting an increase of pension to James T. Price, reported the same with

amendments, accompanied by a report (No. 3650); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16352) granting an increase of pension to Mary L. Stotsenburg, reported the same with amendments, accompanied by a report (No. 3651); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6229) granting a pension to Patrick W. O'Donnell, reported the same without amendment, accompanied by a report (No. 3652); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6413) granting a pension to Harold P. Waldo, reported the same without amendment, accompanied by a report (No. 3653); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 6063) granting an increase of pension to Orson Nickerson, reported the same with amendment, accompanied by a report (No. 3654); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4029) granting a pension to Mary J. Parker, reported the same without amendment, accompanied by a report (No. 3655); which said bill and report were referred to the Private Calendar.

He also, from the same committee to which was referred the bill of the Senate (S. 4379) granting an increase of pension to George Davis, reported the same without amendment, accompanied by a report (No. 3656); which said bill and report were referred to the Private Calendar.

Mr. SULZER, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 5879) to remove the charge of desertion from the Army record of Eli Hibbard, reported the same without amendment, accompanied by a report (No. 3658); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred, as follows:

By Mr. FOSS, from the Committee on Naval Affairs: A bill (H. R. 17288) making appropriations for the naval service for the fiscal year ending June 30, 1904, and for other purposes—to the Union Calendar.

By Mr. JENKINS: A bill (H. R. 17289) to provide public convenience stations in the city of Washington, D. C.—to the Committee on the District of Columbia.

By Mr. LANDIS: A bill (H. R. 17290) amending section 1379 of the Revised Statutes of the United States—to the Committee on Naval Affairs.

By Mr. NORTON: A bill (H. R. 17291) to provide that the Washington, Potomac and Chesapeake Railroad Company may extend its tracks in the District of Columbia—to the Committee on the District of Columbia.

Also, a bill (H. R. 17292) to amend an act entitled "An act to permit the Pinstch Compressing Company to lay pipes in certain streets in the city of Washington"—to the Committee on the District of Columbia.

By Mr. DE ARMOND: A joint resolution (H. J. Res. 263) to provide for the publication of the military laws of the United States—to the Committee on Printing.

By Mr. NORTON: A joint resolution (H. J. Res. 264) tendering the thanks of Congress to the members of Company H, Forty-third United States Volunteer Infantry—to the Committee on Military Affairs.

By Mr. SMALL: A concurrent resolution (H. C. Res. 84) providing for a Congressional committee to investigate the coal question—to the Committee on Rules.

By Mr. HENRY C. SMITH: A resolution (H. Res. 433) for an investigation of the Postal Telegraph and Cable Company—to the Committee on Rules.

By Mr. DAVIDSON: A joint resolution of the Wisconsin legislature relating to the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BELL: A bill (H. R. 17293) for the relief of David H. Moffat—to the Committee on Military Affairs.

By Mr. BLACKBURN: A bill (H. R. 17294) to correct the military record of Abraham C. Bryan—to the Committee on Military Affairs.

Also, a bill (H. R. 17295) for the relief of Asa Triplett—to the Committee on War Claims.

By Mr. CALDERHEAD: A bill (H. R. 17296) granting an increase of pension to Nathaniel Thayer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17297) granting an increase of pension to Joseph W. Fox—to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 17298) granting an increase of pension to Clara E. Smith—to the Committee on Invalid Pensions.

By Mr. DRISCOLL: A bill (H. R. 17299) granting an increase of pension to John P. Jackson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17300) granting an increase of pension to John Barriger—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17301) for the relief of Albert Edward Adam Engle—to the Committee on Military Affairs.

By Mr. GREENE of Massachusetts: A bill (H. R. 17302) for the relief of Joseph M. Simms, captain, United States Revenue-Cutter Service (retired)—to the Committee on Interstate and Foreign Commerce.

By Mr. LIVINGSTON: A bill (H. R. 17303) granting an increase of pension to A. W. Huffman—to the Committee on Invalid Pensions.

By Mr. LONG: A bill (H. R. 17304) granting an increase of pension to R. F. Nugent—to the Committee on Invalid Pensions.

By Mr. REEVES: A bill (H. R. 17305) granting a pension to Philander H. Graves—to the Committee on Invalid Pensions.

By Mr. SULZER: A bill (H. R. 17306) granting a pension to Catherine McGuinn—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BABCOCK: Papers to accompany House bill 16575, granting an increase of pension to James Whittey—to the Committee on Invalid Pensions.

By Mr. BARTLETT: Petition of Georgia Bankers' Association, favoring the repeal of the bankruptcy law—to the Committee on the Judiciary.

By Mr. BROWN: Petition of John R. Muir and others, of Aniwa, Wis., for the passage of a bill to forbid the sale of intoxicating liquors in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, petition of Antigo Lodge, No. 151, Brotherhood of Railroad Trainmen, of Antigo, Wis., in favor of the passage of the safety-appliance bill—to the Committee on Interstate and Foreign Commerce.

By Mr. BURLESON: Petition of citizens of Taylor, Tex., for the extension of the free-delivery service to cities whose postal receipts are $5,000 or more per annum—to the Committee on the Post-Office and Post-Roads.

By Mr. DRAPER: Resolution of the Central Federation of Labor, of Troy, N. Y., favoring House bill 16457, in relation to gifts in connection with the sale of tobacco, cigars, etc—to the Committee on the Judiciary.

By Mr. GOLDFOGLE: Resolutions of Romania Lodge, No. 106, Congregation Sons of Israel People Keiden; Weinberg Lodge, No. 44, Chevra Aushe Molekoweska; Congregation Sharae Tfile Ausche Odessa, and Independent Family Benevolent Association, all of New York City, relating to methods of the immigration bureau at the port of New York—to the Committee on Immigration and Naturalization.

By Mr. GRAHAM: Petition of the Cigar Dealers' Association of America, Chicago, Ill., protesting against reduction of duty on cigars—to the Committee on Ways and Means.

Also, report of subcommittee, consisting of George Truesdell and 11 others, to a committee of 100 citizens of Washington, D. C., in relation to District finances and appropriations—to the Committee on the District of Columbia.

By Mr. GREENE of Massachusetts: Resolutions of the Massachusetts State Board of Trade, favoring the passage of the Elkins bill to increase the jurisdiction and powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. KERN: Resolutions of International Union of Flour and Cereal Mill Employees, of Belleville, Ill., indorsing the proposed eight-hour law—to the Committee on Labor.

By Mr. NEEDHAM: Resolutions of Pajaro Valley Fruit Growers' Association, of California, asking for the amendment of the Chinese-exclusion act—to the Committee on Foreign Affairs.

By Mr. OTJEN: Resolutions of Baron Hirsh Lodge, No. 159, Order of B'rith Abraham, of Milwaukee, Wis., relating to methods

of the Immigration Bureau at the port of New York—to the Committee on Immigration and Naturalization.

By Mr. PAYNE: Papers to accompany House bill granting a pension to Juliette Westbrook—to the Committee on Invalid Pensions.

Also, petition of George W. Randolph and other citizens of Palmyra, N. Y., against the repeal of the canteen law, and in relation to the sale of liquor in immigrant stations, Government buildings, etc.—to the Committee on Alcoholic Liquor Traffic.

By Mr. REEDER: Petitions of Lenora Quarterly Conference, of Norton County, and Logan Quarterly Conference, of Phillips County, Kans., in favor of legislation in restraint of the liquor traffic—to the Committee on Alcoholic Liquor Traffic.

By Mr. ROBB: Resolutions of a meeting of citizens of Desoto, Mo., in favor of Senate bill to provide letter carriers for free delivery in cities having a population of 5,000 and over—to the Committee on the Post-Office and Post-Roads.

By Mr. SHACKLEFORD: Petition of citizens of Camden County, Mo., urging the passage of House bill 16220, for the donation of public lands in Camden County for a court-house—to the Committee on the Public Lands.

Also, petitions of retail druggists of Russellville and Versailles, Mo., and vicinity, urging the passage of House bill 178, for the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. STEELE: Sixty-six petitions of about 1,000 names from several States, for a reduction of the tax on alcohol to 70 cents per proof gallon—to the Committee on Ways and Means.

By Mr. YOUNG: Petition of the executive committee of the Interstate Commerce Law Convention, favoring the passage of the bill to increase the jurisdiction and powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

SENATE.

SATURDAY, *February 7, 1903.*

Prayer by Rev. J. F. PRETTYMAN, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. QUAY, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will stand approved, there being no objection.

ENROLLED BILLS SIGNED.

A message from the House of Representatives by Mr. W. J. BROWNING, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President pro tempore:

A bill (S. 475) to refer the claim of Joseph W. Parish to the Secretary of the Treasury for examination and payment of any balance found due;

A bill (S. 2450) to establish a fog bell and lens-lantern light on the southeastern end of Southampton Shoal, San Francisco Bay, California;

A bill (S. 3546) for the relief of L. A. Noyes;

A bill (S. 4222) authorizing the appointment of John Russell Bartlett, a captain on the retired list of the Navy, as a rear-admiral on the retired list of the Navy;

A bill (S. 4722) for the erection of a building for the use and accommodation of the Department of Agriculture;

A bill (S. 5212) granting to the State of California 640 acres of land in lieu of section 16, township 7 south, range 8 east, San Bernardino meridian, State of California, now occupied by the Torros band or village of Mission Indians;

A bill (S. 5505) adjusting certain conflicts respecting State school indemnity selections in lieu of school sections in abandoned military reservations;

A bill (S. 7124) to provide for the removal of persons accused of crime to and from the Philippine Islands for trial;

A bill (H. R. 2441) for the relief of William M. Bird, James F. Redding, Henry F. Welch, and others;

A bill (H. R. 7007) for the relief of the legal representatives of Maj. William Kendall;

A bill (H. R. 14899) to amend an act entitled "An act to incorporate the National Florence Crittenton Mission;"

A bill (H. R. 15198) defining what shall constitute and providing for assessments on oil-mining claims;

A bill (H. R. 15747) directing the issue of a check in lieu of a lost check drawn by George A. Bartlett, disbursing clerk, in favor of Fannie T. Sayles, executrix, and others; and

A bill (H. R. 16604) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1904.

MEMORIAL ASSOCIATION OF THE DISTRICT OF COLUMBIA.

The PRESIDENT pro tempore. A few days since the Chair appointed members of the Memorial Association of the District of Columbia and in the name of one of them there was a mistake. The man appointed was named John M. Spofford. It should have been A. R. Spofford, and the Chair corrects that error.

CREDENTIALS.

Mr. BEVERIDGE presented the credentials of CHARLES W. FAIRBANKS, chosen by the legislature of the State of Indiana as Senator from that State for the term beginning March 4, 1903; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. CULLOM presented petitions of Cigar Makers' Local Union, No. 47, of Quincy; of Cigar Makers' Local Union, No. 118, of Peoria, and of Cigar Makers' Local Union, No. 99, of Ottawa, all of the American Federation of Labor, in the State of Illinois, praying for the enactment of legislation to prohibit the giving of presents, coupons, or promises of gifts with tobaccos and cigars; which were referred to the Committee on Finance.

He also presented petitions of the Trades Council of Elgin; of Local Union, No. 26, of Belleville; of Local Union, No, 134, of Chicago; of the Granite Cutters' National Union of Toulon, and of Local Union, No, 9, of Alton, all of the American Federation of Labor, in the State of Illinois, praying for the passage of the so-called eight-hour bill; which were ordered to lie on the table.

Mr. DEPEW presented a petition of the local board of Morrisania, Twenty-fourth district, Bronx Borough, of New York City, N. Y., praying that an appropriation be made to join that part of the Hudson River and Long Island Sound known as the Bronx Kills; which was referred to the Committee on Commerce.

Mr. McCOMAS presented a petition of Boiler Makers and Iron-Ship Builders' Local Union No. 41, American Federation of Labor, of Baltimore, Md., praying for the passage of the ship-subsidy bill; which was ordered to lie on the table.

He also presented a petition of the Board of Trade of Baltimore, Md., praying for the establishment of a department of commerce; which was ordered to lie on the table.

He also presented the petition of W. L. Curley and sundry other citizens of Baltimore, Md., praying for the passage of the so-called pure-food bill; which was ordered to lie on the table.

Mr. DUBOIS presented a memorial of sundry citizens of Wallace, Idaho, remonstrating against the repeal of the desert-land law and the commutation clause of the homestead act; which was referred to the Committee on Public Lands.

Mr. FRYE presented the petition of Rev. H. N. Pringle and 8 other citizens of Eastport, Me., and the petition of Everett J. White and sundry other citizens of Machias, Me., praying for the enactment of legislation granting to the States power to deal with intoxicating liquors which may he shipped into their territory from other States; which were referred to the Committee on Interstate Commerce.

REPORTS OF COMMITTEES.

Mr. GALLINGER, from the Committee on Pensions, to whom was referred the bill (S. 7277) granting an increase of pension to Elbert H. Dagnall, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 16534) granting an increase of pension to James H. Durham, reported it without amendment, and submitted a report thereon.

Mr. BURTON, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 9950) granting an increase of pension to Moses Whitcomb;

A bill (H. R. 15684) granting an increase of pension to Joseph R. Prentice;

A bill (H. R. 13240) granting an increase of pension to Nimrod F. Clark; and

A bill (H. R. 13239) granting an increase of pension to Ervin Thompson.

Mr. BURTON, from the Committee on Pensions, to whom was referred the bill (H. R. 5101) granting an increase of pension to Benjamin Contal, reported it with an amendment, and submitted a report thereon.

Mr. PETTUS, from the Committee on the Judiciary, to whom was referred the bill (H. R. 14512) to amend an act to add certain counties in Alabama to the northern district therein, and to divide the said northern district, after the addition of said counties, into two divisions, and to prescribe the times and places for holding courts therein, and for other purposes, approved May 2, 1884, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. 7212) to amend an act to add certain counties in Alabama to the northern district therein, and to divide the said northern district, after the addition of said counties, into two divisions, and to prescribe the time and places for holding courts therein,