

PROTECTION OF TRADE AND COMMERCE AGAINST UNLAWFUL RESTRAINTS AND MONOPOLIES.

APRIL 25, 1890.—Referred to the House Calendar and ordered to be printed.

Mr. CULBERSON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany S. 1.]

The Committee on the Judiciary have had under consideration Senate bill No. 1, "to protect trade and commerce against unlawful restraints and monopolies," and recommend its passage.

The object of the bill is twofold:

- (1) To protect trade and commerce among the several States or with foreign nations against unlawful restraints and monopoly; and
- (2) To protect trade and commerce in the Territories of the United States or of the District of Columbia, or between any such Territory and another, or between any such Territory or Territories, or any State or States, or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations against unlawful restraints.

It will be observed that the provisions of the bill are carefully confined to such subjects of legislation as are clearly within the legislative authority of Congress.

No attempt is made to invade the legislative authority of the several States or even to occupy doubtful grounds. No system of laws can be devised by Congress alone which would effectually protect the people of the United States against the evils and oppression of trusts and monopolies. Congress has no authority to deal, generally, with the subject within the States, and the States have no authority to legislate in respect of commerce between the several States or with foreign nations.

It follows, therefore, that the legislative authority of Congress and that of the several States must be exerted to secure the suppression of restraints upon trade and monopolies. Whatever legislation Congress may enact on this subject, within the limits of its authority, will prove of little value unless the States shall supplement it by such auxiliary and proper legislation as may be within their legislative authority.

It is proposed to accomplish the first object of the bill by declaring every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States or with foreign nations illegal, and by declaring every person who shall monopolize or attempt to monopolize, or who combines or conspires with any other person or persons to monopolize, any part of the trade or commerce among the several States or with foreign nations guilty of a misdemeanor.

The penalty proposed to each of these offenses is fixed at a fine not to exceed \$5,000 or imprisonment not to exceed one year, or both said punishments in discretion of the court.

In order to accomplish the second object of the bill any contract, combination in form of trust or otherwise, or conspiracy in restraint of trade or commerce in a Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories, or any State or States, or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States, or foreign nations, is declared illegal. Any person offending against this provision shall be deemed guilty of a misdemeanor, and is made liable to the same penalty.

In addition to the penal provisions of the bill, the circuit courts of the United States are invested with jurisdiction to prevent and restrain violations of the act, and it is made the duty of the several district attorneys of the United States, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations.

It is also provided that property owned under any contract, or by any combination, or pursuant to any conspiracy (and being the subject thereof), denounced as illegal and being in the course of transportation from one State to another or to a foreign country, shall be forfeited to the United States and may be seized and condemned by like proceedings as those provided by law for the seizure, forfeiture, and condemnation of, imported into the United States according to law.

Any person injured or damaged in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by the act may sue in the circuit courts of the United States in the district in which the defendant resides or is found, without regard to the amount in controversy, and shall recover threefold the damages sustained by him and the costs of suit, including attorney fees.

It may be proper to state that while this measure is not precisely what any member of the committee would have proposed upon his own motion, there was a general acquiescence in the recommendation of its passage as perhaps the only legislation possible under existing circumstances by this Congress.