1903.

NEW ZEALAND.

TRUSTS AND ANTI-TRUST LEGISLATION

(REPORT THEREON).

Presented to both Houses of the General Assembly by Command of His Excellency.

HAVING decided to bring forward this session legislation with the object of preventing the formation of pools, rings, and trusts in connection with food-supplies, clothing, and housing the people, I deemed it advisable and imperative to obtain the fullest information possible from other countries through the Agent-General and the Government Agent in San Francisco, and accordingly Acts of Parliament, Reports, &c., as affecting the various countries wherein trusts flourish and in which law exists for suppression and regulation, have been obtained. These papers, together with much information obtained from other sources, have been classified and precised by the Secretary for Labour, and the result is now submitted herewith as a Parliamentary Paper, placing in the hands of members, in a concrete and practical form, full information respecting combines, pools, rings, and trusts, their effects upon trade, and the results accruing to the manipulators themselves. This will, I hope, enable members to become conversant with the various phases of the subject, giving them a full grasp of the situation, and, with the knowledge of what has occurred and what is transpiring in other countries, the result may be the passing of such legislation as will prevent trade monopoly obtaining in this colony. R. J. SEDDON, Minister for Labour.

The SECRETARY, Department of Labour, to the Hon. the MINISTER of LABOUR.

SIR,— Department of Labour, Wellington, 5th June, 1903.

I have the honour to submit herewith a report on trusts and anti-trust legislation in the United States and Europe. EDWARD TREGEAR, Secretary for Labour.

The Right Hon. R. J. Seddon, P.C., Minister of Labour.

PART I.—TRUSTS IN THE UNITED STATES.

Happy is the people whose statesmen foresee and prevent grievances instead of waiting to experience them to cure them. In dealing with this trust problem and the dangers of vast accumulations of wealth in single private hands we are seeking to lay down beforehand the law of a healthy life, and not to grope after a cure for a deadly sickness.—(Senator HOAR, in the Senate, Washington, 6th January, 1903.)

So loosely are the terms employed in regard to combinations in industrial and commercial enterprise that it is necessary for the sake of clearness and accuracy to have a few definitions of words for use in this report.

A "trust" is defined in the "Century Dictionary" as "an organization for the control of several corporations under one direction by the device of a transfer by the stockholders in each corporation of at least a majority of the stock to a central committee or board of trustees, who issue in return to such stockholders respectively certificates showing in effect that, although they have parted with their stock and the consequent voting-power, they are still entitled to dividends or to share in the profits—the object being to enable the trustees to elect directors in all the corporations, to control and suspend at pleasure the work of any, and thus to economize expenses, regulate production, and defeat competition."

This admirable exposition of the conduct and motives of a trust proper (*i.e.*, a board of "trustees") is altogether too rigid for the present purpose, and unless we take the concluding passage as its essence—viz., that a trust is formed "to economize expenses, regulate production, and defeat competition"—we should be unable to include under the word "trust" several of the American and most of the European combinations known by that name. We will therefore use more simple and general definitions, and consider that—

A "pool" is a combination or agreement between certain persons or firms in order to influence the market by controlling output, dividing territory, extending trade, and sometimes determining prices.

A "ring" is a similar combination, but devoted more especially to controlling selling-prices.

A "trust" is a corporation or combination of corporations into unity for the purpose of amalgamating plants and properties, economizing expenses, buying and selling to best advantage, ousting competition, and controlling markets.

It is acknowledged both by friends and enemies that all corporations are not to be considered trusts—this not only on account of their organization or motive for existence, but because many of them have influence for good, and remain not only above reproach, but above suspicion. Such combinations are not to be assailed by having hurled at them the word "trust," which, as we shall see, has become in the mouths of many an epithet applied only to corporations believed to be evil and of infamous character. We will leave out of the question all such irreproachable combinations, and confine our attention to those who in the brunt of the industrial conflict are the mark of invective and attack. Corporations such as the Standard Oil Company, the United States Steel Corporation, the Consolidated Tobacco Company, the Anthracite Coal Trust, &c., are absolute storm-centres of industrial life in the United States.

It is not easy for persons born in Great Britain or its colonies to understand with what fury many of the trusts are assailed in the United States. Doubtless to those whose lives are influenced to failure and ruin by great combinations of capital it appears hard to refrain from speaking in heated language concerning them. Not only from the mouths of private citizens, however, but from the responsible utterances of members of Congress, can be gathered some conception of the hatred and loathing felt for the methods and actions of the trusts.

Surely if a trust is a criminal organization, and the law so denounces it, then the promoters of these combinations are criminals, and should be so regarded and treated. If the Standard Oil Company is a monopoly, and it has been so pronounced by the Courts of the land, then John D. Rockefeller is a criminal, and should be dealt with as such, and treated as such. If the United States Steel Corporation, capitalised at the modest sum of $1,389,339,956 is a trust—and who will doubt this?—then this trust corporation is a criminal conspiracy against the trade and commerce of the country, and Mr. Carnegie, Frick, Schwab, and other promoters of the criminal organization are criminals, and should be treated and dealt with as other criminals are.—(The Hon. W. T. ZENOR, House of Representatives, Washington, 5th February, 1903.)

This coal trust is arrogant, audacious, greedy, selfish, and corrupt to the core. It knows no law except that of self-interest. It sets in open defiance all rightly constituted authority. It ruthlessly throws all established and honourable standards to the ground. It steals not merely men's property without any compunctions of conscience, but it destroys and murders their most sacred rights. . . . It is thoroughly law-defying, anarchistic in its bold manipulations. It exercises its power with the arbitrariness of a despot.—(The Hon. F. J. KERN, House of Representatives, 14th January, 1903.)

I denounce, along with this Court and the great mass of the people of the United States, all trusts, monopolies, corporations, or other concerns which or person who directly restrain State, inter-State, or foreign commerce. Such business is outlawed by the wish and for the welfare of the people, and for the preservation of the purposes of government.—(The Hon. J. W. GARRIES, House of Representatives, 31st January, 1903.)

Such accusations as these of anarchism, corruption, theft, conspiracy to defraud, outlawry, &c., made against men whose names are world-famous as leaders of industrial enterprise, deserve grave consideration. They have received very grave consideration before the Congress whose session has just terminated, and it is necessary in the interests of the diffusion of knowledge to repeat some of the information brought to light during the process of legislation. It is only fair to present some of the arguments used for and against the trusts, so we will first turn to the advantages they are said to promote.

ADVANTAGES OF TRUSTS.

The great enterprises which have legitimately reduced the cost of production, and have won a place for American enterprises in the international industrial world, should not be strangled by adverse legislation, but only controlled by national regulation. To strike down industrial or commercial combinations, with the result of closing factories and mines, and turning workers by thousands into the streets, would be a calamity whose extent could hardly be imagined.

The trusts are not a cancer in the body politic; they are not an excrescence on the body politic; they are a part of the vital principle of the body politic. They need to be properly regulated and watched and controlled, just the same as any vital organ of the body needs to be; but, in like manner, they need to be guarded from violent injury.—(The Hon. E. MORRELL, House of Representatives, Washington, 7th February, 1903.)

It would have been impossible to bring to life and nourish the foreign trade of the United States had business been restrained to the old system of small competing firms and corporations. Under the new order of concentration of capital contracts have been made which allowed one concern to equip a whole railroad, building its bridges, laying its rails, furnishing its rolling-stock, the orders being filled in less time than was ever before known in the industrial world. So vast has been the increase of production that the railways have not been able to furnish transportation to convey it. At Pittsburg a short time ago there were on side tracks, awaiting power to move them, seventy miles of cars, mostly loaded with iron, steel, and machinery which were being shipped to fill orders. Had trusts greatly advanced prices of commodities, competition would soon have been evolved to curb their powers of taxing the people unjustly; but, so far from that being the case, it remains a matter of wonder to observe how some highly finished products could have been turned out at so low a price. It is an unfair accusation that in many cases the trusts are over-capitalised. Such arguments are supported only by the assertions that the actual tangible value of their properties is less than the nominal value of stock issued. But the inventory of buildings, plants, estates, &c., of a company is not a criterion of its value. Who would calculate the value of a telegraph company's assets by computing the selling-value of its poles, wires, and instruments? The value of a corporation is more fairly estimated on the earning-power of its productive capacity; and, if a plant is earning dividends at the rate of 20 or 30 per cent., the value of that plant to its owners is better calculated by a capitalisation of its earning-power than by estimating the selling-price of the plant itself.

As to the objection that many trusts have raised enormous sums by bonds (or mortgages of assets), and that these sums have been added to the already "watered" stock till fraudulent over-capitalisation has been achieved and the public deluded thereby, the answer is that the public have nothing to do with the matter. If banks and other financial institutions choose to make large advances to a corporation in order to aid its enterprises, and if proper security is given for such advances, the general public have nothing to do with the matter; it is entirely between the executive of the corporation, the stockholders, and the financial institutions lending the money. Neither the nation nor private individuals have the slightest right to interfere.

One great advantage pertaining to trusts is the distribution of their earnings to a large number of shareholders. It is probable that while not more than three thousand individuals shared the dividends of the concerns which were afterwards amalgamated into the Steel Trust, the present ownership is divided among fifty-five thousand stockholders. The Sugar Trust has about thirty-two thousand stockholders, and almost every other American trust has a widely distributed ownership of its shares and bonds.

The position attained by trusts should be a source of national pride and not of legislative attack. They have wrought dismay on the Continent of Europe and in Great Britain by introducing giant forces undreamed of before into commercial life, and they alone have enabled the United States to capture the trade formerly divided among foreign nations. Their universal dominion can best be exemplified by a single example. The Consolidated Tobacco Company, incor-

porated at Trenton, New Jersey, in 1901, is composed of—the American Tobacco Company; the American Snuff Company; the Havana American Company; the American Cigar Company; the Murai Brothers Company of Japan; the Mustard Company of Shanghai, China; Blackwell's Bull Durham Tobacco Company; the S. Anargyros Company (Turkish cigarettes); the American Tobacco Company of Canada; the S. Jamatzy Company of Dresden; the American Tobacco Company of Australia. Trusts like this are often spoken of as evil monopolies, and every one seems to fear the effect of monopolies; but the only real monopolies are those temporary controls obtained by the use of patents, or those made popular by the production of some article at a cheaper rate than any one else can supply it. Is such a monopoly more dangerous than suicidal competition—absolutely destructive competition? Legislation can never turn back the tide of modern industrialism, nor combat the tendency which supplants the small store by the departmental store and the small company by the huge corporation.

I remember very well, Mr. President, when the railroad that extends from Albany to Buffalo was owned by seven different corporations, each having its own separate mechanism, and each having no connection with the others. If there came a great snowstorm one road would clear its track in a day, but those on each side of it might take a week. The passenger got his ticket for each road, and the shipper dealt with seven different separate carriers. Now the railroad is under one management, and crosses the continent from one ocean to the other, and it will soon cross the continent under the same ownership. So we must, in devising our remedy, go cautiously and slowly.—(Senator HOAR, 6th January, 1903. C.R., 6th January, p. 537.)

The men who unite their small funds so that by their concentration a railroad can be built do not make profit for themselves only, but for thousands enabled to settle on land and turn it to profitable account. The promoters of transportation conveniences which permit the products of an acre in Dakota to be landed in Liverpool for 16s. are benefactors both to Dakota and Liverpool; they certainly deserve some more material reward than honour for their enterprise, ability, and risk of fortune. It is only by their systematic economies and masterful victory over difficulties that combination supersedes individual effort and free competition.

Without aggregated capital the present modes of carrying on enormous enterprises would be impossible, and its use has multiplied a hundredfold the potency of productive labour. Combination of means and methods has given mechanical aids to industry which enables every man employed to do the work of five, but such combinations could not be successful, nor could they even hold their own, without the finer brains needed for their perfect organization, the high order of talent belonging to men evolved by the stress and strain of gigantic industrial interests. It is the result of putting entire management into the hands of those industrially "the fittest" which allows them to use to such advantage the wealth which is but the stored-up energy of millions of workers in the past, and to turn that energy into productive channels for the benefit of the present.

EVIL EFFECTS OF TRUSTS.

The most general and important charges brought against the trusts are: (1) Over-capitalisation or "watering of stock"; (2) secrecy, or lack of publicity in organization and conduct; (3) destruction of competition by underselling, &c.; (4) management of institution by absentees for benefit of absentee capital; (5) management for private benefit of officials; (6) destruction of local public spirit; (7) power to corrupt elections and bribe parliaments; (8) power to influence Courts and set the law at defiance; (9) absence of personal liability for illegal actions; (10) holding vast properties (as in mortmain) without taxation; (11) shutting down mills, mines, &c., at will, and throwing thousands out of employment; (12) the use of boycott and black-list; (13) fraudulent opposition to patents and use of patents; (14) discrimination in tariffs and rebates.

OVER-CAPITALISATION.

One of the most important charges against trusts is that of over-capitalisation or "watering the stock"—that is, issuing stock for which there are no satisfactory assets as security. The term is not properly used if applied to a legitimate increase in the number of stocks, but only to an inflated and illegitimate increase.

Attorney-General Knox, in a speech made to the Chamber of Commerce of Pittsburg, Pa., on the 14th October, 1902, said, when speaking of the evils of trusts,—

Over-capitalisation is the chief of these, and the source from which the minor ones flow. It is the possibility of over-capitalisation that furnishes the temptation and opportunities for most of the others. Overcapitalisation does not mean large capitalisation or capitalisation adequate for the greatest undertakings. It is the imposition upon an undertaking of a liability without a corresponding asset to represent it. Therefore, over-capitalisation is a fraud upon those who contribute the real capital either originally or by purchase, and the effort to realise dividends thereon from operations is a fraudulent imposition of a burden upon the public. When a property worth $1,000,000 upon all the sober tests of value is capitalised at $5,000,000 and sold to the public, it is rational to assume that its purchasers will exert every effort to keep its earning up to the basis of their capitalisation. When the inevitable depression comes wages must be reduced, prices enhanced, or dividends foregone. As prices are naturally not increased but lowered in dull periods, it usually resolves itself into a question of wages or dividends.

In over-capitalised corporations dividends must be declared upon the "water" as upon the actual value, and if all the stock was held by the promoters or original shareholders this would be of no consequence, as whether the dividend was 20 per cent. on one hundred shares or 10 per cent. on two hundred shares the result would be the same; but in such cases it would not be done unless for the sake of deception in making huge dividends appear small, and thus deluding the public as to the amount drawn from them for commodities. But the stock is put upon the market and bought and sold as if real value lay behind the inflated figures, and not profit for the promoter. If a property worth $1,000,000 could yield a fair profit of $60,000, and then the said property was over-capitalised to $10,000,000, it would need a profit of $600,000 to pay a fair profit to the shareholders; but, as the property remains the same in both cases, it is not only a fraud on investors, but a source of temptation to its managers to try by all devious ways—discriminations, cutting wages, driving plant to the uttermost, &c.—to try to produce dividends on the large capital, and so keep up market values of stocks.

Mr. Dill, the attorney organizing the United States Steel Company, when being examined before the Industrial Commission, said,—

I have declined many organizations. Now, without calling names at all, a corporation was brought to my attention—I will say two months ago, so as not to bring it too near—concerning which, after a careful examination of the assets, the conclusion was reached in our office that $500,000 would be a maximum fair valuation. We declined to organize that corporation for $8,000,000 and float it. I should not want to be brought into any unpleasant position by having you ask the name, but it is advertised before the public to-day at $8,000,000. Well, I do not know from reading the prospectus that any man could be indicted for making false representations, but I do know that it lacks dreadfully in the statement of material facts—facts the public ought to know.

It is interesting to notice that this, the frank evidence of the attorney of the Steel Trust, contrasts strangely with statements made concerning the "watering" of the stock of that same corporation, the United States Steel Company, showing that three shares of stock in the new organization were given for each share in the old, thus converting every million dollars into three millions. The history of this famous trust may be concisely told as follows: On the 30th December, 1901 (see "Census Bulletin" No. 122), there were in existence forty combinations organized to control iron, steel, and their products, and these controlled 447 plants. The actual value of their property was assessed by the census officers at $341,779,954. During the time these figures were being gathered Mr. J. P. Morgan organized the most valuable of the corporations into a new corporation, including the Carnegie Company, the Lake Superior Consolidated Iron-mines, and nine other companies. At this time the stock stood as follows: Carnegie Company, stock to amount of $156,800,000; Lake Superior, stock to amount of $29,425,940; nine other companies, stock to amount of $528,465,300; National Steel Company, bonds to amount of $2,811,000: total, $717,502,240. This nominal value represented, even at that time, twice the actual value of the assets, but, "water" and all, it was carried into the trust, the United States Steel Corporation, with the exception of $13,150,000, which was the price paid for the property of the Shirley Tube Company. The trust then added $301,000,000 in bonds, which brought the total capitalisation up to $1,005,351,740, and which "Moody's Manual" (official tables) since states to have been increased to $1,322,432,900. Not more than one-third of this represents tangible property. The annual report of this trust for the year ending the 31st December, 1902, was as follows: Gross receipts, $569,065,902; expenses, $435,757,138; net earnings, $133,308,764. These expense-figures include nearly $9,000,000 set down as "commercial discounts, miscellaneous interests, &c.," which may really be considered as further gain for capitalists. The expenses also include $21,000,000 maintenance and repairs, for keeping the stockholders' property "as good as new." The average number of employees was 168,127, and they received $120,528,343—that is to say, some $13,000,000 less than the direct payments to capital—although included in these earnings of employees are the enormous salaries of highly paid officers, who are also stockholders and bondholders. Nor does the financial influence of the trust end here. It controls, through ownership of stock and "community of interest," many other important iron and steel industries, such as the Bethlehem Steel Company, the Cambria Steel Company, the American Bicycle Company, and the American Can Company, which added about $100,000,000 to the capital. By its "pools" and agreements with competing firms dealing in steel, steel plates, steel sheets, steel billets, wire rope, &c., about $200,000,000 more is under control. This makes the Steel Trust master of nearly $2,000,000,000.

Another illustrative instance of over-capitalisation is that of the Virginia-Carolina Chemical Company, which owns a controlling interest in the Southern Cotton Oil Company. The capital invested in fertiliser factories is, in round numbers, $25,000,000, and this represents the actual value of the properties. The company's stock issued up the 1st January, 1903, was $38,000,000, which, with $12,000,000 of preferred stock, forms a total of $50,000,000. This practically means that the farmers of the south pay dividends of 100 per cent. more capital than the properties are worth.

Senator Littlefield, on 6th February, 1903, speaking in Committee of the Whole on his Bill, said (Note, C.R., 16th Feb., 1903, p. 2399):—

It is doubtful if any of the large over-capitalised combinations now in existence would have been financed if the facts as to value involved in their organization had been fully known to the public. In a great many instances the bonds negotiated represent all of the actual investment in the corporation, the stock being largely speculative. It is certainly doubtful if the public would buy a bond when it knew that the only cash capital invested in the enterprise was the proceeds of the bonds in which it was invited to invest. If upon a public statement it appeared that the bondholders were the only parties assuming any real hazard, and that the only hazard undergone by the promoters was the ability to so control and manipulate the market as to be able to declare a dividend on a fictitious capitalisation in order simply to give it a market value, and thus unload upon the public, fewer combinations would be floated, or be successful if floated.

Mr. Carnegie himself, in an article in the *North American Review*, fourteen years ago, said:—

The entire capital stock of railways in the West, as a rule, has cost little or nothing, the proceeds of the bonds having been sufficient to build them.

The promoters and others who "water" stock contend that they are capitalising not only present available values, but those not yet realised and the expectations of the future; but the effect is to unload upon the public a quantity of counters or "chips" to be used in the game of speculation, and to furnish a wide area over which dividends may be spread without having the appearance of inordinate profits. If capital employed in a particular industry is by any device of organization or inflated securities getting more than its share, it is at the expense of others, and tends to the development of deceptive and fraudulent schemes—in fact, to what has been well named "predatory competition." If a corporation is allowed to feel the stress only of the ordinary vicissitudes of business it will probably weather a financial or industrial storm which it would be powerless to resist should its hold be full of "water" and its officers mere commercial spielers.

Effects of Trusts on the Public.

To cheapen production is an object of economic polity, but if the cost of it is reduced it should be for the benefit of the consumer. To cheapen production and still charge high prices is merely to confer all the benefits of cheapness upon the producer, and throw into the hands of a few stockholders as wealth that which should have been distributed over the whole mass of the people in lowered market prices.

It has been urged that one advantage of trusts is the large diffusion of stock over a multitude of investors, and consequently the wide dispersion of dividends. On the other hand, it is certain that the bulk of such stock is always held by a few individuals, although there may be a large number of minority holders; by far the largest share of the money goes to the heavy stockholders who control affairs, and who also probably obtained their large holdings without due equivalent in purchase or transfer. The Steel Trust claims that it has diffused its stock largely among its own employees, but workmen are suspicious of "the Greeks and those bearing presents," and question if this has not been done to prevent strikes and labour disputes, as a workman is chary of injuring an association in which he himself is a shareholder. The same argument applies to the "paternalism" of providing workmen's dwellings, which are found to be but ties binding the worker more tightly to the corporation for which he works and on whose land his family has to live.

There are other aspects than the industrial or commercial which should be taken into consideration when treating of the good or evil effects of trusts—for example, the position of the workers, and the effect on national character. The advocates of trusts point to the expansion of employment and steadiness of occupation offered to the servants of great corporations as being undoubted gains to the workers, but these claims are met by passionate denial.

Judge Grosscup, on the 18th February, 1903, gave a decision against the Meat Trust, and among some of the charges he considered as proved, being "in restraint of trade" between States, were: The combining firms had forced down live-stock prices by agreeing to refrain from bidding against each other in the market; they had regulated selling-prices; they had bid up the prices of cattle to stimulate shipment; they had limited the quantity of meat shipped to agents. Whether such practices are harmful in themselves or not, the result seems to have been that the profits of the Meat Trust in 1901 amounted to nearly $100,000,000 more than in 1900, while the price of meat to the public increased by 3 to 5 cents. This is an example how a combination can affect the price of commodities. Wages, however, do not rise in the proportion the price of commodities can be made to do. 250,000 organized workmen of New York received between the years 1897 and 1901 a total advance in wages of 7 per cent. (to be exact, 7·4 per cent.: see "State Bureau of Labour Statistics"). The prices of commodities rose from July, 1897, to July, 1901, about 27 per cent. ("Dunn's Review"). From the 2nd January, 1902, to the 2nd January, 1903, the price of beef rose 40 per cent., thanks to the Meat Trust (these figures are those of the Treasury Department). So that labour was powerless to increase its wages as capital had increased the price of commodities. Moreover, ground-rents near the great cities rise year by year, and the workman has to pay an increasing tax to landlords without an increase in value received, to the further depreciation of the apparent advance in wages.

It is pleaded by those in favour of trusts that some of their economic advantages consist in "the elimination of unnecessary persons, unnecessary processes, and unnecessary things in the production and distribution of goods." Processes and things which are unnecessary may doubtless be eliminated without protest from any one, but as to the elimination of unnecessary persons, perhaps they and their families may have a different opinion of value from that of the official dispensing with them; they may even consider that they have as much right to existence as the multimillionaire, and of an aristocracy based on watered stock. Speaking of the millionaire, Mr. H. Demarest Lloyd wrote in May, 1902:—

> In Chicago, in the centre of the most fruitful region on earth, and in the most prosperous year ever known, last year child-labour increased 39 per cent. He (the millionaire) used in his factories 139 children for fuel for what he calls industry for every one hundred he used the year before. He creates "wealth," but it is the ransom that people must pay to escape from the scarcities he contrives. His greatest strokes are to lock out the people from the wealths of nature, and then charge them for readmission such fees in rents and fares and other prices as "the traffic will bear."

In many ways besides the general inflation of prices of goods, increase of child-labour, and absence of choice of masters, does the worker suffer by corporate influence. To mention two small directions of oppressive conditions, we will refer to accident compensation and the black list. In the States, which have no legislation on the lines of the Workers' Compensation Acts of England, New Zealand, &c., the worker has to sue for compensation under an Employers' Liability Act that shelters the employer under the old plea of "common employment." In a huge corporation, covering large extent of territory, with a numerous staff of officials and an army of workmen (one railway combination employs a hundred thousand men), it is almost impossible to get from under the plea of "common employment" in case of accident. A man can receive no orders except from a fellow employee, however high that fellow-employee's station; and to get away from the territory inhabited by fellow-employees he would have to go a thousand miles. Therefore the corporation is not liable to pay compensation for accident; it was always the fault of a fellow-employee. In regard to the black list, it is asserted that it is often vindictively and almost always heartlessly used. Under the old *régime* it was possible on discharge to find another employer, but under combination the employing body is a solid block of resistance, and in case of a worker offending his boss and being discharged, his name is black-listed in every department of the vast combination. If he does not change his name and disguise himself there is no remedy but leaving that part of the country for ever. Governor Thomas, of Colorado, speaking on the subject of veto for repeal of an anti-boycott clause in a bill, said:—

The most serious fact urged on behalf of this Bill is that some of the great companies in the State disregard and violate the black list section with impunity. . . . The strong syndicate, entrenched in power and authority, overrides prohibition and penalties, snaps its fingers in the faces of the people, and sets at naught the limitations of statutes and constitution.

Concentrated machinery may take the place of men, but machines cannot buy meat or grain from the farmer, cannot read books, or go to theatres or rent houses, or make gardens. Production by too highly specialised methods defeats itself, for it destroys the buyer of products, and a low market price matters little to a homeless, workless population. To discover that industry, thrift, sobriety, &c., are useless as against the labour-saving machine is to give a shock to the foundations of industrial life. Following the shock comes the loss of character and the degradation of social life. In an article on "Wealth," written by Mr. Carnegie, this trust-magnate frankly states his own observations on the subject:—

We assemble thousands of operatives in the factory, in the mine, and in the counting-house, of whom the employer can know little or nothing, and to whom the employer is little better than a myth. All intercourse between them is at an end. Rigid castes are formed, and, as usual, mutual ignorance breeds mutual distrust. Each caste is without sympathy for the other and ready to credit anything disparaging in regard to it. Under the law of competition the employer is forced into the strictest economies, among which the rates paid to labour figure prominently, and often there is friction between the employer and employed, between capital and labour, rich and poor.

When a trust puts its powerful grasp upon a town or village it can cause it to prosper or decay. It holds in its power the destiny of districts and of provinces. If a trust breaks the law of one State it moves to another of more lax morality, and brings its huge organization to make or mar the country over which its influence dominates.

According to Mr. Lawson's survey of "American Industrial Problems," newly published by the Messrs. Blackwood, American workmen are compelled by their employers to obey certain rules of life. They must be teetotalers; they must live in villages which the employer establishes for them; they are subject to a continued occult surveillance.

Confidential reports are made periodically to the management on every employee. The careless maxim of some British masters that their men can do what they like with their own time is never heard in the United States.

In the workshops private detectives are introduced to find out what the men are saying and doing:—

The great Pinkerton has a detective service for this express purpose. One of his men may be hired as a fitter or mechanic, and he may be in the shop for months without exciting the least suspicion of his character. Every night he will send in a report of all he has seen or heard during the day.

Not only the manual workers but the commercial men feel the methods of the trust oppressive. Deep resentment is often experienced with the tone and mode of conducting affairs used by officers of the trust. The American business man naturally likes to have a good deal of latitude in his dealings with principals, and he dislikes immensely having to sign a contract in which he has no freedom or option whatever. The agent of the trust, in effect, says, "This is the price you have to pay for your goods; here are the terms on which you may handle your purchases; this is the price you must ask from customers. Take the goods or leave them." A self-respecting man is galled unutterably under such dictational rule.

Years ago we had in this country many proprietors of businesses, or what may be called business men, or yet stating it plainer, employers. Now we have but very few employers; almost all are employees. They are compelled to await the acting of the employer. They have no voice whatever in the industrial affairs of this country. They go to work at the suggestion of the monopoly, work on such terms as the monopoly dictates, and at such length of time as they prescribe—all contributing to the maintenance of a very bitter feeling. As I shall show, these unwise institutions are beyond the power of Congress and practically beyond the power of the State.—(Hon. F. M. GRIFFITH, 7th February, 1903. C.R., 11th February, 1903, p. 2119.)

There can be no doubt that when the faithful worker and the energetic ambitious aspirant for fortune are shut out from the fields of enterprise something of great importance to the community is lost. It was well exemplified by the operations of the syndicates which exploited the wheat country of the western States. These syndicates were made up generally by persons directing railroad combines so as to control immense areas of wheat land. They planted, sowed, made roads and camps for their men. The railways arranged special rates of transportation on both what they bought and what they sold, they purchased at what rate they liked, and held back their grain if it suited them to "rig the market." They encouraged no settlement; women and children were not seen in their camps; not a penny was collected from them for school-house or library. They worked the country as if it was a mine or logging camp, exhausting and desolating everything to produce the harvest of greed. The smaller men, the competitors, farmers struggling to maintain their familes and keep up schools, were squeezed and drained financially to impoverishment, selling their little crops at ruinous loss to escape the greater robbery of the railway league. Such action on the part of a trust or syndicate was called "the business enterprise of captains of industry"; but it was little better than a blight and a curse to those not within the magic ring of collective plunder.

Their success! Their success is the shame and the scandal of the country and of Christendom. Their success has been gained by the sacrifice of American manhood and independence, and the prostitution of every pure patriotic impulse in the American breast.—(Hon. F. M. GRIFFITH in the House of Representatives, 7th February, 1903. C.R., 11th February, 1903, p. 2118.)

TARIFF.

The preponderance of opinion is strongly in favour of the position that much of the power of trusts is owing to protection by tariff. A practical example of this belief may be found in the repeal of the duty on coal (67 cents per ton) on account of the trouble wrought by the strike of the miners against the oppression of the Coal Trust. But, so far as the anthracite coal is concerned, the tariff had little effect upon the monopoly in the United States. It is all located within the national limits, and 95 per cent. of it is in the State of Pennsylvania. They are the richest coalfields in the world, containing vast stores of fuel, the possession of which means almost inexhaustible wealth to their possessors. Mr. J. Pierpont Morgan was the financier through whose

brilliant strategy a controlling interest in the Pennsylvania Coal Company was secured by the Erie Railroad. By having at once the control of the material and its transportation the giant monopoly was enabled to commence its prosperous existence.

Other trusts are, however, greatly dependent on a highly protective tariff. So widely has the knowledge of this fact obtained credence that the saying "The tariff is the mother of trusts" is a modern proverb. It is impossible to deny that in the United States the tariff gives the beneficiaries of it a monopoly to the extent that their foreign competitors must pay the cost of production abroad, the freight, and the tariff duty before they can enter into competition. In the first year of business of the Steel Trust its tariff benefits amounted to $72,600,000. This sum equalled two-thirds of its first year's profits, so that taxes amounting to over $70,000,000 a year had to be placed on other industries; or, to put it another way, the revenue lost $70,000,000 of duty in the year in order to build up the dividends of the Steel Trust; the average tariff paid on articles controlled by the trust being about 50 per cent.

If, however, a trust has not monopolized the entire trade of the country so far as the particular commodity in which it deals is concerned, and if such a trust still has competitors, it is doubtful whether putting the commodity in question on the free list of the tariff would not do more harm than good. In the flood of imports produced by cheap labour in foreign lands, the small competitors of the trust might be swept away and the stronger trust be left to survive. Moreover, it seems unfair and unreasonable to forbid trust-made goods to be sold to the inhabitants of a country and then permit those goods made by trusts abroad to be freely imported and circulated.

Perhaps the accusation against trusts that has most foundation is that they export goods to be sold abroad at lower rates than are charged for the same articles in the country of their production. This is sometimes faintly denied, but is more often boldly acknowledged and justified, by the officials of trust corporations. The assailants of trusts declare that the charge is proved by the export-lists, and that the prices charged are somewhat as follows for articles made or produced in America:—

	In America.	In Foreign Lands.
	$	$
Wire nails	2·05 per 100 lb.	1·30
Galvanised-wire rope	9·70 per 100 ft.	3·12
Table-knives	15·00 a gross	12·00
Farm wagon	65·00	39·00
Sewing-machine	45·00	27·00
Steel rails...	28·00 a ton	23·00
Lead	4·00 per 100 lb.	2·00
Shovels	7·50	5·80
Washboards	3·00	1·70
Tinplate	4·19 per 100 lb.	3·19
Typewriters	100·00	55·0
Lawn-mowers	4·25	2·75
Borax	8 cents	2½ cents

Mr. Charles Thulin, a Pennsylvania contractor, recently (in 1901) secured a contract to supply rails for Russia's great Siberian railway. He asked the leading steel-trust companies here for bids. They all asked him about $35 per ton with freight to be added. Mr. Thulin went over to England, sublet his contract to an English firm, and one of the same companies that had asked him $35 *plus* freight here sold the rails at $24 a ton, delivered in England to the English subcontractor. . . . After having investigated this subject for more than ten years I have reached the conclusion that practically all of our manufactured products are sold to foreigners for less than to Americans. The minimum difference is about 10 per cent. The average difference in price is probably 20 per cent., and on our really protected products above 25 per cent.—(Hon. J. B. CROWLEY, House of Representatives, 14th January, 1903. C.R., 19th January, 1903, p. 965.)

It may appeal to some, but probably few, that trade shrewdness and greed warranted the beef combination in raising prices to our poor beyond reason, while they sold to the poor of other countries three thousand miles away at 25 per cent. less. That the Oil Trust is justified in putting up the price of that article of universal need several cents a gallon to the consumer, mostly the working-classes, and at a time when its consumption is enormous by reason of the unfortunate coal situation and the inability of our poor to secure their usual supply, which has forced them to use oil-stoves largely to heat their homes; and, if statements are true, this has resulted in a trust already paying dividends of over 40 per cent. adding many millions to its profits, wrung from those to whom every nickel is a consideration. No one believes that the extra cost of the crude oil has warranted or justified these advances; and it is a well-established fact that the Standard pack the same oil or a better grade (as many foreign nations protect their people against explosions by regulating the test of the oil that can be imported) in tins, then in cases, pay the freight, insurance, landing and cartage charges, necessary commission, and sell it to the heathen at the other end of the world at from 20 to 30 per cent. less than at home.—(Hon. W. H. DOUGLAS, House of Representatives, 6th February, 1903. C.R., 13th February, 1903, p. 2233.)

The export price of kerosene-oil on the 26th January, 1903, was 5·65 cents per gallon; the price quoted for kerosene in bulk to the American trade was 10·5 cents per gallon. There is little doubt that many of these trusts paying large dividends do so by means of or by help of heavy protective duties, thus: The Oil Trust, protected by an average of 17 per cent., pays dividends of 40 per cent.; the Window-glass Trust protected by an average of 59 per cent., pays dividends of 15 per cent.; the Sugar Trust, protected by an average of 85 per cent., pays dividends of 17 per cent.; and the Cement Trust, protected by an average of 23 per cent., pays dividends of 33 per cent. On the other hand, the trust uses the argument adduced (further on) by Continental combinations as to their being justified in selling abroad more cheaply than at home; it is a way of disposing of surplus stocks not to be absorbed by the home market, and of keeping mills running and hands employed, when if dependent entirely on domestic trade the production would be intermittent and prices fluctuate enormously. It should also in fairness be noticed that though some of the largest of the trusts are accused of thus discriminating in home and foreign prices, and acknowledge the fact, the greater number of trusts declare that they have one set of prices only for domestic and foreign markets.

Patents.

One of the methods employed by trusts to raise the value of their properties and depreciate those of others has been the illegal use and misuse of patents. Combinations have used their political and pecuniary influence to prevent patents applied for being granted, in order that they might use the invention as being unpatented. A Court case disclosed that associated railway companies made an agreement for the purpose of restraining individual owners of patents from freely negotiating sale of interests in their patents, and from collecting compensation from any member of the association who has appropriated a patent invention. The combination was to use all means against any person bringing a suit against one of these members, was to collectively "boycott" or refuse to negotiate with the patentee, and not to settle a suit or claim so long as a similar suit or claim was maintained against any other member of the association: this, of course, to cut off the "sinews of war" from the opponent. (See Pettibone *v.* United States, 13 "Supreme Law Reporter," 542, 1893.) Thus, any competition for a patent is suppressed, and the combination either uses the patent without payment or purchases it at its own price. As the law of the United States declares that there shall be a fair and open market for patents such acts as those spoken of are plainly in "restraint of trade," and are illegal.

Mr. Albert H. Walker, in his book on patents, page 396, says,—

> Suppose the Baltimore and Ohio Railroad Company see the wonderful invention and think that it is a good thing, and a good deal cheaper than coal, and say, "We will proceed to infringe Mr. Vance's patent, and we will fight him ten or fifteen years if he sues us, with the probable result of his exhausting his means before he gets a decree." Such a course of defiant infringement is in many cases the deliberate purpose of railroadmen. It was the avowed practice of H. E. Sargent, the superintendent for many years of the Michigan Central Railroad, and one of the members of the Western Railroad Association. He has avowed it as his universal principle never to pay anything voluntarily to a patentee. He says, "Whenever our attention is called to a patent of value we use it, and in a few cases we are made to pay by plucky inventors, but in the aggregate we pay much less than if we took licenses at first."

The Hon. Elisha Foote, ex-Commissioner of Patents, says ("Loco. Engineering," November, 1892, p. 415):—

> What chance would the poor inventor have against these powerful corporations? None but a very wealthy person could enter into such a controversy. . . . Suppose any of these wealthy corporations should call upon a poor inventor to commence a suit against them and to encounter a big railroad combination with all their able and learned counsel in their employ. It would be impracticable; he would have to give up his patent.

How enormous are the forces exerted when a monster combination sets itself to defraud a single person of his rights may be gathered from the fact that one of these trusts, particularly alleged as an offender and sued for this variety of illegal behaviour, was the Eastern Railroad Association, a combination of more than two hundred and fifty railway corporations. These individual corporations were by their own agreement forbidden to acquire patents; there was a common Board for the purpose, a special fund, and special officers whose duty was to defend, apply for injunctions, make series of appeals, &c., in order to secure the full use of patents to the trust and prevent competitors from benefiting by them. In one of the Board's reports (eleventh report) they made the statement "It has been thought advisable to accept of a low compromise rate offered by the owners of one or two patents whose claims upon investigation have been found to be valid." Then follow data of twenty suits successfully defended. Little more need be said.

Discrimination and Rebates.

By far the greatest evil alleged to proceed from the formation of trusts is the destruction of competition through agreements for rebates and discrimination given by the transport and carrying companies to the trusts. The mischief has assumed far larger proportions in the United States than in any other part of the world. In foreign countries and colonies like New Zealand, where the railways are either in the hands of the Government or controlled by Government influence, the necessity for State regulation is scarcely apparent, but in the United States the practice grew into a giant evil. It is not strange to find that the railway corporations in America offered no opposition to the anti-rebate law. They will probably be extensive gainers, for the rebates were often forced from railway companies at the point of the industrial bayonet, although these railways have been held up to execration as the sinners in respect to these discriminations.

> In the early part of this year it came to the knowledge of the President that great railway systems in the Middle West, upon which every section of the country is dependent for the movement of breadstuff, had entered into unlawful agreements to transport the shipments of a few favoured grain-buyers at rates much below the tariff charges imposed on smaller dealers and the general public. This injustice prevailed to such an extent and for so long a time that most of the smaller shippers had been driven from the field, and the business formerly enjoyed by them absorbed by a limited number of persons who received secret and preferential rates. In a word, there was practically one buyer on each railway system, and the illegal advantages he secured from the carrier gave him a monopoly of the grain on the line with which his secret compact was made.—(Attorney-General Knox, speech, Chamber of Commerce, Pittsburg, Pa., 14th October, 1902. C.R., 17th December, 1902, p. 412.)

This is a good example of the system, but the Standard Oil Company is generally quoted as the worst offender. It is well known that the Standard Oil Company had their product carried from Whiting, Indiana, to New Orleans and the southern States for 23 cents, when independent refiners were charged 33 cents, a discrimination of 43 per cent. But it is asserted that in other cases the same company made the railways charge more than double to independent refiners and then hand the oil company the difference. The small shipper suffered greatly also if not taking a whole carload. According to the evidence of an independent refiner given before the Railroad Classification Committee, in 1900 oil shipped in quantities less than a carload paid 266 per cent. more than a carload. The measurement of the carload also increased; at one time it was 20,000, it was raised to 24,000, and in 1900 to 30,000 gallons.

Since legislation passed at the last session of Congress has dealt fully and drastically with this variety of oppressive evil, no more need be said at present about a system which has been the ruin of thousands, and which has probably produced more crime and misery than any other force in commercial and economic life.

PUBLICITY.

The remedy on which the United States Government appears chiefly to rely is publicity. President Roosevelt when delivering his message as Governor to the New York State Legislature in January, 1900, said,—

> The first essential is knowledge of the facts—publicity. . . . . We should know authoritatively whether stock represents actual value of plants, or whether it represents brands of good-will, or, if not, what it does represent, if anything. It is desirable to know how much was actually bought, how much was issued free, and to whom, and, if possible, for what reason. In the first place, this would be invaluable in preventing harm being done as among the stockholders, for many of the grossest wrongs that are perpetrated are those of promoters and organizers at the expense of the general public who are invited to take shares in business organization. . . . . Care should be taken not to stifle enterprise or disclose any facts of a business that are essentially private; but the State for the protection of the public should exercise the right to inspect, to examine, thoroughly all the workings of great corporations just as is now done with banks, and whenever the interests of the public demand it, it should publish the results of its examinations. Then if there are inordinate profits, competition or public sentiment will give the public the benefit in lowered prices, and, if not, the power of taxation remains. It is therefore evident that publicity is the one sure and adequate remedy which we can now invoke. There may be other remedies, but what these others are we can only find out by publicity as the result of investigation. The first requisite is knowledge, full and complete.

In the first and second messages of the President to the Congress just concluded the same lesson was repeated and emphatically insisted on. The Industrial Commission in 1900 recommended the same remedy, and in its final report in 1902 gave a detailed account of the machinery it considered necessary. A bureau should be established, and its duties should be,—

> To register all State corporations engaged in inter-State or foreign commerce; to secure from such corporation all reports needed to enable the Government to levy a franchise-tax with certainty and justice and to collect the same; to make such inspection and examination of the business and accounts of such corporations as will guarantee the completeness and accuracy of the information needed to ascertain whether such corporations are observing the conditions prescribed in the Act, and to enforce penalties against delinquents; and to collate and publish information regarding such combinations and the industries in which they may be engaged, so as to furnish to Congress proper information for possible future legislation. The publicity secured by the governmental agency should be such as will prevent the deception of the public through secrecy in the organization and management of industrial combinations or through false information. Such agency would also have at its command the best sources of information regarding special privileges or discriminations, of whatever nature, by which industrial combinations secure monopoly or become dangers to the public welfare. It is probable that the provisions herein recommended will be sufficient to remove most of the abuses which have arisen in connection with industrial combinations. The remedies suggested may be employed with little or no danger to industrial prosperity and with the certainty of securing information which should enable the Congress to protect the public by further legislation if necessary.

The opinions as to the necessity of publicity for the accounts of large corporations commend themselves almost without argument to the thinking mind. There can be no reason why inquisitional returns should be made by public departments into the affairs of banks, insurance companies, building and loan associations, &c., which would not also apply equally to industrial or commercial corporations. It does not militate against the usefulness of banks, insurance companies, &c., that their public position should be fully known; indeed, in the case of meritorious institutions the greater the publicity the greater the general confidence in them. If it be urged that such investigation would reveal private business, it does not seem to have had such influence in the case of those already under supervision. If a corporation has assets bearing a fair proportion to its stock, and is doing a large and profitable business, the market value of the stock will only be increased by publicity; an unsound corporation will probably object strenuously. It is only the fear of consequences to the fraudulent promoter that will make the latter dread the searchlight of official investigation, which is but a good advertisement for the honest corporation.

On the other hand, it may be remarked that in France when the Government maintained the right to approve the assets of any corporation before the stock could be quoted on the Bourse it resulted in such official corruption in the case of great corporations (*e.g.*, the Panama Railway Company) that it was a source of great danger to the Government itself, and has changed the fate of Ministries.

As Congress in its legislation has accepted the doctrine as to the need and advantage of full publicity there is no need to pursue argument further.

The official lists showing the position of corporations in the United States in January, 1903, give the total of capitalisation as follows: Industrial trusts (mines, manufactures, &c.), $1,165,774,528; local and carrying trusts (railways, gas companies, &c.), $4,519,597,812: total, $5,685,372,340.

TAXATION.

Perhaps the ultimate solution of the trust difficulty will be found in the magic words "graduated taxation." The great difficulty is to find any system which the power of enormous wealth cannot pierce and tear to rags by means of the legal and other talent at the service of the money-power. It may, however, be suggested that when full publicity has thrown its light on every phase of organization, on every dividend, bonus, preference of stock, &c., there may well be devised stringent systems of taxation to keep down unfair profits and prevent extortion from the public. The owners of a trust have no right to say that they can "do what they will with their own." A human being may have that right (subject to public weal), but the trust is not a human being, nor an individual; it is a mere phantasm, or an artificial being created by the law, and over which the State that permits its existence (and nourishes it with special privileges not granted to single persons) can exercise control and limit with conditions. The powers which protect it and give advantages to it can bind or end it.

The State of New Jersey has a tax on the nominal capital. This is excellent against over-capitalisation, as it must be unpleasant to pay taxes on the "water" in stock. More, however, is required, and the essence of fair taxation would be to place a tax on trust-capital, graduated so as to lie lightly on small industries and heavily on gigantic combinations of corporations. Whether the tax should be arranged according to capitalisation or dividends, whether on turnover or profits, is a matter for experts to fix. That nationally the tax is fair and just will be granted if we consider

how the wealth of individuals is already taxed for the good of the public by means of death duties. After ordinary properties have passed through a few hands, as devised at inheritance, the public have in probate and mortuary duties, &c., received back nearly the value of the property; but the corporation does not die, nor is its business wound up and taxed for the public good if one of its many partners dies; it goes on for ever. The evil of holding lands in mortmain, by "the dead hand," had to be legislated strongly against in old days in England, lest incorporated persons should aggregate vast inalienable estates. So in the case of trusts, the power of the nation and of the Legislature is alone able through national taxation to prevent the accumulations and heaping-up of wealth which laws framed for mere single persons seem unable to cope with and impotent to restrain.

PART II.—ANTI-TRUST LEGISLATION IN THE UNITED STATES.

Many strong protests have been made against new anti-trust laws on the ground that those already in existence were sufficient if they had only been enforced without fear or favour by the Executive, and that it does not matter what new laws are passed if they are not to be carried out.

> Why did not the President, when he got after the Beef Trust, instruct the Attorney-General to indict its members? If a band of men should combine to rob every man who passes along the highway and under that agreement rob a thousand men, and a lawyer should bring a suit to enjoin the members of that band from carrying out their contract, honest men would despise that lawyer. Yet when these people combined to put up the price of beef and robbed the customers, violating the Sherman law, the Attorney-General brought suit to dissolve their agreement. He should have indicted the men who formed that conspiracy. The law which authorised the suit to enjoin them authorised their indictment.—(Hon. W. W. KITCHIN, House of Representatives, 6th February, 1903. C.R., 6th February, 1903, p. 1914.)

Of course, the general answer to such a question as "Why were the members of the trust not criminally prosecuted?" would be "Political influence. The power of the wealthy corporations is too great for those who in the near future are to present themselves for election to dare to drive to bay persons of such wealth and social distinction." This is, however, a partly unfair answer. It was alleged that the former Solicitor-General, J. W. Griggs, came into office from the service of the Coal Trust, and that the present Attorney-General, P. C. Knox, entered on his duties fresh from the Carnegie Steel Company; but there can be no doubt that such a reason as fondness for trust methods was not the governing-power which kept the law weak before the influence of huge corporations. There was a sustained attempt made by the United States Government to enforce the Sherman and other anti-trust laws. In six cases the Supreme Court tested the power of the law to restrain the trusts—namely, in the suits against the Knight Company (Sugar Trust); Trans-Missouri Freight Association (railroads); Joint Traffic Association (railroads); Hopkins (Kansas City Live-stock Exchange); Anderson (Traders' Live-stock Exchange of Kansas City); and Addyston Pipe and Steel Company.

Bills in equity were also filed against fourteen railroad companies. In addition to these, suits were brought by the Government in District and Circuit Courts against twenty-five combinations. Six large meat-packing corporations (generally known as the Beef Trust) united in a combination were brought to book for illegal agreements in restraint of trade, as also was a pool of southern railroads which had denied the right of cotton-growers to prescribe the route over which their goods should pass. The Federal Attorney-General also prevented the operation of a proposed merger, the Northern Pacific and Great Northern having joined hands to secure control of the Chicago–Burlington Railroad, so as to form a "holding company" called the "Northern Securities Company." The capitalisation of these united railway systems, including funded debt, was expected to exceed $1,000,000,000, which represented much "watering" of stock. It will thus be seen that some efforts were made by the authorities to vindicate the law, and it becomes necessary to show why further legislation was necessary.

The question of trusts in the United States is made intricate by the difficulties created through State and Federal legislation. In some States, such as New Jersey, the laws are framed with purposeful laxity in order to entice to that State industrial enterprises which could not be nourished under the severer laws of other States. As, by the Constitution, States have such domestic powers Congress cannot interfere with their internal policy, and can only pass an anti-trust law which deals with trusts whose products pass across the limits of the State in which the producing corporation is registered. Therefore the "Act to regulate Commerce" of 1887, and the Sherman anti-trust law of 1890, in effect, only deal with inter-State commerce, and do not regulate the dealings of corporations within the State of registration. Nevertheless, it was generally supposed that the Sherman Act forbade the existence of combinations which monopolised production of articles generally consumed throughout the whole country, and this view was taken by the Law Officers of the Federal Government. When, however, the matter was tested in the case of the Sugar Trust (E. C. Knight Company) the law was found inefficient. The defendant corporation, registered in the State of New Jersey, had acquired the stock of a number of sugar-refining corporations in another State by exchanging shares with vending stockholders of companies. The Government contention was that the object of the trust was to acquire monopoly of sugar-refining, and, as the product was sent to other States and foreign lands, that this was a violation of the law. The control of the trust was over 98 per cent. of the whole product of the United States. The Supreme Court held that the monopoly was in the production or manufacturing of sugar, and that its sale among other States or abroad was only incidental. Therefore the law did not prohibit it, because manufacturing, though preceding commerce, is not a part of it, and the Act only applied to restraint of commerce. It seems to a lay mind rather a hair-splitting decision, but it may be explained by the reasoning that commerce is supposed to relate to intercourse, transmission, communication, and transportation between States, and as such can be under the jurisdiction of the Federal power, while manufacturing, implying a site or place for its operations, must be within a State, and therefore under State control. Incidentally it may be mentioned that the best legal

advice is at the service of the wealthy trusts, and that $1,000,000, has been paid as a single fee to a counsel of eminence.

At the end of the year 1902 public indignation had been excited against the domination and methods of trusts, particularly by the events accompanying the anthracite-coal miners' strike. The suffering entailed on tens of thousands of people in the northern States, and the deaths of many, especially of children, through want of fuel and of properly cooked food, emphasized the revelations before the Commission appointed by President Roosevelt to arbitrate in the matter. On the assembly of Congress (the second session of the fifty-seventh Congress) twenty-seven anti-trust Bills made their appearance, some being introduced in the Lower House (House of Representatives) and some in the Senate.

The Government brought forward a Bill to establish the Department of Commerce and Labour, generally to the effect that the department shall assimilate the existing Department of Labour, Bureau of Foreign Commerce, the Lighthouse Board, Bureau of Immigration, Bureau of Statistics, &c. The Department of Commerce and Labour to include a bureau, called the "Bureau of Corporations," for the purpose of collecting and publishing information concerning corporations engaged in inter-State or foreign commerce. The President to have power to transfer any branch of the public service or of the Inter-State Commerce Commission to the new department. After passing the Senate the Bill went to the House of Representatives, and was sent back with amendments, which, after Conference, contained provisions stating that in the department should be a Commissioner of Corporations whose duties it would be to make careful investigation into the organization and management of joint-stock companies or corporate combinations excepting among common carriers. The Commissioner to make recommendations to Congress for legislation on data reported.

The design of the above-mentioned Bill was, of course, in the direction of publicity, and of the appointment of officers whose special business it should be to investigate and publish matters the trusts had in many cases kept secret. The next step was to prohibit rebates and discriminations. For this purpose a Bill was introduced by Senator Elkins, having for its motive the restriction of trusts acting as carriers, in the direction of fining corporations for evil-doing instead of imprisoning their officers. The wilful failure of any carrier to publish tariff rates or to observe tariff rates becomes a misdemeanour, and it is made unlawful for any person, persons, or corporations to solicit, accept, or receive rebates, concessions, or discriminations in the transportation of property in inter-State or foreign commerce. The proposed Act also authorised a writ of injunction so as to give to any Circuit Court the power of summary action in case of disobedience to the law. Another Bill, generally known as the Knox Bill (from being drawn on recommendations of the Attorney-General), had for its object expediting proceedings in law cases against trusts. It provided that any suit in equity under the Sherman anti-trust law should be given precedence over others and be expedited in every way, being assigned for hearing before not less than three Circuit Judges. This was aimed to prevent the miscarriage of justice by the vexatious delays hitherto caused by obstacles thrown by wealthy corporations in the path of adverse litigation. These three Bills, that for the formation of the Department of Commerce and Labour, that for preventing rebates and discriminations, and that to expedite matters before the Courts, were all well received and passed by the Senate. However, an amendment to the Bill for the Department of Commerce was introduced, accepted, and became celebrated as the "Nelson amendment." By this the newly created Commissioner of Corporations received the powers formerly enjoyed by the Inter-State Commerce Commission in respect to corporations, joint-stock companies, and combinations under the "Act to regulate Commerce."

While these Bills were being debated in the Senate the House of Representatives had accepted a Bill on its own account. This was the famous Littlefield Bill, named after its author the Hon. C. E. Littlefield, of Maine. It contained many of the provisions included in the Bills sent to the Senate, but was more drastic in its scope. It required all corporations to file with the Inter-State Commerce Commission particulars as to organizations, stocks, regulations, &c., and gave the Commission powers for these similar to those it lately held in regard to railways. It endeavoured to prevent large corporations crushing competitors by cutting prices, &c. It was currently reported that this Bill had the approval of President Roosevelt and the Executive. It passed the House of Representatives unanimously, but on being referred to the Judiciary Committee became terribly mauled. It emerged with amendments to the effect that it should only apply to trusts formed after it came into force, and not to any corporation whose capital was less than $100,000. Thus emasculated, the Bill lost the support of the President and his officers, and the session of Congress terminated without it reaching the statute-book. The result was that the Bills already passed had to be received as the full measure of anti-trust legislation passed by the Congress in the spring of 1903.

The full texts of the anti-trust Acts now in force are given in the appendix to Part II. of this report—viz., "The Act to regulate Commerce," 1887, amended 1889, 1891, and 1895; "An Act in Relation to Testimony before the Inter-State Commerce Commission," &c., 1893; "An Act to protect Trade and Commerce against Unlawful Restraints and Monopolies," 1890 (the Sherman Act); "An Act to expedite the Hearing and Determination of Suits in Equity," &c., 1903; "Extract from Department of Commerce and Labour Act," 1903; "An Act to further regulate Commerce with Foreign Nations and among the States," 1903.

(It is perhaps of interest to note that the Act generally known as the "Sherman anti-trust law" was not that well-known man's work. Senator Sherman introduced from the Senate Finance Committee a Bill to regulate trusts, but his Bill was designed to take away from individual States the power to regulate their domestic commerce. Such a Bill was regarded as unconstitutional, so it was referred to the Judiciary Committee, which reported an anti-trust measure having none of the features of the Sherman Bill. This, however, became known as the Sherman Act (1890), although Mr. Sherman opposed it, and rather than vote for it walked out from the Senate Chamber.)

APPENDIX TO PART II.

TRUST LAWS.—ACT TO REGULATE COMMERCE (AS AMENDED) AND ACTS SUPPLEMENTARY THERETO (1887–1903).

The Act to regulate Commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,—

That the provisions of this Act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transhipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: Provided, however, that the provisions of this Act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

The term "railroad" as used in this Act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall e reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

Sec. 2. That if any common carrier subject to the provisions of this Act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property subject to the provisions of this Act than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

Sec. 3. That it shall be unlawful for any common carrier subject to the provisions of this Act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Every common carrier subject to the provisions of this Act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

Sec. 4. That it shall be unlawful for any common carrier subject to the provisions of this Act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorising any common carrier within the terms of this Act to charge and receive as great compensation for a shorter as for a longer distance: Provided, however, that upon application to the Commission appointed under the provisions of this Act such common carrier may in special cases, after investigation by the Commission, be authorised to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this Act.

Sec. 5. That it shall be unlawful for any common carrier subject to the provisions of this Act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid each day of its continuance shall be deemed a separate offence.

Sec. 6. (*As amended, 2nd March, 1889.*) That every common carrier subject to the provisions of this Act shall print and keep open to public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight respectively are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected.

Any common carrier subject to the provisions of this Act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection at every depot or office where such freight is received for shipment schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public as required by this Act shall before it is admitted into the United States from said foreign country be subject to Customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

No advance shall be made in the rates, fares, and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Reductions in such published rates, fares, or charges shall only be made after three days' previous public notice, to be given in the same manner that notice of an advance in rates must be given.

And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

Every common carrier subject to the provisions of this Act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same.

Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this Act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also in like manner be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem practicable for such common carriers to publish, and the places in which they shall be published.

No advance shall be made in joint rates, fares, and charges shown upon joint tariffs, except after ten days' notice to the Commission, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect. No reduction shall be made in joint rates, fares, and charges, except after three days' notice, to be given to the Commission as is above provided in the case of an advance of joint rates. The Commission may make public such proposed advances, or such reductions, in such manner as may, in its judgment, be deemed practicable, and may prescribe from time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

It shall be unlawful for any common carrier, party to any joint tariff, to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare, or charge is named thereon than is specified in the schedule filed with the Commission in force at the time.

The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time as shall be found expedient.

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any Circuit Court of the United States in the judicial district wherein the principal office of said common carrier is situated, or wherein such offence may be committed, and, if such common carrier be a foreign corporation, in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commissioners appointed under the provisions of this Act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commissioners, as complainants, may also apply, in any such Circuit Court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transhipment and of entry and the several States and Territories of the United States, as mentioned in the first section of this Act, until such common carrier shall have complied with the aforesaid provisions of this section of this Act.

Sec. 7. That it shall be unlawful for any common carrier subject to the provisions of this Act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any attempt to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this Act.

Sec. 8. That in case any common carrier subject to the provisions of this Act shall do, cause to be done, or permit to be done any act, matter, or thing in this Act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this Act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this Act, together with a reasonable counsel or attorney's fee, to be fixed by the Court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

Sec. 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this Act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this Act in any District or Circuit Court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the Court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

Sec. 10. (*As amended 2nd March, 1889.*) That any common carrier subject to the provisions of this Act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who alone or with any other corporation, company, person, or party shall wilfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this Act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall wilfully omit or fail to do any act, matter, or thing in this Act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required by this Act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this Act, or shall aid or abet therein, shall be deemed guilty of a misdemeanour, and shall, upon conviction thereof in any District Court of the United States within the jurisdiction of which such offence was committed, be subject to a fine not to exceed five thousand dollars for each offence: Provided that if the offence for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the Court.

Any common carrier subject to the provisions of this Act, or, whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who, by means of false billing, false classification, false weighing, or false report of weight, or by any other device or means, shall knowingly and wilfully assist, or shall willingly suffer or permit, any person or persons to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such common carrier shall be deemed guilty of a misdemeanour, and shall, upon conviction thereof in any Court of the United States of competent jurisdiction within the district in which such offence was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the Court, for each offence.

Any person, and any officer or agent of any corporation or company, who shall deliver property for transportation to any common carrier subject to the provisions of this Act, or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and wilfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation

for such property at less than the regular rates then established and in force on the line of transportation shall be deemed guilty of fraud, which is hereby declared to be a misdemeanour, and shall, upon conviction thereof in any Court of the United States of competent jurisdiction within the district in which such offence was committed, be subject for each offence to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the Court.

If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise, induce any common carrier subject to the provisions of this Act, or any of its officers or agents, to discriminate unjustly in his, its, or their favour as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person, or such officer or agent of such corporation or company, shall be deemed guilty of a misdemeanour, and shall, upon conviction thereof in any Court of the United States of competent jurisdiction within the district in which such offence was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the Court, for each offence; and such person, corporation, or company shall also, together with said common carrier, be liable, jointly or severally, in an action on the case to be brought by any consignor or consignee discriminated against in any Court of the United States of competent jurisdiction for all damages caused by or resulting therefrom.

Sec. 11. That a Commission is hereby created and established to be known as the Inter-State Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners first appointed under this Act shall continue in office for the term of two, three, four, five, and six years respectively from the first day of January, anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this Act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

"Sec. 12. (*As amended 2nd March, 1899, and 10th February, 1891.*) That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this Act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and the Commission is hereby authorised and required to execute and enforce the provisions of this Act; and, upon the request of the Commission, it shall be the duty of any District Attorney of the United States to whom the Commission may apply to institute in the proper Court and to prosecute under the direction of the Attorney-General of the United States all necessary proceedings for the enforcement of the provisions of this Act and for the punishment of all violations thereof, and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the Courts of the United States; and for the purposes of this Act the Commission shall have power to require, by subpœna, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation.

"Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States at any designated place of hearing. And in case of disobedience to a subpœna the Commission, or any party to a proceeding before the Commission, may invoke the aid of any Court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

"And any of the Circuit Courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued to any common carrier subject to the provisions of this Act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the Court may be punished by such Court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

"The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation depending before the Commission, by deposition at any time after a cause or proceeding is at issue on petition and answer. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any Judge of any Court of the United States, or any Commissioner of a Circuit, or any Clerk of a District or Circuit Court, or any Chancellor, Justice, or Judge of a Supreme or Superior Court, Mayor, or Chief Magistrate of a city, Judge of a County Court, or Court of Common Pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission as hereinbefore provided.

"Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the Magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

"If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission."

Witnesses whose depositions are taken pursuant to this Act, and the Magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the Courts of the United States.

Sec. 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization, complaining of anything done or omitted to be done by any common carrier subject to the provisions of this Act in contravention of the provisious thereof may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said Commission shall in like manner investigate any complaint forwarded by the Railroad Commissioner or Railroad Commission of any State or Territory, at the request of such Commissioner or Commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

Sec. 14. (*As amended 2nd March, 1889.*) That whenever an investigation shall be made by said Commission it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed *primâ facie* evidence as to each and every fact found.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorised publications shall be competent evidence of the reports and decisions of the Commission therein contained, in all Courts of the United States, and of the several States, without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports.

Sec. 15. That if in any case in which an investigation shall be made by said Commission it shall be made to appear to the satisfaction of the Commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this Act, or of any law cognisable by said Commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the Commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the Commission; and if within the time specified it shall be made to appear to the Commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the Commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

Sec. 16. (*As amended 2nd March, 1889.*) That whenever any common carrier, as defined in and subject to the provisions of this Act, shall violate, or refuse or neglect to obey or perform, any lawful order or requirement of the Commission created by this Act not founded upon a controversy requiring a trial by jury as provided by the seventh amendment to the Constitution of the United States, it shall be lawful for the Commission, or for any company or person interested in such order or requirement, to apply in a summary way, by petition, to the Circuit Court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the vio ation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said Court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the Court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents, or servants, in such manner as the Court shall direct; and said Court shall proceed to hear and determine the matter speedily as a Court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such Court shall have power, if it think fit, to direct, and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the Court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the findings of fact in the report of said Commission shall be *primâ facie* evidence of the matters therein stated; and if it be made to appear to such Court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said Commission drawn in question has been violated or disobeyed, it shall be lawful for such Court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said Commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such Court to issue writs of attachment, or any other process of said Court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and, if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction, or other proper process, mandatory or otherwise; and said Court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money, not exceeding for each carrier or person in default the sum of five hundred dollars for every day, after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the Court shall direct, either to the party complaining or into Court, to abide the ultimate decision of the Court, or into the Treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree *in personam* in such Court. When the subject in dispute shall be of the value of two thousand dollars or more, either party to such proceeding before said Court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the Court or the execution of any writ or process thereon; and such Court may in every such matter order the payment of such costs and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented by the Commission it shall be the duty of the District Attorney, under the direction of the Attorney-General of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the Courts of the United States.

If the matters involved in any such order or requirement of said Commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to obey or perform the same, after notice given by said Commission as provided in the fifteenth section of this Act, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the Circuit Court of the United States sitting as a Court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and said Court shall by its order then fix a time and place for the trial of said cause, which shall not be less than twenty nor more than forty days from the time said order is made, and it shall be the duty of the Marshal of the district in which said proceeding is pending to forthwith serve a copy of said petition, and of said order, upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same upon them as aforesaid. At the trial the findings of fact of said Commission as set forth in its report shall be *primâ facie* evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury the Court shall, by its order, direct the Marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing, then the Court shall try the issues in said cause and render its judgment thereon. If the subject in dispute shall be of the value of two thousand dollars or more either party may appeal to the Supreme Court of the United States under the same regulations now provided by law in respect to security for such appeal; but such appeal must be taken within twenty days from the day of the rendition of the judgment of said Circuit Court. If the judgment of the Circuit Court shall be in favour of the party complaining he or they shall be entitled to recover a reasonable counsel or attorney's fee, to be fixed by the Court, which shall be collected as part of the costs in the case. For the purposes of this Act, excepting its penal provisions, the Circuit Courts of the United States shall be deemed to be always in session.

Sec. 17. (*As amended 2nd March, 1889.*) That the Commission may conduct its proceedings in such manner as will best conduce to the proper despatch of business and to the ends of justice. A majority of the Commission

shall constitute a quorum for the transaction of business, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said Commission may from time to time make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the Courts of the United States. Any party may appear before said Commission and be heard, in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said Commission shall have an official seal, which shall be judicially noticed. Either of the members of the Commission may administer oaths and affirmations and sign subpœnas.

Sec. 18. (*As amended.*) That each Commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the Judges of the Courts of the United States. The Commission shall appoint a Secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The Commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties. Until otherwise provided by law, the Commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the Courts of the United States.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the Commissioners, or by their employees under their orders, in making any investigation, or upon official business in any other places than in the City of Washington, shall be allowed and paid on the presentation of itemised vouchers therefor approved by the Chairman of the Commission.

Sec. 19. That the principal office of the Commission shall be in the City of Washington, where its general sessions shall be held; but whenever the convenience of the public or the parties may be promoted, or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this Act.

Sec. 20. That the Commission is hereby authorised to require annual reports from all common carriers subject to the provisions of this Act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts, and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees, and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance-sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts with other common carriers, as the Commission may require; and the said Commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this Act, prescribe (if in the opinion of the Commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this Act shall have, as near as may be a uniform system of accounts, and the manner in which such accounts shall be kept.

Sec. 21. (*As amended 2nd March, 1889.*) That the Commission shall, on or before the first day of December in each year, make a report, which shall be transmitted to Congress, and copies of which shall be distributed as are the other reports transmitted to Congress. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary; and the names and compensation of the persons employed by said Commission.

Sec. 22. (*As amended 2nd March, 1889, and 8th February, 1895.*) That nothing in this Act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this Act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the national homes or State homes for disabled Volunteer soldiers, and of soldiers' and sailors' orphan homes, including those about to enter and those returning home after discharge under arrangements with the boards of managers of said homes; nothing in this Act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this Act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this Act are in addition to such remedies: Provided that no pending litigation shall in any way be affected by this Act: Provided, further, that nothing in this Act shall prevent the issuance of joint interchangeable five-thousand-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand or more miles. But before any common carrier subject to the provisions of this Act shall issue any such joint interchangeable mileage tickets with special privileges as aforesaid, it shall file with the Inter-State Commerce Commission copies of the joint tariffs of rates, fares, or charges on which such joint interchangeable mileage tickets are to be based, together with specifications of the amount of free baggage permitted to be carried under such tickets, in the same manner as common carriers are required to do with regard to other joint rates by section six of this Act; and all the provisions of said section six relating to joint rates, fares, and charges shall be observed by said common carriers and enforced by the Inter-State Commerce Commission as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares, and charges referred to in said section six. It shall be unlawful for any common carrier that has issued or authorised to be issued any such joint interchangeable mileage tickets to demand, collect, or receive from any person or persons a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare, or charge specified in the copies of the joint tariff of rates, fares, or charges filed with the Commission in force at the time. The provisions of section ten of this Act shall apply to any violation of the requirements of this proviso.

(*New Section, added 2nd March, 1889.*) That the Circuit and District Courts of the United States shall have jurisdiction upon the relation of any person or persons, firm or corporation, alleging such violation by a common carrier, of any of the provisions of the Act to which this is a supplement, and all Acts amendatory thereof, as prevents the relator from having inter-State traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favourable as those given, by said common carrier for like traffic under similar conditions to any other shipper to issue a writ or writs of mandamus against said common carrier commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: Provided that if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the Court, or otherwise as the Court may think proper pending the determination of the question of fact: Provided that the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this Act or the Act to which it is a supplement.

Public No. 41, approved 4th February, 1887, as amended by Public No. 125, approved 2nd March, 1889, and Public No. 72, approved 10th February, 1891. Public No. 38, approved 8th February, 1895.

An Act in Relation to Testimony before the Inter-State Commerce Commission, and in Cases or Proceedings under or connected with an Act entitled "An Act to regulate Commerce," approved February Fourth, eighteen hundred and eighty-seven, and Amendments thereto.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,—

That no person shall be excused from attending and testifying, or from producing books, papers, tariffs, contracts, agreements, and documents before the Inter-State Commerce Commission, or in obedience to the subpœna of the Commission, whether such subpœna be signed or issued by one or more Commissioners, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of the Act of Congress entitled "An Act to regulate Commerce," approved February fourth, eighteen hundred and eighty-seven, or of any amendment thereof, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before said Commission, or in obedience to its subpœna, or the subpœna of either of them, or in any such case or proceeding: Provided that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry or to produce books, papers, tariffs, contracts, agreements, and documents, if in his power to do so, in obedience to the subpœna or lawful requirement of the Commissson shall be guilty of an offence, and upon conviction thereof by a Court of competent jurisdiction shall be punished by fine not less than one hundred dollars nor more than five thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Public, No. 54, approved 11th February, 1893, second session, fifty-second Congress.

An Act to protect Trade and Commerce against Unlawful Restraints and Monopolies.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,—

Sec. 1. Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract, or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanour, and on conviction thereof shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the Court.

Sec. 2. Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanour, and on conviction thereof shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the Court.

Sec. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any 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 and 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 hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanour, and on conviction thereof shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the Court.

Sec. 4. The several Circuit Courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this Act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the Court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree the Court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

Sec. 5. Whenever it shall appear to the Court before which any proceeding under section 4 of this Act may be pending that the ends of justice require that other parties should be brought before the Court, the Court may cause them to be summoned, whether they reside in the district in which the Court is held or not; and subpœnas to that end may be served in any district by the Marshal thereof.

Sec. 6. Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section one of this Act, 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 forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

Sec. 7. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this Act may sue therefor in any Circuit Court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

Sec. 8. That the word "person," or "persons," wherever used in this Act shall be deemed to include corporations and associations existing under or authorised by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

Public, No. 190, approved, 2nd July, 1890, first session, fifty-seventh Congress.

An Act to expedite the Hearing and Determination of Suits in Equity pending or hereafter brought under the Act of July second, eighteen hundred and ninety, entitled "An Act to protect Trade and Commerce against Unlawful Restraints and Monopolies," "An Act to regulate Commerce," approved February fourth, eighteen hundred and eighty-seven, or any other Acts having a like Purpose that may be hereafter enacted.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,—

That in any suit in equity pending or hereafter brought in any Circuit Court of the United States under the Act entitled "An Act to protect Trade and Commerce against Unlawful Restraints and Monopolies," approved July second, eighteen hundred and ninety, "An Act to regulate Commerce," approved February fourth, eighteen hundred and eighty-seven, or any other Acts having a like purpose that hereafter may be enacted, wherein the United States is complainant, the Attorney-General may file with the Clerk of such Court a certificate that, in his opinion, the case is of general public importance, a copy of which shall be immediately furnished by such Clerk to each of the Circuit Judges of the circuit in which the case is pending. Thereupon such case shall be given precedence over others and in every way expedited, and be assigned for hearing at the earliest practicable day, before not less than three of the Circuit Judges of said circuit, if there be three or more; and if there be not more than two Circuit Judges, then before them and such District Judge as they may select. In the event the Judges sitting in such case shall be divided in opinion, the case shall be certified to the Supreme Court for review in like manner as if taken there by appeal as hereinafter provided.

Sec. 2. That in every suit in equity pending or hereafter brought in any Circuit Court of the United States under any of said Acts wherein the United States is complainant, including cases submitted but not yet decided, an appeal from the final decree of the Circuit Court will lie only to the Supreme Court and must be taken within

sixty days from the entry thereof: Provided that in any case where an appeal may have been taken from the final decree of a Circuit Court to the Circuit Court of Appeals before this Act takes effect, the case shall proceed to a final decree therein, and an appeal may be taken from such decree to the Supreme Court in the manner now provided by law.

Public, No. 82, approved, 11th February, 1903, second session, fifty-seventh Congress.

[Extract from Department of Commerce and Labour Act, Second Session, Fifty-seventh Congress.]

Sec. 6. That there shall be in the Department of Commerce and Labour a bureau to be called the Bureau of Corporations, and a Commissioner of Corporations, who shall be the head of said bureau, to be appointed by the President, who shall receive a salary of five thousand dollars per annum. There shall also be in said bureau a Deputy Commissioner, who shall receive a salary of three thousand five hundred dollars per annum, and who shall, in the absence of the Commissioner, act as and perform the duties of the Commissioner of Corporations, and who shall perform such other duties as may be assigned to him by the Secretary of Commerce and Labour or by the said Commissioner. There shall also be in the said bureau a Chief Clerk and such special agents, clerks, and other employees as may be authorised by law.

The said Commissioner shall have power and authority to make, under the direction and control of the Secretary of Commerce and Labour, diligent investigation into the organization, conduct, and management of the business of any corporation, joint-stock company, or corporate combination engaged in the commerce among the several States and with foreign nations, excepting common carriers subject to "An Act to regulate Commerce," approved February fourth, eighteen hundred and eighty-seven, and to gather such information and data as will enable the President of the United States to make recommendations to Congress for legislation for the regulation of such commerce, and to report such data to the President from time to time as he shall require; and the information so obtained or as much thereof as the President may direct shall be made public.

In order to accomplish the purposes declared in the foregoing part of this section, the said Commissioner shall have and exercise the same power and authority in respect to corporations, joint-stock companies, and combinations subject to the provisions hereof as is conferred on the Inter-State Commerce Commission in said "Act to regulate Commerce," and the amendments thereto, in respect to common carriers, so far as the same may be applicable, including the right to subpœna and compel the attendance and testimony of witnesses and the production of documentary evidence and to administer oaths. All the requirements, obligations, liabilities, and immunities imposed or conferred by said "Act to regulate Commerce," and by "An Act in Relation to Testimony before the Inter-State Commerce Commission," and so forth, approved February eleventh, eighteen hundred and ninety-three, supplemental to said "Act to regulate Commerce," shall also apply to all persons who may be subpœnaed to testify as witnesses or to produce documentary evidence in pursuance of the authority conferred by this section.

It shall also be the province and duty of said bureau, under the direction of the Secretary of Commerce and Labour, to gather, compile, publish, and supply useful information concerning corporations doing business within the limits of the United States as shall engage in inter-State commerce or in commerce between the United States and any foreign country, including corporations engaged in insurance, and to attend to such other duties as may be hereafter provided by law.

Public, No. 87, approved 14th February, 1903, second session, fifty-seventh Congress.

An Act to Further Regulate Commerce with Foreign Nations and among the States.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,—

That anything done or omitted to be done by a corporation common carrier subject to the Act to regulate commerce and the Acts amendatory thereof which if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanour under said Acts or under this Act shall also be held to be a misdemeanour committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said Acts or by this Act with reference to such persons, except as such penalties are herein changed. The wilful failure upon the part of any carrier subject to said Acts to file and publish the tariffs or rates and charges as required by said Acts, or strictly to observe such tariffs until changed according to law, shall be a misdemeanour, and upon conviction thereof the corporation offending shall be subject to a fine of not less than one thousand dollars nor more than twenty thousand dollars for each offence; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give, or to solicit, accept, or receive, any rebate, concession, or discrimination in respect of the transportation of any property in inter-State or foreign commerce by any common carrier subject to said Act to regulate commerce and the Acts amendatory thereto whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier as is required by said Act to regulate commerce and the Acts amendatory thereto, or whereby any other advantage is given or discrimination is practised. Every person or corporation who shall offer, grant, or give, or solicit, accept, or receive, any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanour, and on conviction thereof shall he punished by a fine of not less than one thousand dollars, nor more than twenty thousand dollars. In all convictions occurring after the passage of this Act for offences under said Acts to regulate commerce, whether committed before or after the passage of this Act, or for offences under this section, no penalty shall be imposed on the convicted party other than the fine prescribed by law, imprisonment wherever now prescribed as part of the penalty being hereby abolished. Every violation of this section shall be prosecuted in any Court of the United States having jurisdiction of crimes within the district in which such violation was committed or through which the transportation may have been conducted; and whenever the offence is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offence had been actually and wholly committed therein.

In construing and enforcing the provisions of this section the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier acting within the scope of his employment shall in every case be also deemed to be the act, omission, or failure of such carrier as well as that of the person. Whenever any carrier files with the Inter-State Commerce Commission or publishes a particular rate under the provisions of the Act to regulate commerce or Acts amendatory thereto, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under this Act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offence under this section of this Act.

Sec. 2. That in any proceeding for the enforcement of the provisions of the statutes relating to inter-State commerce, whether such proceedings be instituted before the Inter-State Commerce Commission or to be begun originally in any Circuit Court of the United States, it shall be lawful to include as parties, in addition to the carrier, all persons interested in or affected by the rate, regulation, or practice under consideration; and inquiries, investigations, orders, and decrees may be made with reference to and against such additional parties in the same manner, to the same extent, and subject to the same provisions as are or shall be authorised by law with respect to carriers.

Sec. 3. That whenever the Inter-State Commerce Commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is committing any discriminations forbidden by law, a petition may be presented alleging such facts to the Circuit Court of the United States sitting in equity having jurisdiction; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in either such judicial district or State, whereupon it shall be the duty of the Court summarily to inquire into the circumstances, upon such notice and in such manner as the Court

shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the Court may deem necessary; and upon being satisfied of the truth of the allegations of said petition said Court shall enforce an observance of the published tariffs or direct and require a discontinuance of such discrimination by proper orders, writs, and process, which said orders, writs, and process may be enforceable as well against the parties interested in the traffic as against the carrier, subject to the right of appeal as now provided by law. It shall be the duty of the several district attorneys of the United States, whenever the Attorney-General shall direct, either of his own motion or upon the request of the Inter-State Commerce Commission, to institute and prosecute such proceedings, and the proceedings provided for by this Act shall not preclude the bringing of suit for the recovery of damages by any party injured, or any other action provided by said Act approved February fourth, eighteen hunbred and eighty-seven, entitled "An Act to regulate Commerce" and the Acts amendatory thereof. And in proceedings under this Act and the Acts to regulate commerce the said Courts shall have the power to compel the attendance of witnesses, both upon the part of the carrier and the shipper, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and the shipper, which relate directly or indirectly to such transaction; the claim that such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person from testifying or such corporation producing its books and papers; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in such proceeding: Provided that the provisions of an Act entitled "An Act to expedite the Hearing and Determination of Suits in Equity pending or hereafter brought under the Act of July second, eighteen hundred and ninety, entitled 'An Act to protect Trade and Commerce against Unlawful Restraints and Monopolies,' 'An Act to regulate Commerce,' approved February fourth, eighteen hundred and eighty-seven, or any other Acts having a like purpose that may be hereafter enacted, approved February eleventh, nineteen hundred and three," shall apply to any case prosecuted under the direction of the Attorney-General in the name of the Inter-State Commerce Commission.

Sec. 4. That all Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed, but such repeal shall not affect causes now pending nor rights which have already accrued; but such clauses shall be prosecuted to a conclusion and such rights enforced in a manner heretofore provided by law and as modified by the provisions of this Act.

Sec. 5. That this Act shall take effect from its passage.

Public, No. 103, approved, 19th February, 1903, second session, fifty-seventh Congress.

PART III.—TRUSTS AND ANTI-TRUST LEGISLATION IN EUROPE.

General.

The public feeling in regard to combinations of capital is not nearly so strong in Europe as in the United States, although in some countries, notably Austria and Germany, the powers of trusts are relatively as great as in America. In Austria there is more disapproval of the combinations expressed than in the sister country, but it appears to have little practical effect in prevention, and the coalitions "flit from form to form" to avoid the legislative half-hearted attempts to check their activity. The German organizations appear more in the shape of agreements or pools than in the highly matured congeries of corporations they assume in the United States, but it is probable that, in effect, these pools and rings have as great influence in their ways on prices, output, wages, &c., as their more elaborately constituted relatives overseas. There is, however, in both countries more capability of Government direction and control than is at present the case with the American trusts.

In Great Britain the movement was of decidedly slow growth, but of late years there has been a strong tendency towards the formation of powerful and wealthy corporations, and they usually assume the form of uniting many different establishments in the same line of trade, not as in America coalescing such activities as mines, railways, foundries, workshops, shipping lines, &c., into one vast concern as in the case of the United States Steel Trust. France is the country least affected by unified combinations of capital, partly because there has not been in her case severe international competition (her industries being much specialised and localised), and partly through a public resistance to monopoly which has taken action in severe criminal laws against fraudulent attempts to control markets.

The practice of granting rebates or discriminations to particular persons or companies has never been fostered in Europe. It is true that Governments have granted special rates to certain proprietaries, but they have been more in the nature of bonuses to encourage particular industries than as a method of conflict between competitors. The protective tariff has been of advantage to combinations, but not in every case, for corporations have had more success in England, which has had a free-trade tariff, than in France, which is protectionist. In protected countries public opinion is by no means in favour of lowering the tariff, even if it should be proven that it nourishes trusts, for there appears to be reason in the argument that it is no good to kill their own trusts and injure their own industries merely for the purpose of letting in the products of trusts in other countries free of duty. It would seem absurd to an Austrian that he should kill the oil combination in his own land on purpose to let the American Standard Oil Company work its will, for without the tariff they would never be able to make those terms with the Standard Oil Company which at present enable the Austrian oil business to survive. In this the Government sides with the private companies, for it is believed that without the tariff (revenue purposes apart) the entire industry would be ruined by foreign competition.

In all cases the genesis of trusts is to be found in the form of simple agreements or pools. The shape they assume depends partly on the nature of the industries themselves, partly on the customs of the people, and partly on the legislative pressure induced either by public opinion or bureaucratic interference. The agreements are at first verbal contracts to control prices of sales, or to divide territory so that one establishment does not extend its operations over the trading-ground of the other. Finding that some members will not faithfully observe common rules, the agreement then grows into a written contract in which the parties bind themselves to pay fines for breach. Such contracts, if based on control of prices, are in some countries deemed illegal, and therefore necessity compels the members of the pool to form themselves into a corporation. In

this corporation it is a general practice for the individual establishments to have a common or single selling-bureau (which may perhaps itself be a separate corporation) to regulate output and fix selling rates. Such a bureau keeps books open to all members, as to the members of the bureau the books of the corporate firms are also open. Such bureaux seldom interfere with export trade, but deal with domestic industry and commerce only, leaving the more difficult and fluctuating movements of foreign markets entirely to individual enterprise.

The motives alleged for the formation of trusts in Europe are similar to those advanced in the United States for the aggregations of working capital. Cut-throat competition, ruinous to all parties concerned, is the strongest motive for collectivism. Economies in transport, in superintendence, in wages, and in plant are also pleaded. It is not to be doubted, however, that the main motive, although not stated, is that the control of buying and selling prices, effected by the power of dominant corporations over large extents of territory, is present, and is the most valuable item of superiority which the pool or trust possesses over the scattered forces of separate and smaller industrial activities.

The effect of combination upon wages has been by no means disastrous. With the exception that weak establishments have sometimes been shut down and the workmen dispersed, and that fewer agents for sales have been kept in business, wages have not suffered appreciably. They have, on the contrary, been steadied and kept more uniform than before by the continuous running of mills, foundries, &c., owing to the expansion of trade. Formerly the output was exceedingly intermittent, and dependent greatly on good times in the domestic market, affected also by the severe competition which caused the dismissal of hands whenever business reached a non-paying point. The trade-unions of workers find it much easier to arrange scales of wages, hours, &c., with the officials of great corporations than with the independent small employer of variable temper and uncertain financial position.

Regarded as a whole, the much greater provisions for publicity insisted on in Europe have restrained to a very great degree the evil power of trusts. The secrecy with which organization could be effected and the absence of effective Government regulation have given the trusts of the United States a potency and activity to which their European congeners are strangers. There has been public expression on the Continent of a fear lest the control of prices by combinations should have a maleficent effect on the purchase of commodities by the public, but the anxiety has not been vivid enough to induce Governments to take really stringent measures, except in France, where the penal code applies to coalition to raise and lower prices. Generally, there is a widespread belief that attempts to kill trusts by legislation would be unpatriotic and unwise if the Government retains sufficient restrictive power to insist on publicity and make improper agreements and contracts invalid through the common law.

Austria.

The course of events connected with trusts in Austria is more interesting than in most European countries on account of the active interference of Government. The movement toward combination did not take a prominent form till after 1885, but since that time these industrial organizations have increased till they embrace almost every branch of business, although many of the agreements are probably held in secret.

The public feeling towards trusts is, if not absolutely hostile, full of watchful anxiety. Articles of common consumption are so largely in the hands of trusts, or rather of pools, that attention is necessarily excited towards their action. The important manufacturers of iron in Austria and Hungary are all practically members of the iron combination, which occupies as important a position in that empire as the Standard Oil Company does in the United States; consequently it is the centre of observation and of attack. The assailants of trusts are mostly private individuals or political opponents of the system, while business-men consider that trusts carry out an important economic function and only need reasonable regulation. The plan mostly proffered is less that of the savings effected by coalition than that in regard to the prevention of ruinous competition. The looser style of European combinations does not allow economy to hold so large a place as in America, because in many cases, especially in Austria, the plants work separately, and almost the only point of consolidation is the agreement to join in a common selling-bureau. In the United States the trust has oftener found its chief gain in lessening competition by absorbing the weaker companies with their plants, &c., and in unifying methods of improvement. The principal difference, however, in the two systems consists in the fact that the chief promoters of European combinations are bankers, while in America they are usually private financiers. In Europe the banks pay 2 or 3 per cent. (and sometimes higher) upon deposits, and it is difficult for them to make loans to obtain profitable business above this rate, so they keenly watch for opportunities to invest their money in the better class of industrial stocks. Such large buyers do they become that they often control large manufacturing concerns and elect the directors. The result is that the financial rather than the industrial aspect of trade is that most regarded, and explains why attention is more devoted to prevent fierce competition than to develop the manufacturing economies through concentrated plants and establishments.

Now and then, however, the question of economies in production comes to the front. Herr Wittgenstein, the founder of the iron combination in Austria, addressing the Chamber of Commerce at Prague, insisted that unless an establishment dealing with the manufacture of iron was run continuously at its full capacity neither the requisite skilled labour nor the complete usefulness of its capital could be developed or maintained. This with other facts, such as being at the mercy of purchasers and the necessity of specialising certain of the plants, were the reasons offered for organization into a pool. In the case of the Vienna Soda-water Manufacturing Company forty-five different firms of producers found they could eliminate many expenses by unification, and twenty-eight of these firms formed a single joint-stock company for this purpose. The trade had been

very intermittent, calling for full output in summer and very little in winter; but it was necessary to keep large staffs in existence through the long slack season not only for the purposes of skilled manufacture, but to retain the services of men acquainted with the firms' customers and methods of distribution. There had also been competition of one firm with the other all over the widespread city. On forming the combination they at once made a territorial division, giving a particular district to each firm, and thus lessening the expenses of labourers' time, of teams and wagons, of the rent of buildings, and of accountants, commercial travellers, &c. They were also enabled to purchase their materials in larger quantities, and to save in the delivery of orders from the nearest plant. Moreover, they were enabled by their unity to meet the question of overproduction and regulate the supply to the demand. This combination, so much more like those of the United States than the ordinary "pool" generally found on the Continent, assumed also the American form of a single corporation. There is a local combination of a similar kind among eleven brewers of Vienna. They, too, have divided the city into districts to lessen competition, and by agreement cut off supplies from publicans who do not settle accounts promptly. If one seller of beer does not pay his dues to any firm in the pool the others will not sell to him.

The large combinations which most attract attention in Austro-Hungary are pools—that is, have agreements as to output and as to selling prices. Chief of these we may mention the general iron combination. The agreement relates to the avoidance of competition among members in relation to the production and disposal of roll-bar iron, structural beams and U iron, heavy sheets, and railroad small material. Each establishment restricts itself to its natural territorial market, with a uniform mode of doing business. The agreement provides for a certain percentual quota of the home market being assigned to each member, and this is separately fixed for each of the items above mentioned, because each member's establishment produces only certain kinds of products. Products exported directly to foreign countries, or supplied to manufacturing establishments (such as of locomotives) to be worked up for export, are not included in the agreement, nor are products used for the needs of the producing establishment itself. The contracts of agreement are for ten years each. The output of each quality of goods produced is notified every ten days by each member to a central office, known as the "evidence bureau," in Vienna, stating the place of shipment and the price of the goods sold. Every month the evidence bureau compiles a report showing whether any establishment has sold more or less than its due amount on the basis of percentage allowed by the agreement, and each member thus knows if he should extend or contract his sales. Fines are inflicted for neglect to supply reports, and a special committee decides questions of appeal. The combination elects two of its members annually to superintend the work of the evidence bureau and see that the agreement is carried out. The shares are transferable within the combination, and a bond (proportionate to amount of output) is deposited by each member as security that he will observe the agreement. Each member sells his own product independently, and, as his amount of production is limited by the agreement, naturally endeavours to get the best prices he can for his commodities.

Sometimes in addition to the larger agreement there is a minor pool, in which three or four of the members contract to have a common selling bureau, so there may be agreements within agreements.

The Sugar Trust was first commenced to be formed in Hungary in 1890. It embraced all the large sugar-refiners in Austria and Hungary, and was created to take full advantage of high protective duties. Sugar, which in October, 1891, had as margin (between the duty upon raw sugar and the free refined sugar) 4 florins 45 kreutzer, rose in October, 1892, to 8 florins 75 kreutzer, and in January, 1894, to 10 florins 5 kreutzer. Much of this rise was due to limitation of output and agreement as to prices. After this very profitable period the price of raw sugar abroad fell considerably, and the large dividends of the members of the combination produced competition and the growth of independent refineries. The inducement to individual action was strong, and the combination dissolved, the margin falling in September, 1895, to 4 florins. A new agreement was made in October, 1895, and this, which exists at present, includes both refiners and manufacturers of raw sugar. The system is nearly as follows: After fixing the total amount of sugar probably needed for Austria for the year, the amount of raw sugar to be taken from each manufacturer and the percentage of refining for each sugar-refiner is determined. The manufacturer is to receive for his raw sugar the best price he can command in the market, but in case he receives less than 15 florins for each meter-centner he is paid from a fund raised among the refiners the balance up to that amount, but if he obtains more than 15 florins he may retain the money. The manufacturer of raw sugar may not become a refiner, nor sell to any one outside the combination. The refiners guarantee the 15 florins so as to keep refining to themselves, and can thus fix the refining price so high as to assure profit.

Other combinations of importance are those dealing with wire and wire tacks, enamelled ware, glass bottles, petroleum, soda, coffee, sugar of lead, wood paste-board, pack-thread, syrup, and grape-sugar.

In Austria, as in Germany, the reason given for the preference for the pool over the single corporation is that their members dislike the publicity demanded by the latter. A corporation such as the soda-water combination above mentioned had to supply to the Government on organization particulars as to its proposed articles of association, minutes of its founding meeting, expenses of founding, reasons for combination, contract of sale of each establishment to new corporation, expenditures and incomes (with net profits of each), list of properties, inventory of property of each, petition to Government for incorporation, &c. Some establishments would naturally dislike to give such particulars of their business, however necessary for the public weal. Moreover, corporations are taxed very much higher than single firms, and cannot evade taxes as private dealers can.

There is much greater steadiness in regard to wages and a far lower average wage paid in Austria than in the United States. The combinations have considerably assisted the steadiness, partly because public opinion would resent the sudden discharge of a large body of workers, and partly because by organization the industrial establishments are able to keep their works running at a uniform rate of speed. Moreover, the ability to raise the price of commodities by combination (as before shown in regard to the Sugar Trust) permits a margin of profit whereby reserve funds can be set aside to tide over slack times and still keep a steady average output for long periods. The manipulation of prices, particularly of selling prices, is not, however, general or even common; but, while there has been evident and acknowledged limitation of output, there has been little attempt to gain huge profits by selling at advanced rates, even when the market has been mastered.

The practice, which has excited such angry comment in America, of selling products abroad for lower rates than at home has gained much attention in Austria also. In many cases there is almost certainly a cheaper quotation for exported goods than for the same article in the domestic market. It is explained as being due to several causes, the chief argument being that by running their establishments full time they produce more goods than are necessary to meet the requirements of the home market, from which alone (on account of the protective tariff) they draw their profits. Abroad they meet the full competition of other countries, and must sell at cost price to keep their hold on trade, but this disposal of their commodities even at cost price enables them to keep their regular bodies of skilled and unskilled workers engaged and their surplus stocks expended. In some cases also they are assisted by the Government, as in that of the sugar trade, which receives an export premium, and in other cases the duty on imported raw material is remitted if the finished product is made for exportation. The nourishment of industries within the country by protective duties sometimes produces very violent hostility. Professor von Philippovitch directed an attack against the iron combination, and asserted that protection cost the country dear. He argued on the ground that bar-iron sold in Germany at 10½ marks (about 10s. 5d.) sold in Austria at 10½ florins (about 17s. 9d.), and so on. This placed a burden on the people of 12,500,000 florins (about £1,057,290) more for the cost of iron and steel than if these were imported free of duty. In his words:—

> We could send all the working-men who are engaged in the mining of the ore and in the working of iron and steel, together with their families, wives, and children, home, and give them each a pension of 250 florins (about £21 3s.), there being altogether some fifty-two thousand persons, their families being counted with them, provided that we could import free of tariff our iron and steel from Germany, and we should then spend no more than we are at present spending for iron and steel.—("Combinations in Relation to the Export Trade," Vienna, 1898.)

The defenders of the combination, however, support the protective tariff as a gain for the whole people. They assert that the export trade makes the home-sold article cheaper on account of the large quantities produced, and that excessive prices within the tariff territory would be met by instant competition, but that Austria has cut free from being the servant of the outside market, and that the trade within her borders is not subject to fluctuation arising from manipulation of market and underselling in foreign countries. The height of the tariff, if unfair, is not produced by the combinations, but is regulated by political forces, and if the people found the prices too high the tariff would be lowered in consequence and the foreign article admitted. But these foreign articles would be admitted from countries which themselves have absolutely prohibitive tariff rates; the goods would be produced by highly organized trusts, pouring their surplus stocks into Austria at lower rates than they would be disposed of in the land of their production. Therefore the Austrian tariff is not to be considered as a factor in the cost of iron and steel within its borders, but as a protective barrier against intense export efforts on the part of foreign nations.

Nevertheless, excellent as some of these arguments are, it must be carefully remembered that the combinations not only flourish but must make very large fortunes for their stockholders. The Government expert, Anton Himmelbauer, alluding to two of the leading companies which were members of the iron combination—viz., the Prager-Eisen-Industrie-Gesellschaft and the Alpine-Montangesellschaft—said,—

> At the time when this combination was made the shares of the Alpine Company stood at 15 florins, of the Prager-Eisen Company at 100 florins. To-day Alpine stands at 157, and Prager at 738, and the iron and steel producers of the smaller class have become beggars.*

There is, therefore, qualification to be given to the statement already made as to prices in general not being raised by combination so far as to note that many business-men in Austria believe that such prices have been considerably raised and unfair profits made, but inquiries by Chambers of Commerce and other commercial bodies do not appear to bear out the charges.

Coming to the question of legislation in regard to industrial combinations, we find that so far back as 1870 a drastic measure was passed in which it was declared that any agreements between business firms to raise prices are invalid. As an example of the working of the law may be cited a case in which an agreement regarding sales having been broken by one of the parties recourse was had to the Court. The decision of the Court was that not only was the agreement invalid, but that it was not necessary to prove that the price of goods had increased, for such prices might have increased without the agreement. The agreement could not become the subject of any valid contract, and therefore no penalty consented to by parties to the agreement among themselves could be inflicted. Even the institution of a selling bureau, a very common institution among Austrian pools, has been held to be invalid, and any violation of its contracts cannot be punished by legal methods. These decisions, making the adherence to such agreements entirely a question of personal honour, have tended somewhat to discourage the formation of trusts.

The Government has made other efforts to deal by law with the combinations. The idea obtained credence that not only was industrial enterprise checked by the hostility of combinations

* The florin is valued at 1s. 8½d.

to new-comers who would attempt to establish novel sources of supply, but also that if the prices of sugar, brandy, beer, petroleum, salt, &c. (articles paying heavy internal-revenue duties), were increased by the indirect taxation of private companies controlling production, buying-rates, selling-rates, &c., the quantities consumed would be considerably lessened, and the Government revenues suffer. Therefore it was resolved to deal with combinations controlling the markets of such commodities, and the Government introduced in 1897 a Bill to the effect following: No combination could be considered as valid till it had been recognised by a State Board, to which must be declared the aim and means of the combination, the percentage of the industry, the number of establishments (each with its firm's name and capacity), the rights and duties of members, fines agreed on, &c., office of combination, officers (with their duties), method of representation abroad time for which agreement is made, mode of settling difficulties arising from agreement. If the Government, after due examination, approved the combination was registered, but the Government officials had right to inspect books and make examination of officers. This Bill has, however, not yet been passed, and is practically set aside. There seems at present no probability that any definite anti-trust legislation will for some time control Austrian combinations.

Germany.

There is some difficulty in assessing the position occupied by combinations in Germany on account of their great variety and the very temporary nature of some of them. Nevertheless, many of the combinations rise from the position of pools or rings into the larger forces of coalition known as trusts. Some of them date back to 1865, particularly in the salt and rail industries, followed ten years after by potash and coal syndicates. The combinations between 1870 and 1890 were so powerful as to extend their influences beyond Germany and become international; in 1897 more than 340 of these were known, and appear to have been formed mainly to meet the strain of foreign competition. In these are not included mere speculative rings or local agreements on prices, for these probably number thousands, but are scarcely to be comprehended under an account of trusts, as they have not the stability of the single compact corporation which embodies the trust proper.

It is by the organization of coalitions with almost illimitable capital behind them that public attention is most violently aroused to the consideration of the affairs of trusts, and the flexible, inconspicuous character of German combinations has not had the effect of awaking popular hostility. When, as of late years, there has been a marked increase in prices, much of this is attributed to trusts, but may partly be allocated to increased demand and wider extension of business. The Westphalian Coal Syndicate, which practically controls the coal market of Western Germany, is accused not only of charging excessive prices, but of limiting supply so as to produce monopoly. The syndicate defends itself by replying that the demand in question was temporary and abnormal, and that it was not justified in opening up new mines and engaging thousands of workmen only to close down in a short time afterwards; the increased rates of wages that would certainly be entailed would be followed by discharge and reduction of payments, which would cause public calamity. The matter was brought up in the Prussian House of Representatives on the 1st February, 1900, but it was evident from the reply made by the Minister of Trade and Commerce that the feeling of the Government was rather in favour of the combination than otherwise. In this, as in later debates, the Ministry responded to the addresses made against syndicates by expressing willingness to have the question of trusts investigated and, if necessary, controlled; but there was evidently no militant spirit against them.

Some of the combinations are in the form of single corporations which have acquired the plants of the component members, but they are not many. With the looser formations comprised in simple agreements as to the output, prices, &c., many of the larger combinations have vast territorial extent, and control practically the whole interest of the country in a particular commodity. For instance, the spirits combination includes 97 per cent. of the producers of ardent spirits, and the sugar combination 98 per cent. of the sugar-refiners and manufacturers of raw sugar. The combinations for producing paint-brushes and ultramarine supply not only all Germany, but almost the whole world. If we take the principal industries in detail we shall be enabled to get a better idea of the position occupied by these pools and rings.

When salt (previously to 1868 a Government monopoly) was thrown open to free trade the fierce competition engendered gave birth to many local combinations, but they were quite ephemeral, and for many years came into existence only to dissolve and reappear in a changed form. In 1887, however, two large combinations—viz., that of North Germany and that of South Germany—practically divided the salt trade of the whole country between them. The method adopted was to apportion business into territories, each allotted to certain members or groups, the productive capacity of each plant being fixed according to agreement based on prior output. There is no absolute rule as to sales among the groups, some having by sub-agreement a central selling bureau, and filling orders from the nearest plant so as to reduce freights. Other groups confine the output of their plant to its circle of former customers. There is no compulsion for any member to remain in the organization, but there is little effort to retire, since the groups are generally formed by the parties which were combined before the main combination was formed. The chief value of the coalition is to steady prices and keep competition from injuring the members.

The Sugar Trust is mainly on the lines of that of Austria, but it has certain points of difference. The parties are manufacturers of raw sugar (from beets) and sugar-refiners. The refiners guarantee the producers a minimum price of 12·75 marks (12s. 9d.) per centner, this corresponding to the Austrian rate. The combination affects only the domestic, not the export, rate. The refiners, the white-sugar manufacturers (making white sugar direct from beets), and the producers from molasses pay to the syndicate of German sugar-refiners the difference between the inland normal price and the world market price, *plus* 10 per cent., and this is handed over to the German

Sugar Syndicate, to be distributed among producers of raw sugar according to amount the Government tax officials allow to each by way of output. In return, the raw-sugar producers are pledged not to refine, and also not to sell except to factories within the combination or for the export trade —outsiders are "boycotted"; nor must a refiner buy raw sugar from any producer outside the combination.

In the case of the potash combination, its products were formerly wholly obtained from mines belonging to the Government, but private mines were opened and agreements made in which the State itself (Prussia) is a party. The State had factories of its own to work up the products of the mine, and upon forming a pool with other mine and factory owners made certain rules, which, being agreed to, bind mine-owners not to supply to outside factories or these factories to buy from independent mines, but the Government retains the power of regulating the amount of output, and even of making special concessions in price for the benefit of German agriculture. There can be little reason to consider the State as being a partner in an evil combination when on many occasions the rights reserved to itself have been productive of enormous advantage through its chemists and agriculturalists to the nation. It does not scruple to punish guerilla competition by a competitive war, and has forced private enterprises to desist from business or enter the combination, but its direct influence has been that of the beneficent autocrat.

The coal syndicate is a corporation for the buying and selling of coal and coke; it is not formed for the distribution of large dividends, but in the interest of the mines, with each of which a contract is made. The output of the mine is determined, and this output of coal, coke, and briquettes must be delivered to the syndicate, whose directors distribute the delivery and sale. If at the end of the year any mines have delivered more than the allotted output these mines pay the value to the syndicate for delivery to the mines which have delivered less, so that profits are proportional. For breach of contract and delivery fines are levied. These contracts or agreements have been held valid in the Courts.

The iron combination has a powerful organization resembling in constitution that of the coal syndicate, orders from the central office being given as to output, and sales effected by the associated directors, who appear to have almost unlimited powers.

In Germany, as in Austria, the banks are considerable holders of industrial stock, and have large control of direction. The high protective tariff is defended as a means to prevent the flooding of the country with surplus products of foreigners, and many people do not regard a low price to the consumer as being the only consideration, holding that the producer and his family have a right to protection. The savings made by combination appear to be chiefly in freight, by shipping orders from the nearest plant, in common purchase of supplies, and in sales through a common selling-bureau. The greatest value of combinations to their members is in the control of selling prices, and it is scarcely to be disputed that prices have steadily risen. Their promoters insist that the rise in prices is only sufficient to insure them moderate profits with greater steadiness and fewer fluctuations of markets. It is not believed that combinations have had any effect whatever in raising or lowering the wages of workmen.

The law in Germany appears, like public opinion there, to be more favourable to combinations than in any other countries. Where lower Courts have held in cases of breaches of agreement between members of a combination that contracts in such matters were invalid, the higher Courts have upheld the legality of the arrangement. They appear to consider that if one subjects himself voluntarily to limitations as to how and where he shall carry on his business he is bound to fulfil the contract, and that if it is fair for legislative bodies to raise the prices of commodities by protective tariffs it is fair for producers to league themselves together to prevent ruinous competition among themselves. Corporations are subject to such strict regulation in their formation and the conduct of business that secret or fraudulent business is scarcely possible to be carried on to any great extent, and there is little fear of evils from such practices as "watering" stock, &c. The paid-up capital of a company must be represented by property of full value. In the articles of incorporation the history of formation must be inserted. Promoters are civilly and criminally liable for the accuracy of their statements and reports. Independent auditors are to be provided, and details must be given regarding persons from whom the company is to buy property, and the nature of consideration for which shares are issued. If a company takes over a business the results of the two preceding years trading must be reported, &c. After organization very complete and sufficient knowledge of the company's proceedings must at stated periods be given to holders of stocks. This publicity does not seem to have affected German enterprise in any way to its detriment.

England.

Agreements regarding prices and other objects have been for a long time in force, but of late years the tendency towards consolidation has been very marked, and the coalitions have in many cases taken the form of trusts or of single corporations. Of these, several take prominent place on account of their large capitalisation and of the amalgamated firms they represent. Among these may be noted the following:—

Name.	Number of Firms.	Capital. £
Wall-paper Manufacturers' Association	30	4,200,000
Associated Portland Cement Manufacturers	34	8,000,000
United Alkali Company	49	8,500,000
The Calico-printers' Association	60	9,200,000
English Velvet and Cord Dyers' Association ...	22	1,000,000
Fine-cotton Spinners and Doublers' Association	40	6,750,000
The English Sewing-cotton Company ...	15	3,000,000

Name.	Number of Firms.	Capital. £
J. and P. Coats (Limited), (sewing cotton)		7,498,000
The English Sewing-cotton Company	15	3,000,000
Bradford Dyers' Association	30	4,750,000
Bleachers' Association (Limited)	53	8,250,000
The Salt Union	...	4,200,000
British Oil and Cake Mills	17	2,250,000

These may be taken as examples of some of the larger combinations engaged in business in England. The capital invested is well known, and fully organized trusts of this class may be roughly estimated at £100,000,000. Such a sum, however, sinks into insignificance compared with the stocks and bonds which represent the capitalisation of single American trusts, such as the Standard Oil Company and the United States Steel Corporation.

There is no active political or national feeling against the aggregation of English firms into powerful corporations. It is only lately that a distinct feeling of uneasiness as to the possible future of business has arisen. A good deal of resentment has been expressed against Ministers of State sitting as directors and holding large interests in trade corporations, but it has birth partly in political bitterness, and partly in dread lest corruption in administration should appear if men engaged in shaping the destinies of the State should be led into playing into the hands of corporations.

The desire to escape exhaustive competition has been the chief influence which has led to amalgamation. Many trading firms found that they were working without profit, and it was necessary to combine to enable such a grip to be put upon selling prices as to insure a reasonable return for their energies. Unless, however, by amalgamation greater economies could be achieved, it was hopeless to attempt to crush competition. They found that, as in Austria and Germany, there were savings to be made by shipping from the nearest plant and so save in cross-freights. The pay of commercial travellers and agents, extensive advertising, &c., were all in a great degree eliminated from the cost of sales. The English Sewing-cotton Company considered it saved as much as 40 per cent. by savings in this way. Purchases in bulk made for different members of the same trust enabled large quantities of raw material to be bought at a low rate, while valuable patents, formerly the property of single firms, were utilised by extension to the whole combination. In some instances it is claimed that power to reduce wages and to deal with strikers has been an effect of coalition among employers, since in case of a local strike the establishment can be closed down and the work carried on in other places by plants of the one corporation. It is reported that there is an agreement among certain large engineering firms to act together in regard to trade-union labour, although there is no combination of any other nature.

Agreements or pools of various kinds are very common in England, although they often stop short of unity into single corporations. They are usually local agreements dealing with prices and the methods of business. The London coal-merchants have such a ring, the flour-dealers another, the bacon-dealers another. The Co-operative Wholesale Union, to escape the influence of the bacon ring, had to establish factories in Denmark, as the Danish sellers were not allowed to sell to persons not in the bacon combination of London. Some combinations are entirely local, and of this class consist the Bradford Coal Merchants and Consumers' Association, the Bradford Dyers' Association, and the Bleachers' Association of Manchester. Others, such as the Associated Portland Cement Manufacturers, the Calico-printers' Association, the Fine-cotton Spinners and Doublers' Association, do international business. Yet others are international combinations; of these, the English Sewing-cotton Company is an example. The greatest of the thread firms, J. and P. Coats Company, has large interests in the Sewing-cotton Company (although not in the combination) and control the American Thread Company in the United States. There is reciprocal action here, as some of the directors of the American Thread Company hold much of the stock of the English company. The agreement of the J. and P. Coats Company with the English Sewing-cotton Company is to the effect of partitioning markets, and not to cut prices; the reciprocal ownership of stocks insures security of the contract.

Generally of late years it has been found that agreements or pools were not so satisfactory a method of business as the formation of single corporations, as the former did not give sufficient hold over members, nor allow of economies in consolidation of plants. The process followed has been to put a valuation on the properties of the uniting firms and form a central company to buy them up. This is the ordinary form of trust already often spoken of and needing little comment. There is another variety of organization, known as "the E. J. Smith combination," which has attained considerable favour. It was first promoted by E. J. Smith, of Birmingham, for the brass-bedstead trade, but has also been adopted in the fender, metal-rolling, china, furniture, electrical-fittings, brass-cased-tube, and coffin-furniture trades. Its method is, briefly, as follows: Manufacturers meet and fix the minimum cost of raw material, labour, interest, manufacture, salaries of managers (even if they are themselves the manufacturers), and all other items. They then make agreement that in selling goods no one will sell below a fixed percentage on fixed cost. Of course, if any member can produce cheaper than others he will make a greater profit, and will not suffer from ruinous competition. One of the advantages claimed is that until manufacturers agree to give each other a true bill of costs none of them are accustomed to work out the details of their business and find out where real profit and loss reside. In many of these agreements there has been inserted a further condition to support the formation of trade-unions and not to engage non-union labour; the trade-unions in return pledging themselves not to work for firms outside the combination. There are also to be given bonuses on wages (the bonus sliding with profits), conciliation boards to fix wages, prices, &c., with other advantages to the workmen, although full control and management of works is left with employers. This style of combination is really a coalition between manufacturers and their men to control prices, but it is pleaded that consumers have no right to complain if there is only a fair profit made. The selling price adopted by the

Bedstead Association was the entire cost price *plus* 10 per cent., but as this is based on turnover, and there is in the trade a turnover of capital twice or three times a year, the profits were heavy. Whether such combinations against the consumer are fair or not, the advantages to the capitalist are undoubted, since, when the cost is reckoned, his salary, interest on capital, and all expenses are paid and made secure before the 10 per cent. of profit is added.

The cry for "publicity!" which has had such effect lately in shaping American anti-trust legislation finds little echo in Great Britain, because secrecy in the methods of organization gains no shelter under the English law dealing with corporations. The promotion of companies must be done in full light. The general process of the formation of a corporation is somewhat as follows: The promoter goes to the persons engaged in the industries in question and shows them the advantages of coalition. In the United States he probably takes an option to buy all the establishments at a fixed price in cash. He then organizes the affair, selects the first board of directors and managers, and offers the vendors the choice of taking their payments in cash or shares. In England, however, no such definite rule is followed. The vendors either sell at a valuation fixed by appraisers, or the property is purchased on a profit basis, certified accountants having first investigated the books of the company. If contracts are made by a corporation for purchase of property in this way, such contracts must be filed with the Registrar of Joint-stock Companies, so that the public may examine them and understand the value of the shares offered for purchase. There are modes of defeating this publicity sometimes attempted by astute brains, but seldom by men who have reputations to lose, or in corporations based on substantial assets, for such combinations have nothing to fear from publicity. If accusations are made concerning "watered" stock in English trusts it will generally be proved that the "water" is not more than 20 per cent. of the capital, and represents the good-will of the amalgamating business, while the other 80 per cent. stands for tangible assets.

In regard to the volume of trade covered by combinations in England, it will be found that their control is in some cases almost monopolistic. The Associated Portland Cement Manufacturers contribute about 80 per cent. of total output. The Calico-printers' Association have acquired some 85 per cent. of that industry in Great Britain. The Wall-paper Manufacturers' Corporation has 98 per cent. of the business in its hands. The British Cotton and Wool Dyers' Association (working under agreement with the Bradford Dyers' Association) has generally 90 per cent. of the business, but on some lines of the trade complete monopoly.

Attempts, however, to create monopoly have been, as may be expected, sometimes almost disastrous failures. As an example we may quote the case of the Salt Union. In 1888 the union was formed by the coalesence of sixty-four firms with the object of repressing injurious competition. The capital of the undertaking was £3,000,000 in shares and £1,000,000 in debentures. Their output was expected to reach 2,000,000 tons yearly, and by raising the price to 5s. a ton they counted on a 20 per cent. dividend. These gains not satisfying the trust, the price of salt was raised 100 per cent. Such profits brought a shoal of competitors. Their deliveries fell off considerably, and the corporation found at the end of ten years (*i.e.*, in 1899) that their £10 ordinary shares were worth in the market 1⅝.

One fact brought out during the process of organizing combinations throws light on the stubborn conservatism of Englishmen and their fatal fondness for worn-out grooves of business. In the conduct of old and long-continued establishments the profits have in many cases been eaten completely up by adherence to methods which would not be tolerated in a newly started industry. A notable case was that of an hereditary business in which for some generations the owners had been wealthy men who had little technical knowledge of the trade. When this firm handed over its factories and their staff to the direction of a combine its employees numbered some fifteen hundred men. The manager with the aid of new machinery and some organization was able to do as much with six hundred men as formerly had engaged the fifteen hundred. The workmen taken over said that in the old establishment many of the hands only "fooled away their time," but as they received fair wages and were told they were of service they very naturally stayed on in their employment.

As England is a free-trade country, it has never been alleged that trusts and combinations have been assisted by the tariff. The English law in regard to pools, agreements, rings, &c., is that contracts in restraint of trade are illegal. There is, however, no bitter vindication of the law in this respect, and a fair, reasonable view is taken of the matter. If, however, a company incorporated by Act of Parliament is not given power in the Act to hold stock in another company, the purchase of such stock is *ultra vires*. The Companies Acts of 1862 and 1867 were not found sufficient to cover the developments of modern industrialism, and it was suspected that promoters of "wild-cat" companies were continuing to elude the provisions of the law. In 1900 an Act was passed giving far greater powers to the State than before. The points as to publicity have been already commented on, but it may be added that reports have to be regularly made to the Government giving information as to capitalisation, amounts paid on shares, the details of transfer of shares during the year, lists of stockholders, &c. Such information (in addition to annual balance-sheets supplied to shareholders) is filed at the office of the Registrar of Companies, and is open to the inspection of stockholders. The Registrar may, on the application of not less than one-fifth of total number of shareholders, investigate the affairs of the company.

How necessary is drastic examination of the affairs of commercial companies may be inferred from the losses sustained by failures in such enterprises. The loss to creditors and contributories in cases of companies compulsorily wound up during the six years from 1893–98 was £27,712,709, and by voluntary liquidation about £130,000,000, so that the country probably suffers the loss of about £27,000,000 sterling a year by failures of corporations. If such losses occur, as they are often said to do, by reckless competition, then any system of combination which can check such foolish and heartless waste of money and energy must be of advantage, always premising that the public be protected from greedy extortion in the way of increased prices, deceit through "watered" stocks, and other subtle devices of its enemies.

FRANCE.

The question of trusts and combinations in France is of less interest than in any other country of such importance. Public opinion pays little attention to the subject, and the Government does not appear to consider this modern development of industrial and commercial life as worthy of more than academic inquiry. The pools and agreements to be found are difficult to classify or describe, as they generally work on "secret" understandings, which are observed only "on honour." The Criminal Code (Articles 419 and 420) forbids combination for raising prices by unlawful means, and, as such combination is punishable by imprisonment, business firms are naturally careful to keep "o' the windy side of the law." Many of the industries are quite local, depending upon the respect in which a long-established and honourable name has won its way to favour, and such a firm would only lose if it sank its individuality in a trust.

The reasons stated for such combinations as exist are the usual pleas set forth in other countries: economy of large businesses, supplying from nearest plant, avoidance of direct competition, &c. Some of these combinations are far more than local, more than national; they rise to the height of international business. They are even then more in the nature of pools than of trusts, having agreements as to prices of purchase and sale, of output, and of agencies. Those of the first rank are to be found in the sugar and petroleum industries.

The combination among sugar-refiners is, although incorporate, of a very complete character, regulating output and prices. The half-dozen sugar-refiners meet on occasion to discuss the best methods of conducting business, and probably the matter is settled without documentary evidence of any kind. The output is allotted according to the capacity of each refinery, and the export trade divided proportionately. Territorial limits are adhered to in the allotment of trade, and it is conjectured that prices may be considered as fixed at the interviews spoken of, as an agreement to restrict output for a few months would probably send up the price of sugar to some degree. It is, however, almost impossible to arrive accurately at the process or "understanding," as the conduct of affairs implies reliance of each on the integrity of the others, and, a restraint on trade being illegal, the members of such a combination are on delicate ground.

The petroleum combination in France had its first existence in 1888. Only three firms entered the coalition and formed a syndicate, but it practically enjoys a monopoly, and controls the refined petroleum market in France. The duty on crude petroleum imported is 7 francs (5s. 10d.) per 100 kilograms (220 lb.). Although only three firms commenced the coalition, it has since included seven others. The "understanding" limits the output of each refinery, and weekly fixes a uniform price not to be departed from by members. The pool has an agreement with the Standard Oil Company of the United States, whereby it takes all American oil from the Standard Company alone, and the latter company is not allowed to deliver to any other French firm. The syndicate also made contract with a firm which had the sole supply in France of all Russian petroleum, so that the combination has practically the monopoly of the domestic market. It is the most prosperous of the French coalitions of capital.

The trust proper is represented by a combination in iron known as Le Comptoir Metallurgique de Longwy, first formed in January, 1877. It consisted of twenty-five companies, but many of these have united their forces, and only eleven distinct firms now are within the ring. It is doubtful whether it does not at times come within the provisions of the Criminal Code, but it has been fortunate in evading serious trouble. Its objects are said to be to prevent importation of pig-iron, to lessen the number of agents and generally reduce expenses, to unite in the purchase of fuel to lessen its cost, and to consult for purposes of mutual benefit. The combination under its agreement as a corporation is little more than a selling bureau, instituted for periods of five years and five months. It has a capital of 78,000 francs, on which a regular dividend of 5 per cent. is paid, the shares being allotted among the component companies according to productive capacity. The contract fixes the amount of product allowed to each company, but if for the sake of economy in freight one plant is better able (from proximity to the locality of the order) to supply the material, it makes a proper balance with the others through the council of the bureau. If the corporate bureau cannot dispose of the products, the delivery of each company has to be reduced in accordance with the council's decision. The combination has been very successful in the management of its affairs.

The paper-factories of Limousin have a combination taking shape as a corporation organized to last sixty-five years from its commencement in 1899. The capital is now 5,550,000 francs. This is a concern resembling the American trust.

"Professional syndicates" are varieties of combinations commenced for the purpose of forming libraries, assembly-rooms, &c., but they have extended themselves to include engineering establishments, railway-material makers, shipbuilders, &c. The manufacturers of railway material—locomotives, passenger-cars, springs, axles, &c.—form a syndicate composed of sixty-four establishments. They have a council, monthly meetings, &c., in which are discussed subjects of common interest, such as the tariff shipping rates, foreign trade, &c. They cannot be considered as trusts in any degree, not having any agreement for control of business, but are societies for purposes of intellectual improvement; although, of course, such improvement when it bears on practical subjects, such as economies, inventions, patents, improvements, standards of excellence, &c., very often has financial effects which without such co-operation would not have been produced.

As to the bearing of the numerous local agreements on prices, there is no doubt that there is restriction of output, which is an indirect way of enhancing prices. There appears to be no pool or ring for absolutely controlling prices, nor would it be possible to discover its workings short of a criminal prosecution. But it has not been even alleged that any distinct or traceable rise in price has been owing to combination.

The law in France which makes combinations in restraint of trade illegal was passed in 1810 (a portion being repealed); and reads as follows (section 419, Criminal Code):—

All those who by deliberately spreading abroad false or slanderous facts, by offering a higher price than that asked by the vendors themselves, by association or coalition between the principal holders of the same

merchandise or food-stuffs, whether with the view to withholding them from sale or with a view to selling them only at a certain price, and all those who by any fraudulent means shall effect a rise or diminution in the price of food-stuffs, or in the sale of public securities, above or below the price determined by free and natural commercial competition shall be punished by an imprisonment of one month to one year, and by a fine of from 500 to 2000 francs.

Section 520 is as follows:—

The penalty for the foregoing shall be an imprisonment of from two months to two years, and a fine of from 1,000 to 20,000 francs, if these manœuvres have been practised on grain, flour, bread, wine, or any other drink.

The French Courts under this law have decided cases against combinations of transportation companies which have amalgamated to drive out rivals, against insurance companies coalescing (considering policies as merchandise), and against a pool in salt which attempted to advance prices. These, however, were in early days, and apparently the Courts have become somewhat more imbued lately with the modern spirit which recognises that all agreements among producers are not harmful to the public. However, the case of M. Secretan, who was imprisoned on account of his connection with the copper combination, shows that even against a man of great social and political prominence the old law can be handled with vigour. Certainly it has tended to discourage corporations and to keep agreements enfolded in secrecy.

Other Countries.

Although under this section many countries are treated of, there is no intention to reflect thereby on the greatness or commerce of the nations thus grouped together. The concentration merely shows that for the purpose of this report they are not of great interest, their trade combinations being either few or with no prominently distinctive features.

Russia, like France, has provision in the Criminal Code against both employers or labourers who by combination against the State or by speculating in goods considered necessaries of life may hurt the public weal. Corporations (*artel*) of workmen may, however, be formed for the purpose of co-operation in work or industry which one man alone could not perform. The *artel* is a voluntary association (sometimes temporary) of trained workmen and apprentices, having its board of seniors, who arrange the work and distribute proceeds as dividends. The members must wear badges or insignia so that they may be known and recognised. Fire-insurance companies have a powerful combination, and as foreign companies of the kind are forbidden in Russia the trust has a most profitable business. The rates of insurance have been raised again and again, and as the united corporations pay about 15-per-cent. dividends they may be considered to hold a monopoly. A syndicate of firms dealing in petroleum has a combination for sale purposes, five firms acting as a selling bureau for all the others. The Government assisted the trust by lowering freight on the Caucasian railroad so as to allow Russian producers to compete with the Standard Oil Company. There is also a combination in the beet-sugar industry; it was first properly formed in 1887. It includes 201 out of 203 sugar-producers. Agreements are made every five years, usually to the effect that 25 per cent. of the production of each factory must be exported by the owner at his own cost, unless the price of sugar should reach the high point of 4·50 roubles (11s. 3d.) on the Kiev Exchange. There are, besides these corporations, pools or agreements among producers of wire tacks, paper, and printed calico. Some cotton and linen manufacturers have agreements with other firms in the same line of business in Poland, usually for the purpose of raising prices. Generally speaking, trade combinations are not unfavourably regarded in Russia.

In Denmark there is a trust operating in breweries, and it has taken the form of a corporation controlling the market of *weiss-bier*. The commodity in question will not bear transportation, and as the trust includes all the branches of Copenhagen, it virtually has a monopoly. Its purpose is economic, by means of reducing officials and workmen, and by improvements in production and distribution. It has not advanced prices, but has increased profits and raised workmen's wages. This is the only important Danish combination.

Sweden and Norway have a single important corporation owning several plants—viz., the Anglo-Swiss Condensed Milk Company; but there is an agreement to work in harmony among several anchovy-factories, and "understandings" concerning prices between producers of wood-pulp, timber, and paper. These latter industries, however, have no restraint of output.

Holland has no combinations of any importance. Spain has a trust for manufacturing powder and explosives. Switzerland has a few agreements of a temporary character among manufacturers of cheese, chocolate, lime, &c.; but it has had one of an important kind—viz., an embroidery union —which dealt with wages, working-time, output, and prices. As it was composed of a medley of merchants, manufacturers, and workmen, it somewhat resembled that described as an "E. J. Smith combination" in England, but it strangled itself with restrictive rules, and was dissolved.

In Italy there is a strong combination of iron-foundries, and the Anglo-Sicilian Sulphur Company of London has a contract with the mine-owners of Sicily for about 80 per cent. of the output. A company dealing in sumac has control of output and prices, and its effect has been to increase both wages of the workers and price of the article produced.

Belgium, a country in which manufacturing is highly developed, has several strong combinations, generally for the purpose of controlling output and prices. The coal-producers' syndicate limits output of mines and fixes prices, which lately have risen considerably. The plate-glass combination has a joint selling-bureau to which orders are sent and allotted to members; this bureau fixes output and prices. Sugar-refiners, stone quarries, and minor manufacturers all have combinations of the above type. There is no public feeling in Belgium against the trusts.

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