Mr. TELLER introduced a bill (S. 3219) increasing the pension of Isaiah Mitchell; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DAVIS introduced a bill (S. 3221) granting a pension to Kate M. Smith; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3222) granting a pension to Jared D. Wheelock; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3223) for the relief of C. T. Trowbridge, George D. Walker, and John A. Trowbridge; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CULUM introduced a bill (S. 3224) granting a pension to Robert A. Stuart; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. MOODY introduced a bill (S. 3225) to amend an act relating to the importing and landing of mackerel, etc., approved February 28, 1887; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Fisheries.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the Speaker of the House had signed the following enrolled bills, and that they were thereupon signed by the Vice-President:

A bill (H. R. 5751) to increase the pension of Isaac Emady.

A bill (H. R. 140) to prevent the introduction of contagious diseases from one State to another and for the punishment of certain offenses.

A bill (H. R. 3392) granting a pension to Mrs. Anna Batterfield.

A bill (H. R. 417) for the erection of a public building at Houlton, Me.; and

A bill (S. 1332) granting to the city of Colorado Springs, in the State of Colorado, certain lands therein described for water reservoirs.

Mr. REAGAN. I desire to do so now because I do not wish to be cut out by some other amendment coming in ahead.

Mr. SHERMAN. Very well; offer it now and let it be pending.

Mr. REAGAN. I offer it now, not to interfere with the Senator from Ohio at all.
Mr. PLATT and Mr. ALLISON. Let it be read.

The VICE-PRESIDENT. The amendment proposed by the Senator from Texas [Mr. REAGAN] will be read.

The CfiEFPER. It is proposed to substitute for the amendment reported by the Committee on Finance the following:

The first invokes the power of the National Government, in proper cases, to restrain such a combination, by mandatory proceedings, from interfering with commerce of the country, and the second section is to provide for the giving of private remedies in cases of injury from such combinations.

The first section of this act is to provide that any person entering into such a combination, either on his own account or as an attorney for another or as an officer, attorney, or as a trustee in any capacity whatever, shall be guilty of a misdemeanor, and on conviction shall be punished with fine or imprisonment, in the discretion of the court.

The amendments, then, proposed by the Committee on Finance to the first section would be proper amendments to the third section, but not to the first, where they have no proper place. The first section, being a declaratory statute, would have no effect on the statute laws of the several States; and the second section is to give to private parties a remedy for personal injury caused by a such combination.

A third section was added when the bill was first reported by the Committee on Finance which declares that all persons entering into such a combination, either on his own account or as an attorney for another or as an officer, attorney, or as a trustee in any capacity whatever, shall be guilty of a misdemeanor, and on conviction shall be punished with fine or imprisonment, in the discretion of the court.

The amendments now proposed by the Committee on Finance to the first section are not in the substitute. The third section is a criminal statute, which would be construed strictly and is difficult to be enforced. In the present aspect of the law and the nature and limits of the offense in terms specific enough for an indictment. This section is applicable only to individuals.

A corporation cannot be indicted or punished except through civil processes. The criminal law is in the hands of the United States, against which only the General Government can secure relief. They not only affect commerce with foreign nations, but trade among the States.

It is the intention of Congress, in the first instance, to seize upon all remedial process or writs proper and necessary to enforce its provisions, and to require the Attorney-General and the several district attorneys, in the name of the United States, to commence and prosecute all suits for the purpose of enforcing these provisions, and to require the Attorney-General and the several district attorneys, in the name of the United States, to commence and prosecute all suits for the purpose of enforcing these provisions.

The provisions of this act shall be to the effect that the courts of the United States original jurisdiction of all suits of a civil nature at common law or in equity arising under this section, with authority to issue all remedial process or writs proper and necessary to enforce its provisions, and to require the Attorney-General and the several district attorneys, in the name of the United States, to commence and prosecute all suits to final judgment and execution.

Mr. President, the object of this bill, as shown by the title, is "to declare unlawful trusts and combinations in restraint of trade and production." It declares that certain contracts are against public policy, null and void. It does not announce a new principle of law, but it is a recognition of the principles of the common and statute laws of the States, and of the complicated jurisdic-tion of our State and Federal Governments. Similar contracts in any State in the Union are now, by common or statute law, declared to be void. Each State can and does prevent and control combinations within the limits of the State. This is done to protect commerce and trade; they can operate upon corporations by restraining orders and rules; they can declare the particular combination null and void and deal with it according to the nature and extent of the injuries.

In providing a remedy the intention of the combination is immaterial. The intention of a corporation cannot be proved. If the natural effects of its acts are injurious, if they tend to produce evil results, if their policy is denounced by the laws of the common good, it may be restrained, a penalty or damages, and in a proper case it may be deprived of its corporate powers and franchises. It is the tendency of the law to prevent combinations, to prevent the combination from interfering with the power of the State to deal with such combinations as I shall hereafter show, but these courts are limited in their jurisdiction to the State, and, in our complex system of government, are limited in their jurisdiction to the State, and, in our complex system of government, are limited in their jurisdiction to the State, and, in our complex system of government, are admitted to be unable to deal with the great evil that now threatens us.

Unlawful combinations, unlawful at common law, now extend to all the States, and interfere with our foreign and domestic commerce, and by the importation and sale of goods subject to duty under the laws of the United States, against which only the General Government can secure relief. They not only affect commerce with foreign nations, but trade among the States. The intention of the combination is immaterial. The intention of a corporation cannot be proved. If the nature of its acts is injurious, if they tend to produce evil results, if their policy is denounced by the laws of the common good, it may be restrained, a penalty or damages, in a proper case it may be deprived of its corporate powers and franchises. It is the tendency of the law to prevent combinations, and to prevent the combination from interfering with the power of the State to deal with such combinations as I shall hereafter show, but these courts are limited in their jurisdiction to the State, and, in our complex system of government, are admitted to be unable to deal with the great evil that now threatens us.

That all arrangements, contracts, agreements, trusts, or combinations between two or more citizens or corporations, or both, of different States, or between one or more citizens or corporations of different States and foreign states or citizens or corporations thereof, made with a view, or which tend to produce the natural effects of its acts are injurious, if they tend to produce evil results, if their policy is denounced by the laws of the common good, it may be restrained, a penalty or damages, in a proper case it may be deprived of its corporate powers and franchises. It is the tendency of the law to prevent combinations, and to prevent the combination from interfering with the power of the State to deal with such combinations as I shall hereafter show, but these courts are limited in their jurisdiction to the State, and, in our complex system of government, are admitted to be unable to deal with the great evil that now threatens us.

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This bill, as I would have it, has for its single object to invoke the aid of the courts of the United States to deal with the combinations described in the first section when they affect injuriously our foreign and interstate commerce and our revenue laws, and in this way to supplement the enforcement of the established rules of the common and statute law, to the end that the combinations, unless they are the proper and lawful monopoly, may be stopped and punished. To aid in the prevention and punishment of monopoly is a constitutional duty of the Government, and the law as it now stands, is not sufficient for that purpose.

It is said that this bill will interfere with lawful combinations. It does not in the least affect combinations in aid of production where there is free and fair competition. It is the right of every man to put his goods upon the market and compete with his neighbors. It does not in the slightest degree prevent competition. If labor, or capital or time are put into the production, transportation, and sale of articles, whether conducted by individuals, partnerships, or corporations, so as to produce and sell articles at a price that tends to cheapen the cost of production, it is lawful and useful. Such a combination is not a violation of the law of restraint applied to partnerships and corporations, and is lawful and useful.

The solicitude of the Senate, I think, is to guard against monopoly, whether it be of a public or private nature. If monopoly injurious to the public, and, by the rule of both the common and civil law, is null and void and the just subject of restraint by the courts, of forfeiture of corporate rights and privileges, and in some cases should be denounced as a crime, and the individuals engaged in it should be punished as criminals. It is this kind of a combination we have to deal with now.

If the concentrated powers of this combination are intrusted to a single man, it is a kindy prerogative, inconsistent with our form of government, and should be subject to the strong resistance of the State and national authorities. If anything is wrong this is not. If we will permit a king or a prince to produce a king's revenue by allying ourselves in the course of its production, transportation, and sale of any of the necessaries of life. If we would not submit to an emperor we should not submit to an autocrat of trade, with power to prevent competition and to fix the price of articles to the consumer of any article produced, it is unlawful and injurious to the public, and, by the rule of both the common and civil law, is null and void and the just subject of restraint by the courts, of forfeiture of corporate rights and privileges, and in some cases should be denounced as a crime, and the individuals engaged in it should be punished as criminals. It is this kind of a combination we have to deal with now.

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Mr. SHERMAN. They declared the combination null and void, against public policy, and refused to entertain jurisdiction to settle the accounts between the parties, because the case arose on a dispute between parties, Mr. Richardson and General Alger. They declared it unlawful and void and set aside the contract.

Mr. PLATT. If the Senator will permit me, the object of my inquiry was to make it appear clearly that the court at present constituted has decided.

Mr. SHERMAN. That was a State matter between parties living within the State, and therefore did not involve any of the questions which are requisite to impart jurisdiction to United States courts under this bill.

Mr. CULLOM. Where was this?

Mr. SHERMAN. It was in Michigan. The supreme court of Michigan made the decision. I have here the case of Craft et al. vs. McConaway, reported in the sixty-ninth volume of Illinois Reports. I am showing that the State courts in different States have declared this thing, when it exists in a State, to be unlawful and void.

Mr. CULLOM. Everywhere.

Mr. SHERMAN. In every case, everywhere, and all I wish is to have the courts of the United States do by these greater combinations what has been done already by the courts of the States.

In the case of Richard C. Craft et al. vs. McConaway, in the supreme court of Illinois, reported in the seventy-ninth volume of Illinois Reports, it was decided that—

A contract entered into by the grain dealers of a town which, on its face, from the manner in which it was formed, appeared to be a legal contract and valid, but the true object of which is to form a secret combination which will enable the dealers to buy and sell, upon the market, grain not of the grade required, and to control the price of grain, costs of storage, and expense of shipment at such town, in restraint of trade, and consequently void on the ground of public policy. I will insert in my remarks the decision of Mr. Justice Craig without reading it at this time.

Mr. GEORGE. Will the Senator state what was the decision of the court in that case?

Mr. SHERMAN. They set aside the contract.

Mr. CULLOM. The Senator to annul the contract?

Mr. SHERMAN. To annul the contract, and they said they would treat it as illegal. This is the decision:

While these parties were in business, in competition, they had the undoubted power to control prices, and to affect the price of grain in any part of the country. So long as competition was free the interest of the public was safe. The laws of trade, in connection with the rigid competition, protected the public and the business. But when the contract was made, the power of one man to destroy all competition and create a monopoly, against which the public interest had no protection.
I find another case, that of the Chicago Gas-Light and Coke Company vs. The People's Gas-Light and Coke Company, on page 531, 121 Illinois Reports, in which it appears that the Chicago Gas-Light and Coke Company was incorporated in 1849 with the exclusive privilege of supplying Chicago with gas for a period of at least one hundred years and stipulating that neither would interfere with the other in the street between them. Subsequently the two companies divided the city between them, allowing each the exclusive right of supplying gas therein for one hundred years and stipulating that neither would interfere with the other in its territory.

Here is the judgment of the court setting aside that contract as preventing competition, as null and void by the rules of the common law. I have only now been able to get this, but I will see that it is correctly quoted from the regular report, and will read the brief statement I have:

The defendant, chafing as the assignee of the exclusive privilege in the territory set off to it, filed a bill against the other for a specific performance of the contract of assignment. The court refused the relief sought, holding "that by the grant of the second charter the Legislature intended to do away with the monopoly granted under the first; that, although the contract involved a partial restraint of trade, and therefore might not, by the general rule, exist, it is true that it does apply to corporations engaged in a public business in which the public has an interest," and that the contract was void.

In a recent case, that of the People of Illinois vs. The Chicago Gas Trust Company, I find reported in a late paper—

the trust combination consisted of a new corporation holding a separate charter under the general incorporation law of Illinois. In applying for its charter the company made the object of incorporation the manufacture, sale, and distribution of gas and electricity, and to purchase and hold or sell stock of any gas or electric company or companies in Chicago or elsewhere in Illinois. Having received its charter the company purchased a majority of the capital stock of each of the two companies doing business in Chicago, four in number.

The information charges that, by so purchasing and holding a majority of the shares of the capital stock of each of the four companies, the appelants secured a monopoly of the manufacture, sale, and distribution of gas in Chicago.

"That by purchasing and holding such stock it secured the control of each of the companies: that such control by the appellees, an outside and independent corporation, in the outside and independent manner, tends to render them and destroy the diversity of interest and all motive for competition. There is thus built up a virtual monopoly in the manufacture and sale of gas, which the defendant has no power to purchase or sell shares of stock of other gas companies as a part of its formation, even though such power is specified in its articles of incorporation." 11

Mr. CULLOM. That is a recent decision.

Mr. SHERMAN. Yes, a very recent decision, and it has not yet gone into the reports. There is a still more recent case, and I am reminded of it by the remark of the Senator from Connecticut [Mr. PLATT], that of The People of New York vs. The North River Sugar-Refining Company, a trust which was investigated by a committee of the House of Representatives, of which Mr. Bacon was chairman, and which came into the reports. There is a still more recent case, and I might add to the cases cited innumerable cases in nearly all the States and in England, and in all of them it will appear that while the law in respect to contracts in restraint of trade and combinations to prevent competition and to advance the price of necessities of life has varied somewhat, but in all of them, whether the combinations are by individuals, partnerships, or corporations, when the purpose of the combination or its plain tendency is to prevent competition, the courts have enforced the rule of the common law and have vigorously used the judicial power in subverting them.

And now it is for Congress to say, when the devices of able lawyers and the cupidity of powerful corporations have united to spread these monopolies over all the States of the Union, embracing in their folds nearly every necessity of life, whether it is not time to invoke the judicial power conferred upon the courts of the United States to deal with these combinations; when lawful to support them and when unlawful to maintain them.

I might state the case of all the combinations which now control the transportation and sale of nearly all the leading productions of the country which have recently been made familiar by the public press, such as the cattle trusts and the sugar combine, and other coasting trusts, the cotton-bagging trust, the copper trust, and many others, some of which have been the subjects of legislative inquiry and others of judicial process; but it is scarcely necessary to do so, as they are all modeled upon the same plan and involve the same principles. To all combinations of corporations and individuals of many States forming a league and covenant, under the control of trustees with power to suspend the production of some and enlarge the production of others, and to control the operations of other industries and to grow and with a uniform design to prevent competition, to break it down wherever it appears to threaten their interest. I have seen within a few days in the public prints a notice of a combination intended to affect the price of silver bullion, as follows:

WITH A CAPITAL OF TWENTY-FIVE MILLION DOLLARS.

Chicago, March 2.

The Herald to-day says that, with the exception of five companies, all the refining and smelting companies of the United States have formed a trust, with a capital of $25,000,000, of which $15,000,000 is to be common stock and the remaining preferred.

If such a combination is formed it will enable a few corporations in different states to corner the market and thus control the operations of silver producing companies—richest metals in the world—and with a uniform design to prevent competition, to break it down wherever it appears to threaten their interest.

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The Herald to-day says that, with the exception of five companies, all the refining and smelting companies of the United States have formed a trust, with a capital of $25,000,000, of which $15,000,000 is to be common stock and the remaining preferred.

If such a combination is formed it will enable a few corporations in different states to corner the market and thus control the operations of silver producing companies—richest metals in the world—and with a uniform design to prevent competition, to break it down wherever it appears to threaten their interest.

I have seen within a few days in the public prints a notice of a combination intended to affect the price of silver bullion, as follows:

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If such a combination is formed it will enable a few corporations in different states to corner the market and thus control the operations of silver producing companies—richest metals in the world—and with a uniform design to prevent competition, to break it down wherever it appears to threaten their interest.
I accept the law as stated by Mr. Dodd, that all combinations are not evil, a proposition which I do not doubt, but I assert that the necessity of dealing with a combination is not the same as with the power to control it. Some of the State courts have held that this power to control is not implied in the 14th Amendment. I respect the argument in its subtle form, that this power to control is not necessary. I have respect for the argument in its subtle form, that this bill is unconstitutional. I respect the argument in its subtle form, that the power to control is not necessary. I am aware that the argument is subtly formed. I am aware that the argument is subtly formed. I respect the argument in its subtle form, that the power to control is not necessary. I am aware that the argument is subtly formed.

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Moreover, if corporations form other combinations, as is the case, the courts control their action within the limits of the State, but when a trust is formed, as the case is now, the courts will control it under the Constitution, laws, or treaties. They embrace admiralty and maritime jurisdiction. The courts of admiralty and maritime jurisdiction have a constitutional right to come into the courts of the Union.

I am aware that the argument is subtly formed.

This must be left for the courts to determine in each particular case. All that we lawmakersons, can do is to declare general principles, and we can be assured that the courts will apply them so as to carry out the meaning of the law, as the courts of England and the United States have done for centuries. This bill is only an honest effort to declare a rule of action, and if it is justified, it is in the wisdom of the Senate to perfect it. Although this body is always consulted, it is more difficult to make it control our business, than in the courts.

The courts can be trusted to establish a law, which has always been ready to preserve, only popular rights in their broad sense, but the rights of individuals as against associated and corporate wealth and power.

But, they say, competition is open to all; you do not like our trust, and you can make another trust and is legal, what is to prevent another trust for every production and a master to fix the price for every necessity of life that is perennial and perpetual. The price to the consumer depends upon the supply, which is continually disturbed by the competition, and the extent of competition, and when that supply will depend upon the urgency of the demand for the article. The aim is always for the greatest profit, and for the most of the necessary of life, that is perennial and perpetual.

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as a rule of remedial justice the common law of England as administered by courts of law and equity.

Judge Story, in his work on the Constitution, volume 2, page 485, says:

What is to be understood by "cases in law and equity" in this clause? Plainly, cases at the common law, as contradistinguished from cases in equity, according to the common law in the jurisprudence of England and its successors brought with them upon their extinction, and with which all the American States were familiarly acquainted. Here, then, at least, the Constitution of the United States left to the States the common law to the extent of making it a rule in the pursuit of remedial justice in the courts of the Union. If the remedies provided in the course of proceeding in the courts of the United States are adopted from the common law, in cases arising under the Constitution, laws, and treaties of the United States, it is clear that the power to prescribe the rule by which these remedies must be administered must be derived from the same source. Hitherto such an interpretation of the power of administering justice in all civil cases in the courts of the United States in this class of cases.

But I need not pursue the matter further. The question of the character and nature of the controversy when the proper legal parties are before the court is never entered into. In some cases, where the rules of law and equity have been modified by legislation, the courts of the United States have followed the local law as construed and administered by the courts of the State where the controversy arose, but it is clearly within the power of Congress to prescribe the rule as well as to define the methods of procedure in the courts of law and equity of the United States; so I submit that this bill as it stands, without any reference to the powers granted by the Constitution, is clearly authorized under the judicial article of the Constitution. This bill declares a rule of public policy in accordance with the rule of remedial justice the common law of England as administered in all civil cases in the courts of the United States in this class of cases.

If this bill were broader than it is and declared unlawful all trusts and combinations in restraint of trade and production null and void, there could be no question that it suits the purpose of the United States to enorse it, or suits brought by the United States under the Constitution, as construed and administered in all of the United States. The legal process of quo warranto or mandamus ought, in my opinion, to be regarded as a privilege for the protection of individuals, and not a penalty or punishment of the United States for injuries done in violation of it, it would be clearly within the power of Congress and the jurisdiction of the court. The mere limitation of this jurisdiction to certain classes of combinations does not diminish the power of Congress to pass a much broader and more comprehensive bill.

Nor is it necessary to limit the jurisdiction of the courts of the United States to suits between citizens of different States. It extends also to suits between individuals or corporations of different States for injuries done in violation of it, it would be clear within the power conferred of the Constitution of the United States, something to be voided, to be strictly construed, instead of being what it is, a remedial statute, a bill of rights, a charter of liberty. He no doubt is partly justified in this by the amendments proposed but not adopted, and by the third one, which would subject him to his criticism, and which I will join him in striking out.

Mr. GEORGE. It was an amendment proposed by the committee? Mr. SHERMAN. Yes. Now, Mr. President, what is this bill? A bill to authorize the courts of the United States to turn the common law against monopolies. How is such a law to be construed? Liberally with a view to promote its objects. What are the evils complained of? They are well depicted by the Senator from Mississippi in this language, and I will read it my own with quotation marks.

Mr. SHERMAN. I am very much obliged for the compliment. Mr. SHERMAN. These trusts and combinations are great wrongs to the people. They have invaded many of the most important branches of business. They operate with a double-edged sword. They increase beyond reason the cost of the necessities of life and business, and they decrease the cost of the raw material, the farm products of the country. They raise the prices at their will, deprive the people of what they buy, and increase the price of what they sell. They aggregate to themselves great, enormous wealth by extortion which makes the people poor. Then, making this extortionable wealth the means of further extortion from their unfortunate victims, the people of the United States, they pursue unmolested, unrestrained by law, their ceaseless round of speculation, under the law, that is fast producing that condition in our people in which the great mass of them are the servants of those who have aggregated wealth in this way.

One would think that with this conception of the evil to be dealt with he would for once turn his telescope upon the Constitution to find out power to deal with so great a wrong, and not, as usual, to return to the Federal Constitution as depending alone upon the power of taxation. It is not with reason, and with a due regard to the Constitution, that he would then, with subtle reasoning, dissipate the powers of the Government into this air. He overlooks the judicial power of the courts of the United States extending to all cases where the United States is a party, or where a State may sue in the courts of the United States, or where citizens of different States are contesting parties with full power to apply a remedy by quo warranto, mandamus, judgment, and execution.

He treats the question as depending alone upon the power to regulate foreign and domestic commerce and of taxation. I submit that, without reference to the judicial power, they are amply sufficient to justify this bill. What are they?

Congress shall have power to regulate commerce with foreign nations and among the several States and its property to levy and collect taxes, duties, imposts, and excises.

And here, Mr. President, I wish to again call attention to the argument of the Senator from Mississippi [Mr. GEORGE]. He treats this bill as a criminal statute from beginning to end, and not as a remedial statute with civil remedies. He says:

The first thing which attracts our attention, therefore, is that if the agreement or combination, which is the crime, be made outside of the jurisdiction of the United States, and no part of it be made within the United States, it is not in the Bill of Rights. It is not in the Bill of Rights.

It is true that if a crime is committed outside of the United States it can only be tried in the United States; but if an unlawful combination is made outside of the United States and in pursuance of its property is brought within the United States such property is subject to our laws. It may be seized. A civil remedy by attachment could be had to prevent the combination in the United States. A bill of indictment could be made for the crime.

Either a foreigner or a native may escape the criminal part of the law," as he says, by staying out of our jurisdiction, as very many do, but if they have property here it is subject to civil process. I do not see why we can do more for this person nor his property is here. He may combine or conspire to his heart's content if none of his co-conspirators are here or his property is not here.

Again he says:

But what I think, however, is highly improbable, some of these great combinations should be made in the United States. Will the case be any better for the people in whose interest we profess to legislate? The combination, agreement, or trust, etc., must, under the bill, be made with the intention to prevent full and free competition in the importation, transportation, or sale of articles imported into the United States.

The word "intention" is not in the bill. It was proposed as an amendment.

Mr. GEORGE. It was in the bill as reported.

Mr. SHERMAN. Ah, it was proposed as an amendment.

Mr. GEORGE. By the Committee on Finances?

Mr. SHERMAN. Yes, by the Senator treated as being a part of the bill. It was a proposed amendment to the bill and was never adopted.

Mr. GEORGE. The original bill was proposed by the Senator from Ohio.

Mr. SHERMAN. That had no such word in it.

Mr. GEORGE. That had no such word in it, but when the bill came back from the committee it did have the word in it.

Mr. SHERMAN. But the Committee on Finances, I think, the committee now has certainly no such word in it. It was proposed as an amendment, but has no place in the first instance. The language is: "made with a view or which tend." The "intention" can not be proved, though the tendency is the test of legality. The intention is the test of a crime.

And so all through his speech he quotes the phrases of a "certain specified intent," "specific intent," "penal legislation," "reasonable prediction must be made." It is as much as he does the Constitution of the United States, something to be voided, to be strictly construed, instead of being what it is, a remedial statute, a bill of rights, a charter of liberty. He no doubt is partly justified in this by the amendments proposed but not adopted, and by the third one which would subject him to his criticism, and which I will join him in striking out.

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of Congress extends to all this commerce, except only that limited within the bounds of a State.

A railroad can be built over a navigable stream except by the consent of Congress. All the network of railroads crossing from State to State, from ocean to ocean, from east to west, and from north to south are now curbed, regulated, and controlled by the power of Congress, and is an asset. Most of the combinations aimed at by this power are also regulated, under the jurisdiction of the Federal Government.

The power of Congress under the commerce clause is not limited by the Constitution of any individual State. They have invested or own new modes of transportation, such as pipelines for petroleum or gas, reaching from State to State, crossing farms and other property.

It can be that with this vast power Congress can not protect the people from combinations in restraint of trade that are unlawful by every code of civil law adopted by civilized nations. It may "regular commerce" and protect property, but it can not protect commerce, nullify contracts that are prohibited by law, prevent the production, importation into another State. This bill does not propose to make the decision of the Supreme Court over commerce. Congress, armed with full power to regulate commerce, is helpless and impotent to act.

The power for mischief will be greatly crippled by this bill. Their present plan of organization was adopted only to evade the jurisdiction of State courts. They still maintain their workshops, their mode of procedure, by combinations of partnerships, corporations, their productions competed with those of similar partnerships or corporations in other States it would be all right. But to prevent such competition they unite the interests of all these partnerships and corporations into a combination, sometimes called a trust sometimes a monopolistic practice, a city corporation, a city company, a city interest, and then regulate and control the sale and transportation of all the products of many States, discontinuing one at their will, some running at half time, others pressed at their full capacity, fixing the price at pleasure in every part of the United States, dictating terms to transportation companies, controlling your commerce; and yet it is said that Congress, armed with full power to regulate commerce, is helpless and unable to deal with this monster.

Sirs, the object aimed at by this bill is to secure competition of the productions of different States which necessarily enter into interstate and foreign commerce. These combinations strike directly at the common interest of the United States, and that which the State has regulated in interstate commerce, enacts and every bushel of any of the articles mentioned in section 3 of this act, the right of deliver to another at a future time or period any of the articles mentioned in section 3 of this act, when, at the time of making such contract or agreement the party so making such contract or agreement, or employed in making such contract or agreement, is not at the time of making such contract or agreement, the owner of the article to be delivered.

That for the purposes of this act the word "futures" shall be under- stood to mean any contract or agreement whereby any person, association, corporation, or corporation who shall, in their own behalf or as broker, agent, or employee, make any "futures" contract or agreement, as hereinbefore defined, shall engage to sell or purchase, at a future time or period any of the articles mentioned in section 3 of this act, the right or privilege of delivering which may be authorized under any "options" contract or agreement, as defined by section 1 of this act, or which may be sold to be delivered at a future time or period under any "futures" contract or agreement as defined in section 2 of this act, which said amounts shall be paid to the collector of internal revenue, as hereinafter provided, and by him accounted for, as required in respect to other special taxes collected by the State.

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such person, copartnership, association, or corporation during the previous
year, the amount of the tax hereinbefore required of 5 cents per pound on each and every pound of cotton,
and of pork, lard, or other hog products, and of 20 cents per bushel on each and every bushel of rice,
and of every bushel of any of the other articles mentioned in section 3 of this act, which
shall be ascertained by the assessor or appraiser who has been appointed to make such appraisements,
and the sums so collected shall be accounted for by the collector as provided by law in respect to such taxes collected by him.

Sec. 9. That every person who shall, in his own behalf or in behalf of any other person, association, partnership, or corporation, enter into any "option," or "futures" contract or agreement, as defined by this act, without having a certificate of registration for that purpose from the commissioner of commerce, or, covering the time at which such contract or agreement shall be made, shall, besides being subject to the penalty provided in section 1 of this act, be fined not more than $1,600 and not more than $10,000, for each and every such offense. And every person who shall make to the collector a false or fraudulent return or report required by this act or the regulations prescribed thereunder, shall be subject to a fine of not more than $10,000, or to imprisonment for not less than six months or more than two years, or to both such fine and imprisonment.

Sec. 10. That neither the payment of the taxes required nor the certificate issued by the collector under this act shall be held to legalize dealing in options and futures, nor to exempt any person, association, copartnership, or corporation from any penalty or punishment, now or hereafter provided by the laws of any State for making contracts or agreements such as are herebefore defined as "options" or "futures" contracts or agreements, or in any manner to authorize the making of such contracts or agreements within any State or locality contrary to the laws of such State or locality; nor shall the payment of the taxes imposed by this act be held to prohibit any State or municipality from placing a tax or duty on the same trade, transaction, or business for State, municipal, or other purposes.

Amend the title so as to read: "A bill to suppress and punish unlawful trusts and combinations, to prevent dealing in options and futures, and to otherwise punish such offenses.

Mr. VEST. Mr. President-

Mr. SHERMAN. Will the Senator from Missouri allow me to make a suggestion?

Mr. VEST. Certainly.

Mr. SHERMAN. I ask unanimous consent that the substitute report from the Committee on Finance and read this morning may be considered as the text of the bill. It will be more convenient in offering amendments.

Mr. INGALLS. Then the amendment I have just submitted will be an amendment in the second degree and in order.

Mr. SHERMAN. It will be in order.

Mr. REAGAN. And the pending question?

The PRESIDING OFFICER. The pending question would then be on the amendment proposed by the Senator from Kansas. The Chair understands this to be the position of the question——

Mr. REAGAN. I understand the amendment offered by the Senator from

Mr. SHERMAN. That is the amendment reported from the Committee on Finance.

Mr. REAGAN. I have offered an amendment to that in the nature of a substitute, which is pending. That is an amendment in the second degree.

The PRESIDING OFFICER. The Chair will state the parliamentary

Mr. SHERMAN. The amendment proposed by the Senator from Texas [Mr. REAGAN] is an amendment in the first degree, and the amendment by the Senator from Kansas [Mr. INGALLS] is an amendment in the second degree. The question now is on the amendment proposed as a substitute by the Senator from Kansas, on which the Senator from Missouri is entitled to the floor.

Mr. VEST. Mr. President, no one can exaggerate the importance of the question pending before the Senate or the intensity of feeling which exists, especially in the agricultural portions of the country in regard to it. I take it that there will be no controversy with the Senator from Ohio as to the necessity of the abuses that have grown up under the system of trusts and combinations which now prevail in every portion of the Union. What we desire is one thing; what we can accomplish under the autonomy of our Government is another.

I am alive, very fortunately, in my judgment, under our written Constitution, and we are governed by the decisions of the Supreme Court in regard to the legislative powers vested in us. Acts of Congress and treaties are the supreme law of the land, if in accordance with the Constitution; and the Constitution, in so far as it does not give the power to Congress to legislate as it sees proper, under the general and nebulous presumption of the general welfare, without regard to the grants that are made by the Constitution as their legal foundation upon which all the powers of the Government are based. The grants of power to the courts of the United States are limited also by this written Constitution, and the grants of power in the judicial clause of the Constitution consist of two sorts: first, the jurisdiction which comes from the character of the litigants and, secondly, the jurisdiction that comes from the subject-matter involved. This is evidently so. As I understand the provisions of the original bill reported by the Senator from Ohio and the amendment which he offers now as a substitute, it appears to me that two classes of jurisdiction, and then, permit me to say respectfully, by an uncertain and nebulous combination of the two to give the power to Congress to pass this proposed act.

It seems to me how dangerous it is now for a public man to object to this kind of legislation against this terrible evil, this enormous abuse of trusts and combinations which the whole country is properly denouncing. I appreciate fully the significance of the remark of the Senator from Ohio when he says that unless relief is given, to use the language of Mr. Jefferson, "less harm will come."

But, sir, even in the face of the popular indignation which may be visited upon any one who criticises any measure that looks to the destruction of this evil, I can not violate my duty to support the Constitution and all the habits of thought which have come to me as a lawyer educated and trained in my profession.

As I said, what we want is one thing, what we can do is another; and for Congress to pass this will be thrown out of the Supreme Court under the terrible criticism that any such law must invoke is simply to subject ourselves to ridicule and to say to our constituents that we are powerless to enact laws which will give them relief.

The bill, if it becomes a law, will bring the confusion and embarrassment of all the well-nigh universal legal criticism which will avail itself of the highest legal talent throughout the entire Union. It will go through a furnace not seven times but seventy-seven times heated, because the ablest lawyers in this country, in general, without saying, are on the side of the corporations and of aggrandized wealth.

Without invoking this spirit of hypercriticism, which the Senator from Ohio deplores, let us look at the provisions of the original bill and then the amendments proposed by the Senator from Ohio. Sir, I shall not attempt to make any elaborate argument, but will simply read the same applicable, made to extend the jurisdiction which was found in the Constitution of the United States provides as to the judicial power as follows:

The judicial power shall extend to all cases, in law and equity.
If it had stopped there much of the argument of the Senator from Ohio would have been pertinent; but it goes further:

All cases, in law and equity, arising under this Constitution.

That is to say, you must find the jurisdiction within the limits of this instrument.

Mr. SHERMAN. I do not want to interpret the Senator, but he reads the clause relating to cases in law and equity when there is an independent clause relating to controversies between citizens of different States.

Mr. VEST. I will come to that.

Mr. SHERMAN. The decisions of Chief-Justice Marshall set forth the power distinctly.

Mr. VEST. I do not think there will be any disagreement among lawyers as to the meaning of this clause.

I am simply analyzing the grants of the Constitution.

Mr. SHERMAN. I think Chief-Justice Marshall was a pretty good lawyer.

Mr. VEST. I am taking the clauses as they come. The first is:

All cases in law and equity arising under this Constitution——

Under this particular instrument, coming from the Constitution itself——

the laws of the United States——

There is another grant——

and treaties made, or which shall be made, under their authority.

Now, there are three distinct clauses of jurisdiction: first, under the Constitution; next, under the laws made in pursuance thereof; next, under the treaties made with foreign countries.

It proceeds:

To all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies between citizens of different States; and between citizens of the same State, and foreigners, through corporations, in which any of the parties, although citizens of the United States, shall be involved.

Mr. President, let us take these clauses separately and see whether the power to pass this bill can be found under all or any of them. I will come to that.

Mr. SHERMAN. Does the Senator from Missouri say that there is a law of 1789, which gives Federal jurisdiction because the corporation which proposes to create or manipulate a trust made in pursuance thereof; next, a law which was passed and the Supreme Court of the United States decides it constitutional, you will never hear of the corporation which proposes to create or manipulate a trust that does not have its officers or its personnel all in the same State. That goes without saying, and it is to impute idiocy to the men whose schemes and machinations we are now attacking to suppose that they would do anything else.

The idea that they, with the best counsel in the United States and even in the world, with the highest legal talent upon their side, will not immediately construct their corporations so as to nullify such a law as to impute to them a degree of mental imbecility that is simply ludicrous.

A corporation makes no distinction between the parties to the suit and the composition of the corporation which is itself a plaintiff or a defendant. He puts this jurisdiction upon something unknown to the Constitution, and the result would be (and it can be read between the lines) that the Supreme Court of the United States would immediately confront us with that clause of the Constitution and the judicial act of 1789 and throw the case out of court.

It is very obvious that this attempt to invoke the web and woof of the law and the judicial act of 1789, we are told, is a basis of the Constitution that I have read, is an uncertain confounding of two elements utterly incongruous and utterly inconsistent.

Mr. SHERMAN. Does the Senator from Missouri say that there is a law of 1789 which gives Federal jurisdiction when two or more of a corporation of different States? The bill which is put upon no such ground.

That is another matter. The language of the bill is plain. I have read it. I do not see what the Senator is driving at.

The corporation is considered as a unit and the citizen as a unit——

or both, of different States.

This must be some person and some corporation, distinct and separate personalities, not citizens who are members of the corporation.

That is such provision——

The corporation is a unit and the corporation——

Mr. SHERMAN. Nothing can be plainer than that.

Mr. SHERMAN. This points that out. They must be citizens of different States or corporations of different States, or both.

Mr. VEST. Of course, if the United States has not the power to do anything in the bill which is fixed in the jurisdiction act as to the jurisdiction of a Federal tribunal. The Senator does not put his bill upon that ground at all. He undertakes to put it upon the composition of one of the litigants alone. He does not say, if one of these citizens lives in one State and another in another, which we would all admit to confer Federal jurisdiction, but he gives Federal jurisdiction because the corporation which makes the trust is composed of citizens of different States. If it does not mean that, then the English language has lost all its flavor and I have lost my power to understand it.

Here is what he says; I will read it again ad nauseam:

All arrangements, contracts, agreements, trusts, or combinations between two or more citizens or corporations, or both, of different States.

And that gives jurisdiction, provided they go on and undertake to do the other things enumerated in the other part of the section as to goods brought from foreign countries or goods carried from one State to another.

The Senator does not follow the Constitution, which says that when a suit shall be brought by a citizen of one State against a citizen of another State for doing the thing which he enumerates afterwards, which is another matter of argument, but he says if the corporation is composed of people living in different States, Federal courts have jurisdiction, which I submit is an unheard-of proposition and no lawyer ever advanced it before. As I undertook to show,
how easy is it for these corporations to evade any such provision by simply having their stockholders all living in the limits of any particular State? It affords no remedy, even if the argument of the Senator from Missouri was deemed by the Court to be sound, for a moment. It cannot.

But, Mr. President, I proceed now, for it is not my disposition to make any elaborate argument, to the latter clause of the amendment, disregarding entirely the original bill, which for the purposes of discussion, I regard as a mere guinea pig. If a corporation is set up to operate in persons living in different States or if it is composed of citizens or corporations, or both, in the United States and a foreign country, and they make a combination to prevent full and free competition in the important articles of commerce, or even to fix prices or charge excessive transportation, or raise unlawful duties upon articles imported into the United States, then this proposed law takes effect, and they become subject to the jurisdiction we invoke legislatively.

I do not propose to make any hypercritical argument, but I do insist upon the opinions of the Supreme Court, especially in the great case of Brown vs. The State of Maryland, we are at sea without oar or compass in this whole discussion.

I shall not undertake to read the argument made by the Senator from Mississippi, which is a long, rather a tedious, and perhaps a bit in the way of confusing argument, as I believe there is a remedy if you will but go to the Supreme Court at St. Louis by Judge Dillon, but it has not yet been decided in the great cases of Brown against the State of Maryland, which lead upon this subject, and to which every lawyer goes first, decided by the most eminent men who ever sat upon the bench in this country, and the equality of all in the world, thereupon in the interest of commerce was declared and the regulation and sale of articles brought from a foreign country before they had left the hands of the importer and been broken to the original package of commerce, is cruder, but I think accurately.

But in that case settle the question of foreign commerce by declaring, as to the power of a State to tax foreign importations, that so long as the original package remained in the hands of the importer it was subject to foreign commerce. When it left his hands and the package was broken, and the goods went into the common mass of the property of the people of the State, then the commercial clause of the Constitution as to foreign commerce ceased to operate.

Mr. President, I shall now apply that decision to the provisions of this bill. Here is one clause of the amendment which provides that if a corporation composed of citizens of different States does any act "with a view or which tends to prevent full and free competition in the importation, transportation, or sale of articles imported into the United States," this proposed law shall take effect.

Does the Senator from Ohio pretend that, after the importer has brought in the goods and the package has been broken and the merchandise mingled with the other goods of the people of the State into which the importation is made, under this clause of the Constitution we can enact such a law as is proposed? I take it that the statement of the case is sufficient to answer the proposed application of a State to any jurisdiction under another clause of the Constitution. The bill provides:

Or with a view or which tends to prevent full and free competition in articles of commerce among the States with similar articles of the growth, production, or manufacture of another State or Territory, or in the transportation or sale of like articles, the products of a Territory of the United States into or within any other State or Territory of the United States.

I shall not repeat the argument made by the Senator from Mississippi as to the question of foreign commerce, but I have no power under any clause of the Federal Constitution to legislate as to any article simply because it is manufactured in any State of the Union and may be at some time carried to another State. That clause in the Constitution of the United States which affects interstate commerce, or, to speak more accurately, commerce among the States, has been defined by the Supreme Court in these leading cases to mean the power to regulate commerce in articles, whether manufactured in the State or not, after they have gone into commerce and are in transit from one State to another.

The Supreme Court of the United States has decided that it is not for the manufacturer or the owner to say, "I intend these goods to go into another State." They must actually be in transit; they must be in the hands of the common carrier, or in his depot or warehouse, with the knowledge, consent, and acquiescence of the owner, if they be protected by the high tariff duties, and are enabled to make an effectual defense and to resist the action of the courts.

And it is not for the Senator from Ohio to say that the law makes the claims of a State so advantageous that it would be in favor of reducing that duty. This is the remedy; and any other remedy, without an amendment of the Constitution of the United States, is proposed in this bill, will be absolutely nugatory and ineffectual.

The Senator from Ohio has drawn an eloquent picture of the operations of trusts in the United States. Sir, these trusts—and every injury which a trust may produce to the public interest—arises under that buttress which the tariff law erects around them.

If a State had the power to tax the goods and the package had been broken, and the goods went into the common mass of the property of the people of the State, then the commercial clause of the Constitution as to commerce among the States would be done by the act of the secretary of state. But, Mr. President, whether it was on one ground or another, these trusts have been declared unconstitutional in their own State; and we do not seek to remove them because, as I am informed, we have not the power to remove them.

Mr. President, whether it was on one ground or another, these trusts have been declared unconstitutional in their own State; and we do not seek to remove them because, as I am informed, we have not the power to remove them.
ident, I happen to have here a list of them, and these are only a few. The first is the steel-rail trust, buttressed by a tariff tax of $17 per ton.

Mr. GEORGE. What per cent. is that?

Mr. VEST. I do not recollect the per cent. We discussed it in the last Congress. Seventeen dollars is the tariff per ton; steel rails are protected that much. As my friend from Iowa very well knows, I tried to reduce it, and he resisted the attempt.

Mr. ALLISON. I beg to put an interrogatory to the Senator, if he will allow me, right there upon the question of steel rails.

Mr. VEST. I do not want an argument upon every one of these items. Mr. ALLISON. I will not say a word by way of argument.

Mr. VEST. I yield to the Senator.

Mr. VEST. Ask the Senator if it is not true that at this moment the price of steel rails in England is practically the same as it is in the United States, or within a dollar or two? If that be so, how is it that the $17 duty upon steel rails at this moment is injuring the great body of the rail purchasers in this country?

Mr. VEST. Why, Mr. President, if we were told anything in the discussion in which my friend and myself participated rather largely in the last Congress—and I know it was urged by the Senator from New York [Mr. HуссОу] new in my sight—it was that whenever you reduce the price in any one country you reduce it all over the world, and necessarily in every other country. We know well that competition always reduces prices. It is no argument to say that steel rails are as cheap, even if it were true, in England as they are in the United States; that will not do. I say if you let these two manufacturing interests compete together and create competition, you then secure lower prices to the consumer. That is the law of trade and that is the law of nature in the world over.

Mr. TELLER. I should like to ask the Senator a question, if he will allow me.

Mr. VEST. Certainly.

Mr. TELLER. Not the Senator from Missouri aware that there is a steel trust in Great Britain that includes every steel establishment in Great Britain except one, and includes the German and Belgian establishments also?

Mr. VEST. If be do know that statement was made, but I never took the trouble to investigate it. Now, I make this statement to supplement it, and it is as absolutely true as that I am standing in this Senate Chamber. I know that there are trusts in Great Britain, and I have no doubt there are trusts in many country under the present conditions of manufactures and of commerce; but here is the difference between Great Britain and the United States:

When you make a trust or attempt to make a trust in Great Britain, you must corne the products of all the world and you must have enough capital to do this, because you compete with every part of the civilized globe and you have no tariff to protect you and prevent competition, and therefore the capital necessary to effect the purposes of the combine must be as hand; but when you come to the United States the combine is helped by the tariff because the tariff tax shuts out the foreign producer and foreign importer, and limits necessarily the amount of capital necessary to achieve the purpose.

Mr. ALLISON. Is that true, will the Senator from Missouri please account for the fact that 25,000 tons of steel rails manufactured in the United States were last week sold in Mexico, where all the nations of the earth have free competition one with the other?

Mr. VEST. Mr. President, I am sorry to say it, but the Senator, Mr. President, that reminds me of a very suspicious old gentleman who when the Siamese twins were in this country thought he would invest twenty-five cents in looking at this great natural curiosity. He paid the tax, went into the exhibition hall, everybody else bought, and nobody else bought.

Mr. FRYE. But the Senator does not reply to the question which I asked him.

Mr. VEST. I was attempting to do so.

Mr. FRYE. The Senator was asserting that a protective tariff prevented competition and created the trusts. I say there is no protective tariff which prevents competition in Mexico, because there is the same tariff against the products of England as against the products of the United States, and yet the United States sells 25,000 tons of steel rails to Mexico.

Mr. VEST. As a matter of course, Mr. Diston, of Philadelphia, who is producing his bill, he was testifying that the committees of the House and the Representatives, can sell his saws in England and undersell the English manufacturers, and yet Mr. Diston gets his protection in the United States. How will the Senator answer my proposition when he says that we sell 25,000 tons of steel rails to Mexico?

I have a letter in my possession from a gentleman who lives at Piedra Negra on the Rio Grande, which I believe is translated Black Rock, upon the Mexican side, and opposite to it is a small American village, and there are two stores belonging to the same party, one on an American side he is protected by the tariff and competition does not exist. Is it any argument to tell me that we sell our saws, our watches, our machinery, our cutlery, all over the world, and do it successfully? I say it is an argument against the high protective tariff because it shows that the subsidy we are paying inside of the United States to enrich these manufacturers in which we by this legislation enabled to compete outside of the United States successfully, and yet to shut out the competition after they reach our own shores. Let me give the facts:

1. The Steel Rail Trust, butchered by a tariff tax of $17 per ton.
2. The Nail Trust, by a tax of $25 per 100 pounds.
3. The Iron Nut and Washer Trust, by a tax of $8 per 100 pounds.
4. The Barbed Wire-Wire Trust, by a tax of 60 cents per 100 pounds.
5. The Copper Trust, by a tax of $2.50 per 100 pounds.
6. The Lead Trust, by a tax of $1.50 per 100 pounds.
7. The State-Pencil Trust, by a tax of 30 cent per doz.

I should like to hear my friend from North Carolina [Mr. VANCE] on that.

8. The Nickel Trust, by a tax of $25 per one hundred pounds.
9. The Zinc Trust, by a tax of $2.50 per one hundred pounds.
10. The Sugar Trust, by a tax of $2 per one hundred pounds.
11. The Oilcloth Trust, by $100 per thousand.
12. The Jute Bag Trust, by a tax of 40 cents.
15. The Gun-Perfora Trust, by a tax of 50 cent.
16. The Gaster Oil Trust, by a tax of 30 cent per gallon.
17. The Linseed Oil Trust, by a tax of 30 cents per gallon.
18. The Cottonseed Oil Trust, by a tax of 25 cents per pound.
19. The Horse Trust, by a tax of $6 per one hundred pounds.
20. The Leather Trust, by a tax of 30 cents per pound.

And so on, and they are adding to them day by day. Now, Mr. President, the favorite argument of our friends who sustain the high protective tariff is that high duties lower the cost of products to the consumer by reason of the competition between the manufacturers inside the United States. If that be so, why are these trusts created? They are created because when foreign competition has been shut out and competition becomes acute and severe between American manufacturers they come together and create these combines at the expense of the people of their own country. If the high protective tariff were removed the foreign competition would furnish, if not an absolute, certainly a most beneficial remedy to remove this evil.

We have been told in some directions that the trusts and combines have nothing to do with the tariff. Mr. President, that reminds me of a very suspicious old gentleman who when the Siamese twins were in this country thought he would invest twenty-five cents in looking at this great natural curiosity. He paid the tax, went into the exhibition hall, everybody else bought, and nobody else bought.

Mr. DAWES. Would it interfere with the Senator if I put a question?

Mr. VEST. Oh, no.

Mr. DAWES. I appreciate the difficulties of this subject as well as the Senator does. I understand him to say that the remedy, the method of putting down the trusts in this country is to open these trusts to the foreign competition. Now, the query I want to put to him is this: What is to hinder taking one more into a trust and taking the foreign trust into the American trust or the American trust into the foreign trust and then having it beyond all control?

Mr. VEST. Mr. President, I am against all trusts, and the Senator is.

Mr. DAWES. The Senator does not get my point. I asked him what remedy he would get by erecting free trade so as to cause active competition between the two trusts. Would there not be just the opposite and just the same opportunity and just the same facility to put these two trusts together when they were competing as there would be to have two competing with each other here at home?

Mr. VEST. Mr. President, any sort of assumption could be made as to the actions of these two trusts in competition from a foreign country. With that I have nothing to do so far as the purposes of my arguments are concerned. I take it that in the natural course of trade the foreign importer would come in and compete with the American manufacturer who know absolutely that the purpose of the friends of the high protective tariff is to shut out foreign competition. If I had any doubts about that, they were removed in the last Congress when my friend from Iowa [Mr. ALLISON] and my friend from Rhode Island [Mr. ALD-
Mr. President, will the Senator yield to me for a moment?

Mr. ALLISON. Certainly.

Mr. VEST. Did we not in that bill provide for a reduction of 50 per cent. upon the sugar duty as against 18 per cent. in the House bill, not only in the interest of the refiners, but in my judgment that reduction made by the Senate bill was not only not in the interest of the refiners, but was against their interest as compared with the bill that came to us from the House of Representatives, and against their protest.

Mr. VEST. We discussed all that, and so far from taking a half hour I took something like two months on that bill and examined every provision in it and every item in it, and without wanting to go into that argument over old skirmishes in my mind, I do not think it is in the interest of the refiners. The raw sugar was permitted to come in, which is their raw material.

Mr. ALLISON. I will say to the Senator that if he will take half an hour to examine the details of that bill he will see that the reduction made by the Senate bill was not only not in the interest of the refiners, but was against their interest as compared with the bill that came to us from the House of Representatives, and against their protest.

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Congressional Record—Senate. March 21,

I can summon here to answer those who would be injured by the bill whose voice would be as potential to put up or down the support of it as all those who can be invoked by popular clamor against trusts; and I hope we shall be told in the progress of this discussion if there is a labor organization in the United States that is not affected by it. Every organization which attempts to take the control of the labor that it puts into the market to advance its price is interdicted by this bill.

Sir, I am one of the only safety to labor rates in the power to combine as against capital and assert its rights and defend itself.

The criminal section of this proposed law has been eliminated from it. People and courts for their control in the progress of this discussion, before its close, he would point out that this bill might prevent States from practically prohibiting commerce between each other, for the purpose of regulating taxation upon property which was in the power of one State to another; and we all know why that provision was placed in the Constitution for its authority to create a cause of action, and not elsewhere.

As I have already said, interstate commerce commences when the goods are entered for transportation from one State to another. Up to that point the property has been under great obligation to the General Government at the same time. There is no partnership in the General Government in reference to these trusts. In each case that he wants the court jurisdiction with reference to that subject.

The Senator from Ohio has assumed to think, and has argued here, that we might take control of this subject on account of that provision of the Constitution which gives jurisdiction to the courts of persons, actions, and all that. I hope in the progress of this discussion the Senator will tell us if he believes that our courts can create a cause of action. That is the question involved here as be presents it. They might have jurisdiction of the litigants and of the cause of action in the courts of the States, respectively, in respect to all these trusts and combines.

Mr. President, criticisms have been made upon this bill that in my judgment, it is subject to the jurisdiction of the courts and of the laws of that State.

It is with reference to interdict commerce that Congress has the right to take jurisdiction; that is the act of exchange from one State to another. It is wise to remember that the court jurisdiction as placed in the Constitution. One of the chief reasons why the General Government might prevent States from practically prohibiting commerce between each other, for the purpose of regulating taxation upon property which was in the power of one State to another; and we all know why that provision was placed in the Constitution for its authority to create a cause of action, and not elsewhere.

Mr. President, criticisms have been made upon this bill that in my judgment may be obviated by amendments to it. I have devoted no time to defects of that kind. The objections that I make to the bill apply to it, and the custody of the goods is within the jurisdiction of the Legislature of the State in which it starts, and when it reaches another State it is subject to the jurisdiction of the courts and of the laws of that State.

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[Mr. FARWELL], so that both the Senator from Florida [Mr. PASCO], with whom my colleague is paired, and myself can vote. I vote "nay.

Mr. PASCO. I vote "yes."

Mr. WASHBURN (after having voted in the negative). I have a general pair with the Senator from Louisiana [Mr. EUSTIS] and I withdraw my vote.

Mr. HIGGINS (after having voted in the negative). I am paired generally with the Senator from New Jersey [Mr. MCPHERSON]. I did not observe that he was out of the Chamber when I voted, and I therefore withdraw my vote.

Mr. GEORGE (after having voted in the affirmative). Has the Senator from New Hampshire [Mr. BLAIR] voted?

The VICE-PRESIDENT. He has not.

Mr. GEORGE (after having voted in the affirmative). Has the Senator from New York [Mr. EVARTS]?

I thought he was in the Chamber when I voted. I withdraw my vote.

The result was announced—yeas 17, nays 25; as follows:

YEAS—17.

Mr. BOURNE, S. John, Fordham, Harris, Reagan, Hogg, Hearst, Torpke, Jones of Arkansas, Vest.

NAYS—25.

Mr. ALDRICH, Edwards.

Mr. FRYE, Piatt.

Mr. CAULFIELD, Mackay, Williams of Iowa, Sawyer, Welcot.

Mr. DAVIS, Hoar, Sherman, Speyer.

Mr. DEWEY, Mur Elev, Spooner.

Mr. DOLPH, Pudlock, Stanford.

Mr. ALLEN, Chamberlsl, Hare.

Mr. BEEK, Cochrane.

Mr. BLACK, Davis.

Mr. BLAIR, Eustis.

Mr. BLODGETT, Evans.

Mr. BROWN, Fawcett.

Mr. BUTLER, Faulknor.

Mr. CALL, Graml.

Mr. CHAMBERLAIN, Gibson.

Mr. CASEY, Good.

So the motion was not agreed to.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Navy, transmitting, in response to a resolution of February 28, 1890, a statement in regard to expenses of a three-years' cruise around the world of one line-of-battle ship of 10,000 tons displacement, etc.

The Secretary proceeded to read the communication.

Mr. FYRE. Why should not that be printed and referred to the Committee on Naval Affairs without being read?

The VICE-PRESIDENT. If there be no objection, the communication will be referred to the Committee on Naval Affairs, and printed.

TRUSTS AND COMBINATIONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1) to declare unlawful trusts and combinations in restraint of trade and production, the pending question being on an amendment proposed by Mr. INGALLS to the amendment of Mr. REAGAN.

Mr. MCNEILL, President, with some of the criticisms made upon the bill reported by the Senator from Ohio I agree. I think the country is debtor to that distinguished Senator for his efforts to furnish a remedy for a great and dangerous evil. I know the difficulty of preparing a bill to be enacted by Congress to meet this evil. I believe the amendment by way of substitute for the bill reported by the Senator from Ohio. I do not know that when it becomes subject to criticism it may face as badly as his bill has done, and yet I have to form the conclusion which would have been the conclusion which I have been able to draw from the bill which has been presented, both by the Senator from Ohio and the Senator from Wisconsin. Whatever authority we have here over this subject is derived from the provision in the Constitution which confers upon Congress the power to regulate commerce with foreign nations and foreign commerce with nations and commerce among the States. Keeping that in view, I will read the first section of the amendment which I have offered:

That all persons engaged in the creation of any trust, or as owner or part owner, agent, or manager of any trust, employed in any business carried on with any foreign country, or between States, or between any State and the District of Columbia, or between any State and any Territory of the United States, or between any owner or manager of any trust, or any organization or corporation, engaged or purporting to be engaged in any manner or capacity in any business carried on with any foreign country, or between the United States, or any owner or part owner, or manager of any corporation using any power or power of any character to engage in commerce with foreign nations and foreign commerce with the United States, or any owner or part owner of any corporation engaged in violating the provisions of this act shall be deemed guilty of a high misdemeanor, and, on conviction thereof, shall be fined a sum not exceeding $10,000, or imprisonment not exceeding five years, or both of said penalties, in the discretion of the court trying the case.

I concede that the penalty provided here is very strong, but it is designed to meet a very great evil perpetrated by powerful and wealthy parties. It is designed to arrest and prevent an evil which can only be met, in my judgment, by strong, coercive measures. Now, I desire to call attention to the second section of my amendment, which is simply intended as a definition of the things prohibited in the first section.

The second section:

That a trust is a combination of capital, skill, or acts by two or more persons, firms, corporations, or associations of persons, or of any two or more of them for the purpose, in any, or all of the followings:

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

Second. To limit or reduce the production or to increase or reduce the price of any article, commodity or commerce.

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

Fourth. To fix a standard or price at which public shall be in any manner controlled or established any article, commodity, merchandise, or production.

Fifth. To create a monopoly in the making, manufacturing, purchase, sale, or transportation of any merchandise or commodities.

Sixth. 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 shall have bound themselves not to manufacture sell, dispose of, or transport any article or commodity, or article of trade, use, merchandise, or consumption below lawful combinations.

It will be understood it is for these purposes when performed under the influence of the first section of this proposed act, that is, by persons engaged in commerce with foreign countries or between the States:

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

Second. To limit or reduce the production or to increase or reduce the price of any article, commodity or commerce.

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

Fourth. To fix a standard or price at which public shall be in any manner controlled or established any article, commodity, merchandise, or production.

Fifth. To create a monopoly in the making, manufacturing, purchase, sale, or transportation of any merchandise or commodities.

Sixth. 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 shall have bound themselves not to manufacture sell, dispose of, or transport any article or commodity, or article of trade, use, merchandise, or consumption below lawful combinations.

I am inclined to say right here, that while these measures, while the amendment which I have presented does not make provision for civil suits, but provides for a criminal prosecution and severe penalties against those who may be engaged in these unlawful occupations. After what has been said by other Senators this morning on the subject, I think it would be well that whatever law should be adopted on this subject embrace both jurisdictional of civil and criminal proceedings to prevent and punish these evils.

It will be seen, as between the bill reported by the Senator from Ohio and my amendment, his provides for civil suits only for damages by persons who conceive themselves to be injured, damaged by these unlawful combinations, while the amendment which I have presented does not make provision for civil suits, but provides for a criminal prosecution and severe penalties against those who may be engaged in these unlawful occupations. After what has been said by other Senators this morning on the subject, I think it would be well that whatever law should be adopted on this subject embrace both jurisdictional of civil and criminal proceedings to prevent and punish these evils.

In speaking of this subject and in looking at its difficulties, I feel sure, notwithstanding the great demand for action by Congress, that the people interested, the people expressing and distressed by operation of these trusts, look too much to the Congress of the United States for the desired relief. Congress can go no further, as I understand its authority under the Constitution, than to provide a remedy with reference to those things which come into the category of commerce with foreign nations and commerce between the States. That is as far as it may rightfully go; and it seems to me that it is one of the highest and most important duties under the circumstances that it should go no further. If the people of the country experience any evil, they must subject them to their State governments, for they have jurisdiction over the mass of transactions out of which these troubles grow. If the Federal Government will act upon those things which are exclusively international and foreign commerce, and those combinations growing to the necessity of the country and the complaints of the people, will act upon the branch of subjects of which the States have jurisdiction, we may, it seems to me, arrest the evil of trusts and combinations and prevent and punish these evils.
unfortunately that the people forget that their own local governments at home, controlled by their immediate representatives, are able to furnish the remedies for most of the grievances of which they complain, and for many of which they complain over which Congress has no power whatever. On this subject, however, Congress does have a limited power, under the provisions of its Constitution and of the ordinance of what it may do rightfully under the Constitution will not give relief to the people of the country unless the Legislatures of the several States take hold of the subject and make provisions there which will have the like effect and the greater amount of the wrongs complained of by the people.

I had intended to make a criticism upon the bill of the Senator from Ohio which has in part been made by the Senator from Missouri [Mr. Yest] and in part by the Senator from New York [Mr. Herseick]; and I must admit the criticisms have not failed to occupy the attention of the Senate by going over them again. I simply say in conclusion that I think the bill presented by the committee is objectionable because it does not do that which is needed within the provisions of the Constitution for the part of most of it. The first clause of the first section is within the provisions of the Constitution, that which relates to commerce with foreign nations. It is one of the clauses in the Constitution the only practical remedy there is for the complaint of the people, as I understand it, is not within the provisions of the Constitution; and if the Senate abdicates, and leaves me upon that point and should then agree with me that the provisions of the amendment which I have presented are within the purview of the Constitution, I shall hope they will adopt the amendment which I have presented.

Mr. ALLISON. Mr. President, I do not desire at this hour of the day, or at any time indeed, to discuss the merits of the bill presented by the Committee on Finance. I only rise now to occupy a few moments in response to the remarks in opposition to the bill made by the Senator from Missouri [Mr. Yest], who has discussed the question so fully.

I must say that his argument as a lawyer discourses me somewhat as respects a remedy for these so-called trusts or combinations. If I understood the Senator correctly, he says that without an amendment of the Constitution, we have no practical remedy; that there is at this Constitution, either an abolition or a great reduction of tariff duties or concurrent legislation of the States and of the United States, I suppose as respects interstate commerce; that beyond this narrow limit we have no power to legislate upon this subject.

To fortify his argument as respects the tariff, he stated, as I understand him, that the tariff is the fruitful source of these combinations. If that be true, it is a curious thing to me that all these great combinations in our country are practically outside of and independent of the tariff.

The Senator read a number of trusts from a statement which he held in his hand, showing that the articles in the combinations alluded to by him were not on the tariff list and that what would reduce it would not, as respects the tariff, the constitutional, and thereby oppressed the consumers of the country. Those consumers, whatever may be their conditions and relations to the tariff duties, were for the most part made large by the trusts or combinations. I state without fear of successful contradiction that in the two or three hundred millions of woolen goods manufactured in the United States there is no trust combination as respects those manufactures, and if I am mistaken in this I should be glad to be corrected now indicating a combination.

Take the great manufacture of cotton, which the Senator from Missouri says in our tariff bill last year we reduced as respects the lower grades of cotton, and not upon the higher, and he undertook to criticise the committee by saying that that was done because the coarse cottons were manufactured in the Southern States and the finer products in the North.

Mr. President, for myself, and for myself alone, I want to say to the Senator from Missouri that in dealing with the tariff I am no section of the Union, whether North or South.

The reason why the duties upon cotton fabrics of a coarser character were proposed to be reduced was because those who produced those fabrics said they could produce them in competition with the world. Upon the free-list we fixed. With all these millions of cotton manufactures in the United States there is not a trust in any one of them of which I have ever heard.

Take another great article which is protected by the tariff, the articles, boots and shoes, and all the products of leather are produced in the United States, and are produced relatively at as cheap a rate as they are produced abroad, notwithstanding our tariff duties. They amount to hundreds of millions of dollars per annum. There is not a trust or combination in the manufacture of this Union a trust or combination in the manufacture of boots and shoes.

So we are developing in this country a great silk industry. I have not heard, I do not know, how many millions of production we have, perhaps as much as the fifteenth part of the total value consumed in the United States, and protected by a heavy duty upon silk manufactures. If there is now or ever has been a trust or combination as respects the silk manufactures of the United States, I have not heard of it.

So, Mr. President, agreeing to what the Senator says as respects trusts and combinations, I differ with him absolutely in the statement that they originate wholly in our tariff legislation. If we shall put wool at a high rate upon the free-list, if we shall put leather and all its products upon the free-list, there will be no more and no less combinations in this country. If we should put practically all the iron upon the free-list, it would not change the trust relations and combinations except as to a few articles which were named by the Senator from Missouri.

These combinations exist, admit it under the tariff in some cases, or in other cases there may be to be combina-
tions, but the mass of these great combinations exist outside of it and beyond it. The Senator from Missouri himself is chairman of an important committee looking into a very important industry in our Western States, as respects the slaughtering of beef. He has been en-
terprising in the situation of the situation and the current belief among the farmers of the State in which I reside and of all the West that there is a combination in the city of Chicago which not only keeps down the price of cattle upon the hoof, but also has such a great and destructive effect upon the interior producers and the country that its members are enabled to make the consumers of beef pay a high price for that article. Does anybody for a moment say that this great combination, involving the price of cattle perhaps in all the
Northwestern States and Territories, has in the slightest degree its origin in the tariff? Certainly not.

So I might illustrate by going into other great trusts in our country, like the whisky trust. Is that controlled in any way by the tariff? Yes, it is perfectly well known that the production of distilled spirits is not controlled in any other way than by the tariff.

Take the Standard Oil Trust, another great and ramifying corporation, not only in this country, but throughout the world. That combination, whatever it is, not only controls practically the price of refined oil throughout the civilized world, year by year as we go on we not only produce more of this raw material in our own country, but we add year by year to the exports of refined oil in competition with the rest of the globe, and without any relation or without any respect whatever to the tariff.

Mr. President, there has been in our Western country for four years a combination as respects the production of oatmeal. Is that affected in any way by the tariff? This is a local combination whereby the only way the price can be raised is by going into debate, but by mere illustration, that although I agreed with those gentlemen who are in favor of remodeling and revising the tariff, if we are to correct the great evils which arise from the protection, it is very clear that we shall have to consider some of our duties and far short of accomplishing what we propose if we undertake to do it simply by a change and modification of tariff rates.

Therefore, Mr. President, I welcome this discussion as respects the matter before us and as respects the means whereby we have just a chance to accomplish the desired result. I undertook to say that it is our duty to the extent of our power, whatever that power may be, to put upon our statute-books such national legislation as we can put there to inhibit these combinations and trusts, and I merely call attention to the fact that is our duty in connection with the fact, that we cannot do it merely by modifying or changing existing tariff rates.

Mr. TELLER. Mr. President, the Senator from Kansas [Mr. INGALLS] has made a very important statement. I understand the debate will not be closed to-day, and I do not propose now to discuss the bill before the Senate particularly, unless there is a disposition to vote upon it to-night. It will not be voted upon to-day, I understand.

I rose to call the attention of the Senate a little more in detail to a question I asked the Senator from Missouri [Mr. Vest], who, on several occasions I have heard express the opinion that these trusts, which have become very prevalent in this country, were the result of the tariff, and that, too, in the face of what the Senator from Iowa [Mr. Allison] has so well, just said, that the principal trusts in this country and against which there is the greatest complaint, and under which the people are suffering the most, have no relation whatever to the tariff. This is a civilized country, a civilized country everywhere in the world, where there is not more or less cursed with trusts. A trust may not be always an evil. A trust for certain purposes, which may mean simply a combination of capital, may be a valuable thing to the community and the country. I agree with the Senator from Iowa that it is injurious. But the general complaint against trusts is that they prevent competition.

Mr. TELLER. Thereupon, I propose to read, testimony taken in 1896 before the British Commission to inquire into the cause of the depression of trade. If I had known that this discussion was coming up to-day (and it is only by accident that I have this book with me) I could have read the testimony showing that there are other trusts besides the one I am going to mention.

Mr. T. G. Smith was called before the commission on the 17th day of December, 1895, and interrogated with reference to a trust that I suppose every person from Missouri must have heard about, whether he had ever read that report, whether he knew Mr. Smiley had studied the industrial question in this country has known that trust existed—a trust composed, as will be seen by reading here, of all the steel manufacturers of Great Britain with one single exception, of all the steel manufacturers of Germany with the exception of two, and of all the Belgian manufacturers. I need not observe that it was composed of the great free-trade country, Great Britain, on the one part, and of the great protective country, Germany, on the other, and delegated the country of free trade per excellence, where we have free trade with all its beauties, including the yoking of women and dogs together to do the common work. This Mr. Smith (I shall read the questions and the answers):

Can you give us any information with regard to the association which we understand has been formed for the purpose of distributing the orders received for the manufacture of rails in the United States?

I had something to do with the origin of that association, and the conduct of its business. It was formed about 10 years ago.

That would be in 1882.

At which time steel rails were being sold at less than 4½ per ton at the works, that price, I believe, being a loss to the parties selling them varying from $2 to $4 a ton. The quantity of rails that were required then had fallen off to only about 25 per cent of what it was 20 years ago. The combination was nothing like half time, and when orders came in it became a question, Is it better to take these orders at a known loss or let the works stand and have an effect on production the next year, or do we stop production because that would cost us less than $4 a ton at the works. Afterwards, the makers in England, all experienced makers, had agreed to join this trust, and to make steel rails acceptable to the Belgians and Germans with us as being the only two countries that imported rails.

You will see later that when other countries attempted it interfered with their exportations.

It ended, after the figures of three years of the exportations from the three countries, that Great Britain kept 66 per cent. of the entire export trade.

Now, this is in the trust.

Belgium had 7 per cent, and Germany 27 per cent. We have since modified the division a very little, and given Germany 1 or 2 per cent. more and Belgium 2 or 3 per cent. less, in effect this trust has reserved two-thirds of the export trade. The next thing that we had to do, having agreed upon what proportion of the total production was to go to the United States, I preferred to reduce it again, but in an association of this kind you are required to consult, in the first place, the people of the country you regulate. We all tried to compromise, and it is only recently that we have come to the conclusion that to avoid the control of trust made by the system that the wants of the new trust would be regulated, not by the wants of the country, but by the wants of the people that favored the association.

Evidently they were making a much larger profit than they would not voluntarily reduce the price. Mr. Dale, one of the board, asks this question:

Mr. Dale. Your association is charging more than they really need to charge for their services?

A: We are not charging much profit.

Mr. TELLER. What proportion of the firms in England are in the union?

A: All except one; in Germany all except two, and in Belgium all the firms are in the union.

The CHAIRMAN. What would be the position of a man opening a new firm?

A: The position of a man opening a new firm would be that he would not be taken into the union or have his cost price fixed.

Mr. TELLER. When you say all the makers are in the union, what do you mean?

A: Steel rail makers.

Does the association extend to anything except rails?

A: No.

Mr. Dale. Does the firm that stood out at first come in?

A: No; they stand out.

Mr. TELLER. Have the prices since you established the association been such as were calculated to insure an inordinate profit or such as were calculated rather to ensure against loss by undue competition?

A: The price was fixed at very much what we considered the cost price would be to the least favored works, and any amount of profit upon the prices we fixed was due to the better position and better plant of the various works.

There is no competition at all. They took the lowest as they always do in such cases, the price of the least favored works, and made the other works in the union refer to that price, which gave, of course, to the more favored works a great advantage.

And any amount of profits upon the prices we fixed is due to the better position and better plant of the various works.

Mr. TELLER. Upon what price?

A: Upon the price that was current when the association started.

Mr. TELLER. Do you consider it in that way, because it was impossible for the prices that existed when the association started to be maintained for any length of time; it was absolute ruin to almost everybody to go on.

Mr. TELLER. Under the extreme competition that was going on at the time we started it was about 4½, and we put the price up to 4½., but we have only retained that price because we have been given a hope that we had to compete with France, and one or two cases in which we have had to compete with Austria, and when any firm supplies rails under the standard prices, it is made up out of the profits of the association.

I hope the Senate from Missouri understands that system of excluding a trust. That simply means that when France undertook to export rails and Austria undertook to export rails, some member of that association put down the price of the rails to such an extent that he lost by it, and the association made up the difference in order to ruin the export of France and Austria.

It contains very interesting reading, but I will not detain the Senate with the entire volume. After asking as to the amount of rails they had produced, the examination proceeded thus:

'Then we may take it that the result of the combination has not assisted at all, although it has undoubtedly interfered with the domestic trade and the export trade, and it would have been impossible for me to make out the combination had not been interfered with the volume of trade. Since it has not assisted at all, it is not true that the combination has not interfered with the volume of trade. It has interfered with the volume of trade, and it has interfered with the volume of trade to an extent that would have been placed if the combination had not existed.

You will see later when you still have the figures sufficiently surrender to Germany, during the period I have named, 246,000 tons.
A. We have willingly surrendered, that is true; but we should have had probably something more to complain of than that. But we are not in competition with steel; we are in competition with coal. Mr. Faile. May I ask you what you mean by that?

A. I am not aware of that.

The Chairman. Are you aware whether there are any similar pools in America?

A. I am not.

You are aware that the manufacturers inside the ring contribute to assist each other to the prejudice of those outside the ring when orders are given under certain circumstances.

A. I am not aware of that.

That is a Sheffield iron manufacturer, and everything is free there.

Then the examination proceeds:

A. I do not think so. I want to know if we have a similar pool in America.

A. I am not aware of it.

The Chairman. Are you aware whether there are any similar pools in America?

A. I am not.

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The Chairman. Are you aware whether there are any similar pools in America?

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That is a Sheffield iron manufacturer, and everything is free there.

Then the examination proceeds:

A. I am not aware of it.
Mr. VEST. I want to call the attention of the Senator from Massachusetts to another startling fact. We took the duty off quinine a few years ago, and immediately quinine went up, but it did not stay up, for it is down now.

Mr. TELLER. The Senator from Missouri is not serious in saying or pretending that the fall in the price of quinine had anything to do with the duty of duties. The Senator knows very well that quinine went up for a while.

Mr. VEST. A little! It went up for a year, and it was pointed to by the protectionists of this country as a horrible example of the fact that taking off the duty did not diminish the cost to the consumer.

Mr. TELLER. It would have stayed up but for the fact that the production of quinine exceeded anything that had ever before been heard of. The British Government and other Governments had fostered and trained the raising of the shrub from which quinine comes, and just about that time they had arrived at the stage when they could begin to realize upon it, and quinine went down, the world over, in its raw state. That is why it went down, and our tariff had nothing to do with it. But I am not to be diverted on the quinine business just now. I am on the steel business.

I continue to read the questions put to Mr. Smith and his answers.

Would you explain a little further your statement to Mr. Pearce about paying the railroads a bounty? Mr. A. The price is fixed free to New York, and you pay the duty of 10 per cent. at the border.

Mr. TELLER. The tariff always raises the prices of all articles and that the consumer pays the price of the duties.

Mr. A. That is it.

Mr. TELLER. The tariff causes the price of tin to be 6d. in London. There was a price of 6s. 6d. in London, in 1893, and now it is only 6d. That is occasioned by bad seasons, but they said with bad seasons or with good seasons the farmer was growing poorer and poorer and losing more every year and had been doing so for twelve or fourteen years. I can still insist that it be printed and lie on the table.

The VICE-PRESIDENT. The proposed amendment will be ordered to be printed.

Mr. DAWES. I ask the Senator from Illinois to withhold his motion, if there is any such amendment.

Mr. CULLOM. The Senator from Massachusetts desires to say a word, and I will yield to him.

Mr. DAWES. Mr. President, the Senator from Maryland [Mr. GORHAM] has asked an inquiry which was referred to me, and I may say, as an answer to it, that I was able to make the examination in reference to it. He wanted to know what would be the effect upon the price of tin-plate in this country if those who now have the monopoly of its manufacture should be introduced to the free-trade list. Free of duty here, and I spoke from memory. I should like now to read from the Palt Mall Gazette of July 25, 1888, this extract:

A RISE IN THE PRICE OF TIN.

The passing by the United States House of Representatives of the Mills tariff bill, which places tin-plates on the free-list, has led to a sharp rise in the price of tin. Yesterday Strailsea touched 89s. 7d. 6d. cash and 88s. 10d. three months. This is a rise of 10 per cent. from 14 to 15 weeks. I think that the Senate should read to the Gentleman the testimony of Mr. Carpenter, whose proposal the Gentleman has in mind, and I hope that the Senator from Missouri will listen to this.

Mr. VEST. I suppose that extract is from The Economist.

Mr. DAWES. This is from the London Ironmonger:

They have the advantages of possession, position for shipment, free of duty here, and I spoke from memory. I should like now to read from the Pall Mall Gazette of July 25, 1888, this extract:

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ceed with on Monday, whatever may come up at that time and no matter what other business may come up at that time, do not want to agree to that. I do not want to bind ourselves that this business shall proceed on Monday as against all other business.

Mr. HARRIS. There can be no objection to letting this bill remain as the unfinished business.

Mr. PLATT. I have no objection to letting it remain the unfinished business.

Mr. HARRIS. That is all that was implied.

Mr. PLATT. If that is all that was implied, I have no objection to that.

Mr. CULLOM. Ask unanimous consent that to-morrow’s session be devoted to the Calendar under Rule VIII.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Illinois?

Mr. INGALLS. Does that include the entire day, from the conclusion of the formal morning business until the adjournment?

Mr. HARRIS. Unless an executive session is interposed, I should think.

Mr. CULLOM. I do not suppose it would preclude an executive session later in the day.

Mr. INGALLS. Everything but that?

Mr. CULLOM. Everything but that.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Illinois? The Chair hears none.

Mr. CULLOM. Now I insist on my motion for an executive session.

Mr. GEORGE. Will the Senator yield to me to offer an amendment?

Mr. CULLOM. I yield for that purpose.

Mr. GEORGE. I offer an amendment which I intend to propose to the unfinished business, and ask that it be printed.

The VICE-PRESIDENT. The amendment will be received and ordered to be printed.

Mr. SHERMAN. I hope Senators will all understand that on Monday we shall proceed with this bill and try to finish it before the adjournment on that day.

The VICE-PRESIDENT. That is the understanding of the Chair.

Mr. PLATT. What is that?

The VICE-PRESIDENT. That the bill under consideration at the present time shall go over until Monday next and be considered as the unfinished business, to be disposed of on that day.

Mr. ALLISON. The unanimous consent does not go to the point of finishing the bill on Monday.

Mr. HARRIS. Oh, no; not to that extent. We do not know how long the bill may take.

Mr. PLATT. No, and it does not go to the point of considering it on Monday either.

Mr. CULLOM. A majority can settle that on Monday. I now insist on my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After three minutes spent in executive session the doors were reopened, and (at 5 o’clock p. m.) the Senate adjourned until to-morrow, Saturday, March 29, 1890, at 12 o’clock m.

CONFIRMATIONS.

Executive nominations confirmed by the Senate March 21, 1890.

UNITED STATES CONSULS.

James F. Ellis, of Wisconsin, to be consul of the United States at Brockville, Canada.

James C. Kellogg, of Louisiana, to be consul of the United States at Stettin.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 21, 1890.

The House met at 10 o’clock m. Prayer by Rev. GEORGE ELLIOTT, of Washington, D. C.

The Journal of the proceedings of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. MOWROR. Mr. Speaker, I move that the House now resolve itself into Committee of the Whole House for the purpose of considering the annual pension appropriation bill.

Mr. RICHARDSON. Mr. Speaker, is not this day set apart under the rules for the consideration of the Private Calendar?

The SPEAKER. Under the rules the Committee on Appropriations has the right to make this motion at any time after the reading of the Journal on any day.

Mr. RICHARDSON. Without a formal motion to dispense with the Private Calendar?

The SPEAKER. Without that.

The question was taken on the motion of Mr. MOWROR, and the Speaker declared that the ayes seemed to have it.