

Combinations  
Trusts and  
Monopolies



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# Combinations Trusts and Monopolies

*A Discussion of the Origin, Development, and  
Treatment of the Modern Indus-  
trial Combination.*

By Edward J. Nolan, LL.B.



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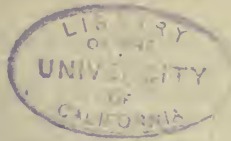
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# Combinations, Trusts & Monopolies

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## CHAPTER I.

### PRELIMINARY OBSERVATIONS.

“AN indefinable something is to be done in a way nobody knows now and at a time nobody knows when. That, as I understand, is the programme against the trusts.” The foregoing summary of the attitude of the people toward the trusts is said to have been made by the late ex-Speaker Thomas B. Reed while in conversation with a leading member of the House on the opening day of the second session of the Fifty-seventh Congress, in December, 1902. It fairly expressed the feelings of unrest and dissatisfaction and the spirit of determined but unguided and almost hopeless resistance to the overwhelming oppressions of the trusts which pervaded the rank and file of the people of every political party at that time. Nothing has since been done to relieve the situation, and conditions are daily becoming more intensified and unbearable, and we have every reason to believe that the same statement might be repeated with

equal truth and fairness at the opening of the Fifty-eighth Congress.

The Statute enacted by the Fifty-seventh Congress, commonly known as the Elkins Law, is merely an amendment to the Interstate Commerce Act, and is designed to afford a more effective means of enforcing its provisions. That act relates only to common carriers, or those engaged in the transportation of freight or passengers for hire, and the Interstate Commerce Commission has for more than sixteen years been attempting, with more or less success, to insist upon a strict application of its terms to the affairs of railroad companies. There is, therefore, but little reason to hope for radical improvement from a mere change in the method of enforcing the provisions of the old law, and as its effects upon combinations engaged in other lines of trade must necessarily be indirect and secondary, it is not likely to afford any material relief to the general situation.

The Bureau of Corporations, established by the last Congress in connection with the Department of Commerce and Labor, is merely empowered to inquire into the affairs of corporations engaged in commerce among the states and to collect such information as it can concerning them, all of which it is required to report to the President of the United States for the purpose of enabling him to recommend to Congress the enactment of such legislation as, in his opinion, the disclosed state of facts may seem to require. As now constituted it is simply an information bureau for the convenience of the President, but into what it may ultimately develop, and what real powers may here-

after be conferred upon it, is a matter which at this time can only be conjectured. The consideration of the subject, however, will doubtless engage a considerable share of the serious attention of the Fifty-seventh Congress, and the constitutionality of any act which seeks to give to this bureau power to interfere with the affairs of any individual or corporation whose principal business is not directly connected with, or a part of interstate commerce, will be certain to present an interesting subject for investigation by the Supreme Court of the United States, upon which it is safe to predict that more than one learned opinion will be written. It is clear, therefore, that the legislation on this subject thus far enacted by Congress is merely intended as preparatory to something more direct and effective which is expected to follow. The establishment of this bureau for the purpose of securing information relative to the management and operations of corporations is an official acknowledgment that there is believed to be something radically wrong in the present adjustment of our industrial system, and that the facts pertaining to it, and the remedies required to preserve it from the danger of self-destruction, have not yet been made to appear sufficiently clear to the public. The people, then, knowing the unavoidable, but exasperating delays which almost invariably attend the inauguration of any new scheme of legislation, should bestir themselves to determine what measure will best serve to promote the general welfare of the whole country, and to insist upon their immediate adoption and enactment by those to whom the task of framing legislation has been entrusted.

It is believed that the general confusion which still obscures the public understanding of the industrial situation, and the hesitation and indecision which has thus far marked the course of legislation concerning it, arise chiefly from a failure to properly analyze the subject and to comprehend clearly the natural functions and effects of the simple elements of which it is composed.

The modern printing press into which paper is fed from a roll and which returns it printed, cut into sheets and folded ready for distribution in the familiar form of newspapers; the commutating machine which by merely operating a few keys, as on a typewriter, performs the most difficult mathematical operations with mechanical ease and exactness; and the watch which accurately measures time to a fraction of a second, appear wonderful to those who are not familiar with their construction, but when analyzed they are found to consist of a combination of the most elementary mechanical powers, the uses of which are well known to every schoolboy. Each of these machines is found to be simply a skillful adjustment of wheels and levers, the working of any one of which would attract no interest whatever, but when suitably connected their effects may sometimes be truly amazing. The phonograph seems to be a most marvellous contrivance to those who think only of its power to reproduce the human voice, but when examined closely it is discovered to be merely an application of the simplest principles which govern the production and transmission of sound. It is precisely the same with the contemplation of economic conditions. If we see only the complex



exterior presented by a social movement and attempt to judge it by the results it has achieved, it will frequently be found to present difficulties so grave as to seem to baffle human understanding. But if we inquire what means have been employed to attain these ends, it will be found that this great social machine is nothing more than the development of simple relations with which we have long been familiar, and the recognition of them will enable us much more easily to master the intricate relations arising from their combined operation. It is the hope of being of some assistance in removing the mystery which still envelopes so many of the features of this subject, and thus clearing the way to a just and enlightened solution of the perplexing problems involved in it, that has led to the writing of these pages.

The dual form of our scheme of government under which the regulation of the varied interests of society is attempted to be fairly apportioned between the state and federal authorities, makes it exceedingly difficult at times to determine whether the jurisdiction over a given subject is properly vested in the one or the other, but the importance of deciding the questions correctly and preventing any usurpation of powers by the one or abandonment of them by the other, and of insisting upon a strict adherence to that adjustment of rights and obligations which was prescribed by the framers of our national constitution, cannot be over-estimated, for upon the preservation of this fundamental principle of our organic law depends the stability and permanency of our republic. The duty of safeguarding it has been entrusted to the

whole people, and from them must come the brain and the muscle, the wisdom and the courage, which are necessary to guide the nation through every danger and to protect it from all harm. Many nice questions have arisen since the adoption of the Constitution of the United States in which the powers of Congress and of the state governments have been considered, and some of the greatest minds that our country has produced have devoted their best efforts to the discussion and settlement of the constitutionality of measures in which the jurisdiction of the state and national governments appeared to be brought into conflict, but no subject that has yet been proposed has promised material for a more interesting and profitable investigation, or important judicial construction than the one now before us. The responsibility of determining upon the proper means of redressing wrongs or of remedying social evils, rests upon the people, and until they have done so, they cannot expect their representatives to enact satisfactory laws. Legislators, at their best, merely reflect the will of the people, and until that will is made known their position is substantially that of agents awaiting instructions, or at most they may indulge in the passage of acts which serve but for little more than temporizing experiments. No laws, however wise or good they may be, can hope to be effective under a republican form of government unless they are supported by the common people. It behooves us, therefore, to study the conditions which confront us that we may be prepared to intelligently discharge the duties of American citizenship, and prove faithful to the trust imposed in

us by the Fathers of our Country. To that end we shall now proceed to examine some of the details of the most absorbing topic of the day, the one subject with which every one is supposed to be familiar, but of which very few are prepared to give a satisfactory account.

## CHAPTER II.

## THE COMPETITIVE SYSTEM.

*Enterprise*

IN the early settlement of every new country, individual enterprise has been obliged to go forth to contend with the various forces of nature; to subdue the savage, to cut down the forests, to exterminate the animals of prey, to endure the hardships and privations of every kind, to encounter sickness and disease, and to face death in a hundred forms in order to prepare the new-found land for the requirements of civilized man. As population increased and communities were formed, this same individuality and independence of action led to the adoption, by various persons, of all the numerous occupations that are necessary to supply the wants of society.

*Competition*

So long as the laborers were few and the wants many, the efforts of all were required to supply the demands of the community, and there was no competition. As soon, however, as the needs of the people began to be in a measure supplied and two persons were obliged to bid against each other for the favor of the community in any particular line of trade or pursuit, competition had set in, and what is now known as the competitive system had begun to operate.

In its early stages the most familiar form of competition was that carried on between the storekeepers in the towns, but it also animated the strife between the producers of various kinds of wares, and with the development of the factory system, it assumed its greatest importance and attained its fullest development in connection with that class of business.

The competition of the small storekeepers is more or less familiar to every one, particularly to those who have been raised in small towns. In large cities nothing seems ever to have had a beginning. There never was, apparently, any first store, but there has always been an abundance of them; competition is sharp and incessant; opportunities of every description are plentiful; conditions of all kinds, whether for good or evil, seem to be highly developed, and every economic principle appears to have been always in operation, while in the small town there are many who remember when the first storekeeper had the entire trade of the village all to himself. He knew no opposition and could conduct his business to suit his own pleasure. He need go to no expense in fitting up his store to make it attractive or inviting to the public, nor go out of his way to solicit trade, for those who desired to purchase must come to him. He could make prices to suit the convenience of his own business, limited only in a measure by the distant markets of the large cities.

This independence, however, was not destined to be long-lived, for a second store soon appeared in the town. The new aspirant, in order to secure business, had to overcome some part of the prestige

attained by the older merchant, and he was therefore obliged to exert himself to please and attract the public. He usually began by endeavoring to give an inviting appearance to his store, by displaying greater taste in the selection and exhibition of his wares; he strove to be more attentive and obliging to his customers, offered to deliver his goods at the homes of purchasers and sent agents out to solicit orders. He also in many instances cut prices and thus compelled his competitor to sell at reasonable figures or else lose his trade altogether.

This unusual activity on the part of the newcomer was not without its effect upon the older merchant. He was, in a measure at least, obliged to meet every innovation adopted by his new competitor, as well as to conform to his reduced prices. The contest having once begun, it continued to be urged with increasing vigor, just as in a game of checkers each play calls for a corresponding move on the part of the other party. Each strives to take every possible advantage of his adversary, and the more successful he becomes the greater privileges he is allowed; just as the checker which has been successfully carried through the forces of the opposition may disregard many of the rules by which the others are restricted.

New fixtures and an attractive interior presented by one store called for equally fine fittings and a display store-front by the other. More clerks and errand boys to wait upon the customers of the one, was met by the delivery wagon to serve the convenience of those of the other, and illumination and conspicuous display of wares by one, led to adver-

tising of various kinds by his rival. Each vied with the other in his efforts to procure the choicest goods from even the most distant markets, and the latest and most inviting patterns were placed before their customers. The utmost ingenuity and incessant labor were devoted to the development of the art of collecting merchandise and presenting it in an attractive manner to the purchasing public, and every convenience that genius could devise was employed to bring merchant and consumer closer together.

Other competitors, of course, entered the contest, but these were merely so many additional players, which simply added zest to the game. Each contributed his might to spur the others on, but was in turn compelled to keep pace with them.

It not infrequently happened that in the bitterness of competition prices were reduced so low as to destroy all possibility of making profit, goods being often sold below cost in order to outdo competitors. In the earlier stages of the development of the system, however, most merchants were on a comparative equality so far as capital was concerned, and since neither could afford, much longer than the other, to conduct his business at a loss, the result was usually a cessation of hostilities, succeeded by a period of mutual toleration which proved to be highly beneficial to the community; protecting it against the danger of extortionate demands by a monopoly on the one hand, and securing to it the advantages of superior service induced by competition on the other.

Larger amounts of capital soon began to be invested in mercantile business, and with it the com-

petition became sharper than ever. The greatest resources at their command enabled merchants to attempt many things which had hitherto been impossible, and provided them with the means of carrying the competitive warfare against the smaller tradesmen even to the point of extermination, for they knew that after they had once driven competition from the field, they could raise prices to such a point as would speedily restore to them all the profits which they had sacrificed in the competitive struggle.

*Partnerships*

The instinct of self-preservation soon began to lead the smaller dealers to combine in order to resist the attacks of their more powerful competitors. Two or three individuals would unite, putting their joint resources into the business, and would thus for a time be able to continue the contest. These partnerships proved popular and successful for a while, but like everything else in the competitive world, each new departure merely serves as a step to something higher. One partnership led to the formation of another still stronger, and so they continued to increase in number and in power until they, too, were found to be inadequate for the requirements of the trade.

*Combinations*

Combinations capable of an almost unlimited number of individual shareholders, and possessing much greater power than partnerships, now began to be formed. They were known as stock companies, or corporations, and by means of these the greatest aggregations of wealth have become practicable and the exercise of the most stupendous powers ever known to the world has been made possible. Corporations now began to supplant the individual



and to assume control of trade. The advantages of corporate management (among which were the limited liability of the shareholders and the greater facility for raising capital) were so important in the conduct of business on a large scale that, after the first prejudices, which always retard the introduction of a new system, had been dissipated, the organization of corporations for all kinds of purposes became quite general. The formation of a company in one line of business compelled the creation of others to compete with it and thus the movement spread until for many years the greater part of the business of the country has been conducted by corporations. The competition begun by individuals possessing little capital was continued by the corporations with all the rigor and severity that the shrewdest management could devise and that large capital and great power made possible.

The history of competition among manufacturers has been very much the same as that which we have just outlined as existing between the venders of their products. In the early days when practically all manufactured products were made by hand labor, the same rivalry existed between the individual producers which has since been developed into the most relentless competition between giant manufacturers, though of course it was not manifested in the same way.

It may easily be supposed that the competition between the early producers was conducted in much the same way as that between rival blacksmiths, or those engaged in any other of the occupations commonly known as hand trades, at the present time, in which mechanical skill, natural taste, tact, per-

Handwritten note:   
Have C. ...   
LABOR

sonal characteristics, and accomplishments are largely relied upon to secure for their possessors a fair share of the business.

With the introduction of machinery and power, however, substantial advantages in production began to be substituted for mere differences in individual capabilities as a means of extending trade. The adoption of the factory, or co-operative system of production in which many persons were employed in large establishments with the aid of power and machinery, afforded so many important advantages over the old system of shop work, that it speedily compelled those engaged in the manufacture of the same class of goods either to adopt the system or to retire from competition with those who had done so. Every new tool or piece of machinery that was devised likewise gave to those who first employed it a material advantage over all competitors who had not yet done so, and thus compelled them to seek its aid in order to keep pace with the times. The readiness with which the latest and most improved appliances were adopted by manufacturers, and the passionate fondness of the American people for the new and the wonderful, have stimulated the inventive genius of the age to such a degree of activity that the manufacturing and industrial achievements of the last century have become the wonder of the world.

The same evolution in the form of organization and in the size of the establishments which we have already noted in relation to mercantile business, has also taken place in the manufacturing world. The shop in which the proprietor and his appren-

SHOP - HAND LABOR

FACTORY -

FIRM - PARTNERS

CORPORATION -

→ tice worked together at the bench developed into the factory in which many persons were employed and which was noisy with the sound of the revolving wheels of machinery; → into the firm in which the capital of two or more joint proprietors was invested, and which employed a great number of men and still more extensive machinery; → and finally into the corporation in which the proprietors as shareholders may be numbered by the thousand, which may control an almost unlimited number of employees, and in whose plants the most marvellous machinery is in operation.

The excessive sharpness of competition has, at times, led to the production and sale of inferior grades of goods of various kinds, and numerous frauds and deceptions have been practiced by unscrupulous parties in their efforts to maintain an unequalled competition. In some cases, however, this has been due to what may be termed the over-growth of the competitive system; in others, it is one of the natural evils which is bound to result from individual competition, while in many instances it has been the work of irresponsible persons who have had no intention of acting in good faith, and whose misdeeds cannot, therefore, properly be charged as among the effects of the economic system which chanced to be in operation at the time.

|| These large corporations which had now assumed control of nearly every line of trade, carried on the competitive struggle with the utmost severity, and employed every means that ingenuity could invent to undermine and destroy their competitors, and to

drive them out of business, but finding that these means failed to clear the field of opposition, or growing weary of the struggle, they began to resort to agreements between the competing concerns for the purpose of fixing prices, to divide territory between them, etc., and those who refused to voluntarily become parties to these arrangements, were then forced to join, or fight the united strength of the combination.

Such has been the origin and growth of what is commonly known as the competitive system. It means merely the independent production, manufacture or sale of any commodity by several individuals, each of whom is striving to secure a larger share of the trade than his competitors, and who is usually willing to employ every means at his command to attain his end.

It is under the competitive system that our country has attained to its present position of wealth, power, and influence among the nations of the world; it is under this system that the resources of our country have been developed, and the hidden treasures of the earth have been brought forth to swell the volume of that ever-growing commerce which is already carrying the products of our workshops and of our land into the remotest corners of the earth. It is under the stimulus of competition that the genius of our people has made invention after invention which have revolutionized all processes of production, of manufacture and of transportation, have greatly increased the efficiency of labor, and have made our machinery and the equipment of our factories and our mills the study and admiration of the master mechanics

throughout all parts of the civilized world. Most of us have been taught to regard the state of universal competition as the normal and ideal condition of the industrial world, the stimulating force to promote and hasten its extension and development, and the automatic governor to regulate and control it in its maturity.

In speaking of the benefits to be derived from the competitive system, however, we have always had in mind the competition of comparatively equal forces. While the opportunities of all the parties are equal, the hope is ever entertained that each may be able to excel the other, and all are inspired to put forth the best work of which they are capable. If, however, a material advantage be given to some and denied to others, the hope of the less favored is gone and the zest is taken out of the contest, and those possessing the advantage may move leisurely on to victory, while the less fortunate are obliged to pursue a hopeless struggle for existence.

The competitive system has been in operation in Europe as well as in this country, but there has never been that equality of opportunity which has existed here. The greater part of the capital has always been controlled by a few firms, or they have been favored by governmental patronage or protection, while the opposition of their smaller competitors has not been sufficiently strong to stimulate them to any great efforts. Much has been accomplished along old established lines, and some improvements have been made, but no such progress has been attained as has characterized the development of our industries.

It is the same spirit of individuality and in-

dependence of action which led the adventurer forth to battle with the uncouth forces of nature, that has ever since directed the course of that competitive struggle which has sharpened the wits, inspired the genius, and spurred into activity every faculty of our people and developed the varied resources of our country. It has always led the way, and the multitude has followed. It has suggested every link in the long chain of improvements reaching from the rough board counter in the primitive country store, to the mercantile palace in the large city. It is the life of competition, and competition has built up all the great industrial institutions of to-day, and made possible all those wonderful results which combination is now securing through its operation of them. Combination, or co-operation, has thus far merely taken over and combined the properties created and established by competition. It has introduced a new system of control, and effected numerous economies in their management, but as yet it has added nothing distinctly new to the means of production, or to the institutions which mark the progress of the world's material development.

Competition has been recognized from the very earliest times as the natural condition of trade and the safeguard of the rights of the consumers, and the common law has for centuries been very severe and emphatic in declaring all combinations in restraint of trade to be contrary to public policy and therefore to be prohibited. Many attempts have been made to form combinations to agreements for the purpose of neutralizing the effects of competi-

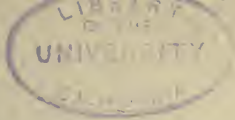
tion in particular lines of industry, but owing to the intervention of the law, or the want of good faith on the part of the contracting parties, they have always failed in their purpose until within the last thirty or forty years. It was about the beginning of this latter period that combinations in restraint of trade began to be more or less effective, and the evolution of the modern trust or monopoly began, passing as it did through all the various stages of development from the mere working agreement to the mammoth corporation, the chief forms of which are herein elsewhere described. With the success of these combinations came the decline of competition. This system has been supported by the existing laws and by new statutes made especially for the purpose, by the long and continued usage of centuries, by the apprehensions of the people that they were about to be subjected to unjust and unreasonable oppression, and by the reluctance and timidity of capitalists to risk their fortunes in the attempt to establish a new scheme of industrial economy. The monopolistic system, on the other hand, was supported by the prospect of large and speedy profits, and by a host of professional promoters who sought to acquire large personal profits as a bonus for effecting organization among the firms engaged in a particular line of industry. The struggle between the two systems has, therefore, been long and obstinately contested, and it is only within the last six or eight years that the supremacy of monopoly appears to have become established, and the rush to combination has become precipitate.

The benefits of the competitive system are, as

we have seen, all to be derived from a state of comparative equality of opportunity, and may be summarized as follows: it stimulates invention and production; it insures the manufacture or rendering of the best commodities and service to the consumer; it secures and maintains a reasonably low price to the purchaser; it allows the payment of fairly good wages to the producers, and to all employees, and affords a reasonable profit to the competitors. The evils of the system, on the other hand, arise from inequalities of competition,—disproportionate opportunities discourage enterprise;—it induces deception and fraud in the manufacture and sale of goods; it causes great fluctuation of prices, from exorbitantly high at times to ruinously low at others. Inequality among competitors leads to the continual cutting of the wages of employees, and in many instances reduces the producers of raw materials to the position of mere servants of the large consumers, and occasions an endless, bitter strife among competitors which results in large profits to a few, a mere struggling existence to more, and ruin to many.

The competitive system, in its free and natural application, has proved highly beneficial; but from its abnormal development, or what may be termed the transition from the competitive to the co-operative or monopolistic system, many evil effects have resulted and numerous abuses have arisen for which it is very desirable that remedies shall be found either by the complete adoption of the system to which the transition is leading or by suitable regulation and restriction upon the existing





## Trusts and Monopolies.

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system. - Whether we consider the present industrial movement to be the substitution of a new system of monopoly for the old system of competition, or consider it to be merely the natural and logical development of the competitive system, the result is the same, and the fact remains that competition is rapidly giving way in all lines of industrial activity to a system of co-operative control or monopoly, and if any of the good features of competition are to be preserved in order to serve as a check upon the absolute power of a unified control of trade, it must be through the aid of wise and judicious legislation.

## CHAPTER III.

## OBJECTS OF COMBINATIONS.

AMONG the principal causes which have led to the formation of trusts and combinations, may be mentioned the<sup>1</sup> sharpness of competition; <sup>2</sup>the exhaustion of many of the sources which have hitherto offered large speculative gains; <sup>3</sup>the lowering of the rates of interest upon money; <sup>4</sup>the financial and business panic of 1893; <sup>5</sup>and the prospect of securing larger profits by acquiring control of the various necessities of life and then conducting the production and manufacture of them upon the largest possible scale.

Competition had been carried to such an extent in many lines of trade that profits were reduced to a very low margin. Many manufacturers found it difficult to meet the running expenses of their business, and were rapidly becoming discouraged. The future gave no promise of relief, but seemed rather to have only greater trials in store for them, and any alternative that promised hope of improvement was welcomed by those who saw only loss and disaster awaiting them.

The completion of various public works, such as the great railway systems of the country, in the construction of which large sums of money were employed, and the gradual payment of the national

debt, all of which released many millions of dollars annually, served to increase the volume of capital seeking investment and thus directly tended to lower the rates of interest.

This lowering of the rates of interest and the closing of many fields in which fancy profits had formerly been gathered, directed attention to the more commonplace articles of everyday consumption, and the possibilities of industrial development as applied to these commodities began to be seriously considered.

The panic of 1893 had reduced most of the industrial institutions of the country to a state of great financial distress, which made them an easy prey to those who had studied the opportunities presented by large scale production, and who were able to control a sufficient amount of capital to take advantage of them.

Among the benefits to be derived from the combinations of manufacturing establishments, the following have been most strongly emphasized by corporation promoters and those who have been particularly active in bringing together the various elements which constitute the great industrial combinations of to-day: the reduction of fixed charges such as the amount paid for salaries of superintendents, foremen, bookkeepers, salesmen and others, whose services are usually required to be retained throughout the year; a substantial saving in rent or in the amount of interest required to be charged upon capital invested by diminishing the number of establishments to be maintained; a decrease in the cost of repairs and operation by employing a smaller number of plants and avoid-

ing the duplication of machinery, by using only the modern appliances and by working them to the most full limit of their capacity; <sup>4</sup>a material reduction in the relative expense of light, heat and power, and ventilation; <sup>5</sup>the distribution of orders so that the goods may be produced at the points most convenient for manufacture, transportation, and delivery; <sup>6</sup>the power to procure raw materials in such markets, and in such quantities as will enable the purchasers to secure the most favorable terms; <sup>7</sup>the superior opportunities presented for advertising their products, and of affording such inducements to the trade as would secure for the combination a virtual monopoly of the business and enable it to regulate and maintain prices; <sup>8</sup>and the prospect of being able to extend its trade into foreign markets, thus opening up new sources of profit.

The contemplation of the possibilities of combination, as suggested by the plants just indicated, coming as it did at a time when so many considerations seemed to necessitate the abandonment of the position hitherto maintained, led to the unprecedented rush to combination which succeeded so closely upon the panic of 1893. It may, therefore, be useful to examine, somewhat in detail, the various objects which these combinations seek to accomplish, so that we may better understand their effects, and be able to discern the proper remedies of restrictions to be applied to them.

The minimizing of expenses, the elimination of waste, and the control of the market, are the ideals of the modern corporation.

In the operation of small, independent establishments the services of proprietors, managers, or

corporation officers are to be considered in connection with each, and the smaller the output, the greater will the relative cost of their salaries appear. Foremen or superintendents have also to be employed varying in number according to the size of the plant and the variety of the work to be done. It is seldom found possible to place these in charge of as large a number of men as they are capable of directing, and to just the extent that the service rendered falls short of their full capacity, are their salaries wasted to their employers. It is the same as though an ordinary mechanic would do only three-quarters of a day's work, and draw a full day's pay. Most of these establishments have also been obliged to close down for a longer or shorter period at least once a year, and it is usually necessary to retain these foremen or superintendents on the pay roll, thus creating another element of waste which must be made up by increasing the cost to the consumer of the manufactured article. In very large corporations or combinations, however, one set of officials will discharge the same duties which many were required to perform for the several smaller institutions which have been absorbed by it. Superintendents and foremen will be assigned to departments in which their capacities will be taxed to the utmost, and having secured a virtual control of a large percentage of the trade, the plants may be kept more steadily employed, thus eliminating, as far as possible, all waste in the directions just indicated.

Every business necessitates a certain amount of office work, such as bookkeeping, correspondence, billing, etc., which require the services of bookkeep-

ers, clerks, and stenographers, and as much of this work is the same whether the output be ten thousand or one million dollars per annum, it is apparent that the cost of office work is relatively much greater for small establishments than for large ones. As the numerous independent concerns engaged in a particular business are gathered into combinations or into huge corporations, the cost of office service is greatly reduced by dispensing with the several sets of books formerly required, and keeping but one set, which may comprehend the entire business transactions of the combination, and yet require the services of only one competent book-keeper and a few assistants, thus displacing most of the skilled accountants hitherto employed by the individual firms. The clerical work has also been systematized so that the amount formerly done in many offices can now be performed in one with a much smaller force of help, and the waste in office service has been reduced to a minimum.

In the competition of independent manufacturers the sale of their products has been chiefly effected by means of traveling salesmen who were employed to exhibit them throughout the country. The salaries paid to these men have usually been large, their hotel and railway expenses have been high, and while they seem to be a necessity of the system under which they were employed, yet their maintenance added materially to the cost of goods to the consumer. As these establishments unite into larger corporations and the competition between them disappears, the necessity for traveling salesmen likewise ceases to exist, and the saving of their salaries and expenses, alone, amounts to

an important item to the combination. The uniting of the competing firms compels the merchant to seek for the goods which he desires to purchase, so that with the services of a few salesmen, just sufficient to meet the convenience and necessities of the trade, the combination will be able to do just as much business as did its component parts, and the saving of this expense will be clear profit to the corporation. Mr. P. E. Dowe, President of the Commercial Travelers' National League, testifying before the Industrial Commission in 1899, estimated the amount saved in this way alone to have been one hundred fifteen million dollars per annum.

The rent account, or its equivalent, the interest to be charged on the capital invested in the buildings and grounds occupied, is always an important item in the expense of manufacturing establishments, and like most other things in business, the more space they require the cheaper it can be had. Thus, by merging a number of small concerns into one large corporation, it not only becomes practicable to use only large buildings at relatively small rental, but in most instances, the number of establishments may be reduced and many of the original plants abandoned. The rent account will therefore be greatly reduced, while the output will not thereby be necessarily diminished. In the Twelfth Census of the United States, Volume Seven, Manufacturers, Part One, it is shown that two thousand two hundred sixteen manufacturing plants were controlled by one hundred eighty-five industrial combinations, of which number one hundred seventy-

six were reported as idle during the census year. The cost of light, heat, ventilation, and power, will also be much less owing to the decrease in the number of buildings to be supplied, and the greater compactness and convenience of the space occupied by the work.

Where there are many concerns engaged in the manufacture of one particular line of goods, great ~~inequalities will always be found in the equipment of the several plants.~~ They were established at different times and each was, perhaps, at the time, provided with the best appliances of the day, but the natural tendency of those who have already invested large amounts of capital in their business, to resist the introduction of new machinery which would put them to still greater expense, coupled with the disposition to use the old as long as it can possibly be made to serve the purpose, generally results in a very wide difference in the productive power of the various plants at any one time. If all the establishments engaged in a given line of production were constantly to adopt all the new appliances that were proposed, the expense of doing so would be very great, and must temporarily, at least, add to the cost of manufacture; yet if any refused to go to that expense, they would be obliged to compete at a disadvantage, which must result in a reduction of their profits, and possibly in loss. In the case of a large corporation, however, in which all, or most of these concerns have been merged, only the best machinery would be retained, in the first place, and as improvements are introduced, the purchase of one set will often suffice to do the same work for which many would be required to be



provided under independent management. As we have before remarked, the lack of orders usually requires small factories to close down at more or less frequent intervals, which not only occasions a loss of the service of employees, but the loss of the use of the machinery as well; whereas in a large establishment, more steady employment makes it possible more nearly to get the full use of the machinery, and it therefore requires less to accomplish the same results.

In the production of heavy and bulky commodities, the location of the plant and the cost of transportation, both of the raw materials and of the finished products, have much to do with restricting the trade of an independent establishment to a limited section of the country; whereas a large combination operating several widely scattered plants may so distribute its orders that the goods may be manufactured in those factories most convenient to the place of delivery, thus reducing the item of freight charges to the minimum and securing a material advantage over its more distant competitors. Mr. John W. Gates, Chairman of the American Steel and Wire Company, testifying of the affairs of that company before the Industrial Commission in 1899, says: "The cross freight saving is quite an important item. I should think the cross freights would amount to half a million or one million dollars a year. It is a saving in that particular."

There is, perhaps, no fact more familiar to common experience in the mercantile world than that the larger the quantity of material required, the more favorable the terms on which they may be se-

cured. The advantages of purchasing in large quantities may in some measure be diminished in cases in which it is sought to exhaust the market, or where a monopoly has obtained control of the materials desired, but these are the exceptions and not the rule. The advantages to be derived from large purchases arise, in the first place, from the fact that the amount of capital involved in the transaction is sufficient to warrant the buyer in resorting to distant and even to foreign markets if need be, to secure more favorable rates. In the next place, the requirements of the business enable him to make contracts for large quantities of materials to be delivered at stated times in the future, thus securing regularity in the supply, and almost invariably obtaining lower prices; and finally as the scope of the establishment expands, it may even acquire and operate the sources from whence its raw materials are derived. This last arrangement would secure to it the benefit of all profits that might otherwise go to the dealers in crude products, and render it practically independent of all other considerations save the labor that it must employ, and the market in which it must sell. The United States Steel Corporation affords a conspicuous instance of the development of this feature of industrial economy, though others might be referred to. The small manufacturer, on the other hand, is ordinarily compelled to purchase in the local market. As his business is small and usually irregular, he cannot contract for any great quantity of materials in advance and is therefore frequently made the victim of his own necessities and obliged to purchase as it is required, regardless of the con-

dition of the market; and far from hoping to control the sources of his supplies, the smallness of his orders leaves him almost entirely at the mercy of the local producers.

A large combination or corporation with plenty of capital at its command can afford to adopt many means of advertising, and of introducing its wares that would be wholly beyond the reach of a smaller concern. The large volume of its business would in many instances enable it to secure special rates and favors from transportation companies, which would give it a material advantage over its competitors, and by reason of these, and the several economies possible to large scale production which we have just enumerated, it might easily undersell its smaller rivals. This it may do for a longer or shorter time according as its design may be to drive them out of business entirely, or merely to take away a certain portion of their trade; but in either case, it can readily place itself in a position to dictate prices.

The many advantages thus secured to combinations of manufacturing establishments enable them not only to control the home trade, but to invade the foreign markets as well, and to sell in every part of the world in competition with the older manufacturers of Europe. To secure these markets it has been necessary to expend large sums of money in sending agents to all parts of the world to introduce their goods, and to compete with the representatives of European houses, but our large corporations are already doing this, and that they are meeting with success in their efforts to find sale for their goods in foreign lands is amply at-

tested by the government records of the exports of manufactured articles from this country which amounted to \$403,890,763 in the year 1902.

A better appreciation of the rapidity with which this foreign trade has grown within the last few years may be derived from an inspection of some of the figures presented in the tables prepared for the Annual Review of the Foreign Commerce of the United States, and Summary Tables of Commerce and Production for the year ending June 30, 1902, by the Bureau of Statistics of the Treasury Department of the United States. The values of the principal articles of domestic manufacture, by classes, exported from the United States is there shown to have been as follows for the years indicated:

Iron and steel.....	1890.....	\$25,542,208
	1900.....	121,913,548
	1902.....	98,552,562
Copper .....	1890.....	2,349,312
	1900.....	57,852,960
	1902.....	41,218,373
Agricultural implements.....	1890.....	3,859,184
	1900.....	16,099,149
	1902.....	16,286,740
Wood manufactures.....	1890.....	6,509,645
	1900.....	11,232,838
	1902.....	11,617,690
Mineral oils, refined.....	1890.....	44,658,854
	1900.....	68,247,588
	1902.....	66,218,004
Chemicals, drugs, dyes, etc.....	1890.....	5,424,279
	1900.....	12,132,373
	1902.....	12,141,011
Leather, manufactures of.....	1890.....	12,438,847
	1900.....	27,293,010
	1902.....	29,798,323
Cotton manufactures.....	1890.....	9,999,277
	1900.....	24,003,087
	1902.....	32,108,362
Paraffin and paraffin wax.....	1890.....	2,408,709
	1900.....	8,602,723
	1902.....	8,858,844
Paper, and manufactures of.....	1890.....	1,226,686
	1900.....	6,215,833
	1902.....	7,312,030

It may also be seen from the same report that the total exports of domestic manufactures increased only twelve and eighty-one hundredths per cent. from 1877 to 1890, while during the period from 1890 to 1900 they increased one hundred eighty-seven and twelve hundredths per cent.

This remarkable showing of the development of the export trade of our American manufacturers would seem to afford the most convincing evidence that combinations have succeeded in effecting many of the results which they sought to accomplish through large scale production, and it will not be necessary to say anything further on that point.

## CHAPTER IV.

## FORMS OF ORGANIZATION.

THE foregoing considerations having led capitalists to look to combination as a hopeful means of securing larger profits, and having convinced them that the advantages offered were sufficient to warrant the trial of so new a system, the next thing to be inquired into was the form of organization to be adopted.

In considering the subject of organization, we might very properly begin our inquiry with the first combination formed between two individuals for the purpose of engaging in business or conducting some other enterprise which was beyond the capacity of either to undertake alone, for the modern corporation is merely the last stage yet attained in the development of that first union. The combination which we have now in mind, however, is that of a number of business units, many of which have long been established, and each of which had certain rights or interests which were sought to be preserved under the new form of organization. Among the concerns which sought to be consolidated, many were the property of individual proprietors, others were partnerships, and a large number were corporations. It had long been

the policy and purpose of the laws of many of the states to discourage and prevent the merger or affiliation of any kind between corporations, and this, together with the natural desire of proprietors to wish to retain the largest possible degree of control over their property, led them to seek to devise some form of organization which would preserve in the largest measure the identity of the uniting concerns.

The dominant idea in all the early attempts at combinations was, therefore, to secure united action, and control of a particular line of business, and at the same time causing the least possible interference with the affairs of the individual establishments engaged in it. The first and simplest form of organization attempted was that of the working agreement by which the several concerns engaged in a certain business undertook to maintain certain established prices or rates, or to conform to other regulations as to the conduct of their affairs. This left the management of the several establishments entirely in the hands of their proprietors, restricted only by the terms of the agreement, and in that respect fulfilled the ideal of the form of organization sought. These agreements, however, were in the nature of restraint upon trade, and odious to the law, and as they were likewise repulsive to the public, the fact of their existence was obliged to be kept secret, and it was difficult, therefore, to detect those who chose to violate their terms. As the conditions of these agreements were left to be performed by each of the members in connection with the conduct of the affairs of his private business, it is easy to suppose

that many yielded to the temptation to cut prices or otherwise to violate their provisions in order to secure the trade of some desirable customer. Since the aid of the courts could not be invoked to enforce these contracts, these combinations have been obliged to depend for their preservation upon the good faith of their members, and this has usually been found to be a very poor anchor upon which to depend in commercial affairs.

The great freedom of individual action allowed by this form of organization together with its inability to command the obedience of its members, soon made it apparent that this was not the form of organization required for great undertakings in which unity of purpose, and promptness and decision of execution were indispensable, and other modes of combination began to be sought.

\* The working agreement, however, is the simplest means of bringing together the numerous concerns engaged in any particular business, and as may be supposed, in spite of its many defects, it has been more frequently employed than any other. The ease with which these agreements may be effected even in defiance of the laws which seek to suppress them, renders them particularly convenient in those cases in which complete consolidation is not desired, for it is considered that even though individuals may at times disregard their provisions, yet in the main they will be adhered to, and many of the benefits of combinations may be secured.

While other and more perfect forms of organization have been devised, some of which have openly and successfully withstood the numerous assaults made upon them by those who regard combination



among industrial institutions as an unmitigated evil, the secret agreement has continued to be employed in many quarters, and is still the basis of a substantial union in many branches of trade in which no combination is generally supposed to exist. The officers representing an association of the coal mine operators of Indiana and Illinois were recently indicted for regulating the coal business in that way, and it was openly charged at the time that hundreds of similar associations and agreements might be found in connection with nearly every important line of trade.

The next mode of combination adopted was an agreement by which the market was apportioned between the several establishments, each being required to confine its trade within the territory assigned to it. In this form of organization, the combination assumed more direct control over its members than under the simple agreement, and while it was still unable to invoke the assistance of the courts, or to summarily enforce its commands, yet the transgressions of offenders might much more easily be detected and modes of punishment could be devised. The coal dealers' association, to which we have just referred, was said to have employed this form of regulation, also. The trade of a particular town or section of a city or of the country was allotted to a certain dealer, and all those who desired to purchase were obliged to resort to him, for the mine owners refused to sell their coal to any other dealers in the same territory. These agreements are, however, also illegal, and they will be speedily dissolved by the courts wherever their

existence can be proved. It is necessary, therefore, to preserve the strictest secrecy regarding them and their affairs, and this, together with the same objections which apply to the other class of agreements to which we have referred, serves to render them undesirable and unsatisfactory forms for permanent organization.

Y Another form of combination is that by which the business of the country, or of the district designed to be affected, is apportioned among the several parties to the agreement, a certain percentage being assigned to each according to its capacity, or other agreed mode of division. It differs from the form last shown in that it does not attempt to restrict the sphere of operation of the several establishments. It leaves each member free to conduct the details of his business in his own way, but requires him to bring the proceeds into a common fund from which each draws his allotted percentage, and the combination is called a pool. This form of organization has been most commonly employed among railroad companies, and the efforts to suppress it have given rise to much litigation. X It was also one of the chief factors which led to the establishment by Congress of the Interstate Commerce Commission for the purpose of preventing combinations and other abuses among the railroads. It is a form of this class of agreements which was shown by the testimony before the Industrial Commission to have existed between the members of the anthracite coal combination under which the exact percentage of the total tonnage which each road was to carry for the year was determined in advance, and by which the sell-

ing price of coal was fixed at regular meetings of the association.

A departure was now taken from the idea which had been adhered to in all forms of combinations heretofore attempted, of preserving the nominal independence of the respective establishments, and of securing to the individual proprietors a large degree of freedom in the management and control of their properties. It began to be recognized that much of the efficiency of combination must necessarily be lost through divided management, and that many of the economies which it sought to effect in production would be impossible under any system which seeks to continue the entire number of plants in operation. It was, therefore, proposed to place the control of the several properties in the hands of a few persons to be managed for the benefit of all. For this purpose a board of trustees was selected and the establishments were turned over to it, to be held and operated for the use of the real owners. This was precisely the same method of control which the law had for centuries recognized and approved for the management of the business, property, or estates of minors or others who were for any reason considered incapable of conducting their own affairs, differing from it only in the manner of the creation of the trust, which was in this instance by the acts of the beneficiaries themselves, instead of through the operation of law or the acts of third parties, as was generally the case. The trustees gave receipts to the several proprietors for the property turned over to them which were called trust certificates, and the earnings of the trusts were distributed among the holders of these

certificates in proportion to the value of the property represented by each. Thus the integrity of each of the constituent firms was preserved, although it was deprived of the active management of its business.

While there has been an endeavor to conceal by secrecy the existence of some trust, yet as a business organization, it was conceived for the purpose of assuming an independent and permanent stand among the industrial institutions of the country, and as such it has borne the brunt of a large share of the litigation which has been waged against industrial combinations during the last twenty years, and has made its name the commonly accepted expression for industrial combinations of every kind whether they partake of the trust form of organization or not.

The first and most important instance of this form of combination is that of the Standard Oil Trust, organized in January, 1882. It was a combination of a number of the principal oil refineries of the country, and the trust was formed for the purpose of securing a more permanent organization than that under which the same properties had been working together for ten or twelve years preceding that time. It continued to fight the battles of the combinations versus the people, and was the object of almost incessant litigation and the subject of numerous official investigations, until the year 1899 when it was reorganized into the Standard Oil Company of New Jersey. The Sugar Trust, organized 1887, and the Distillers' and Cattle Feeders' Trust organized in the same year, are the other two most familiar examples of industrial

trusts, and they have both since adopted the corporate form of organization. The operation of these trusts excited the fears and jealousies of the people, who vigorously assailed them in all parts of the country and the efforts to suppress them gave rise to the multitude of anti-trust statutes which have been adopted in nearly every State in the Union and by the National Government.

The vulnerable point in the trust form combination was that it preserved the identity of the uniting concerns, and merely combined them in a somewhat different manner to that effected by the various forms of agreement which had preceded it. It is this act of persons conspiring together, or combining for the purpose of regulating or controlling trade, which the law so strongly abhors, and the restrictions and limitations designed to prevent such concerted action soon became so numerous as to cause practical abandonment of the trust form of combination. X

All halfway measures were now thrown aside, the pride which attaches to the preservation of family name in connection with long established business was cast to the winds, the names of scores of firms, the reputation of which generations had labored to establish and maintain, were wiped out of existence and all became completely merged in a few great corporations. The constituent elements no longer preserved their distinctive identity, and the consolidation was complete. The very same interests were, it is true, again united under this new form of combination, but they no longer represented so many individual units of organization, each capable of a certain amount of independent

action and responsible to the people for their acts of association. They now began to throw aside every appearance of individual power and sought to organize corporations for the purpose of carrying on their business just as the most modest set of incorporators might do.

The new form of industrial combination which now began to supersede the trust was simply that of the private business corporation. Some special powers and privileges were accorded to it by the laws of a few states, but the general course of procedure and plan of organization was precisely the same as that pursued in the creation of the simplest business corporation. The properties of the older establishments were bought in by these corporations, some being paid for with stock in the new concerns, while others were paid for in cash. The new companies proceeded to conduct their business with all the freedom and confidence of institutions organized for purely legitimate purposes, with no apparent appreciation of the fact that they were pursuing the very same ends for which their predecessors had been condemned by law and declared to be illegal. These had been regularly created in the manner prescribed by law for the organization of business corporations, and as it made no difference in principle whether the promoters had formerly been engaged in the same business or not, or whether the properties acquired were entirely new or had hitherto belonged to the trusts, there appeared to be but little grounds for attacking these new combinations.

No means had been devised for discriminating between the good and the bad use of corporate

powers, or of determining to what extent they might be employed or by whom they may be exercised. The people were thus caught unprepared to cope with this new phase of combination, and while some of the courts were disposed to go behind the garb of regularity, and to make the motive the test of legality, the temporary lull in the legal warfare waged upon them was sufficient to cause a most wonderful increase in the number of these monopolistic corporations, and to give to combination a prestige and power which it had never before attained in the history of the industrial world.

The capitalization of these corporations has frequently been very great, the more important of them ranging from ten million to fifty million, a hundred million, and to one hundred fifty million dollars and upwards, and the extent of their influence among the industries of the country can in some measure be imagined from the amount of capital which they have had at their command. Among the more conspicuous examples of this class may be mentioned the three trusts to which we have already referred, the Standard Oil Trust, the Sugar Trust, and the Distillers' and Cattle Feeders' Trust, all of which are now important corporations though they do not occupy as prominent positions in this class as they did among trusts. A table giving the names of one hundred and eighty-five industrial combinations, all of which belong to this class, is elsewhere presented in this work.

These corporations have now come to be pretty generally recognized as a part of our industrial system and have established themselves with a reasonable degree of security in the position which

they now hold. Their efforts, however, to extend their power still further, and to include within a single management nearly every conceivable line of industry, have met with persistent opposition in some quarters especially in connection with their attempts to control the railway systems, and this has led to the development of still another form of combination.

This new organization of capital, which seems destined to control so large a share of the industrial interests of the country, is what is commonly known as a security holding corporation. It is organized in precisely the same way as any other business corporation, and differs from it only in this, that instead of directly conducting a regular business in the usual way, it merely proposes to hold the stocks of other corporations. Thus it may hold the controlling percentage of the stocks of many companies, which will entitle it to vote, and thereby elect its own officers and directors for each of these companies who will manage the business in the interest of the controlling corporation. These several establishments, which remain nominally independent, thus become merely the servants of the great central organization, while the new corporation which conducts no active operations of its own, and is apparently unimportant in the business world, is in reality the most successful means which has yet been devised for bringing together the varied interests of our industrial system.

The number of these organizations has been much less than those of the class last mentioned, but their capitalization has usually been very large.



The most important among them are the United States Steel Corporation, capitalized at one billion, four hundred and three million dollars, which in a large measure controls the iron and steel business of the United States, and the Northwestern Securities Company, with a capital of four hundred million dollars, which controls a number of the largest railroad systems of the country. The attitude of these combinations is that of a stockholder in many corporations which seeks to manipulate them so as to promote its own private interest, and while they are just as truly the owners of the various properties which they control as though they directly supervised the operation of them, and just as guilty of the charge of combining to regulate trade as the trust and other forms of combination which have preceded them, yet they appear to have evaded the provisions of the laws designed to prevent consolidation, and have thus far successfully withstood all attempts to disrupt them. They have already resulted in the greatest aggregation of private capital that the world has ever witnessed, and they mark the highest degree of perfection which has yet been attained in the development of industrial organization.

## CHAPTER V.

## POWERS AND EFFECTS OF MONOPOLIES.

MONOPOLY may be defined to be the unified control of the production, manufacture, sale, distribution, or use of a given commodity. ~~In its strict application the term means the absolute control;~~ but as it is most commonly used in relation to practical economics, it means the command of so large a percentage of the commodity as will enable it to exercise virtual control over the entire market, and concerns which have attained to this degree of power, and which have developed strong monopolistic tendencies, are usually spoken of as monopolies. It is, therefore, in this general sense that the term monopoly is used in this work, except where an absolute monopoly is expressly referred to.

Monopolies, more or less complete, have existed at various times and places throughout the history of civilization, and England in particular was for a long time sorely oppressed by them. The Crown, seeing in monopolies a fruitful source of revenue, both for itself and its favorites, gave them out with a lavish hand, until nearly every article of daily consumption, including the merest necessities of life, was controlled by private mon-

opolists. Great abuse was made of the powers thus granted to individuals, and the people were driven to such desperation in their resistance to the unjust oppression, that the Crown, in order to save its prerogative from being entirely swept away by a popular revolt of the common people, began to recall the most obnoxious of these grants as an act of gracious clemency to its subjects, and the others were later modified or removed entirely.

The people have always regarded monopoly as being one of the greatest enemies of their liberties, and as we have before remarked, the common law has for centuries looked with disfavor upon all agreements made in restraint of trade, and has done all in its power to prevent the growth of monopolies, and to limit by strict construction the effects even of those which have existed by virtue of special grants or royal favor. In consequence of this deep-rooted public opinion and popular antagonism to monopolies, they have been almost unknown in this country until within the last few years, and their power and effects for good or for evil have not yet been clearly demonstrated to the satisfaction of our people. The operations of those concerns which have recently attained to the position of practical monopolies, have been so far held in check by competition, have been so involved in their relations with common carriers and other concerns, and have so recently begun to engage the serious attention of the public, that the ultimate effects of their successful establishment and development are still matters of mere speculation in the minds of our shrewdest business men and statesmen.

Discussion of

The powers of monopoly are very great and numerous, both for good and for evil.

A corporation or combination having monopoly, or the practical control of a given commodity, may in the first place regulate its production and distribution. It requires no discussion to show that such a monopoly may elect either to operate its plants to their full capacity or to close them down at will, and thus to regulate the quantity of the product which shall be available for the market, and it is equally clear that having it in its power to control the supply, it will be certain to exercise that power whenever it finds it to its interest to do so. It is well understood that the supply is one of the chief factors in the regulation of the price of any commodity, and since high prices usually mean increased profits to monopolists, the conclusion seems unavoidable that they will make free use of their power to control production if allowed to do so. That they have exercised this power would seem to be amply attested by the agreement entered into between the members of the Whiskey Trust to limit the production of whiskey during a given time, and between the members of the Standard Oil Trust to limit the production of oil, both of which are frequently cited as instances of the restriction of production by monopolies. ~~But a more recent~~ example of the exercise of this power, and one that has perhaps been more directly felt by the people at large and with which they are therefore more familiar, is the restriction of the production of coal by the Anthracite Coal Combination. There has long been a well founded conviction in the minds of the people that the sell-

ing price of coal has been arbitrarily fixed by this combination regardless of the cost of production; but perhaps a more clearly defined understanding of the situation, and at the same time a more authoritative statement of the conditions as they really exist, may be found in the testimony given before the United States Industrial Commission: A commission established by Congress in 1898 to inquire into, and to report upon, industrial combinations and their effects upon capital, agriculture and labor.

Mr. John Mitchell, President of the United Mine Workers of America, testifying before the Industrial Commission, July, 1901, declares: "The anthracite coal railroads and mines are being rapidly concentrated in the hands of a few companies. Ninety per cent. of the coal is already owned by seven railroads, and this is fully fifteen per cent. more than they owned before the strike of 1900. Many of the largest independent companies have recently sold out to the railroads and the witness believes that soon the railroads, financed by the Morgan interests, will own absolutely all of the anthracite coal."

Mr. Benjamin James, testifying in April, 1899, says: "The prices of anthracite coal are now being regulated, and the amount of the output for each year and for each mine is limited, by the Anthracite Coal Operators' Association."

It is equally apparent that a combination or monopoly which has the power to control the quantity of a given commodity which shall be produced for the market, may also, in a large measure at least, regulate the quality of that commodity. ✓

This was early recognized as being one of the evils which would result from the establishment of a monopoly, and the experience of the people during the reign of monopolies which held sway for a considerable time during the reign of Queen Elizabeth of England, and which is very vividly and forcibly described in Mr. Hume's "History of England," would seem to have established the gravity of this evil beyond a doubt, for we find it laid down in the case of Darcy versus Allein, reported by Lord Coke, which was decided in the English courts in the last year of the reign of Queen Elizabeth, just three hundred years ago, as being one of the three chief evils of monopoly. These evils are there enumerated, in brief, as follows: "First, that the price of the same commodity will be raised, for he who has the sole selling of any commodity may well make the price as he pleases. Second, the incident to a monopoly is that after the monopoly is granted, the commodity is not so good and merchantable as it was before; for the patentee, having the sole trade, regards only his private benefit, and not the common wealth. Third, it tends to the impoverishment of divers artificers and others who before, by the labor of their hands in their art or trade, had maintained themselves and their families, who will now of necessity be constrained to live in idleness and beggary."

It is not so easy to point to well-established instances of the abuse of the power of monopolies to regulate the quality of their products as in the control of their quantity, for the production of inferior goods always partakes of the nature of a fraud upon the public and is therefore more difficult to

prove beyond dispute; but in the case of public service monopolies, such as railways, telegraph, telephone, gas and electric light plants, street railways, water works, etc., it is a matter of general knowledge that the service rendered in localities in which they have an absolute monopoly is often very inferior to that which is provided at points where competition is active.

It is undoubtedly true that the same care is not so likely to be taken to preserve the excellence of the goods manufactured in cases in which a complete monopoly has been established, and that the same stimulus to improve the quality of their products which impels competitors to adopt the latest and most improved methods and appliances, would in a large measure be lost. On the other hand, it is equally true that the necessity for striving to undersell competitors, which is the chief incentive to adulteration and the production of inferior products, is removed; and, having control of the market, it is in a position to command its own prices, and should, therefore, be more willing and able to produce a good grade of goods. We already have state and national statutes regulating and prohibiting the adulteration of food and other products, and it would seem that, with perhaps some extension of their scope, a thorough application of the provisions of these statutes might do much to minimize the evil effects of the exercise of this power by combinations.

Possessing the power to regulate production and to restrict or expand the supply of a commodity, monopoly can, therefore, control prices; for price, meaning as it does, the amount which the public

is willing to pay for a given article at a given time, is always governed by the available supply of the article in the market, and the number of persons who desire to purchase it; and whoever, therefore, can control either the supply or the demand, can fix the price.

This power, as we have just seen in the case reported by Lord Coke, was also early recognized as being one of the chief powers for evil which pertained to monopoly, and the three hundred years which have since elapsed have merely served to confirm the truth of the position then taken by the English courts, and to multiply examples of the exercise of the power of monopolies.

Other monopolies which do not enjoy the exceptional advantages possessed by the coal combination, owning directly the means of transportation as well as a controlling percentage of the coal to be transported, have also resorted to the expedient of reducing prices in order to cripple or destroy competition. These in many instances have formed alliances with the railway companies serving substantially the same purposes as owning them outright, while others rely upon their great financial resources to enable them to outlast and to ruin their competitors. A most remarkable instance of the extent to which these alliances between great corporations and the railroads have been carried, ~~is~~ <sup>was</sup> presented by the agreement entered into between the Standard Oil people and the railroads, which was brought out in a congressional investigation in 1872. By this contract the railroads not only undertook to charge the independent refiners



double the rates charged the Standard Oil people for the transportation of their oil, but agreed to pay over the amount so collected in excess of the regular rates to the Standard Oil people.

The contest between the Standard Oil Trust and the independent refiners affords one of the best known examples of the efforts of a would-be monopoly to destroy competition by reducing prices, and it is very nicely described by Mr. Byron W. Holt in an article in the "American Monthly Review of Reviews" for June, 1899, as follows: "Unable to obtain fair treatment from railroads, the independent refiners in 1878 and 1879, with a capital of five million dollars, constructed the Tidewater Pipe Line Company. Immediately the railroads reduced their rates on oil from \$1 per barrel to 80 cents, to 30 cents, to 10 cents, and at last, as the general freight agent of one of the roads stated, to a rate that would not pay for wheel grease. The Tidewater Pipe Line Company survived the many attacks until 1883, when it was gobbled up by the trust." Another familiar instance of this method of enforcing the dictation of large concerns upon the smaller ones is found in the frequent rate wars between competing railway lines.

Having thus established the ability of monopolies to so reduce prices as to compel obedience to their dictation by those of their competitors who are permitted to remain in the business, it requires no further discussion to show that, having secured control of the market, it may advance prices sufficiently high, at least, to yield excessive profits to itself, and to unduly oppress the con-

sumer. The Standard Oil Trust again affords us an example of the exercise of this power, for after maintaining ruinous prices until it secured control of the market, it then raised prices to such an extent as to yield profits ranging from twelve per cent. per annum in 1894, to forty-eight per cent. per annum in 1901, as shown by the table of the earnings of that company printed in another chapter. It may be that there is a point beyond which prices cannot be raised without attracting new competitors into the business, but the experience of the Standard Oil Trust proves that millions of dollars of unearned profits may be collected from the people before this remedy can prove effective in checking the power of the monopolist.

The theory has been advanced by one of the best known economists of our day that there is always a certain price in every business which may be designated the monopoly price, at which the greatest number of persons are able and willing to purchase, and at which the fixed charges will be smallest in proportion to the amount of sales, and which, therefore, yields the largest possible net profit to the producer; that if prices are raised above this point, the sales will diminish more rapidly than the profits will be increased by the higher prices charged; while if prices be reduced below that point, the increase in the sales will not be sufficient to counteract the proportionate increase in the fixed charges, and that if combinations are left to themselves, they will eventually fix prices at this point of greatest return. Tables have been prepared with much care to illustrate

the natural law of gravitation of prices to this point of equilibrium, but it appears that industrial combinations had not yet sufficiently developed to afford the writer practical examples of the application of his theory, and natural monopolies such as street car companies, etc., which had long enjoyed monopolistic privileges, appear to be the only instance in which we might reasonably expect to see the principle exemplified.

It may be true that there is such an ideal price to be found in business if those engaged could be induced to seek for it, and to be content with it when found, but it is also true that corporations as well as individuals will ever be found reluctant to reduce prices which have once been established, in the belief that by sacrificing present profits they may hope to secure larger returns in the future; and if the public is to be protected from excessive overcharges by monopolies, which according to many authorities amounts to 66 2-3 per cent. in the case of street car fare, some more powerful influence than the mere automatic working of an economic principle must be invoked to arrest the hand of greed.

The power of monopolies to control prices having now, we believe, been made sufficiently apparent, let us inquire what use are they likely to make of it. The Standard Oil Trust, the Sugar Trust, the Anthracite Coal Combination, and the Whiskey Trust, are about the only important members of their class that have been in operation long enough to afford much of a foundation for judgment as to what the effect of combination on prices really has been. They, being the pioneers

in the combination movement, <sup>had</sup> have been so fiercely assailed by the courts, by the press, by public sentiment, by politicians, and by competitors; <sup>had</sup> have existed under so many varying conditions, and been obliged to change their form of organization so many times, that it is doubtful whether their effect upon prices during the past ~~fifteen or twenty years~~ will afford any true clue to what their effect will be during the next fifteen years under the new and seemingly almost unassailable form of organization, and that with a host of allies in a field which appears to be nearly cleared of all effective opposition. Numerous tables showing the prices of oil, sugar, and whiskey, at frequent intervals during the last fifteen or twenty years, have been prepared and published, but they fail to afford any convincing evidence of the effect of combination on prices. The general conclusion ~~derived from an examination of these tables appears to be~~ that prices have been a little higher during the periods in which the trusts were more nearly in complete control of the market than they were at other times. We find, however, nothing in them that would seem to warrant ~~us in~~ drawing any definite conclusions, <sup>or</sup> which would be of any material service to ~~us in~~ pursuing our investigation of the subject. <sup>these operations</sup>

<sup>be</sup> We believe that the only true key to the correct understanding of the purpose and ultimate effects of combinations and monopolies is to be found in the study of the nature of the organizations, and of the character of the individuals who compose them. The men who organize and control these large monopolistic corporations are men

who have devoted their lives to the acquisition of wealth and whose experience and training have all been calculated to fit them to drive the shrewdest bargains, and to secure the largest possible profit upon every dollar invested. Their sole purpose in organizing these corporations is to secure greater profits than they can hope to secure through their individual efforts.

Every individual, no matter how engrossed he may be in the strife for gain, is more or less influenced by feelings of social and moral obligation and restraint, and is liable at times to be swerved from the strict path of profit seeking and led to yield a point to considerations of charity or humanity, but not so with a corporation. Its officers feel no moral responsibility for the acts which they perform in the name of the corporation; they are limited in powers and responsibilities, and distress may plead in vain for mercy to the average corporation official, only to be informed that the rules of the corporation will not permit him to grant the relief sought; and the larger and more powerful a corporation grows, the less sentimental it becomes. Profit is its purpose, the statute book its conscience, and it knows no higher law or motive.

It is frequently claimed by the friends of combination that its purpose is not to raise prices but merely to steady them and to do away with ruinous competition. But if, as seems to be the case, by steadying prices they mean to preserve any given set of rates and to prevent the gradual reduction in prices which should naturally follow the continual improvements which are being made in the methods of production and manufacture, it

is virtually the same as if they had openly avowed their purpose of raising prices.

Such being the purpose of its creation, having such skillful talent to direct it, and enjoying such freedom from moral or human restraint, what use can we reasonably expect a monopolistic corporation to make of its powers except to secure the largest possible profits for itself? It is dictated by the natural instincts of human nature; it was practiced with relentless severity centuries ago when monopolies controlled the industries of England; the general course of prices of all articles which have been largely controlled by trusts during recent years, coupled with the stubborn resistance with which trusts and monopolies have met every effort to limit their power, sufficiently indicates that such has been the purpose of the trusts of recent years; the prevailing high prices of articles controlled by combinations at the present time make it clear that there is no disposition on the part of the monopolies of to-day to give the public the benefit of the increased facilities for production and distribution, and there appears to be nothing to indicate that the same purpose will not continue to be the prevailing policy of the monopolistic corporations of the future.

We here present a section of a number of tables prepared by Professor Jenks for the Department of Labor of the United States, and published in the Bulletin Department of Labor No. 29, July, 1900, showing the monthly prices of a number of the leading articles controlled by combination for the years 1897, 1898 and 1899. We have merely reproduced the last three years of the tables be-

lieving that this is a sufficient length of time to afford a general idea of the range of prices. It will also be seen, from the notes accompanying the tables, that many of the combinations referred to were organized some years prior to the period covered by the tables, while others were formed during that time, thus enabling the reader to note the effect upon prices of the transition from competition to combination, and to compare the fluctuation in the prices thus effected with that of the price of articles controlled by combinations which had been long established or which had not yet been subjected to such control.

We are told that the great advance in the price of many of the articles shown in these tables cannot be wholly charged to the effect of combination, and that much of it is due to the increased cost of raw materials, but we wish to call attention to the fact that, particularly in the iron and steel industries, the raw materials are largely controlled by the same combinations that control the finished products, and that whether the increased cost is due to the one or the other, it all goes into the same treasury, and amounts to the same thing in the end. And, while some portion of this enhanced price may doubtless be due to a normal increase in value of all kinds of property, there can be no reasonable doubt that a large part of the enormous increase in prices, which resulted immediately upon organization of the combinations controlling the production of iron and steel and their products, must be directly due to the power of combination; also that in the absence of special circumstances, it would seem that any general increase in prices

that might be due to improved business conditions would be pretty generally reflected all along the line, and that any very considerable increase in prices in excess of this general average might be fairly charged to combinations if they have acquired control of the product.



# Trusts and Monopolies.

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## MONTHLY PRICES OF CORN MEAL, OATMEAL, ETC., AND THE MATERIALS ENTERING INTO THEIR MANUFACTURE, 1897 TO 1899.

(The combination manufacturing a large quantity of these products was organized in June, 1891.)

Year and month.	Products.		Mate- rial. Corn, No. 2, cash, per bushel.	Products.	
	Corn meal, white, per 196 pounds.	Corn meal, yellow, per 196 pounds.		Oat- meal per 200 pounds.	Rolled oats per 180 pounds.
1897.					
January .....	\$1.95	\$1.65	\$0.2256	\$4.25	\$3.50
February .....	1.60	1.45	.2250	3.65	3.25
March .....	1.60	1.40	.2375	3.40	3.00
April .....	1.60	1.40	.2419	3.40	2.90
May .....	1.70	1.45	.2425	3.30	2.90
June .....	1.70	1.45	.2444	3.20	2.75
July .....	1.70	1.40	.2644	3.20	2.75
August .....	1.95	1.60	.2937	3.40	3.00
September .....	2.00	1.85	.2962	4.40	4.00
October .....	2.00	1.80	.2650	3.40	3.00
November .....	1.85	1.70	.2669	3.40	3.00
December .....	1.85	1.70	.2625	3.40	3.00
1898.					
January .....	1.85	1.70	.2713	3.60	3.25
February .....	1.85	1.65	.2894	3.75	3.35
March .....	1.95	1.75	.2894	3.90	3.50
April .....	1.95	1.75	.3206	4.00	3.60
May .....	1.95	1.80	.3469	4.20	3.85
June .....	2.05	2.00	.3362	4.10	3.70
July .....	2.05	1.75	.3362	3.90	3.50
August .....	2.15	1.80	.3175	3.70	3.30
September .....	2.00	1.70	.3025	3.70	3.25
October .....	2.00	1.70	.3081	3.00	3.20
November .....	2.00	1.70	.3306	3.60	3.20
December .....	2.00	1.95	.3556	3.70	3.30
1899.					
January .....	2.05	2.00	.3668	3.70	3.30
February .....	2.05	2.00	.3525	3.90	3.50
March .....	2.15	2.10	.3456	4.15	3.65
April .....	2.15	2.10	.3462	3.90	3.45
May .....	2.05	1.80	.3344	3.85	3.45
June .....	2.15	2.10	.3438	3.80	3.40
July .....	2.15	2.10	.3294	3.90	3.40
August .....	2.15	2.10	.3175	3.90	3.40
September .....	2.10	2.10	.3313	4.00	3.60
October .....	2.10	2.10	.3200	4.55	4.15
November .....	2.10	2.05	.3200	4.65	4.25
December .....	2.10	2.05	.3075	4.30	3.90

## MONTHLY PRICES OF CORN MEAL, OATMEAL, ETC.

Year and month.	Material— oats, No. 2, cash, per bushel.	Product— pearl barley, per pound.	Material— barley, No. 3, per bushel.
1897.			
January	\$.016 3-8	\$.01 3-8	.2940
February	.16 1-8	.01 3-10	.2859
March	.16 1-2	.01 1-4	.2813
April	.17 1-8	.01 1-8	.2925
May	.17 2-3	.01 1-8	.2987
June	.18 1-8	.01 1-8	.2988
July	.17 1-2	.01 1-7	.3090
August	.18 1-6	.01 1-4	.3245
September	.19 4-5	.01 2-5	.3813
October	.18 3-4	.01 3-8	.3518
November	.20 7-8	.01 5-8	.3919
December	.22 2-5	.01 1-2	.3555
1898.			
January	.22 3-4	.01 1-2	.3238
February	.25 1-2	.01 3-8	.3387
March	.25 4-5	.01 2-5	.3737
April	.28 2-5	.01 1-2	.4125
May	.29	.01 5-8	.4675
June	.23 3-4	.01 3-4	.3575
July	.23 3-8	.01 5-8	.3310
August	.21 3-8	.01 1-2	.3687
September	.21 3-10	.01 5-8	.3660
October	.23 1-4	.01 3-4	.3850
November	.26	.01 7-8	.4313
December	.26 7-8	.02	.4520
1899.			
January	.27	.01 9-10	.4656
February	.27 3-5	.01 9-10	.4581
March	.26 1-2	.01 9-10	.4485
April	.26 4-5	.01 3-4	.4412
May	.25 7-12	.01 3-4	.3912
June	.25 1-4	.01 3-4	.3817
July	.23 3-4	.01 3-4	.3910
August	.20 3-5	.01 3-4	.3713
September	.22 1-8	.01 5-8	.4005
October	.22 3-4	.02 1-10	.4162
November	.23 1-4	.02 1-4	.4016
December	.22 3-5	.02 1-4	.3890

# Trusts and Monopolies.

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## MONTHLY PRICES OF WHEAT AND RYE FLOUR, AND THE MATERIALS ENTERING INTO THEIR MANUFACTURE, 1897 TO 1899.

(The combination manufacturing a large quantity of these products was organized in June, 1891.)

Year and month.	Flour, spring wheat, pat- ent process, per barrel.	Products. Flour, good spring supers low grade, per barrel.	Flour, medium to choice win- ter wheat, per barrel.
1897.			
January .....	\$4.27	\$1.70	\$4.32
February .....	4.13	1.57	4.15
March .....	4.05	1.48	4.10
April .....	3.98	1.47	4.09
May .....	4.09	1.47	4.44
June .....	3.85	1.44	4.05
July .....	3.93	1.44	4.96
August .....	4.65	1.74	4.33
September .....	5.28	2.00	4.78
October .....	4.89	1.96	4.68
November .....	4.75	1.78	4.44
December .....	4.61	1.75	4.30
1898.			
January .....	4.59	1.67	4.33
February .....	4.84	1.77	4.45
March .....	4.89	1.95	4.40
April .....	5.12	2.04	4.49
May .....	6.66	2.56	6.15
June .....	5.19	2.12	4.90
July .....	4.48	1.62	3.96
August .....	4.17	1.52	3.36
September .....	3.53	1.50	3.11
October .....	3.49	1.55	3.14
November .....	3.48	1.65	3.15
December .....	3.37	1.65	3.20
1899.			
January .....	3.46	1.68	3.40
February .....	3.55	1.65	3.50
March .....	3.47	1.52	3.30
April .....	3.45	1.48	3.19
May .....	3.52	1.50	3.22
June .....	3.60	1.58	3.30
July .....	3.52	1.57	3.22
August .....	3.50	1.52	3.16
September .....	3.55	1.53	3.21
October .....	3.55	1.62	3.29
November .....	3.42	3.42	3.20
December .....	3.38	1.52	3.10

## MONTHLY PRICES OF WHEAT AND RYE FLOUR.

Year and month.	Material— wheat, No. 2, cash, per bush.	Product— rye flour, good to choice, per barrel.	Material— rye, No. 2, in store, per bush.
1897.			
January .....	\$0.77	\$2.65	\$0.3708
February .....	.74 1-2	2.31 1-4	.3390
March .....	.73 1-2	2.22 1-2	.3337
April .....	.72	2.22 1-2	.3310
May .....	.72 1-4	2.30	.3425
June .....	.70	2.18	.3337
July .....	.73 1-4	2.23	.3627
August .....	.88	2.55	.4600
September .....	.92 1-2	3.30	.4987
October .....	.90	2.94 1-2	.4608
November .....	.92 1-4	2.97 1-2	.4747
December .....	.96	2.82 1-2	.4640
1898.			
January .....	.99 1-2	2.70	.4525
February .....	1.01 1-2	2.80	.4853
March .....	1.03 1-4	2.75	.4931
April .....	1.12 1-4	2.96 1-2	.5320
May .....	1.51	3.78 3-4	.6624
June .....	.97 1-2	2.96 1-4	.4487
July .....	.76 4-5	2.60	.4555
August .....	.70 1-4	2.51 1-4	.4378
September .....	.65 1-4	2.43	.4543
October .....	.66 1-12	2.64	.4916
November .....	.67	2.78 3-4	.5131
December .....	.66 1-4	2.85	.5375
1899.			
January .....	.71 1-4	2.97 1-2	.5594
February .....	.72 1-12	3.00	.5577
March .....	.70 1-4	2.79	.5387
April .....	.73 1-4	2.80	.5565
May .....	.73 9-10	2.88	.6012
June .....	.75 1-4	2.91 1-2	.5927
July .....	.72	2.82 1-2	.5504
August .....	.71 3-4	2.63	.5343
September .....	.72 1-4	2.79	.5595
October .....	.71 5-12	2.91	.5569
November .....	.68 1-4	2.83	.5247
December .....	.66 3-4	2.79	.5045

# Trusts and Monopolies.

## MONTHLY PRICES OF CRACKERS AND THE MATERIALS ENTERING INTO THEIR MANUFACTURE, 1897 TO 1899.

(The combination controlling 60 per cent. of these products was organized in February, 1898.)

Year and month.	Products.		
	Soda crackers, XXX, per pound.	Soda crackers, standard, per pound.	Ginger snaps, XXX, per pound.
1897.			
January .....	\$0.06	\$0.06	\$0.08
February .....	.05 1/2	.05 1/2	.07
March .....	.05 1/2	.05 1/2	.07
April .....	.05 1/2	.05 1/2	.07
May .....	.05 1/2	.05 1/2	.07
June .....	.05 1/2	.05 1/2	.07
July .....	.05 1/2	.05 1/2	.07
August .....	.05 1/2	.05 1/2	.07
September .....	.05 1/2	.05 1/2	.07
October .....	.05 1/2	.05 1/2	.07
November .....	.05 1/2	.05 1/2	.07
December .....	.06	.06	.08
1898.			
January .....	.06 1/2	.06 1/2	.08
February .....	.06 1/2	.06 1/2	.08 1/2
March .....	.06 1/2	.06 1/2	.08 1/2
April .....	.06 1/2	.06 1/2	.08
May .....	.07	.07	.08
June .....	.07 1/2	.07	.08 1/2
July .....	.06 1/2	.06 1/2	.07 1/2
August .....	.06 1/2	.06 1/2	.07 1/2
September .....	.06 1/4	.06 1/4	.07 1/2
October .....	.06 1/4	.06	.07 1/2
November .....	.06	.06	.07 1/2
December .....	.06	.06	.07 1/2
1899.			
January .....	.06	.06	.07 1/2
February .....	.06	.06	.07 1/2
March .....	.06	.06	.07 1/2
April .....	.06	.06	.07 1/2
May .....	.06	.06	.07 1/2
June .....	.06	.06	.07 1/2
July .....	.06	.06	.07 1/2
August .....	.06	.06	.07 1/2
September .....	.06	.06	.07 1/2
October .....	.06 1/2	.06	.07 1/2
November .....	.06 1/2	.06	.07 1/2
December .....	.06 1/2	.06	.07 1/2

## MONTHLY PRICES OF CRACKERS.

Year and month.	Flour, spring wheat, patent process, per bar- rel.	Materials. Flour, good spring su- pers, low grade, per bar- rel.	Flour, medium to choice winter wheat, per bar- rel.	Lard, steam refined, per 100 pounds.
1897.				
January .....	\$4.27	\$1.70	\$4.32	\$3.90
February .....	4.13	1.57	4.15	3.85
March .....	4.05	1.48	4.10	4.13
April .....	3.98	1.47	4.09	4.17
May .....	4.09	1.47	4.44	3.92
June .....	3.85	1.44	4.05	3.60
July .....	3.93	1.44	3.96	4.05
August .....	4.65	1.74	4.33	4.47
September .....	5.28	2.00	4.78	4.61
October .....	4.89	1.96	4.68	4.37
November .....	4.75	1.78	4.44	4.23
December .....	4.61	1.75	4.30	4.33
1898.				
January .....	4.59	1.67	4.33	4.72
February .....	4.84	1.77	4.45	5.02
March .....	4.89	1.95	4.40	5.19
April .....	5.12	2.04	4.49	5.28
May .....	6.66	2.56	6.15	6.23
June .....	5.19	2.12	4.90	5.87
July .....	4.48	1.62	3.96	5.46
August .....	4.17	1.52	3.36	5.20
September .....	3.53	1.50	3.11	4.91
October .....	3.49	1.55	3.14	4.89
November .....	3.48	1.65	3.15	4.93
December .....	3.37	1.65	3.20	5.20
1899.				
January .....	3.46	1.68	3.40	5.59
February .....	3.55	1.65	3.50	5.54
March .....	3.47	1.52	3.30	5.28
April .....	3.45	1.48	3.19	5.21
May .....	3.52	1.50	3.22	5.09
June .....	3.60	1.58	3.30	4.98
July .....	3.52	1.57	3.22	5.24
August .....	3.50	1.52	3.16	5.19
September .....	3.55	1.53	3.21	5.21
October .....	3.55	1.32	3.29	5.41
November .....	3.42	1.60	3.20	5.08
December .....	3.38	1.52	3.10	5.26

# Trusts and Monopolies.

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## MONTHLY PRICES OF ONE LEADING BRAND EACH OF CHEROOTS, CIGARETTES, AND SMOKING TO- BACCO, AND THE MATERIALS ENTERING INTO THE MANUFACTURE OF EACH,

(The combination controlling the greater proportion of these products was organized in 1890.)

Year and month.	Cheroots.		Cigarettes.		Smoking tobacco.	
	Product—less in- ternal revenue tax, per 1,000.	Material — leaf tobacco per lb.	Product—less in- ternal revenue tax, per 1,000.	Material — leaf tobacco, per lb.	Product—less in- ternal revenue tax, per pound.	Material — leaf tobacco, per lb.
1897.						
Jan....	\$9.25	\$0.1328	\$2.92	\$0.1089	0.20	\$0.0313
Feb. ....	9.25	.1384	2.92	.1083	.20	.0316
March ..	9.25	.1317	2.92	.1077	.20	.0317
April ...	9.25	.1211	3.30	.1071	.20	.0317
May ....	9.12 ½	.1206	2.92	.1053	.20	.0318
June ...	9.00	.1211	2.92	.1058	.20	.0317
July ....	9.00	.1200	2.96	.1057	.20	.0317
Aug. ....	9.00	.1177	2.71	.1015	.20	.0317
Sept ....	9.00	.1239	2.42	.1034	.20	.0352
Oct ....	9.00	.1222	2.42	.1052	.20	.0386
Nov. ....	9.00	.1228	2.42	.1058	.20	.0414
Dec ....	9.00	.1272	2.50	.1063	.20	.0425
1898.						
Jan ....	9.00	.1339	2.70	.1064	.20	.0431
Feb. ....	9.00	.1288	2.70	.1063	.20	.0438
March ...	9.00	.1299	2.70	.1063	.20	.0448
April ...	9.00	.1322	2.70	.1062	.20	.0450
May ....	9.00	.1328	2.70	.1061	.20	.0466
June ...	8.32 ½	.1333	2.45	.1061	.20	.0470
July ....	7.65	.1305	2.20	.1062	.22	.0473
Aug. ....	7.65	.1333	2.20	.1061	.22	.0472
Sept. ....	7.65	.1378	2.20	.1055	.22	.0508
Oct ....	7.65	.1395	2.20	.1043	.22	.0502
Nov. ....	7.65	.1488	2.20	.1040	.22	.0498
Dec. ....	7.65	.1538	2.20	.1047	.22	.0498
1899.						
Jan. ....	7.65	.1428	2.20	.1051	.22	.0498
Feb. ....	7.65	.1417	2.20	.1052	.22	.0498
March ...	7.65	.1217	2.20	.1053	.22	.0496
April ...	7.65	.1367	2.20	.1053	.22	.0495
May ....	7.65	.1244	2.20	.1053	.22	.0495
June ....	7.65	.1177	2.20	.1054	.22	.0495
July ....	7.65	.1200	2.20	.1054	.23	.0496
Aug. ....	7.65	.1317	2.20	.1054	.23	.0496
Sept. ....	7.65	.1277	2.20	.1026	.23	.0532
Oct. ....	7.65	.1350	2.20	.1032	.23	.0536
Nov. ....	7.65	.1362	2.20	.1023	.23	.0542
Dec. ....	7.65	.1516	2.20	.1024	.23	.0544

MONTHLY PRICES OF LAGER BEER AND THE MATERIALS ENTERING INTO ITS MANUFACTURE.

(The combination manufacturing a large quantity of this product was organized in August, 1898.)

Year and month.	Product.		Materials.				
	Lager beer—per barrel.	Hops — choice New York, per pound.	Hops— New York, per pound.	Hops— New York, per pound.	Hops— Wash- ington and Ore- gon, per pound.	Corn, No. 2, per bush.	Barley No. 3, per bushel.
1897.							
Jan. ....	\$5.00	\$.14	\$.10	\$.14	\$0.2256	\$0.2940	
Feb. ....	5.00	.13	.10	.14	.2250	.2859	
March .....	5.00	.12	.08	.13	.2375	.2813	
April .....	5.00	.10	.07	.12	.2419	.2925	
May .....	5.00	.10	.06	.12	.2425	.2987	
June .....	5.00	.07			.2444	.2988	
July .....	5.00	.09	.06	.12	.2644	.3090	
Aug. ....	5.00	.08	.06	.12	.2937	.3245	
Sept. ....	5.00	.10	.05	.09	.2962	.3813	
Oct. ....	5.00	.18	.07	.12	.2650	.3518	
Nov. ....	5.00	.18	.12	.17	.2669	.3919	
Dec. ....	5.00	.18	.12	.18	.2625	.3555	
1898.							
Jan. ....	6.00	.18	.12	.18	.2713	.3238	
Feb. ....	6.00	.19	.15	.17	.2894	.3387	
March .....	6.00	.18	.14	.16	.2894	.3737	
April .....	6.00	.17	.13	.16	.3206	.4125	
May .....	6.00	.16	.12	.14	.3469	.4675	
June .....	6.00	.14	.10	.13	.3237	.3575	
July .....	6.00	.12	.09		.3362	.3310	
Aug. ....	6.00	.12	.09	.10	.3175	.3687	
Sept. ....	6.00		.07	.10	.3025	.3660	
Oct. ....	6.00				.3081	.3850	
Nov. ....	6.00	.19	.15	.19	.3306	.4313	
Dec. ....	5.00	.19	.15	.19	.3556	.4520	
1899.							
Jan. ....	5.00	.18	.12	.18	.3668	.4656	
Feb. ....	5.00	.17	.10	.18	.3525	.4581	
March .....	5.00	.17	.12	.18	.3456	.4485	
April .....	5.00	.16	.10	.18	.3462	.4412	
May .....	5.00	.16	.10	.18	.3344	.3912	
June .....	5.00	.16	.12	.18	.3433	.3817	
July .....	5.00	.16			.3294	.3910	
Aug. ....	5.00	.15	.11	.18	.3175	.3713	
Sept. ....	5.00	.12	.10	.15	.3313	.4005	
Oct. ....	5.00	.14	.10	.14	.3200	.4162	
Nov. ....	5.00	.13	.10	.13	.3200	.4016	
Dec. ....	5.00	.13	.09	.12	.3075	.3890	



# Trusts and Monopolies.

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## MONTHLY PRICES OF PROOF SPIRITS AND THE MATERIAL ENTERING INTO ITS MANUFACTURE.

(The combination controlling a large proportion of this product was organized in 1887; reorganized 1890, 1895 and 1899.)

Year and month.	Proof spirits per gallon.	Proof spirits less tax per gallon.	Proof spirits from one bushel of corn.	Corn per bushel.	Proof spirits from one bushel of corn less price of corn.
1897.					
Jan. ....	\$1.170	\$0.070	\$0.328	\$0.225	\$0.102
Feb. ....	1.165	.065	.305	.225	.080
March ....	1.165	.065	.305	.237	.068
April ....	1.182	.082	.385	.242	.143
May ....	1.187	.087	.408	.242	.166
June ....	1.187	.087	.408	.244	.164
July ....	1.187	.087	.408	.264	.144
Aug. ....	1.192	.092	.432	.294	.138
Sept. ....	1.203	.103	.483	.296	.187
Oct. ....	1.187	.087	.408	.265	.143
Nov. ....	1.184	.084	.394	.267	.127
Dec. ....	1.182	.082	.385	.262	.123
1898.					
Jan. ....	1.182	.082	.394	.271	.123
Feb. ....	1.186	.086	.413	.289	.124
March ....	1.192	.092	.442	.289	.153
April ....	1.197	.097	.466	.321	.145
May ....	1.219	.119	.571	.347	.224
June ....	1.224	.124	.595	.324	.271
July ....	1.242	.142	.682	.336	.346
Aug. ....	1.242	.142	.682	.317	.365
Sept. ....	1.242	.142	.682	.302	.380
Oct. ....	1.242	.142	.682	.308	.374
Nov. ....	1.245	.145	.696	.331	.365
Dec. ....	1.252	.152	.730	.356	.374
1899.					
Jan. ....	1.247	.147	.689	.367	.322
Feb. ....	1.240	.140	.656	.352	.304
March ....	1.240	.140	.656	.346	.310
April ....	1.240	.140	.656	.347	.309
May ....	1.240	.140	.656	.334	.322
June ....	1.240	.140	.656	.344	.312
July ....	1.240	.140	.656	.329	.327
Aug. ....	1.240	.140	.656	.317	.339
Sept. ....	1.210	.110	.516	.331	.185
Oct. ....	1.220	.120	.563	.320	.243
Nov. ....	1.226	.126	.591	.316	.275
Dec. ....	1.225	.125	.587	.305	.282

MONTHLY PRICES OF REFINED EXPORT OIL AND  
THE MATERIAL ENTERING INTO ITS  
MANUFACTURE, 1897 TO 1899.

(The combination controlling 82.3 per cent. of this product was organized in 1882.)

Year and month.	Product— refined ex- port oil at New York, per gallon.	Material— crude oil at Oil City per gallon.	Difference.
1897.			
Jan. ....	\$0.0613	\$0.0210	\$0.0403
Feb. ....	.0626	.0215	.0411
March .....	.0636	.0219	.0417
April .....	.0613	.0205	.0408
May .....	.0623	.0206	.0417
June .....	.0614	.0205	.0409
July .....	.0587	.0185	.0402
Aug. ....	.0575	.0169	.0406
Sept. ....	.0574	.0166	.0408
Oct. ....	.0555	.0161	.0394
Nov. ....	.0540	.0155	.0385
Dec. ....	.0540	.0155	.0385
1898.			
Jan. ....	.0540	.0150	.0390
Feb. ....	.0550	.0161	.0389
March .....	.0582	.0187	.0395
April .....	.0567	.0176	.0391
May .....	.0601	.0196	.0405
June .....	.0616	.0207	.0409
July .....	.0626	.0222	.0404
Aug. ....	.0644	.0232	.0412
Sept. ....	.0663	.0242	.0421
Oct. ....	.0721	.0269	.0452
Nov. ....	.0735	.0277	.0458
Dec. ....	.0742	.0279	.0463
1899.			
Jan. ....	.0743	.0728	.0465
Feb. ....	.0740	.0274	.0466
March .....	.0734	.0269	.0465
April .....	.0705	.0269	.0436
May .....	.0699	.0269	.0430
June .....	.0720	.0270	.0450
July .....	.0761	.0292	.0469
Aug. ....	.0782	.0304	.0478
Sept. ....	.0863	.0344	.0519
Oct. ....	.0900	.0360	.0540
Nov. ....	.0940	.0375	.0565
Dec. ....	.0985	.0413	.0572

# Trusts and Monopolies.

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## MONTHLY PRICES OF GRANULATED SUGAR AND THE MATERIAL ENTERING INTO ITS MANU- FACTURE AT NEW YORK, 1897 TO 1899.

(The combination controlling a large proportion of this product was organized in 1887.)

Year and month.	Product— granulated sugar, per pound.	Material— sugar 96° centrifugal, per pound.	Difference.
1897.			
January	\$0.04052	\$0.03180	\$0.00872
February	.04070	.03215	.00855
March	.04140	.03248	.00892
April	.04332	.03306	.01026
May	.04260	.03280	.00980
June	.04410	.03453	.00957
July	.04606	.03600	.01006
August	.04720	.03750	.00970
September	.04803	.03876	.00927
October	.04818	.03843	.00975
November	.04720	.03843	.00877
December	.04840	.04038	.00802
1898.			
January	.04936	.04132	.00804
February	.04945	.04150	.00795
March	.04865	.04098	.00767
April	.04993	.04156	.00837
May	.05098	.04230	.00868
June	.05080	.04286	.00794
July	.05080	.04125	.00955
August	.05080	.04234	.00846
September	.05172	.04349	.00823
October	.04735	.04238	.00497
November	.04880	.04385	.00495
December	.04846	.04401	.00445
1899.			
January	.04711	.04280	.00431
February	.04720	.04326	.00394
March	.04816	.04395	.00421
April	.04930	.04578	.00352
May	.05080	.04656	.00424
June	.05184	.04626	.00558
July	.05210	.04453	.00757
August	.05122	.04524	.00598
September	.04874	.04375	.00499
October	.04795	.04310	.00485
November	.04795	.04265	.00530
December	.04795	.04250	.00545

MONTHLY PRICES OF STARCH AND GLUCOSE AND  
THE MATERIAL ENTERING INTO THEIR  
MANUFACTURE, 1897 TO 1899.

(The combination controlling 90 to 95 per cent. of these products was organized in August, 1897.)

Year and month	Pearl starch, per 100 lbs.	Products. Crystal glucose, per 100 lbs.	Mixing and jelly, glucose, per 100 lbs.	Material—corn, per bush.
1897.				
January	\$.84	\$.77	\$.72	\$.1978
February	.79	.74	.70	.1851
March	.83	.75	.72	.1983
April	.85	.78	.72	.2261
May	.84	.80	.77	.2348
June	.96	.87	.84	.2194
July	1.07	1.04	1.00	.2577
August	1.41	1.75	1.45	.2959
September	1.41	1.75	1.55	.2959
October	1.19	1.75	1.15	.2675
November	1.05½	1.50	1.25	.2661
December	1.04½	1.52½	1.30	.2657
1898.				
January	1.01½	1.55	1.30	.2678
February	1.03	1.60	1.30	.2797
March	1.18	1.50	1.15	.2906
April	1.19	1.45	1.15	.2983
May	1.27	1.45	1.15	.3440
June	1.36	1.22	1.08	.3215
July	1.22	1.17¼	1.02½	.3222
August	1.25	1.20	1.07	.3374
September	1.38	1.22	1.08½	.3105
October	1.25	1.45	1.11	.3049
November	1.26	1.28½	1.13	.3278
December	1.16	1.28	1.15	.3262
1899.				
January	1.22	1.23	1.08	.3335
February	1.22½	1.20	1.09	.3384
March	1.28	1.19	1.12	.3241
April	1.23½	1.18	1.12	.3362
May	1.23½	1.19½	1.13	.3272
June	1.25	1.29	1.26	.3106
July	1.31	1.28	1.20½	.3242
August	1.29	1.27	1.20	.3150
September	1.19	1.23	1.15½	.3144
October	1.28	1.25	1.18	.3197
November	1.36	1.24	1.15	.3162
December	1.18	1.16	1.04	.3090

# Trusts and Monopolies.

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## MONTHLY PRICES OF AMERICAN TIN PLATES AND THE MATERIALS ENTERING INTO THEIR MANUFACTURE, 1897 TO 1899.

(The combination controlling 95 per cent. of this product was organized in 1898.)

Year and month.	Product — tin plates, American Bessemer coke, by 20, at New York, per 108 lbs.	Pkg tin, at New York, cost of 2 1/2 lbs.	Materials — steel billets and slabs, cost of 105 1/2 lbs.	Total cost.	Difference.
1897.					
Jan. ....	\$3.40	\$0.3300	\$0.7131	\$1.0431	\$2.3569
Feb. ....	3.30	.3350	.7258	1.0608	2.2392
March ....	3.35	.3300	.7352	1.0652	2.2848
April ....	3.40	.3300	.7352	1.0652	2.3348
May ....	3.40	.3300	.7371	1.0671	2.3329
June ....	3.35	.3400	.7281	1.0681	2.2819
July ....	3.30	.3450			
Aug. ....	3.20	.3450			
Sept. ....	3.15	.3400	.6928	1.0328	2.1172
Oct. ....	3.15	.3400	.7098	1.0498	2.1002
Nov. ....	3.15	.3400	.6834	1.0234	2.1266
Dec. ....	3.15	.3400	.6509	0.9909	2.1591
1898.					
Jan. ....	3.15	.3450	.6561	1.0011	2.1489
Feb. ....	3.13	.3500	.6603	1.0103	2.1397
March ....	3.15	.3550	.6594	1.0144	2.1356
April ....	3.10	.3600	.6613	1.0213	2.0787
May ....	3.10	.3675	.6669	1.0344	2.0656
June ....	3.10	.3750	.7102	1.0852	2.0148
July ....	3.05	.3850	.6989	1.0839	1.9661
Aug. ....	3.00	.3050	.6961	1.0811	1.9089
Sept. ....	3.00	.4050	.6942	1.0992	1.9008
Oct. ....	2.90	.4250	.7022	1.1272	1.7728
Nov. ....	2.95	.4500	.7112	1.1612	1.7888
Dec. ....	3.10	.4650	.6947	1.1597	1.9403
1899.					
Jan. ....	3.34	.5500	.7314	1.2814	2.0586
Feb. ....	3.84	.5750	.7055	1.2805	2.5595
March ....	4.21 1/2	.5875	.6886	1.2761	2.9389
April ....	4.21 1/2	.6250	.7649	1.3899	2.8251
May ....	4.21 1/2	.6350	.7192	1.3542	2.8608
June ....	4.21 1/2	.6400	.7107	1.3507	2.8643
July ....	4.71 1/2	.7125	.8091	1.5216	3.1934
Aug. ....	5.00	.7750	1.2476	2.0226	2.9774
Sept. ....	5.00	.7900	1.2651	2.0551	2.9449
Oct. ....	5.00	.7800	1.5717	2.3517	2.6483
Nov. ....	5.00	.7000	1.5255	2.2255	2.7745
Dec. ....	5.00				

MONTHLY PRICES OF PIG IRON, STEEL, BILLETS,  
RAILS, ETC., 1897 TO 1899.

(The combinations controlling the most of these products were organized in December, 1898, and the first half of 1899.)

Year and month.	Pig Iron.					
	Foundry No. 2, local, at Chicago, per 2,240 lbs.	Charcoal, Lake Superior, at Chi- cago per 2,240 lbs.	Gray F O R G E, southern, at Cin- cinnati, per 2,240 lbs.	Gray forge, at Philadelphia, per 2,240 lbs.	Bessemer at Pitts- burg, per 2,240 lbs.	Gray forge, lake ore, at Pittsburg, per 2,240 lbs.
1897.						
Jan. ....	\$11.02	\$13.50	\$9.31	\$11.06	\$10.77	\$9.66
Feb. ....	11.00	13.50	9.00	11.00	10.72	9.54
March ....	10.88	13.50	8.94	10.65	10.57	9.41
April ....	10.75	13.50	8.40	10.50	9.91	8.85
May ....	10.38	13.00	8.19	10.25	9.52	8.70
June ....	10.25	13.00	8.25	10.10	9.74	8.36
July ....	10.25	13.00	8.45	10.19	9.39	8.36
Aug. ....	10.25	13.00	8.45	10.05	9.54	8.29
Sept. ....	10.40	12.00	8.80	10.50	10.04	8.85
Oct. ....	11.00	12.50	9.00	10.50	10.70	9.75
Nov. ....	11.00	12.50	9.00	10.50	10.52	9.56
Dec. ....	11.00	12.50	9.00	10.50	10.09	9.00
1898.						
Jan. ....	11.00	12.50	9.00	10.37	10.00	9.00
Feb. ....	10.93	11.50	8.75	10.25	10.06	8.97
March ....	10.75	11.50	8.55	10.25	10.37	9.06
April ....	10.91	11.50	8.50	10.25	10.35	9.22
May ....	11.00	11.50	8.62	10.25	10.41	9.12
June ....	11.00	11.50	8.55	10.25	10.42	9.14
July ....	11.00	11.50	8.38	10.25	10.25	9.11
Aug. ....	11.00	11.50	8.37	10.25	10.35	9.19
Sept. ....	11.00	11.50	8.55	10.19	10.45	9.36
Oct. ....	11.00	11.50	8.75	10.00	10.40	9.33
Nov. ....	11.00	11.50	8.75	10.00	10.22	9.24
Dec. ....	11.00	11.50	8.90	10.41	10.64	9.46
1899.						
Jan. ....	11.12	11.50	9.56	10.75	11.00	9.89
Feb. ....	12.12	12.50	10.42	11.69	11.69	10.87
March ....	14.60	15.75	12.70	14.37	14.77	13.29
April ....	15.12	17.00	13.25	15.00	15.06	14.50
May ....	15.37	17.25	13.43	15.30	16.32	15.07
June ....	17.60	19.50	14.85	16.50	18.70	15.94
July ....	19.50	21.50	16.25	17.81	20.45	17.50
Aug. ....	20.50	22.50	17.25	18.10	22.37	18.37
Sept. ....	23.00	24.50	19.00	19.50	23.85	20.90
Oct. ....	23.00	25.00	19.25	19.65	24.50	21.19
Nov. ....	23.50	25.50	19.25	20.19	24.69	21.56
Dec. ....	23.50	25.50	19.12½	20.31	25.00	21.52

# Trusts and Monopolies.

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## MONTHLY PRICES OF STEEL BILLETS, RAILS, ETC.

Year and month.	BILLETS at Pitts- burg, per 2,240 lbs.	BILLETS and slabs, per 2,240 lbs.	Slabs, $\frac{3}{4}$ in., at Pitts- burg, per 2,240 lbs.	RAILS at mills in Pennsylvania, per 2,240 lbs.
1897.				
January	\$15.42	\$15.14	\$16.92	\$25.00
February	15.25	15.41	16.75	20.00
March	15.44	15.61	16.94	18.00
April	14.00	15.61	16.10	18.00
May	13.82	15.65	15.32	18.00
June	14.06	15.46	15.56	18.00
July	14.00		15.50	18.00
August	14.00		15.50	18.00
September	15.60	14.71	17.10	18.00
October	16.44	15.07	17.94	18.00
November	15.57	14.51	17.07	18.00
December	15.00	13.82	16.50	18.00
1898.				
January	14.93	13.93	16.43	18.00
February	15.06	14.02	16.56	18.00
March	15.25	14.00	16.75	18.00
April	15.06	14.04	16.56	18.00
May	14.85	14.16	16.35	18.00
June	14.65	15.08	16.15	17.50
July	14.50	14.84	16.00	17.00
August	15.85	14.78	17.35	18.00
September	16.00	14.74	17.50	17.50
October	15.56	14.91	17.06	17.50
November	15.06	15.10	16.56	17.00
December	15.80	14.75	17.30	17.50
1899.				
January	16.62	15.53	18.12	18.50
February	18.00	14.98	19.50	20.25
March	24.30	14.62	25.80	24.80
April	25.37	16.24	26.87	25.75
May	26.75	15.27	28.25	25.20
June	30.10	15.09	31.60	27.25
July	33.12	17.18	35.50	28.25
August	35.62	26.49	38.50	31.00
September	38.37	26.86	40.50	32.50
October	33.75	33.37	40.50	34.00
November	36.50	32.39	35.50	35.00
December	38.75		34.50	35.00

MONTHLY PRICES OF FINISHED IRON AND STEEL,  
1897 TO 1899.

(The combinations controlling the most of these products were organized in December, 1898, and the first half of 1899.)

Year and month.	Bar iron—com- mon, at Chicago, per cwt.	Bar iron—best reined, from store at Phila- delphia, per cwt..	Bar iron — at Philadelphia, per cwt.	Bar iron — all muck, at Pitts- burg, per cwt.
1897.				
January .....	\$1.25	\$1.40	\$1.15	\$1.22
February .....	1.25	1.40	1.15	1.20
March .....	1.12½	1.40	1.14	1.20
April .....	1.05	1.25	1.15	1.14
May .....	1.05	1.25	1.10	1.04
June .....	1.00	1.25	1.07	.99
July .....	1.07½	1.25	1.08	.95
August .....	1.10	1.25	1.08	.99
September .....	1.10	1.25	1.14	1.07
October .....	1.15	1.35	1.19	1.15
November .....	1.10	1.35	1.20	1.15
December .....	1.10	1.35	1.15	1.15
1898.				
January .....	1.05	1.40	1.11	1.15
February .....	1.05	1.35	1.11	1.15
March .....	1.05	1.35	1.06	1.05
April .....	1.07½	1.25	1.05	1.05
May .....	1.10	1.25	1.05	1.05
June .....	1.12½	1.25	1.05	1.05
July .....	1.02½	1.25	1.00	1.05
August .....	1.05	1.25	1.06	1.05
September .....	1.05	1.25	1.14	1.08
October .....	1.05	1.25	1.13	1.10
November .....	1.02½	1.25	1.10	1.04
December .....	1.05	1.25	1.11	1.00
1899.				
January .....	1.05	1.30	1.15	1.12
February .....	1.15	1.45	1.20	1.22
March .....	1.45	1.70	1.41	1.38
April .....	1.57½	1.75	1.50	1.65
May .....	1.62½	1.90	1.56	1.75
June .....	1.80	2.00	1.81	1.88
July .....	1.85	2.30	2.00	2.00
August .....	2.00	2.40	2.00	2.28
September .....	2.25	2.50	2.10	2.50
October .....	2.30	2.50	2.10	2.60
November .....	2.30	2.50	2.20	2.56
December .....	2.30	2.50	2.05	2.50



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## MONTHLY PRICES OF FINISHED IRON AND STEEL.

Year and month.	Steel tank plates at Philadelphia, per cwt.	Steel beams at Philadelphia, per cwt.	Steel angles at Chicago, per cwt.	Skelp (plates), per ton.	Sheets No. 27, at Chicago, per cwt.
1897.					
January	\$1.20	\$1.70	\$1.25	\$20.99	\$2.15
February	1.20	1.70	1.25	21.18	2.12 $\frac{1}{2}$
March	1.20	1.70	1.25	19.57	2.07 $\frac{1}{2}$
April	1.20	1.70	1.20	19.43	2.02 $\frac{1}{2}$
May	1.11	1.49	1.15	18.92	2.00
June	1.10	1.25	1.15	18.83	1.90
July	1.10	1.15	1.10	18.83	1.95
August	1.08	1.15	1.12 $\frac{1}{2}$	18.93	2.05
September	1.14	1.15	1.17 $\frac{1}{2}$	19.82	2.05
October	1.15	1.20	1.20	21.63	2.15
November	1.14	1.20	1.20	20.91	2.20
December	1.13	1.20	1.20	19.62	2.15
1898.					
January	1.10	1.30	1.30	19.77	2.10
February	1.10	1.30	1.15	19.87	2.07 $\frac{1}{2}$
March	1.08	1.30	1.15	19.70	2.05
April	1.12	1.30	1.30	19.86	2.00
May	1.21	1.30	1.25	19.29	2.05
June	1.23	1.30	1.20	19.24	1.95
July	1.20	1.30	1.20	19.24	1.95
August	1.23	1.37	1.30	19.33	2.00
September	1.27	1.40	1.30	20.71	2.05
October	1.27	1.38	1.30	20.81	2.00
November	1.25	1.35	1.30	20.33	2.00
December	1.26	1.35	1.30	20.22	1.95
1899.					
January	1.35	1.40	1.40	20.62	2.00
February	1.55	1.42	1.40	21.91	2.35
March	1.89	1.55	1.55	25.59	2.45
April	2.18	1.64	1.75	30.13	2.80
May	2.23	1.63	1.75	33.92	2.95
June	2.48	1.82	1.90	37.88	3.05
July	2.65	2.15	2.15	42.65	3.15
August	2.80	2.40	2.25	46.00	3.20
September	3.00	2.40	2.40	44.22	3.25
October	3.00	2.40	2.40	45.82	3.15
November	2.65	2.40	2.40	42.82	3.10
December	2.40	2.40	2.40	37.29	3.00

## MONTHLY PRICES OF FINISHED IRON AND STEEL.

Year and month.	Barbed wire, galvanized, at mill, per cwt.	Barbed wire, at Chicago, per cwt.	Cut steel nails at Chicago, per cwt.	Cut nails at Pittsburg, per cwt.	Wire nails at New York, per cwt.	Wire nails at Chicago, per cwt.
1897.						
Jan. ....	\$1.76	\$1.90	\$1.50	\$1.28	\$1.39	\$1.47
Feb. ....	1.73	1.85	1.50	1.25	1.35	1.45
March ....	1.70	1.90	1.45	1.25	1.40	1.50
April ....	1.70	1.80	1.40	1.25	1.40	1.47
May ....	1.68	1.80	1.35	1.23	1.35	1.43
June ....	1.64	1.75	1.30	1.23	1.31	1.41
July ....	1.60	1.75	1.35	1.20	1.25	1.35
Aug. ....	1.60	1.65	1.40	1.19	1.26	1.36
Sept. ....	1.70	1.80	1.40	1.19	1.41	1.49
Oct. ....	1.70	1.80	1.55	1.28	1.49	1.54
Nov. ....	1.69	1.80	1.45	1.14	1.41	1.49
Dec. ....	1.75	1.80	1.45	1.12	1.39	1.49
1898.						
Jan. ....	1.71	1.90	1.45	1.10	1.43	1.55
Feb. ....	1.75	1.90	1.45	1.10	1.45	1.57
March ....	1.77	1.90	1.47 $\frac{1}{2}$	1.10	1.43	1.55
April ....	1.65	1.87 $\frac{1}{2}$	1.37 $\frac{1}{2}$	1.08	1.31	1.47
May ....	1.66	1.80	1.35	1.08	1.31	1.45
June ....	1.70	1.80	1.35	1.06	1.35	1.43
July ....	1.70	1.80	1.35	1.06	1.31	1.36
Aug. ....	1.65	1.80	1.35	1.05	1.26	1.36
Sept. ....	1.67	1.80	1.35	1.08	1.32	1.43
Oct. ....	1.71	1.82 $\frac{1}{2}$	1.35	1.10	1.33	1.46
Nov. ....	1.71	1.82 $\frac{1}{2}$	1.35	1.10	1.28	1.39
Dec. ....	1.60	1.82 $\frac{1}{2}$	1.35	1.10	1.27	1.37
1899.						
Jan. ....	1.88	2.05	1.40	1.18	1.43	1.59
Feb. ....	2.02	2.25	1.40	1.22	1.57	1.73
March ....	2.43	2.62 $\frac{1}{2}$	1.65	1.48	1.94	2.09
April ....	2.60	2.80	1.85	1.67	2.05	2.25
May ....	2.70	2.95	1.90	1.65	2.10	2.35
June ....	2.90 $\frac{1}{2}$	3.20	2.00	1.97	2.30	2.57
July ....	3.02 $\frac{1}{2}$	3.30	2.30	2.20	2.42 $\frac{1}{2}$	2.70
Aug. ....	3.10	3.40	2.35	2.20	2.50	2.80
Sept. ....	3.36 $\frac{1}{2}$	3.67 $\frac{1}{2}$	2.55	2.50	2.76 $\frac{1}{2}$	3.06
Oct. ....	3.55	3.77 $\frac{1}{2}$	2.70	2.50	2.95	3.17
Nov. ....	3.55	3.88	2.80	2.40	2.95	3.28
Dec. ....	3.47 $\frac{1}{2}$	4.13	2.80	2.45	2.87 $\frac{1}{2}$	3.28

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## MONTHLY PRICES OF FINISHED IRON AND STEEL.

Year and month.	Machinery steel, open hearth, at Chicago, per cwt.	Spring steel, at Chicago, per cwt.	Black merchant pipe, ½ in. to 8 in. per ton.
1897.			
January .....	\$1.60	\$1.85	\$35.70
February .....	1.57½	1.80	36.09
March .....	1.55	1.75	33.80
April .....	1.55	1.75	32.54
May .....	1.50	1.60	32.21
June .....	1.50	1.60	32.26
July .....	1.45	1.55	33.58
August .....	1.40	1.60	33.67
September .....	1.45	1.70	34.98
October .....	1.60	1.65	35.58
November .....	1.60	1.65	35.62
December .....	1.60	1.65	36.09
1898.			
January .....	1.60	1.65	35.10
February .....	1.60	1.65	33.75
March .....	1.60	1.60	33.90
April .....	1.60	1.60	27.97
May .....	1.50	1.60	27.92
June .....	1.50	1.60	27.62
July .....	1.50	1.60	28.37
August .....	1.50	1.60	28.64
September .....	1.55	1.60	31.46
October .....	1.55	1.60	32.44
November .....	1.55	1.60	33.42
December .....	1.55	1.60	33.83
1899.			
January .....	1.55	1.60	35.43
February .....	1.60	1.75	32.62
March .....	2.10	2.25	32.12
April .....	2.40	2.40	34.94
May .....	2.40	2.50	36.13
June .....	2.55	2.85	40.48
July .....	2.70	3.20	47.84
August .....	2.90	3.20	64.07
September .....	2.95	3.50	66.80
October .....	2.95	3.60	77.09
November .....	2.95	3.60	79.76
December .....	2.95	3.60	81.65

## MONTHLY PRICES OF OLD MATERIAL, COAL AND COKE, 1897 TO 1899.

(The combinations controlling the most of these products were organized in 1898, and the first half of 1899.)

Year and month.	Old iron rails at Chicago, per 2,240 lbs.	Scrap, No. 1 mill, at Chicago, per 2,000 lbs.	Scrap, cast, at Chicago, per 2,000 lbs.
1897.			
January .....	\$12.00	\$7.00	\$7.00
February .....	13.00	7.00	7.00
March .....	11.75	7.00	7.25
April .....	11.50	6.75	7.50
May .....	11.00	6.00	7.00
June .....	10.50	5.50	7.00
July .....	11.00	5.75	7.25
August .....	11.00	5.75	7.25
September .....	12.00	6.50	7.25
October .....	12.25	7.00	7.50
November .....	12.00	6.50	7.50
December .....	12.00	6.50	7.50
1898.			
January .....	12.25	6.50	7.50
February .....	12.25	6.75	8.25
March .....	12.00	7.00	8.00
April .....	12.00	7.00	8.50
May .....	12.25	6.50	8.75
June .....	12.37½	6.50	8.00
July .....	12.50	6.50	7.75
August .....	12.50	6.50	8.00
September .....	12.62½	6.62½	8.25
October .....	12.75	6.75	8.25
November .....	12.75	6.25	8.25
December .....	12.50	6.75	8.25
1899.			
January .....	13.00	7.00	8.25
February .....	14.00	7.75	9.00
March .....	16.25	8.75	11.50
April .....	18.00	9.00	12.00
May .....	18.00	9.00	11.50
June .....	18.00	8.75	11.50
July .....	18.75	8.50	12.00
August .....	21.00	9.00	12.50
September .....	27.50	13.00	15.00
October .....	30.00	14.50	16.00
November .....	30.00	13.50	15.50
December .....	27.00	13.00	14.00

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## MONTHLY PRICES OF OLD MATERIAL, COAL AND COKE.

Year and month.	Coal, Youghl- of Fen y, at Chicago, per 2,000 lbs.	Coke, Con- nellsville, f.o.b. at ovens, per 2,000 lbs.	Coke, Pennsylv- ania, at Chi- cago, per 2,000 lbs.
1897.			
January .....	\$2.70	\$1.87 ½	\$4.55
February .....	2.70	1.87 ½	4.55
March .....	2.70	1.62 ½	4.55
April .....	2.70	1.55	4.55
May .....	2.70	1.40	4.55
June .....	2.70	1.50	4.55
July .....		1.50	4.55
August .....		1.50	4.55
September .....		1.45	4.55
October .....	2.70	1.62 ½	4.55
November .....	2.70	1.75	4.55
December .....	2.70	1.75	4.55
1898.			
January .....	2.75	1.75	4.55
February .....	2.75	1.75	4.55
March .....	2.75	1.75	4.40
April .....	2.75	1.75	4.40
May .....	2.75	1.75	4.40
June .....	2.75	1.75	4.40
July .....	2.75	1.75	4.40
August .....	2.75	1.75	4.40
September .....	2.75	1.75	4.40
October .....	2.75	1.50	4.50
November .....	2.75	1.50	4.40
December .....	2.75	1.60	4.40
1899.			
January .....	2.45	1.60	4.55
February .....	2.45	1.60	4.55
March .....	2.45	1.75	4.55
April .....	2.45	1.75	4.55
May .....	2.45	2.05	4.55
June .....	2.45	2.20	4.55
July .....	2.45	2.12 ½	4.75
August .....	2.50	2.50	4.75
September .....	2.50	2.62 ½	5.25
October .....	2.75	2.75	5.50
November .....	3.00	2.87 ½	5.50
December .....	3.00	2.87 ½	5.75

## MONTHLY PRICES OF SMOOTH WIRE, 1897 TO 1899.

(The combination controlling from 75 to 98 per cent. of this product was organized in January, 1899.)

1897.	
January .....	\$1.21
February .....	1.15
March .....	1.16
April .....	1.15
May .....	1.12 ½
June .....	1.15
July .....	1.10
August .....	1.10
September .....	1.14
October .....	1.20
November .....	1.17 ½
December .....	1.17
1898.	
January .....	1.18
February .....	1.18
March .....	1.20
April .....	1.18
May .....	1.15
June .....	1.15
July .....	1.15
August .....	1.15
September .....	1.15
October .....	1.15
November .....	1.15
December .....	1.12
1899.	
January .....	1.29
February .....	1.46 ¼
March .....	1.79
April .....	1.92 ½
May .....	1.95
June .....	2.15
July .....	2.37 ½
August .....	2.50
September .....	2.76 ½
October .....	2.95
November .....	2.95
December .....	2.87 ½

We then find the following variation in prices between December, 1898, and December, 1899.

Corn .....	decreased...	14.32	per cent.
Wheat .....	increased...	.00.75	" "
Barley .....	decreased...	13.94	" "
Rye No. 2 .....	decreased...	6.13	" "
Oats .....	decreased...	15.90	" "
Hops .....	decreased...	40.00	" "
Refined Sugar .....	decreased...	1.05	" "
Sugar, raw .....	decreased...	3.43	" "
Refined export oil .....	increased...	32.74	" "

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Crude oil .....	increased...	48.02	"	"
Proof Spirits.....	decreased...	17.76	"	"
Lager beer .....	000.....	0000	"	"
Cheroots .....	000.....	0000	"	"
Cigarettes .....	000.....	0000	"	"
Smoking tobacco.....	increased...	4.54	"	"
High grade leaf tobacco.....	decreased...	1.43	"	"
Medium grade leaf tobacco.....	decreased...	2.19	"	"
Low grade leaf tobacco.....	increased...	9.23	"	"
Soda crackers XXX.....	increased...	8.33	"	"
Soda crackers, standard.....	000.....	0000	"	"
Ginger snaps XXX.....	000.....	0000	"	"
Flour, spring wheat, patent process,	increased...	0.29	"	"
Flour, good spring supers low grade,	decreased...	7.87	"	"
Flour, winter wheat.....	decreased...	3.12	"	"
Lard, steam refined.....	increased...	1.15	"	"
Rye flour, good to choice.....	decreased...	2.10	"	"
Corn meal, white.....	increased...	5.00	"	"
Oat meal .....	increased...	16.21	"	"
Rolled oats .....	increased...	18.18	"	"
Pearl starch .....	increased...	1.72	"	"
Glucose .....	decreased...	9.37	"	"
Mixing and jelly glucose.....	decreased...	9.56	"	"
Coal .....	increased...	9.09	"	"
Coke, Connellsville .....	increased...	79.68	"	"
Coke, Pennsylvania.....	increased...	30.68	"	"
American tin plate.....	increased...	61.29	"	"
Pig tin.....	increased...	50.53	"	"
Steel billets and slabs.....	increased...	119.59	"	"
Machinery, steel.....	increased...	90.32	"	"
Spring steel .....	increased...	125.00	"	"
Black merchant pipe.....	increased...	141.35	"	"
Old iron rails.....	increased...	116.00	"	"
Scrap No. 1.....	increased...	92.59	"	"
Scrap cast .....	increased...	69.69	"	"
Pig iron, foundry No. 2.....	increased...	113.63	"	"
Bessemer pig iron.....	increased...	134.96	"	"
Steel billets .....	increased...	145.25	"	"
Slabs .....	increased...	99.42	"	"
Steel rails .....	increased...	100.00	"	"
Charcoal, Lake Superior.....	increased...	121.74	"	"
Gray forge pig iron.....	increased...	127.48	"	"
Bar iron .....	increased...	119.04	"	"
Bar iron, best refined.....	increased...	100.00	"	"
Bar iron, all muck .....	increased...	150.00	"	"
Steel tank plates.....	increased...	90.47	"	"
Steel beams .....	increased...	77.77	"	"
Steel Angles .....	increased...	84.61	"	"
Skelp (plates).....	increased...	84.42	"	"
Steel sheets .....	increased...	53.84	"	"
Barbed iron, galvanized.....	increased...	117.18	"	"
Smooth wire .....	increased...	156.69	"	"
Cut steel nails.....	increased...	107.40	"	"
Cut nails .....	increased...	122.72	"	"
Wire nails .....	increased...	139.42	"	"

It then appears that of the articles shown fifteen show a decrease in price, five show stationary prices, while all the remaining articles show an increase. The average increase shown by all articles exclusive of iron and steel and their products is three and thirty-five hundredths per cent., while the average increase shown by iron and steel and their products including tin plate is one hundred seven and thirty-two hundredths per cent. Thus we see that there is an average increase in the price of the products of iron and steel over and above that shown by other articles amounting to one hundred three and ninety-seven hundredths per cent., and as it appears from the notes to the several preceding tables that combinations controlling the greater part of these latter products were organized during the year 1898 and the early part of 1899, it seems that this enormous increase in prices may be fairly chargeable to the effect of combinations.

The power of monopolies to regulate prices by controlling the supply would appear to carry with it the power, to a limited extent at least, to regulate wages by increasing or diminishing the demand for labor within certain lines of employment, but, as will presently be seen, this power is likely to prove to be much less effective than we might at first be led to believe. Labor is only temporarily dependent upon the demand for production of the articles controlled by the monopoly, and as soon as the intention of the monopoly to restrict production has been recognized, labor will seek employment elsewhere. In those classes of employment in which a greater or less amount of



special skill is required which it has perhaps taken a considerable length of time to acquire, the monopoly will have more complete control over its employees than in other employments, for the employees will be very reluctant to abandon the trade of special skill which they have labored so hard to acquire, and they will be inclined to depend upon the old employment, so long as the compensation does not fall too far below that which is paid for other classes of work.

The supply of labor resembles the supply of water which is continually flowing onward in a mighty stream to supply the wants of all mankind. These artificial restrictions such as place, skill, association, etc., are mere temporary dams confining portions of its volume within certain limits for a time, but if subjected to undue pressure, it soon overflows its barriers and rejoins the main stream. This movement of labor to preserve its general level is constant throughout the civilized world. It moves from employment to employment, from state to state, from nation to nation, and even into the uncivilized portions of the globe, in obedience to a natural law of gravitation, just as water is ever seeking to find its level. Thus, if the demand for labor is brisk in one line of employment while it is slack in others, wages will tend to rise in the one in which the demand is most active, but the increase in wages will at once attract new laborers from other trades and the upward tendency of wages will be checked; or if labor be less plentiful in California than it is in New York, the rates of wages will be high in California and there will be a steady flow of laborers

into that state until the rates of wages have been reduced to about the level which prevails in other states; or if labor be scarce in America and plentiful in Europe, and the rates of wages correspondingly higher in America, there will be a steady stream of labor flowing westward until the difference in the conditions of the labor market shall be more nearly equalized. We have witnessed this movement ever since the settlement of the country, accentuated by records of greatly increased immigration during periods of unusual prosperity and high wages. It is this great, world supply of labor and the demands which are made upon it, that must always control the price of labor, which we call wages.

On account of the various economies which it is possible to effect in large scale production, there is less labor required to produce a given quantity of any monopolized article, and, if the production of all commodities were controlled by monopolies, and they were left free to maintain a high scale of prices, it is clear that there would be nothing to induce an increase in the consumption or demand for the goods. It follows that the amount of labor required would be materially diminished, and that the decreased demand for labor would certainly result in lowering the standard of wages; but monopolies can never hope to control the entire field of production. The prices fixed by combinations and monopolies from which they propose to reap their harvest, will usually be found to induce a spontaneous growth of small competitors in the business, which, so long as they control but a small percentage of the trade, may be deemed to be too

trifling to deserve serious attention, and may be allowed to pursue their course without molestation; but as soon as they begin to extend their trade beyond these limits and to make any appreciable inroads into the business of the combinations, the monopolists will at once set upon them and exert all their powers to recover whatever prestige has been lost, and may pursue the offending rivals even to the point of extermination. As soon, however, as these sources of annoyance have been suppressed and prices have been restored to a profit-yielding level, new competitors will again begin to appear to repeat the history of their predecessor.

These numerous small competitors create a not inconsiderable demand for labor; the wants of mankind are so numerous and varied as to require the ministrations of an almost endless variety of services; and invention and discovery are constantly adding to the list of items of production; so it seems to be inevitable that there must always be a considerable demand for labor which is beyond the power of the monopolies to control, and all these independent sources of employment serve to neutralize the effects of combination and monopoly upon the labor market.

The introduction of new industries, new methods of building, and new modes of supplying the various requirements of society, are constantly opening up new and ever widening fields for the employment of labor, both by increasing the consumption and demand for the materials used in their construction, thus increasing the demand upon the older concerns which have already engaged in the production and manufacture of such materials,

and by affording permanent employment to large numbers of persons in their construction and operation.

The introduction of electric railways not only into large cities and their immediate suburbs, but all through the country districts, has built up a business of enormous proportions, and we have much reason to believe that it is yet only in its infancy. The construction of roadways, the manufacture of rolling stock and machinery, the erection of power houses, and the electric equipment of the lines, afford employment to large numbers of persons in all classes of labor from the unskilled laborer to the finest mechanic, and the operation of the roads affords permanent employment to many more.

The introduction of iron and steel construction into the erection of large buildings in all of our important cities, the replacing of wood by iron and steel in the building of vessels of all classes from the small lake and river boats to the great ocean liners, and the use of steel cars by the railways, have revolutionized these industries and have created a new and increasing demand for iron and steel; the introduction of the telephone throughout the country districts has created an additional demand for linemen and for the manufactured instruments and equipments; the very general construction by the railroads of iron and steel structures for the old wooden bridges and trestle work with which they were formerly content to endanger the lives and property of their patrons, and the growing disposition to substitute iron and steel for more perishable materials in the construc-

tion and manufacture of all classes of work and commodities, afford sources of employment for labor which seem to absorb it as rapidly as it is displaced by combinations in other directions. If the power of monopolies to maintain unreasonably high prices can be restrained, and some portion of the benefits arising from the improved methods and reduced cost of production can be secured to the public in the form of reduced prices, the development of new enterprises will be greatly encouraged, the consumption of more durable materials and the demand for better classes of goods will be greatly increased, and the demand for labor will expand in the same proportion. Mr. John W. Gates, chairman of the American Steel and Wire Company, testifying before the Industrial Commission in 1900, said, that in his judgment the new output of steel cars, steel vessels and steel frames for buildings and bridges constituted as large a tonnage as the total tonnage of the United States in iron and steel fifteen or twenty years ago, and that it is increasing every year.

As we have already seen in another chapter the consolidation of several independent manufacturing establishments into one is usually accompanied by the discharge of large numbers of superintendents, foremen, bookkeepers, clerks, salesmen, mechanics, laborers, etc. The number thus displaced by combination has doubtless already amounted to many thousands. Mr. Gates, testifying before the Industrial Commission on that point, says that his company has dispensed with about two hundred traveling salesmen and about fifty per cent. of the high priced men such as presidents, vice-

presidents, secretaries, treasurers, auditors, superintendents, etc. Combination has certainly proved to be a great misfortune to most of these men and especially to the traveling men, for most of them had received large salaries, and being obliged in a measure to reflect in their manner of living the financial prosperity of the houses represented by them, they had acquired habits of extravagance which made it doubly hard for them to conform their expenses to the reduced salaries which many of them have been obliged to accept in other employments to which they have been driven by the rapid extension of combination from one branch of business to another. The woes of the traveling salesmen have been echoed by the hotel keepers in every little town throughout the country who once numbered them among their most regular guests, and even the railroads miss the large revenues which had annually been derived from the tens of thousands of traveling men who have been displaced.

Mr. Edson Bradley, President of the American Spirits Manufacturing Company and Vice-President of the Distilling Company of America, testified before the Industrial Commission that the whiskey combinations had dispensed with the services of three hundred traveling salesmen. As we have already seen, Mr. Gates testified that the American Steel and Wire Company had dispensed with about two hundred traveling salesmen, and Mr. A. S. W. Roth, Publisher of the Retailers Journal, Chicago, and Secretary of the Cook County Retail Dealers Association, testified before the same commission as follows: "The tobacco

trust discharged five thousand traveling men in one day, and the spool and cotton trust also discharged all the salesmen. The trust throws thousands of people out of work, and the goods are no cheaper than before." Mr. P. E. Dowe, President of the Commercial Travelers' National League, presented the following estimate to the Industrial Commission in June, 1899: "From the figures supplied me by commercial men, I submit the following,—more than thirty-five thousand salesmen have been thrown out of work through the organization of trusts and twenty-five thousand reduced in salary, some being retained at a big cut in compensation in house positions, others as traveling agents—sixty thousand salesmen directly affected by trusts. . . . We will now consider the effect of thirty-five thousand commercial men out of work and twenty-five thousand at two-thirds their previous salary, assuming that twelve thousand five hundred of the twenty-five thousand still act as travelers. One hundred fifteen million dollars represents the annual expenditures cut off by the direct influence of trusts, as follows: sixty million loss in salaries; twenty-seven million dollars for railroad tickets, sleeping cars, and excess baggage, an amount equal to the entire surplus earnings of all the railroads of the country for 1898. The loss to hotels can safely be estimated at twenty-eight million dollars." The bookkeepers, foremen, superintendents, etc., who have been displaced have been obliged to seek elsewhere for similar employment and perhaps in most cases to adapt themselves to other classes of duties, and the mechanics and

laborers have had to find new employment in other lines of trade.

What, then, has been the effect upon labor of this displacement of employees? The throwing of so great a number of persons out of employment within so short a time would certainly produce a noticeable increase in the supply of labor-seeking employment, and could not fail to be reflected in the lower wages, if their labor were not immediately absorbed by other employments. There has not been any appreciable increase of unemployed labor during the last four or five years, but on the contrary employment has been more general than for several years preceding; and wages have not been reduced but in many instances have been raised. Thus, we fail to discover either of the two general manifestations of the evil effect which combinations might be expected to exert upon labor. Mr. Jenks thus summarizes his analysis of the tables presenting the report made by combinations to the Bureau of Labor, in response to questions as to their number of employees and the wages paid, published in the Bulletin of the Department of Labor, No. 29, July, 1900.

"This table shows, too, that in a majority of cases there has been an increase all along the line, both in the number of employees and in the total wages. Without entering into the details regarding the various classes of labor, it will be perhaps worth noting that taking all the employees together, there has been but two cases of a decrease in the number of employees, out of thirteen reporting, and but one case, out of the same number, in the decrease in the total annual wages. This table



seems also to show that the percentage of increase in wages had been more than that of the increase in the number of men, thus confirming again the statements as to the general average increase of wages." And of the next table, he says: "For the combinations reporting, this table shows an increase in the average annual wages paid to skilled laborers, to unskilled laborers, and to clerks, and a decrease in the annual wages paid to superintendents, and foremen, traveling salesmen, and the unclassified employees. Taking all of the employees together, the percentage of increase of average annual wages has been twelve and sixty-one hundredths. The greatest increase has appeared in the case of unskilled laborers, the greatest percentage of decrease in the unclassified employees, while traveling salesmen have lost much more in average wages than have superintendents or foremen, the figures being respectively seven and forty-three hundredths and two and seventy-seven hundredths. In all cases of employees, taking all of the establishments which have reported, there has been a decided increase in the number of employees; and in all cases, with the exception of the traveling salesmen, there has been also an increase in the total amount of wages paid. The traveling salesmen have received less by three and fifty-seven hundredths per cent."

Mr. Jenks calls particular attention to the danger of attempting to draw definite conclusions from the tables in the Bulletin, the number of combinations reporting being so small. They had been so very recently organized, and at a time when changing business conditions affected prices, wages, and

employment, in all classes of business, whether conducted by private establishments or by combinations, that it is almost impossible to say what portion of the change was due to the effect of combination. His general conclusion from the tables appears to be that it was then too early to determine what really was the effect of combination upon wages and labor, and that while the figures appear to show that combinations had paid more wages, it was not safe to assume that the ultimate effect of combinations would be to increase wages. We believe, however, that the fact that combinations had paid higher wages is sufficient to show that the number of unemployed has not been increased and the wages have not been reduced.

The first effect of combination upon labor appears to have been to cause something of a repetition of the disturbances produced in the early seventies by the introduction of the self-binding mowing machine among the farmers. Thousands of men throughout the country had been accustomed for years to secure steady employment at high rates of wages during harvest time, and now suddenly by the introduction of these new machines, they found themselves thrown out of employment. They banded together in large numbers and marched through the country burning and destroying property on all sides in revenge for the wrong which they fancied had been done them. But, as soon as the panic which was just then paralyzing business of all kinds, began to disappear and the wheels of commerce began to turn again, this army of the unemployed was speedily absorbed by the general

demands of trade, and the use of the self binders has ever since gone on without a protest.

The only difference in the situation appears to be that at the time of the introduction of the labor saving self binders, the country was in the throes of a panic and all the avenues of employment were blockaded, while at the time of the introduction of labor saving combination the country was just recovering from the effects of a panic, and the demand for labor was increasing in all directions. Temporary hardships have doubtless been caused to many individuals by the formation of these large industrial combinations, but they seem to promise more steady and regular employment both to capital and to labor.

From what has already been said, it appears that notwithstanding the power of monopolies to control production, their ability to conduct business with less labor per unit of production, and the discharge of large numbers of employees in consequence of the consolidation of competing concerns, monopolies have as yet exercised no perceptible influence upon wages.

The increasing demands of new enterprises, and the increased consumption of the products controlled by monopolies, have served to neutralize the natural tendency of monopoly in production—which is to depress wages; and we believe that, with the aid of judicious legislation to restrain the abusive exercise of the powers acquired by these monopolistic corporations, these same influences will continue to secure for labor, at least as fair a rate of compensation as it had received under the old system of production.

There are those who tell us, with much pretended show of public spirit, that the organization of large monopolistic corporations enables them to pay higher wages to their employees, and to make lower prices to the consumers; and seek to convey the impression that such are the purposes of the organizations. But this is the merest hypocrisy. The purpose of the organizations is selfish gain, and if it becomes necessary to increase wages or lower prices in order to increase that gain, they will do so—but not otherwise. Profit is the object, and higher wages and lower prices are merely the incidents which they may be obliged to concede in order that their own profits may be increased. Nobody of men is going to band itself together and expend its money, time, and energy, merely to raise the wages of labor, or to afford lower prices to consumers; it is contrary to the instincts of human nature and to human experience, and no one will be deceived by such shallow pretenses. These large corporations are mere business agents, for business purposes only, but as such they have come to stay.

The new industrial organization is as much of a labor saving machine in the management and control of production as was the machine for the cutting of grain, the saw mill, or the lathe, and we can no more retreat from the use of the one than of the other. It is doubtless true that many of the monopolistic organizations of to-day are in a sense experimental, that much difficulty will yet be experienced on account of over capitalization, over valuation, reckless management, speculation, and worst of all, the desire of the professional promoter

to reap large profits for himself regardless of the fate of the organization; and that they will have to undergo various processes of reorganization such as many of them have already passed through; but these will be merely alterations in the title and will have but little effect upon the operation of the plants. The various elements of any distinct line of business, which have been brought together into a combination, are not likely ever again to become severed. This we believe to be true of such combinations as the American Sugar Refining Company, the Standard Oil Company, etc., but with such as the United States Steel Corporation, the Anthracite Coal Combination, etc., in which transportation and perhaps other distinct industries are joined with manufacture, mining, etc., we believe that there should, and will be a severing of these several interests.

In addition to the changes of ownership and control of these corporations caused by reorganization, foreclosure, etc., there will also be a change of title constantly going on in the form of sales of stock, but neither mode of change will have any immediate effect upon the business of the concern. It will continue to go on regardless to whom the profits may go, just as in the case of a railroad company, no matter how often the stock may be sold, or how completely the board of directors may be changed, the trains run every day just the same. These changes in the ownership of the stock will, however, have but little or no effect upon the relations between the corporations and labor. The interests and purposes are the same, and it makes no difference to the employee whether the stock of

the corporation is held by twenty persons or by twenty thousand persons, and it is a matter of equal indifference whether the stock be held by laboring men, business men of small means, or by millionaires. All are equally anxious to secure their dividends.

After these large industrial corporations shall have passed through the process of reorganization a sufficient number of times to have squeezed out all the watered stock, and reduced their capitalization to something like the cost of duplication, and shall pay their dividends, be they large or small, only upon stock which represents real value in the business, then they will begin to assume the position of permanent institutions and afford safe and remunerative opportunities for investment by people who have neither the time nor the opportunity to follow the various manipulations of the stock market which engage the attention of the stock exchanges, and who, therefore, cannot trust the stocks of the industrial corporations of to-day. The large blocks of stock now held by single individuals will gradually become scattered until in time the share holders of many of the large business corporations may be numbered by the thousands, as is already the case with our great railroad systems.

Having thus noted the effects of combination and monopoly upon production, prices, wages, and labor, let us now inquire a little as to their effects upon the employers. The importance of this branch of our subject is not to be estimated merely by the number of persons who are directly affected, for their position as leaders of business, their reputation for shrewdness and sound judgment, and

their experience in the employment and direction of men, have served to secure to them a sort of natural leadership in the social and political affairs of the community, and whatever effects their condition will have a much greater influence upon society at large than that which concerns only an equal number of persons in private life. Any serious disturbance of the condition of those whom we have learned to look upon as the bulwarks of society and the leaders in progress and civilization must always be attended by a more or less general disarrangement of the affairs of society. The discomfiture of the leaders is certain to produce a sort of panic among the people. They pause in suspense, holding their breath, as it were, and holding fast to their purse strings at the same time; they become suspicious of the outcome of every new enterprise, and a general feeling of uncertainty and distrust prevails.

A repetition of such disturbances would, therefore, on first thought appear to be a most deplorable misfortune; but such has ever been the history of progress and civilization. The old forms must ever give way to the new, and the loftiest columns have the longest distance to fall.

The early manufacturers who employed a few mechanics to work at hand labor in their shops, were men of influence and importance among the people of their day; but the introduction of steam power left their mode of manufacture behind the age and they were obliged to adopt the new system, or, if they could not afford to conduct business on a sufficiently large scale to employ steam power, to go out of business. The result was that

many were obliged to give up business and to seek employment for themselves in the larger factories which had supplanted them.

The development of steam power soon led to the introduction of larger and more expensive machinery, and the smaller concerns, in many instances, found it necessary to unite either with others engaged in the same business, or with outside parties who were willing to put their capital into the business, and to enter partnership with them. Thus was joint ownership gradually substituted for individual ownership.

The growth of commerce and the increasing demands of trade soon began to overtax the capacity of partnership management, and corporations began to supersede the smaller firms, and individual concerns then engaged in the business of manufacture.

The advantages of large scale production began to be recognized, many modes of combination were devised and experimented with, and the numerous corporations which had before so mercilessly absorbed the partnership and individual concerns which had preceded them, began to merge into a few great corporations, each of which was designed to control its particular line of industry.

Such have been the successive steps in the development of our industrial system, and the billion dollar United States Steel Corporation is merely the natural outgrowth of the evolution which has been going on among our industrial and commercial institutions for the last hundred years.

The employers of recent years include corporation as well as the individual proprietors and the



members of partnership concern; and the formation of large monopoly corporations has undoubtedly driven many of them out of business. The smaller concerns have usually been obliged to sell out or be forced out of business by the great corporations, but the larger ones have frequently been able to secure the retention of many of their officials in connection with the business of the monopoly. The number of those high officials who have been thus fortunate in being retained by the combinations in employment of any kind, was estimated by Mr. John W. Gates, in his testimony before the Industrial Commission, to have been fifty per cent. in the cases of the companies which have been absorbed by the American Steel and Wire Company. If, then, fifty per cent. of the officials of corporations which have become parties to the combination, and a presumably much larger percentage of the individual proprietors and smaller corporations engaged in the business directly affected by it, have been thrown out of business through the operation of combination, it is easy to believe that the number of persons directly affected has been very considerable.

We have already remarked that this displacement of employers by the continual change in the size and form of organization of the business concerns has been going on for generations, but a more definite idea of the extent to which it has always attained, may be derived from a moment's inspection of some of the statistics presented in the Twelfth Census.

In Volume Seven of the Twelfth Census of the United States, 1900, Manufactures, Part One, the

Director of the Census summarizes the development of the factory system in the United States as follows: "The factory system of manufacture, so called in contrast to domestic and shop manufacture, had practically no existence in the United States at the opening of the nineteenth century, although its development in England, particularly in the textile industries, had been rapid during the last quarter of the eighteenth century. . . .

It was not until about 1840 that the factory method of manufacture extended itself widely to miscellaneous industries, and began to force from the market the hand-made products with which every community had hitherto supplied itself. It seems probable that until about the year 1850, the bulk of general manufacturing done in the United States was carried on in the shop and the household, by the labor of the family or individual proprietors with apprentice assistance, as contrasted with the present system of factory labor, compensated by wages, and assisted by power. Since that date, the relative value of the manufactured products of the shop and the household have steadily decreased, until at the Twelfth Census, it represents but an insignificant part, say one thirteenth, of the total value of products."

In the same volume of the Census, the total number of establishments engaged in manufacturing and mechanical industries, is given as 512,254 which produced goods valued at \$13,004,400,143; of these 372,703 were owned and operated by individual proprietors, and produced an average of \$7,176 worth of products each; 96,715 were owned and operated by partnerships, and

produced an average of \$26,524 worth of products each; and 40,743 were owned and operated by corporations, with an average production of \$189,813 for each establishment. Thus we see that at the same average capacity as that of the establishments owned by individual proprietors in the year 1900, it would have required 1,812,207 individual establishments to equal the production of the year 1900, which was produced by 512,254 establishments; and that the introduction of the various forms of joint proprietorship has already reduced the number of establishments 1,299,953, or seventy-one and seventy-three hundredths per cent. below what it would have been under individual ownership, and that apparently that number of proprietors has already been displaced.

It appears, then, that this displacement of employers has been a feature of the industrial history of our country ever since its earliest days, and that a relative reduction in the number and increase in the size of the establishments have attended every step in the development of our industrial system. We must not, therefore, be too hasty in assuming that the displacement of employers by the great corporations of to-day is necessarily an unmixed evil. It may be that the rush to combination has been too impetuous, and that it has found us unprepared to meet the new problems and conditions presented by it; but it is merely a sudden expansion of the ordinary business corporation with which we have all become familiar, and we must adjust our laws to meet the requirements of the new conditions, just as we have been obliged to meet the ever changing

conditions caused by the development of our methods of transportation, from the stage coach upon the country road to the drawing-room car on a limited express train. Every unnecessary person, be he employer or employee, who is eliminated from the process of manufacture, is a distinct item of economy in production; but it is our duty to see that a fair share of the benefit of that economy is secured to the people, and that it is not all diverted to swell private profits.

Having now examined some of the more important points in which combinations and monopolies directly affect the welfare of the people, let us for a moment, in conclusion, inquire into their effects upon the government itself. When our industries were in their infancy and consisted of a large number of small institutions widely scattered throughout the country and owned by numerous private individuals, there were no lobbies in constant attendance at our legislative halls seeking to secure the passage of measures or to obtain special privileges; the manufacturing business was merely a portion of the general interests of the people, and no one thought of its ever exercising any undue influence in the affairs of the government. National elections were conducted with small campaign funds, and no class of individuals felt called upon to contribute large sums of money to secure the election of an administration which would give to them no greater protection or benefit than was guaranteed to every other citizen. But as concentration progressed and great institutions replaced numerous smaller ones, lobbies began to appear at the seats of government to labor

for the enactment of legislation in the interests of private enterprises. With the appearance of trusts and combinations, these lobbies became greatly increased, and emissaries of special interest became permanent features of every legislative assembly. The manufacturing interests were no longer a mere part of the general concern of the nation, which might be properly cared for by the regularly elected representatives of the people, but special delegations were required to be kept in readiness to protect them. The people were content to entrust the protection of their rights to the regularly constituted officers who were chosen for that purpose, but the trusts, although their members had an equal choice in the selection of these representatives, found it necessary to employ special attorneys to keep a constant watch upon them, and to use every practicable means to secure the enactment of laws especially favorable to the industries in which they were engaged, and for this purpose money in almost unlimited quantities was provided. Political campaigns were no longer conducted upon economical lines, but large contributions were regularly made by the trusts and other large industrial institutions, and the political parties have learned to rely upon them to meet the expense of campaigns in which money was to be used with a free hand, and also to levy assessments against them for that purpose. Mr. Havemeyer, President of the American Sugar Refining Company, testified before the Congressional investigating committee that it was the practice of the Sugar Trust to contribute to the campaign funds of both political parties, always endeavoring to

keep in favor with the party which was then in power. But these trusts do not thus liberally contribute to campaign funds unless they find it profitable to do so, and we find the interests of the Sugar Trust cared for in every tariff bill which has been passed by Congress since the organization of that trust. If the sugar trusts have found it profitable to contribute large sums of money to help pay campaign expenses of political parties in return for favors received from the government, it is altogether likely that the numerous combinations which have been recently formed will also find it to their interests to do the same; and since these contributions are likely to be in some measure proportionate to the ability of the concerns to pay, it is to be supposed that the influence of such combinations as the United States Steel Corporation, the capitalization of which is eighteen or twenty times that of the Sugar Trust, will be very great with any political party to which it may lend its support. With the political parties thus dependent upon trusts and combinations for their financial support, which they are expected to repay with the choicest favors that the government is able to bestow, it seems probable that there will soon be but small favors left for the people, and that unless great care is speedily exercised in restraining the influence of combinations and monopolies, they will before long be dropped entirely out of the consideration of the law-makers.

## CHAPTER VI.

GROWTH OF COMBINATIONS. /

HAVING now examined the purpose and considerations which led to the formation of combinations, the various forms of organization adopted, and the varied powers which may be exercised by them after they have been organized, let us inquire a little as to what progress has been made in the development of combinations and ascertain to what degree of importance the movement has attained in the business world, so that we may be better able to determine the nature of the remedies or restrictions which should be applied to it.

The acquisition by a few of a monopoly of the production or distribution of certain commodities, is an evil which is not peculiar to our day but which has appeared to oppress and exasperate the people at various times all through the history of civilization. The movement toward concentration and combination, however, which in its full development affords the most powerful, most enduring, and most effective form of monopoly, cannot be said to have fairly begun until about the close of the eighteenth century, when the factory system of manufacturing first began to supplant the shop and fireside method of production which had

supplied the wants of the people up to that time.

The introduction into this country of the factory, or collective, as opposed to the individual, method of production, proceeded very slowly until about the year 1850. But since that time it has developed with great rapidity, steadily increasing the number, size and capacity of the establishments until we to-day find whole communities employed in one great factory, and the tendency toward the establishment of large manufacturing institutions, rather than a great number of smaller ones, has been so pronounced that, while the products of manufactures have increased many times more rapidly than the population, the number of establishments has relatively diminished, and in some lines of industry there has been, in recent years, an actual decrease in the number of establishments engaged in business.

The figures presented by the Director of the Census may serve to impress this phase of factory development more forcibly upon the reader, and we therefore present the following extract from Volume VII. of the Twelfth Census of the United States, p. 72:

“The Census figures throw some light upon the tendency in certain industries toward concentration into large establishments. The industries in which this tendency is most striking are presented in Table XVII.

“This method of presentation by averages, which includes all the small establishments with the great ones, fails to give any true conception of the extent to which the total value of the product comes from a comparatively small number of es-



tablishments, the operatives of which are numbered by the thousand.

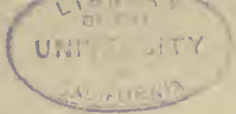
“The tendency toward concentration appears to be most marked in the iron and steel industry. The largest number of rolling mills and blast furnaces was reported at the Census of 1870, when 726 establishments reported an average capital of \$161,523, 103 wage-earners, \$54,158 paid in wages, \$274,878 worth of products. At the Census of 1880 the number of establishments decreased to 699, at which point it stood again in the Census of 1890, falling still further to 668 in 1900. At the Twelfth Census these 668 establishments reported an average capital of \$858,371, 333 wage-earners, \$180,869 paid in wages, and \$1,203,545 worth of products. During the last decade the average capital increased 45.2 per cent. and the average products 76.2 per cent. During the last half century the average iron and steel establishment had increased its capital eighteen fold, the number of wage-earners fivefold, the amount paid in wages twelvefold, and the value of the product twenty-sevenfold.

“The manufacture of agricultural implements also shows a consistent decrease in the number of establishments since 1860, while the average size of the establishments has increased uninterrupted since the first report. The glass industry shows a continuous increase in the size of establishments, with a general increase in their number. Leather and paper mills have about kept pace with each other in the rate of increase in the value of their products, but the amount of capital and the num-

ber of employees in the paper mills are greater than in the leather factories. The number of paper establishments has just held its own, while the number of leather establishments has actually decreased.

“The size of textile establishments is notably larger than formerly. The number of establishments in carpets and woolen goods are somewhat less than during the earlier periods; in cotton goods there was little difference between the number at the beginning and at the end of the half century period, with a minimum in 1890; while hosiery and knit goods, glass and silk goods have more establishments than at any other time during the half century. They have all, however, maintained an almost uninterrupted growth in all the four items shown in the comparative table.”

The Director of the Census then proceeds to make this tendency toward concentration still more clear by dividing the manufacturing establishments into classes according to the number of persons employed, thus: the total number of factories proper which excludes the hand trades, is given as 296,440, of which number 41,687 were operated by the proprietors alone without the assistance of any employees; 125,890 employed less than five persons each; 79,756 employed from five to twenty persons each; 24,630 employed from twenty-one to fifty persons each; 8,494 employed from one hundred to two hundred and fifty persons each; 2,809 employed from two hundred and fifty-one to five hundred persons each; 1,063 employed from five hundred to one thousand persons each, and 443 employed over one thousand persons each.



## Trusts and Monopolies.

We believe that the full significance of this classification can be more forcibly brought out by extending the Census figures so as to present a comparison of the number of persons employed by these respective classes. To secure the figures necessary for this purpose we shall multiply the number of the establishments in each class by the number representing the smallest number of persons employed in it, which will give us the minimum number of persons employed in each class. We adopt the minimum number of persons reported to have been employed because the Census tables do not mention any limit within which an estimate of the number of persons employed by the class of establishments employing over one thousand persons each might fairly be confined, and any attempt, therefore, to fix upon either a maximum or an average number of employees for this class must be based solely upon conjecture which might prove to be very unfair to the showing of the other classes. The minimum number of employees of all classes is, on the other hand, definitely stated in the classification, and we prefer to accept it as given, believing that it will afford a means of comparison which will be equally fair to all.

We then find the number of persons employed by the several classes to be as follows: 41,687 establishments had no employees; 125,890 establishments employed 125,687 persons; 79,756 establishments employed 398,780 persons; 24,635 establishments employed 517,335 persons; 11,663 establishments employed 594,813 persons; 8,494 establishments employed 857,894 persons; 2,809 establishments employed 705,059 persons; 1,063

establishments employed 532,563 persons, and 443 establishments employed 443,443 persons.

From this it appears that 271,968, or ninety-one and seven-tenths per cent. of all the manufacturing establishments reporting, employed from one to fifty persons each, while only 24,472, or eight and three-tenths per cent. of the whole number of establishments, employed more than fifty persons each; but these 271,968 small establishments, or ninety-one and seven-tenths per cent. of the whole, employed only 1,042,000 persons, or a trifle less than twenty-five per cent. of the whole number employed by all establishments, while the 24,472 establishments, employing over fifty persons each, or eight and three-tenths per cent. of the whole, employed 3,133,772 persons, or a trifle more than seventy-five per cent. of the whole number of persons employed by all establishments.

The evidence afforded by the foregoing figures of the rapid concentration of the manufacturing interests of the country into the hands of a few individuals, is further supported by the statistics furnished in Volume VII. of the Twelfth Census, relative to the form of organization adopted by industrial establishments. In this classification, however, the figures include the hand trades, which do not lend themselves so readily to concentration into large establishments as does the work of manufacturing proper, and this must greatly detract from the showing which would be made if the hand trades could be excluded; but the evidence of the tendency toward concentration is still sufficiently pronounced to warrant us in calling special attention to it. Of the 512,254 establishments re-

ported to have been engaged in manufacturing and mechanical industries, 372,703, or seventy-two and eight-tenths per cent. of the whole were owned and operated by individual proprietors, and produced \$2,674,497,008 worth of goods, or twenty and six-tenths per cent. of the total value of products returned for the year; 96,715, or eighteen and nine-tenths per cent. of the total number of establishments, were owned and operated by partnerships, and produced \$2,565,360,839 worth of goods, or nineteen and seven-tenths per cent. of the whole; 40,743, or seven and nine-tenths per cent. of the total number of establishments were owned and operated by corporations, and produced goods valued at \$7,733,582,531, or fifty-nine and five-tenths per cent. of the gross value of all products reported.

Not satisfied with this rapid acquisition of so large a percentage of the production of the entire country by a comparatively few corporations, they have begun to combine with each other into still greater corporations, which are commonly known as combinations. And we find given, in the same volume of the Twelfth Census, the names of one hundred and eighty-five industrial combinations, which, in point of numbers, are less than one-half of 1 per cent. of the total number of manufacturing establishments controlled by corporations, but which produced during the census year, products to the value of \$1,667,350,949, or twenty-one and five-tenths per cent. of the total production of all corporations. Or, in other words, these one hundred and eighty-five combinations produced more in one year than 232,351 manufacturing establish-

ments controlled by individuals produced during the same time; and the average production of each of these combinations exceeded that of 1,254 individual establishments.

The foregoing figures present the situation as it was in the year 1900, but these great industrial combinations had only just begun to assume a commanding position among the industrial institutions of the country; the rush to combination had only fairly set in, and the situation, as outlined, serves rather to indicate the possibilities of the future than to present anything like a complete development of the spirit of centralization which seems to have taken such complete possession of the industrial world.

As may be seen from the table of one hundred and eighty-five industrial combinations reproduced from the Twelfth Census and printed elsewhere in this work, only five were organized prior to the year 1889. During the next seven or eight years they began to increase at what was then thought to be an alarming rate; but from about the beginning of the year 1898 the tendency toward combination began to reach fever heat and to assume the proportions of an epidemic, and combinations and trusts began to be the all-engrossing topic of conversation among all classes of society. The rapidity with which the number of combinations multiplied during the last few years of the nineteenth century is thus expressed by the Director of the Census: "The list given in Table XXIX. reveals the fact that sixty-five of the one hundred and eighty-five corporations herein treated

as industrial combinations were organized prior to the year 1897, and that in the years 1897, 1898, 1899 and prior to June 30, 1900, there were organized eight, twenty, seventy-nine and thirteen corporations respectively. Of the total number, ninety-two, or forty-nine and seven-tenths per cent. were chartered during the eighteen months from January 1, 1899, to June 30, 1900. This wholesale reorganization of industry, right upon the eve of the taking of the present census, thrust upon the division of manufactures a multiplicity of problems such as had never before confronted it."

This wonderful increase in the number and size of the industrial combinations which marked the closing years of the nineteenth century, has continued without abatement to the present time, and to-day there is nothing more familiar to the readers of our newspapers than the announcement of the incorporation of some new combination, and rumors of the formation of others are almost constantly afloat. An evidence of the degree of development to which combinations have attained since the date of the statistics already given, is found in the case of the United States Steel Corporation, which was chartered by the State of New Jersey, February 25, 1901. It was formed by a combination of nine of the combinations shown in the census table, which together controlled two hundred and thirty-four plants, with the Lake Superior Consolidated Iron Mines and the Carnegie Company, and has an authorized capitalization of \$1,404,000,000.

The magnitude of this great combination can perhaps be more fully appreciated when it is noted

that the capitalization of this one corporation is equal to thirty-eight and seven-tenths per cent. of the total authorized capitalization of the one hundred and eighty-five combinations shown in the census table; and its influence in the iron and steel industry can in some measure be imagined when it is remembered that the total capitalization of all the combinations shown by the census table to be engaged in the iron and steel industry was only \$978,799,000, or only a little more than two-thirds of the capitalization of this one new combination, which is one of the earliest productions of the twentieth century. We here present a table taken from the sworn answer of Mr. Charles M. Schwab, President of the United States Steel Corporation in the case of Hodge, et al, vs. the United States Steel Corporation, which will serve to show the extent and variety of the properties held and controlled by this corporation.

#### VALUE OF ASSETS.

Iron and Bessemer ore properties.....	\$700,000,000
Plants, mills, fixtures, machinery, equipment, tools and real estate.....	300,000,000
Coal and coke fields (87,589 acres).....	100,000,000
Transportation properties, including railroads (1,467 miles), terminals, docks, ships (112), equipment (23,185 cars and 428 locomotives, etc.).....	80,000,000
Blast furnaces .....	48,000,000
Natural gas fields.....	20,000,000
Limestone properties .....	4,000,000
Cash and cash assets as of June 1, 1902.....	148,281,000
<b>Total .....</b>	<b>\$1,400,281,000</b>

The following list includes the names of the more important combinations organized since June



# Trusts and Monopolies.

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30, 1900, together with the names of about twenty organized during the year or two preceding that date, but which were omitted from the census table.

The Allis-Chalmers Co., 1901.....	\$36,250,000
American Alkali Co., 1899.....	30,000,000
American Can Co., 1901.....	88,000,000
American Cigar Co., 1901.....	10,000,000
American Light & Traction Co., 1901.....	12,127,800
American Locomotive Co., 1901.....	50,412,500
American Machine & Ordnance Co., 1902.....	10,000,000
American Packing Co., 1902.....	20,000,000
American Plow Co., 1902.....	75,000,000
American Pneumatic Service Co., 1899.....	15,000,000
American Railway Equipment Co., 1899.....	22,000,000
American Sash & Door Co., 1900.....	7,000,000
American Sewer Pipe Co., 1900.....	10,000,000
American Steel Foundries Co., 1902.....	30,000,000
Associated Merchants Co., 1901.....	15,000,000
Atlantic Rubber Shoe Co., 1901.....	10,000,000
A. Booth & Co., 1898.....	5,500,000
Borden's Condensed Milk Co., 1899.....	25,000,000
Chicago Pneumatic Tool Co., 1902.....	10,000,000
Colonial Lumber & Box Corporation, 1902....	15,000,000
Consolidated Railway Lighting and Equipment Co., 1901.....	17,000,000
Consolidated Tobacco Co., 1901.....	262,689,200
Corn Products Co., 1902.....	80,000,000
Cruible Steel Co. of America, 1900.....	50,000,000
Distilling Co. of America, 1899.....	85,000,000
Eastman Kodak Co., 1901.....	35,000,000
Electric Co. of America, 1899.....	20,368,400
Electrical Vehicle Co., 1899.....	18,000,000
Empire Steel & Iron Co., 1899.....	10,000,000
Fairmount Coal Co., 1901.....	12,000,000
Great Lakes Towing Co., 1899.....	5,000,000
Harbison-Walker Refractories Co., 1902.....	25,750,000
Illinois Brick Co., 1900.....	9,000,000
International Harvester Co., 1902.....	120,000,000
International Mercantile Marine Co., 1902....	120,000,000
International Nickel Co., 1902.....	120,000,000
Jones & Laughlin Steel Co., 1902.....	30,000,000
Monongahela River Cons. Coal and Coke Co., 1899.....	30,000,000
National Asphalt Co., 1900.....	31,000,000
National Candy Co., 1902.....	9,000,000
National Fireproofing Co., 1899.....	12,500,000
New England Cotton Yarn Co., 1899.....	15,577,000
New York Dock Co., 1901.....	28,500,000
Pacific Hardware & Steel Co., 1902.....	10,000,000
Pennsylvania Steel Co., 1901.....	50,000,000
Planters Compress Co., 1899.....	10,000,000

Quaker Oats Co., 1901.....	\$12,000,000
Railway Steel Spring Co., 1902.....	20,000,000
Sloss-Sheffield Steel & Iron Co., 1899.....	22,000,000
Standard Milling Co., 1900.....	17,250,000
Standard Table Oil Cloth Co., 1901.....	10,000,000
Union Steel & Chain Co., 1899.....	60,000,000
United Box Board & Paper Co., 1902.....	30,000,000
United Copper Co., 1902.....	50,000,000
United Fruit Co., 1899.....	20,000,000
United States Cast-Iron Pipe and Foundry Co, 1899.....	25,000,000
United States Cotton Duck Corporation, 1901..	30,000,000
United States Realty and Construction Co., 1902.....	66,000,000
United States Reduction & Refining Co., 1901.	12,000,000
United States Ship Building Co., 1902.....	71,000,000
United States Steel Corporation, 1901.....	1,404,000,000
Universal Tobacco Co., 1901.....	10,000,000

Having now seen how completely the sources of production have been brought within the control of a comparatively few individuals, let us inquire to what extent have combinations been successful in securing control of the production of the articles in the manufacture of which they are engaged. From the testimony given before the Industrial Commission in 1899, we learn that at that time the Federal Steel Company produced thirty per cent. of the entire production of the class of goods manufactured by it; the National Steel Company produced eighteen per cent. of its class of products; the American Steel and Wire Company produced seventy-five to eighty per cent. of the entire production of steel rods and smooth wire, sixty-five to ninety per cent. of wire nails, and had an absolute monopoly of the production of barbed wire and woven wire fencing; the American Tin Plate Company produced over ninety per cent. of the tin plate manufactured in this country. All of these companies have since been absorbed by the United States Steel Corporation. The American

Sugar Refining Company controlled ninety per cent. of the entire production of refined sugar; the Standard Oil Company controlled from eighty-one to eighty-three per cent. of the entire output of refined oil; the Whiskey Combination controlled from eighty to ninety-five per cent. of the production of distilled spirits, and the Anthracite Coal Combination controlled ninety per cent. of the output of that product.

Mr. Horace L. Wilgus, in his "Study of the United States Steel Corporation," gives the following as the percentage of the entire output of the several products controlled by that corporation: iron ore, over fifty per cent.; bessemer ore, ninety per cent.; coke, over fifty per cent.; pig iron, fifty per cent.; steel rails, sixty-eight per cent.; steel billets, nearly the entire product; structural steel, sixty per cent.; a large percentage of plate steel, sheet steel, bars, hoops and cotton ties; tin plate, over ninety per cent.; steel tubes, over ninety per cent.; wire rods and smooth wire, over ninety per cent. of each; wire nails, over ninety-five per cent.; barbed wire and woven wire fencing, an absolute monopoly, and bridge and building construction, from eighty-five to ninety per cent.

A combination controlling ninety per cent. of black merchant pipe and skelp was formed in 1899; a combination controlling from ninety to ninety-five per cent. of the production of starch and glucose was formed in 1897; a combination controlling sixty per cent. of the production of crackers, etc., was formed in 1898; the American Can Company is said to control eighty-five per cent. of the production of tin cans in the United States; the

American Hide and Leather Company controls seventy-five per cent. of the upper leather output of the country; the American Linseed Oil Company controls eighty-five per cent. of the production of linseed oil; the American Radiator Company controls seventy-five per cent. of the steam and water heating business of the United States; the American Window Glass Company controls seventy per cent. of the output of the United States; the American Writing Paper Company controls seventy-six per cent. of the output of the United States; the Otis Elevator Company controls eighty-five per cent. of the elevator business of the country; the Union Bag and Paper Company controls ninety per cent. of the paper bag business of the United States; the Union Box Board and Paper Company controls over ninety per cent. of the strawboard and newsboard produced in the United States; the United States Envelope Company controls ninety per cent. of the commercial envelopes used in the United States; the United States Rubber Company controls seventy-five per cent. of the output of rubber boots, shoes, etc., of the country; and the National Salt Company controls ninety-five per cent. of the salt output of the United States.

We believe that these instances of leading articles in which combinations have already acquired command of a controlling percentage of production, will suffice to show that combinations for the purpose of controlling production, are no longer mere creatures of fancy, or theoretical speculations as to future conditions; that they are not merely isolated cases peculiar to any one class of indus-

tries, and of interest only to the student of political economy, because of their novelty, or of their unnatural development; but that they are living realities which are rapidly assuming control of our industrial system, and which we must prepare to meet with adequate regulations and restrictions, if we do not wish to see the rights of the individual made subservient to the demands and power of combinations.

The theory has been advanced that there is in every industry a certain point of maximum efficiency beyond which expansion ceases to be profitable, and which will, therefore, serve as an automatic check upon the growth of combination and monopoly. Electric lighting plants are cited as an instance of the operation of this principle. It is said that when the capacity of the dynamo has once been reached, it would require the additional outlay of an equal amount of capital to enable the plant to furnish a greater amount of light; and that until the capacity of the new machinery was fully employed, the profits would not be increased materially, and might, for a time at least, be even less than they were before the expansion. It occurs to us, however, that there are considerations, such as the purchase and distribution of supplies and equipments, the rent or purchase of grounds and buildings, the salaries of officials, the procuring of franchise, the construction of subways, extensions, etc., which might very materially affect this showing, and which tend to indicate that there are advantages to be found in combination even in this class of cases.

We are willing to admit that in the case of electric light and power plants, gas plants, street railways, and other natural monopolies upon which local conditions impose natural limitations to their power of expansion, the cost of production may not be reduced by combination to the same extent that it is in the case of manufacturing and other industrial establishments, but from the acquisition of a large portion of the street railway systems of Chicago, Philadelphia, Cincinnati and Indianapolis, by the Elkins-Widener-Whitney syndicate of Philadelphia; the control of all the available electric routes between Cleveland and Cincinnati, the Western Ohio Traction Company, the Southern Ohio Traction Company, the Miami and Erie Traction Company, the Cleveland, Ebyria and Western Railway, the Cincinnati, Dayton and Toledo Railway, and a number of Illinois companies, by the Pomeroy-Mandelbaum syndicate of Cleveland; and the control of the electric lighting companies of Camden and Atlantic City, of New Jersey; Scranton, Altoona, Dunmore and Conshohocken, Pennsylvania; Bridgeport and Canton, Ohio; Rockford, Illinois; Wheeling, West Virginia; Jamaica and Long Island City, Long Island; Auburn, New York, and other towns, by the Electric Company of America; it would seem that there are inducements to form combination; even in this class of cases, and the limit to which combinations may be carried, does not yet appear to have been discovered.

In relation to other classes of industry, however, the great size and enormous capacity of production which, as we have seen, have already been attained by combinations in nearly every conceivable

branch of trade, would seem to preclude the hope of discovering any point of maximum efficiency which would fall short of the point at which the demand for consumption ceases.

Some years ago we might have been induced to believe that the direction and control of a manufacturing establishment in which all the various processes of the production of an entire line of industry (such as that of iron and steel—from the extraction of the raw materials from the earth to the delivery of the finished product to the consumer), were to be conducted upon so large a scale as to supply the demands of eighty millions of people, would present difficulties which were beyond the capacity of any individual man to surmount; but the continuous evolution of our industrial capabilities, from the individual laborer, to the billion dollar steel corporation, proves how useless it is to attempt to estimate the heights to which human ambition and enterprise may aspire, and the capacity of the machinery of production appears to be quite as expansive as the capacity of those who design and operate it.

We think of no instance in the industrial field in which expansion of combination ceases to be profitable, so long as it is unrestricted in the exercise of the powers which expansion brings within its control; and we have learned of no industrial combination dissolving because it had overreached the point of largest net returns. We do know, however, that combinations are continually growing larger and larger. Even the United States Steel Corporation is steadily adding to its holdings; in December, 1902, it purchased new prop-

erties to provide for which forty-five million dollars worth of bonds were issued, and it is stated that negotiations are now in progress looking to the purchase of properties of much greater importance; and we can rest assured that the financiers who are behind these great combinations would not keep on extending their grasp upon the industries of the country if they did not find it profitable to do so.

It seems clear, then, that we cannot safely rely upon any self-interest to regulate the size or extent of these combinations, and that, if we desire to place any restrictions or regulations upon their future development, we must do so by positive provisions of law.

The point is made by Professor Ely that mere mass of capital does not necessarily lead to monopoly, which distinction is made for the purpose of indicating that towards industrial institutions owned either by individuals or by corporations which are the result either of natural growth or of legitimate investment, although they may have attained to great size, a different course of procedure should be adopted from that which is to be pursued towards combinations which have manifested pronounced tendencies to monopoly.

We admit that mass of capital in the hands of an individual does not necessarily lead to monopoly, but neither does mass of capital in the hands of a combination necessarily lead to monopoly. We have shown, however, that in the nature of things, mass of capital in the hands of a combination does almost inevitably lead to the exercise of monopolis-



tic power; the same capital affords to the individual the same opportunities: their purposes are the same; the temptations are the same; the human nature of the individuals concerned in each is the same, and we are forced to believe that their grasp at monopoly would be very much the same.

It requires no argument to show that the smaller the number of persons concerned in a given matter, the easier it is to establish an agreement between them; it is equally clear that the larger the mass of capital and the greater the size of the establishments engaged in a given industry, the fewer there will be of them; it follows then that the possession of large amounts of capital by individuals or corporations engaged in business, greatly simplifies the making of agreements, and leads readily to combination; and, as we have already seen, the end of combination is monopoly.

Having thus seen that the larger the establishments, the more easily can combination be effected, it merely requires a little reflection to see further that the larger the establishments, the more willing are their proprietors to form combinations. This arises, in the first place, from the fact that the step from an independent establishment which controls a large percentage of the production of its commodities, to a combination which is to control nearly the whole production, is not so great as that from a small establishment into a great combination; in the second place, the proprietors of large establishments know that they will be able to exert a greater amount of influence in controlling the affairs of the combination into which they are about to enter; and in the third place, the proprietors of

large establishments are more likely to have considered the possibilities, advantages, and opportunities of combination, than are the proprietors of small concerns which are so much further removed from the possibilities and temptations of monopoly.

This disposition on the part of large institutions to combine has become so well recognized, that, whenever the formation of a new combination is announced, we at once expect to find the largest establishments in the industry as the leading movers in the combination; and when the names of the combining concerns are reported, it is usually found that they are at the head of the list. The smaller establishments can be forced to join the combination later, or be left to themselves, as the case may be, but the combinations are nearly always formed and controlled by the more important concerns. Thus, in the formation of the United States Steel Corporation, it was only the largest iron and steel combinations which united with the largest steel company in the country, the Carnegie Company, to form the greatest industrial combination yet known to the world.

A more general showing of this tendency of large establishments to combination, and one which has the advantage of being supported by governmental statistics, may be found from a more careful inspection of the census figures already shown. It there appears that the total number of corporations engaged in manufacture and mechanical industries was 40,743, that of these 185 were combinations and controlled 2,216 plants, of which 176 were idle during the census year; but the remaining 2,040 plants which were operated by the combinations,

or five per cent. of the total number of corporations engaged in manufacture, produced during the year 1900, products valued at \$1,667,350,949, or twenty-one and five-tenths per cent. of the total production for all corporations.

Thus we see that the average production of each plant operated by the combinations, is more than four times as large as the average production of each one of the entire number of corporations engaged in manufacture; and more than one hundred and ten times as large as the average production of each of the manufacturing establishments operated by individual proprietors: all of which serves to prove that it is the largest establishments which are most likely to combine, and that if we wish to restrict further combination, we must reach these large independent establishments as well as the combinations which have already been formed.

We, therefore, contend that the same general method of treatment, should, so far as practicable, be applied to great aggregations of capital whether held by individuals, corporations or combinations; believing that it is better to remove the temptation and the power to do mischief, than merely to apply the remedy after the mischief has been done.

But while combinations have attained to such magnitude and influence in the industrial world, have their effects been felt or recognized by the people? The answer to this is found in almost daily utterances of the press of all sections of the country, and in the frequent references to the subject of trusts and combinations which are found in the

public addresses of men of all classes and conditions of society from the President of the United States, members of his Cabinet, United States Senators, Congressmen, and Governors of states, down to lawyers, college professors, clergymen, business men, and laboring men, all of which denounce, in terms more or less severe, trusts and combinations formed for the purpose of controlling production and raising prices, and promise or demand relief from conditions which now oppress the people, and from still greater evils which seem to be impending over them.

During the year 1900 five political parties, namely, the Republican party, the Democratic party, the non-fusion wing of the People's party, the fusion wing of the People's party, and the Silver Republican party, in their national conventions, adopted as part of their platforms, resolutions condemning trusts and combinations in restraint of trade, and promising to deliver the people from the evils and oppression of monopoly. During the same year, seventy state conventions adopted similar resolutions.

A more general demand for the reform of any social or political evil can hardly be imagined than that which the people of this country have made for the regulation of industrial trusts and combinations; yet no regulations or restrictions have thus far been placed upon them. The conditions which elicited these numerous expressions of earnest solicitude from the public press, and from public men of all political parties and beliefs representing all sections of the country, and which gave

rise to the general feeling of dissatisfaction resulting in this unprecedented demand for reform proclaimed by seventy-five State and National Conventions during the year 1900, have not been relieved, but have been growing daily more and more aggravating and oppressive. It would seem, therefore, that the situation is sufficiently grave to induce the thoughtful reader to seek further and endeavor to find a remedy which will cure the evils complained of, and at the same time, secure the largest possible freedom to capital and labor, and to individuals and combinations consistent with the general good of all. ✓

## CHAPTER VII.

## LEGISLATION AND JUDICIAL CONSTRUCTION.

SIR WILLIAM BLACKSTONE, in his commentaries on the laws of England, thus describes the determined hostility of the English people to monopolies, and the laws and penalties by means of which the English Government sought to protect its people from their oppression during the eighteenth century.

② “The offense of forestalling the market is also an offense against public trade. This, which (as well as the two following) is also an offense at common law, was described by statute 5 and 6 Edw. VI., C. 14, to be the buying or contracting for any merchandise or victual coming in the way of the market; or dissuading persons from bringing their goods or provisions there, or persuading them to enhance the price, when there: any of which practices made the market dearer to the fair trader.”

Regrating was described by the same statute to be the buying of corn, or other dead victual, in any market, and selling it again in the same market, or within four miles of the place. For this also enhances the price of the provisions, as every successive seller must have a successive profit.

Engrossing was also described to be the getting

into one's possession, or buying up, large quantities of corn, or other dead victuals, with intent to sell them again. This must, of course, be injurious to the public, by putting it in the power of one or two rich men to raise the price of provisions at their own discretion. So the total engrossing of any other commodity, with intent to sell it at an unreasonable price, is an offense indictable and finable at the common law. And the general penalty for these three offenses by the common law (for all the statutes concerning them were repealed by 12 Geo. III., C. 71), is as in other minute misdemeanors, discretionary fine and imprisonment. Among the Romans these offenses, and other malpractices to raise the price of provisions, were punished by a pecuniary mulct.

Monopolies are much the same offense in other branches of trade, that engrossing is in provisions; being, a license or privilege allowed by the king for the sole buying and selling, making, working or using of anything whatever; whereby the subject in general is restrained from the liberty of manufacturing or trading which he had before. These had been carried to an enormous height, during the reign of Queen Elizabeth, and were heavily complained of by Sir Edward Cook in the beginning of the reign of King James the First; but were in great measure remedied by statute 21 Jac. 1, C. 3, which declares such monopolies to be contrary to law and void (except as to patents, not exceeding the grant of fourteen years to the authors of new inventions; and except, also, patents concerning printing, saltpetre, gunpowder, great ordnance and shot); and monopolists are punished with the

forfeiture of treble damages and double costs, to those whom they attempt to disturb; and if they procure any action, brought against them for these damages to be stayed by any extra judicial order, other than of the court wherein it is brought, they incur the penalties of *praemunire*. Combinations also, among victuallers or artificers, to raise the price of provisions or any other commodities, or the rate of labor, are in many cases severely punished by particular statutes; and in general by statute 2 and 3 Edw. VI., C. 15, with the forfeiture of £10, or twenty-one days' imprisonment with an allowance of only bread and water for the first offense; £20, or the pillory, for the second; and £40 for the third, or else the pillory, loss of one ear and perpetual infamy. In the same manner by a constitution of the Emperor Zeno, all monopolies and combinations to keep up the price of merchandise, provisions or workmanship were prohibited upon pain of forfeiture of goods and perpetual banishment.

Aside from monopolies which have been created by governmental grants, the most common means of securing monopolies and the most essential requisite to their successful operation has been the establishment of agreements between the persons engaged in the industries sought to be affected. In order to prevent the making of such agreements, the English courts have, during the three hundred years which have elapsed since the making of the complaint by Lord Coke, to which Mr. Blackstone refers, universally held that contracts made in general restraint of trade, are contrary to public policy and are, therefore, void. Combi-



nations and conspiracies in restraint of trade were held to be offenses indictable by common law, and punishable as crimes, and contracts made for similar purposes could not be enforced in the courts.

Many changes in the definition of the term monopoly, and restraint of trade, of a method of enforcing the laws and of the penalties imposed for their violation, have been made by statute since the days of which Mr. Blackstone wrote; but the general policy of the law, in its opposition to monopolies, has remained the same. The numerous decisions of the English courts, in which this point has been emphasized, afford us definite and positive expression of the experience and wisdom of centuries, and form the basis upon which most of the anti-trust decisions of our state courts have been founded.

In the old English case of *Mitchel versus Reynolds*, decided in 1711, Lord Macclesfield says: "All total restraints of trade, which the law so much favours, are absolutely bad, and all the restraints, though only partial if nothing more appear, are presumed to be bad; but if the circumstances are set forth, that presumption may be excluded, and the courts are to judge of those circumstances and determine whether the contract be valid or not. Contracts in restraint of trade in themselves, if nothing shows them to be reasonable, are bad in the eyes of the law." ③

This was reiterated in the case of *Mallan versus May*, *Law Journal*, Vol. 12, Part 2, page 376, decided June 5, 1843; and again with slight modification in the case of *Davies versus Davies*, in the

Court of Appeals, Law Journal Reports, Vol. 56, page 962. Chancery. Decided August 1, 1887.

(4) The common law on this point, together with the common law in general, became part of the heritage which the American colonies received from England, and after the revolution most of the states adopted it as a part of their fundamental law.

(5) Most of the states have also recently enacted what are commonly called anti-trust statutes, which are, for the most part, merely re-enactments of the common law, with the addition of various penalties for its violation, and the courts have adopted the precedents of the English cases in construing them.

The following extracts from decisions in leading cases will serve to show how generally this principle of the common law has been recognized by our state courts, and how firmly it has become established as a part of the laws of this country.

The Supreme Court of the State of Illinois, in the case of the Distilling and Cattle Feeding Company versus the People, 156 Illinois Reports, page 486, defines the attitude of the law in relation to monopolies as follows: "The trust obtained possession of nearly all the distilleries and of nearly the entire distillery product of the United States, thus enabling it to dictate prices and the amount of production, and to thus draw to itself the substantial control of the distillery business of the country.

"Combinations of this character have been frequently made the subject of judicial investigation within the last few years, and while the proceeding has generally been against some one of the corpora-

tions entering into the trust, the courts, so far as they have had occasion to speak on the subject at all, have held such trusts to be illegal. . . . Many other decisions of similar importance might be referred to but the foregoing will suffice. They are sufficient in our opinion, to establish the conclusion, in which the courts of the country, with very great unanimity, seem to concur that trusts of the character of the one described in the information so existing prior to the organization of the defendant corporation, are against the policy of the law, and are therefore illegal and void. The control exercised over the distillery business of the country—over production and prices—and the virtual monopoly formerly held by the trust, are in no degree changed or relaxed, but the methods and purposes of the trust are perpetuated and carried out with the same persistence and vigor as before the organization of the corporation. There is no magic in a corporate organization which can purge the trust scheme of its illegality, and it remains as essentially opposed to the principles of sound public policy as when the trust was in existence. It was illegal before and is illegal still and for the same reasons.”

The evils and dangers of trusts and monopolies are thus described by the Supreme Court of the State of Ohio in the case of the State vs. the Standard Oil Company, 49 Ohio State Reports, page 137. “Its object was to establish a virtual monopoly of the business of producing petroleum, and of manufacturing, refining, and dealing in it and all its products, throughout the entire country, and by which it might not merely control

the production, but the price, at its pleasure. All such associations are contrary to the policy of our state and void. . . .”

Much has been said in favor of the objects of the Standard Oil Trust, and what it has accomplished. It may be true that it has improved the quality and cheapened the costs of petroleum and its products to the consumer. But such is not one of the usual or general results of a monopoly and it is the policy of the law to regard, not what may, but what usually, happened. Experience shows that it is not wise to trust human cupidity where it has the opportunity to aggrandize itself at the expense of others. . . . It is true that in the case just cited, the monopoly had been created by letters patent. But the objections lie not to the manner in which the monopoly is created. The effect on industrial liberty and the price of commodities will be the same whether created by patent, or by an extensive combination, among those engaged in similar industries, controlled by one management. By the invariable laws of human nature, competition will be excluded and prices controlled in the interest of those connected with the combination or trust.

The power and far reaching effects of combinations and monopolies are thus set forth by the Supreme Court of the State of Pennsylvania in the case of the Morris Run Coal Company vs. the Barclay Coal Company, 68 Pennsylvania State Reports, page 173.

“The effects produced on the public interests lead to the consideration of another feature of great weight in determining the illegality of the con-

tract, to wit: the combination resorted to by these five companies. Singly, each might have suspended deliveries and sales of coal to suit its own interests and might have raised the price, even though this might be detrimental to the public interest. There is a certain freedom which must be allowed to every one in the management of his own affairs. When competition is left free, individual error or folly will generally find a correction in the conduct of others. But here is a combination of all the companies operating in the Blosburg and Barclay mining region, and controlling their entire productions. They have combined together to govern the supply and price of coal in all the markets from the Hudson to the Mississippi rivers, and from Pennsylvania to the Lakes. This combination has a power in its confederated form which no individual action can confer. The public interest must succumb to it, for it has left no competition free to correct its baleful influence. When the supply of coal is suspended, the demand for it becomes importunate, and prices must rise. Or if the supply goes forward, the price fixed by the confederates must accompany it. The domestic hearth, the furnace of the iron master, and the fires of the manufactory,—all feel the restraint, while many dependent hands are paralyzed, and hungry mouths are stinted. The influence of a lack of supply or a rise in the price of an article of such prime necessity, cannot be measured. It permeates the entire mass of the community, and leaves few of its members untouched by its withering blight. Such a combination is more than a contract; it

is an offense. 'I take it,' said Gibson J., 'a combination is criminal whenever the act to be done has a necessary tendency to prejudice the public or to oppress individuals by unjustly subjecting them to the power of the confederates, and giving effect to the purpose of the latter whether of extortion or of mischief:—Commonwealth vs. Carlisle, Brightly's Reports, 40.' In all such combinations where the purpose is injurious or unlawful, the gist of the offense is the conspiracy. Men can often do by the combination of many, what severally no one could accomplish, and even what when done by one would be innocent."

The primary effect of these and similar decisions has been to compel a general recognition of the fact that combinations in restraint of trade are violations of the common law, and may be dissolved and punished by the imposition of whatever penalties statutes may provide. Their secondary effect has been to dissolve numerous combinations formed in various parts of the country for the purpose of controlling certain lines of trade. The first of these serves to put combinations on their guard lest they overreach the point of public toleration, and this is likely to prove more effective in restraining the abuse of power by combinations in the future than any of the statutes which have yet been enacted. The second of these effects, however, or the dissolution of combinations which these decisions have effected, has merely served to drive these unlawful trusts and combinations from cover to cover, and most of them have continued under new forms of organization, to build up their monopoly of trade in defiance of law.

It may then be asked, if it is unlawful to combine under one form of organization, why is it not equally unlawful to combine under any other? To this we must reply, that no real distinction can be made; whatever is wrong under one form of organization is equally wrong under any other, no matter what appearance of regularity may be adopted to disguise it; and if it were not for the division of this country into so many independent state governments, the application of this rule would be very simple, as was shown in the case of the Distilling and Cattle Feeding Company versus The People, in the Supreme Court of the State of Illinois: but an undue regard for the rights and privileges of corporations, together with a conventional respect for the acts of other states, has, in a measure, served to tie the hands of the courts and to limit their application of this general principle, and many offenders have thus been enabled to evade the law by merely assuming the garb of regularity.

The situation which confronts the courts in this matter is about as follows: most of the states, as has already been stated, have enacted statutes declaring all pools, trusts, confederations, or combinations formed for the purpose of fixing and controlling prices or of regulating or limiting the production, sale, or distribution of any article of merchandise or other commodity, to be illegal, and prescribing severe penalties to be imposed upon those who shall be found guilty of entering into such combinations. Other states have not adopted this policy of opposition to combinations and seem rather to encourage the formation of just such combinations of capital as the majority of the states

are striving to prevent. When, therefore, offenders against these statutes have been brought before the courts, many attempts have been made to enforce their provisions, and numerous combinations have been dissolved or seriously disabled, but they have in most cases immediately taken refuge under the laws of those states which are known to be friendly to their purposes, and have continued to do business as before, as in the case of the Distilling and Cattle Feeding Company of America.

This company was declared by the Supreme Court of the State of Illinois to be illegal, and ordered to be dissolved. The members of the company immediately sent their agents to the State of New York, incorporated the American Spirits Manufacturing Company, came back to the State of Illinois as a legally organized foreign corporation, bought out the properties of the Distilling and Cattle Feeding Company, and proceeded to carry on its business in the State of Illinois just as before. The powers of this new corporation were derived from the State of New York, and the legality of its corporate existence could not therefore be inquired into by the courts of the State of Illinois. The laws of the State of Illinois permit foreign corporations to do business within the state upon very easy terms, and the courts, therefore, found themselves helpless to interfere further with the affairs of this company.

In the State of New York, the North River Sugar Refining Company, one of the members of the Sugar Trust, was attacked in the courts of that state, and its participation in the trust was declared illegal, and the company ordered to be dis-



solved. The Sugar Trust simply went into the State of New Jersey, incorporated the American Sugar Refining Company, assumed the properties of the Trust, and continued to do business as of old, in the State of New York.

In the State of Ohio one of the members of the Standard Oil Trust was brought before the Supreme Court of that state, and its connection with the trust was declared to be illegal, and a dissolution of its relations ordered; but after defying the decisions of the courts of that and other states for a number of years, the Standard Oil Trust finally went into the State of New Jersey and incorporated the Standard Oil Company, since which time it has continued to operate its plants just as before.

But why, it may now be asked, do trusts and combinations which have been dissolved, or which are about to be organized, usually go to some one of a certain few states to secure their articles of incorporation, and frequently to states in which but little or none of their business is to be carried on? The experience of the cases just cited would seem to suggest one answer to this question, which is, that the purposes of the organization, in its trust form, having been declared to be contrary to the policy of the common law, the probabilities are that the courts of the same state would hold the same purposes on the part of a corporation to be equally obnoxious to the law, and warrant the dissolution of the corporation just as it had that of the trust or other combination; whereas, by going for their charter to a state in which they have but little, or no business, the people of that state will have but

little interest in the conduct of their affairs, and there will, therefore, be but slight danger of their legal existence being challenged on account of any abuse of corporate powers of which they may be guilty.

A more fundamental reason, however, is found in the nature of our corporation laws. It has been the policy of the common law from the earliest times to resist every extension of the powers of associations or corporations. In the early days of English civilization, land was the chief source of wealth and power, and we therefore find among the first restrictions placed upon associations, statutes limiting their power to acquire and hold land. These statutes date as far back as the Magna Charta, of the ninth year of the reign of Henry the Third, in the year 1225, and from that time until the present day, restrictions upon the amount of real estate to be held by them, have continued to be one of the limitations most invariably placed upon the powers of corporations.

Many changes in the manner of creating corporations and in the regulations to be imposed upon them, have been made with the changing conditions and requirements of each successive age; but the same general principle seems always to have been kept in mind, namely, that corporations should always be strictly limited to the exercise of those powers which are reasonably necessary to the discharge of the purposes of their creation. In construing these statutes in relation to corporations, the courts have generally borne in mind the popular distrust of the growth of corporate powers, and their decisions have built

up a mass of common law prescribing what corporations shall not do, which, in connection with the statutory provisions as to what they may do, would seem to require them to move in a straight and narrow way. This same spirit of antagonism, modified somewhat by experience and by a more general knowledge of the affairs of corporations which has been obtained during the last half century, but adhering to the precedents laid down by the courts, and true to that innate suspicion of the accumulation of great power in the hands of a few individuals, still pervades the corporation laws of most of the states of this country.

While this spirit of opposition to the extension of the powers of corporations has been the prevailing sentiment in the corporation laws of America and England for the last six or eight hundred years, and has only been modified in recent times into a feeling of vigilant toleration, there has grown up in some parts of this country within the last twenty-five or thirty years a disposition to give to corporations almost unrestricted powers; to allow them substantially the same liberty of action as is enjoyed by individuals, while relieving them of the responsibilities and penalties to which an individual would be subject, and statutes extending to corporations a large share of this freedom and power of action have been enacted in some of our states.

Under these statutes a corporation may obtain a charter empowering it to carry on any or all of the various branches of business known to the business world, with a very few exceptions, such as banking, insurance, and the operation of certain

franchises, and to do all things necessary to the successful prosecution of these various pursuits. These powers may all be included in one charter, and under it the corporation may consolidate and combine with, or absorb other companies, or may hold and vote their stock, thus controlling their affairs; it may be practically unrestricted as to its holding of real estate, at least outside of the state of its creation; may issue an unlimited amount of bonds or other securities; may reside partially or wholly outside of the state of its creation, by merely retaining a nominal office within its jurisdiction, and may escape many liabilities and restraints to which the directors of corporations are ordinarily subjected. Many of these privileges are denied to corporations by the laws of most of our states, and we therefore find a great number of the very large corporations and combinations going for their articles of incorporation to the State of New Jersey, and other states and territories which have patterned after its laws, no matter in what states their business may be located.

We shall not attempt to determine what were the controlling motives which induced the growth of this unprecedented liberality which has made the State of New Jersey so conspicuous as the home of great corporations. Whether the people of that state have been more progressive in their views or have been more sensible to the progressive spirit of the age, which may have seemed to demand the adoption of a more liberal policy toward corporations; or whether the business interests of the state seemed to require

that greater powers be given to corporations in order to enable them to meet the requirements of the industrial world, the control of which was so rapidly concentrated into their hands; whether the people wished to attract a larger share of the business of the country into their state; or whether for the sake of the fees to be obtained for the sale of corporate charters, they were willing to prey upon the business interests of their sister states, and to enable large aggregations of capital to defy the laws of the states in which their business was actually situated and carried on, we shall not attempt to say. There are, however, a few points which serve to make the prominence of this state as a refuge for large corporations appear particularly remarkable.

New Jersey is not the largest state in the Union in any respect. In point of population it ranks sixteenth in size; in regard to its agricultural products it ranks as thirtieth among the states, and as a manufacturing state it takes sixth place; while as an incorporator of combinations and large corporations it far surpasses all the other states. Of the one hundred and eighty-five industrial combinations reported by the Twelfth Census, and reproduced elsewhere in this volume, one hundred and one were incorporated in the State of New Jersey, seventy-six were distributed among nineteen or twenty other states, and eight of the number were incorporated under the laws of England.

Some idea of what percentage of the corporations incorporated under the New Jersey laws are actual bona fide residents of that state may be

derived from an inspection of the census table just referred to, from which it appears that of the one hundred and one combinations incorporated in the State of New Jersey, only four reported to the Director of the Census that their central or principal offices were located in that state, while ninety-seven reported that their offices were situated at points in other states.

It is true that the laws of New Jersey provide that every corporation incorporated in that state shall maintain a principal office within the state, but this requirement is complied with by merely maintaining a nominal agency at some point within the state, at which certain books are kept, but where no real business is transacted. It will be readily understood how complete a sham this fiction of maintaining a principal office within the state is, when it is known that several trust companies within the state make a special business of organizing non-resident corporations, and of maintaining their principal offices for them. One of these companies alone claims, in its advertising circular, to represent over two thousand corporations, so it can easily be imagined how much real business it would be capable of conducting for each one of them.

These companies advertise all over the country the advantages afforded by the New Jersey laws. They agree to furnish resident incorporators in order to organize corporations for any purpose or purposes that may be desired; to fill out and sign all necessary applications, and to take out all papers necessary to complete organization; to hold all necessary meetings, to keep the necessary

books, to hold the annual meetings of stockholders which are required to be held within the state; all of this without the presence of a single stockholder, and finally to insure the corporation against all liabilities and penalties under the laws of that state. In short, they propose to organize, equip and deliver to the customer a complete working corporation endowed with exceptional powers and privileges, and that without a member of the new corporation ever having put his foot within the state, or subjected himself to its jurisdiction. Yet this appears to be accepted by the courts as a compliance with the laws of the state.

The fees derived from the issuing of charters to this multitude of corporations have, however, proved to be the source of a very considerable revenue to the state, and have greatly reduced the rate of taxation. The people of that state have, therefore, received some direct benefit as the result of their liberality toward corporations, and it is easy to understand why they might favor the extension of the trade in corporation charters, regardless of what the effect might be upon the business interests of other states.

Whatever may have been the motives which inspired the framers of the corporation laws of New Jersey, whether they were selfish and narrow, or as generous and broad as their effects have been far-reaching, the fact remains that they have revolutionized corporation life in this country. A large majority of the states still adhere to the old form of strict corporation laws, but the promoters of corporations understand perfectly well that whenever they desire to secure greater freedom of cor-

porate powers than the laws of the state in which they are doing business afford, they have merely to apply to the State of New Jersey or to some other state having similar laws, for a charter empowering them to do almost anything that they might wish to do.

(6) The anti-trust statutes adopted by most of the states, and designed to prevent the formation of pools, trusts and agreements for the control of prices and the regulation of production, have been successful in driving these aggregations of capital from one form of organization to another, until they at last found refuge and protection in the form of great corporations, or what might very appropriately be termed, foreign corporations, for they are usually foreign to all states in which their business is conducted. The development of this idea of a foreign corporation has rendered the old forms of trusts, pools and working agreements, much less desirable means of forming combinations, and the statutes directed against them have therefore lost much of their value as a means of protection to the rights of the people.

(7) In order to place some restriction upon the powers of these foreign corporations, some states have enacted provisions requiring all foreign corporations desiring to do business within their limits to file a copy of their charter or certificate of incorporation with the Secretary of State or other official, to become subject to the general corporation laws of the state, and declaring that they shall exercise no other or greater powers within its jurisdiction than are conferred upon the domestic corporations of the state. These provisions,



though they may at first sight appear to be amply sufficient to restrain the powers of these corporations within the state, have fallen wholly short of their purpose. The plants operated by these corporations within the state are usually found to be mere ministerial branches, exercising no executive powers, operated in obedience to orders received from the board of directors, the members of which are usually found to reside in some other state, and the result has been an utter failure to check them in any essential particular.

An illustration of this class of cases is found in the case of the American Spirits Manufacturing Company, which owns and operates a number of distilleries in the State of Illinois as well as in other states. This company is incorporated under the laws of the State of New York, but ninety per cent. of its stock is owned by the Distilling Company of America, which is a New Jersey corporation, and which therefore controls its affairs. We then have a distillery operated at Peoria, Illinois, but its supplies are purchased and its products distributed by the American Spirits Manufacturing Company of New York, under the direction of the Distilling Company of America, of New Jersey.

Perhaps the most convincing evidence of the failure of these restrictive provisions to accomplish their purpose is found in the steady and rapid increase in the number and power of these foreign corporations. If these corporations found themselves restricted in any considerable number of states to the exercise of those powers and privileges which are enjoyed by domestic corporations, and

which is the end these statutes were intended to secure, it would be useless for them to go to New Jersey or elsewhere to procure the grant of powers which they would not be allowed to exercise. There would soon be a perceptible falling off in the number of organizations seeking charters in foreign states, but their number is steadily increasing, and we are therefore forced to conclude that they must find but very little hindrance to the exercise of these extraordinary powers for which they seek the aid of foreign states.

It would seem, then, that the several states should either adopt some drastic measures to compel these foreign corporations to abandon their extraordinary powers, or should revise their own laws so as to allow to domestic corporations a degree of latitude in keeping with the demands of the age, and should endeavor to agree upon some uniform provisions for their regulation and control. It certainly seems absurd to see corporations going to one state to secure their grant of powers, and then going into other states to exercise them. It is a burlesque upon our form of government.

The reason of the restrictions which the common law and the statutory laws of most of our states have thrown about corporations, is that it has always been believed that if too much freedom of action were to be allowed to corporations they would soon become so powerful as to be a menace to the interests of the public, and destructive of the rights of individual competitors. If experience has shown the correctness of this position to be still well founded, and it has been found impracticable to restrain these foreign corporations

by imposing regulations upon their branches within the state, there would seem to be no good reason why they should not be absolutely prohibited from doing business within the state, so far at least as such business does not become a part of interstate commerce, for every state has the right to protect the interests of its own people by all measures which do not interfere with the powers which are granted to the national government by the Constitution of the United States, and no state has any right to grant a license to any individual or corporation to do any act, or exercise any powers within the limits of any other state, which are not tolerated by the laws of that state, or which it is bound to respect.

In view of the many changes which have taken place in the condition of society and in the manner of doing business, and in the light of the numerous experiments which have been made in the exercise of extensive powers by corporations, if it appears that greater powers and freedom of action are necessary to enable corporations to meet the legitimate requirements of the business of to-day, and that it can be safely granted to them without sacrificing the rights of the public or of the individual, it would seem to be the part of wisdom for the states to revise their laws, and to grant to corporations whatever measure of freedom the industrial development of the country may seem to demand. An effort should also be made to secure uniformity in the corporation laws of the several states, for in that way, not only would the powers, privileges, penalties and immunities of corporations become more generally,

understood, but corporations would then secure their charters from the state in which they intend to do business and in which their property is located, and there would cease to be displayed that disposition to seek to secure the extreme limit of power which must always result from an undue restriction on the one hand and an over-indulgence on the other. But we shall speak further of this when we come to the consideration of remedies.

The difficulties attending the regulation of trusts and combinations by the several states, early led to an appeal to the national government to take the matter in hand, and in obedience to the popular demand, Congress, in the year 1890, passed what is commonly known as the Sherman Anti-Trust Act.

As is generally understood, the Government of the United States is limited to the exercise of those powers which are granted to it by the Constitution of the United States, and in order to secure its action in any given matter, the subject must be brought fairly within the scope of some one of these powers. Trusts, pools and combinations among railway companies were a direct interference with interstate commerce, and had been provided against by the establishment of the Interstate Commerce Commission in 1887, but the combinations now complained of were chiefly among manufacturers, and there is nothing in the Constitution of the United States which directly gives to Congress any control whatever over manufactures.

The clause of the Constitution which provides that Congress shall have power to regulate com-

merce with foreign nations and among the several states, and with the Indian tribes, has been construed to include the power to levy tariff duties for the sole purpose of affording protection to domestic manufacturers, but this has been justified chiefly on the grounds of expediency, because the levying of duties was one of the usual means of regulating commerce; because it had been customary under English law, before the adoption of the Constitution, to levy duties for the protection of domestic industries; because the power to afford such protection to manufactures or other industries had been taken away from the states by the Constitution, and because it was believed that the framers of the Constitution had intended that such powers should be exercised by Congress. There is no other power enumerated in the Constitution from which the right of Congress to interfere with combinations of manufacturers can possibly be derived. If it has the right to act in the matter at all, its authority to do so must be found in relation to the interstate commerce clause of the Constitution.

It was, therefore, considered that these combinations would most likely enter into agreements which would, in one way or another, interfere with interstate commerce, and upon this theory the Sherman act was founded. It prohibits the making of agreements of any kind in restraint of interstate commerce, believing that by thus restricting the power of combinations to regulate interstate trade they would be shorn of the choicest fruits of their unlawful combinations, and that they would therefore soon begin to disappear.

"Chapter 647.—An act to protect trade and commerce against unlawful restraints and monopolies, July 2, 1890. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

"Section 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 misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the Court."

The succeeding sections are merely amplifications of this, together with the provision of penalties for its violation, and prescribing the manner of its enforcement. The consideration of this statute derives special importance from the fact that it marks the utmost extent to which Congress has yet gone in this direction.

It will be noticed that this act does not attempt to assume any incidental or implied power under the section of the Constitution relating to the regulation of interstate commerce. It merely provides that no trust or combination shall be formed or agreement made in restraint of interstate commerce; or, in other words, that there shall be no interference with that which Congress has been given express power to regulate. It does not attempt to lay hold of the subject matter of manufacture, of agriculture, of mining, or even of com-

merce within the bounds of a state; it merely provides that there shall be no interference with the free flow of commerce between the several states.

The scope of the Anti-Trust Act, and the powers of Congress under the third clause of section eight, of article one, of the Constitution of the United States, which provides that Congress shall have power to regulate interstate commerce, are very fully considered by the Supreme Court of the United States in the case of the United States versus E. C. Knight Company, 156 United States Reports, page 1, in which attention is drawn to the distinction between commerce and manufacture, and to the importance of observing the point at which the jurisdiction of the state ends and that of the United States begins. The elements comprehended in the term commerce are clearly defined, and the dangers and far-reaching consequences of the National Government ever attempting to assume control of those who may be engaged in manufacturing or otherwise producing articles designed for interstate commerce, are very forcibly set forth. Chief Justice Fuller, speaking for the Court in that case, says: "The argument is that the power to control the manufacture of refined sugar is a monopoly over a necessary of life, to the enjoyment of which, by a large part of the population of the United States, interstate commerce is indispensable, and that, therefore, the general government in the exercise of the power to regulate commerce may repress such monopoly directly and set aside the instruments which have created it. But this argument cannot be confined to necessities of life merely, and must in-

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clude all articles of general consumption. Doubtless the power to control the manufacture of a given thing involves in a certain sense the control of its disposition, but this is a secondary and not the primary sense; and although the exercise of that power may result in bringing the operation of commerce into play, it does not control it, and affects it only incidentally and indirectly. Commerce succeeds to manufacture, and is not a part of it. The power to regulate commerce is the power to prescribe the rule by which commerce shall be governed, and is a power independent of the power to suppress monopoly. But it may operate in repression of monopoly whenever that comes within the rules by which commerce is governed, or whenever the transaction is itself a monopoly of commerce.

“It is vital that the independence of the commercial power and of the police power, and the delimitation between them, however perplexing, should always be recognized and observed, for, while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the states as required by our dual form of government; and acknowledged evils, however grave and urgent they may appear to be, would better be borne than the risk be run, in the effort to suppress them, of more serious consequences, by resort to expedients of even doubtful constitutionality.

“It will be perceived how far-reaching the proposition is that the power of dealing with a monopoly directly may be exercised by the general government whenever interstate or international



commerce may be ultimately affected. The regulation of commerce applies to the subjects of commerce, and not to matters of internal police.

“Contracts to buy, sell, or exchange goods to be transported among the several states, the transportation and its instrumentalities, and articles bought, sold or exchanged for the purposes of such transit among the states or put in this way of transit may be regulated, but this is because they form part of interstate trade or commerce. The fact that an article is manufactured for export to another state does not of itself make it an article of interstate commerce, and the intent of the manufacturer does not determine the time when the article or product passes from the control of the state and belongs to commerce. . . . .

“If it be held that the term includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the states, with the power to regulate, not only manufactures, but also agriculture, horticulture, stock raising, domestic fisheries, mining—in short, every branch of human industry. For is there one of them that does not contemplate, more or less clearly, an interstate or foreign market? Does not the wheat grower of the Northwest, or the cotton planter of the South, plant, cultivate and harvest his crop with an eye on the prices at Liverpool, New York and Chicago? The power being vested in Congress and denied to the states, it would

follow as an inevitable result that the duty would devolve on Congress to regulate all of these delicate, multiform and vital interests—interests which in their nature are and must be local in all the details of their successful management.”

In this case the Court held that in order to come within the provisions of the Sherman Anti-Trust Act, a contract must directly, not incidentally or collaterally, affect interstate commerce, and though the contract in question was an agreement by which a sugar refinery which had heretofore been an active competitor of the Sugar Trust, was to become consolidated with the trust; and though some portion of its products would undoubtedly eventually become a part of interstate commerce, yet the Court held that this did not bring the case within the provisions of the statute, and that the Court had no jurisdiction in the matter.

The fact that contracts must directly, and not merely incidentally or collaterally, affect interstate commerce in order to come within the provisions of the statute, was again emphasized in the Supreme Court of the United States by Justice Peckham, in the case of the Addyston Pipe & Steel Company versus the United States, 175 United States Reports, page 211, as follows:

“Under this grant of power to Congress, that body, in our judgment, may enact such legislation as shall declare void and prohibit the performance of any contract between individuals or corporations, where the natural and direct effect of such a contract will be, when carried out, to directly, and not as a mere incident to other and innocent

purposes, regulate to any substantial extent interstate commerce."

While the Sherman Anti-Trust Act is generally considered to be the limit to which Congress has gone in the exercise of its power to regulate interstate commerce, and undoubtedly is the highest exercise of that power which has yet been attempted in relation to measures of general application, there is an exception to be found in the case of the Act of March 2, 1895, entitled, "An Act for the Suppression of Lottery Traffic through National and Interstate Commerce and the Postal Service, Subject to the Jurisdiction and Laws of the United States," 28 Stat., 963.

The purpose and effect of the act is to exclude a specific article—lottery tickets—from interstate commerce for reasons which appear to be in no way related to that commerce; and it thus marks a distinct departure in the exercise of Federal powers.

The constitutionality of the act was not contested until the year 1899, when proceedings were begun under it by the Federal authorities in the State of Texas against one C. F. Champion, charging him with sending lottery tickets by express from some point in that state to a point in the State of California. An appeal was taken, and the case went to the Supreme Court of the United States, where it was heard at the October term, 1902, and the opinion sustaining the validity of the act was filed February 23, 1903. The title of the case now is *Champion versus Ames, United States Marshal*, and may be found in the 188th United States Report, page 321.

Four of the justices dissented from the finding of the Court, only five concurring in it, and this, together with the importance of the subject involved, the new and radical character of the provisions of the act, and the far-reaching consequences which might be supposed to follow from the establishment of such a precedent, all serve to mark it as a decision worthy of our most careful consideration. After discussing the various elements which go to make up commerce, and making an exhaustive review of the decisions which have established the meaning of that term as used in the Constitution of the United States, with which we are not now concerned, but from which it found that lottery tickets, when carried from state to state, properly constitute an article of interstate commerce, the Court continued in part as follows:

“But it is said that the statute in question does not regulate the carrying of lottery tickets from state to state, but by punishing those who cause them to be so carried, Congress in effect prohibits such carrying; that in respect of the carrying from one state to another of articles or things that are, in fact, or according to usage in business, the subjects of commerce, the authority given Congress was not to prohibit, but only to regulate. This view was earnestly pressed at the bar by learned counsel and must be examined.

“It is to be remarked that the Constitution does not define what is to be deemed a legitimate regulation of interstate commerce. In *Gibbons versus Ogden* it was said that the power to regulate such commerce is the power to prescribe the rule by which it is to be governed. But this general obser-

vation leaves it to be determined, when the question comes before the court, whether Congress, in prescribing a particular rule, has exceeded its power under the Constitution. While our government must be acknowledged by all to be one of enumerated powers (*McCullough versus Maryland*, 4 Wheat., 316, 405, 407), the Constitution does not attempt to set forth all the means by which such powers may be carried into execution. It leaves to Congress a large discretion as to the means that may be employed in executing a given power. 'The sound construction of the Constitution,' this court has said, 'must allow to the national legislation that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate; let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution are constitutional.' *Ib.*, 421.

"If a state, when considering legislation for the suppression of lotteries within its own limits, may properly take into view the evils that inhere in the raising of money, in that mode, why may not Congress, invested with the power to regulate commerce among the several states, provide that such commerce shall not be polluted by the carrying of lottery tickets from one state to another? In this connection it must not be forgotten that the power of Congress to regulate commerce among the states, is complete in itself, and is subject to no

limitations except such as may be found in the Constitution. . . .

“As a state may, for the purpose of guarding the morals of its own people, forbid all sales of lottery tickets within its limits, so Congress, for the purpose of guarding the people of the United States against the ‘widespread pestilence of lotteries’ and to protect the commerce which concerns all the states, may prohibit the carrying of lottery tickets from one state to another.

“That regulation may sometimes appropriately assume the form of prohibition is also illustrated by the case of diseased cattle, transported from one state to another. Such cattle may have, notwithstanding their condition, a value in money for some purposes, and yet it cannot be doubted that Congress, under its power to regulate commerce, may either provide for their being inspected before transportation begins, or, in its discretion, may prohibit their being transported from one state to another. . . .

“The act of July 2, 1890, known as the Sherman Anti-Trust Act, and which is based upon the power of Congress to regulate commerce among the states, is an illustration of the proposition that regulation may take the form of prohibition. The object of that act was to protect trade and commerce against unlawful restraints and monopolies. To accomplish that object, Congress declared certain contracts to be illegal. That act, in effect, prohibited the doing of certain things, and its prohibitory clauses have been sustained in several cases as valid under the power of Congress to regulate interstate commerce. . . .

“Then followed the passage by Congress of the act of August 8, 1890, 26 Stat. 313, C. 728, providing ‘that all fermented, distilled or other intoxicating liquor or liquids transported into any state or territory, or remaining therein for use, consumption, sale or storage therein, shall upon arrival in such state or territory be subject to the operation and effect of the laws of such state or territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquids or liquors had been produced in such state or territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.’ That act was sustained in the Rahrer case as a valid exercise of the power of Congress to regulate commerce among the states. . . .

“Thus under its power to regulate interstate commerce, as involved in the transportation in original packages, of ardent spirits from one state to another, Congress, by the necessary effect of the act of 1890 made it impossible to transport such packages to places within a prohibitory state and there dispose of their contents by sale; although it had been previously held that ardent spirits were recognized articles of commerce and, until Congress otherwise provided, could be imported into a state, and sold in the original packages, despite the will of the state. If at the time of the passage of the act of 1890, all the states had enacted liquor laws prohibiting the sale of intoxicating liquors within their respective limits, then the act would have had the necessary effect to exclude ardent spirits altogether from commerce

among the states; for no one would ship, for purpose of sale, packages containing such spirits to points within any state that forbade their sale at any time or place, even in unbroken packages, and in addition, provided for the seizure and forfeiture of such packages. So that we have in the Rahrer case a recognition of the principle that the power of Congress to regulate interstate commerce may sometimes be exerted with the effect of excluding particular articles from such commerce.

“It is said, however, that the principle that in order to suppress lotteries carried on through interstate commerce, Congress may exclude lottery tickets from such commerce, leads necessarily to the conclusion that Congress may arbitrarily exclude from commerce among the states any article, commodity or thing, of whatever kind or nature, or however useful or valuable, which it may choose, no matter with what motive, to declare shall not be carried from one state to another. It will be time enough to consider the constitutionality of such legislation when we must do so. The present case does not require the Court to declare the full extent of the power that Congress may exercise in the regulation of commerce among the states. . . .

“The whole subject is too important, and the questions suggested by its consideration are too difficult of solution to justify any attempt to lay down a rule for determining in advance the validity of every statute that may be enacted under the commerce clause. We decide nothing more in the present case than that lottery tickets are subjects of traffic among those who choose to sell or buy them; that the carriage of such tickets by inde-



pendent carriers from one state to another is therefore interstate commerce; that under its power to regulate commerce among the several states, Congress, subject to the limitations imposed by the Constitution upon the exercise of the powers granted, has plenary authority over such commerce, and may prohibit the carriage of such tickets from state to state; and that legislation to that end, and of that character, is not inconsistent with any limitation or restriction imposed upon the exercise of the powers granted to Congress."

The second part of the opinion of the Court was devoted entirely to the discussion of the right of Congress, under its power to regulate interstate commerce, to prohibit the carrying of any particular article in commerce between the states, for reasons not directly connected with that commerce. It held that lottery tickets might be so excluded from interstate commerce, but expressly declined to affirm any broader rule or to indicate what might be held in the case of a similar provision applied to any other article. The foregoing extracts, it is believed, present the principal grounds upon which this part of the decision was founded. In the dissenting opinion in the case the justices avoided any extended discussion of the constitutional questions involved and dissented from the finding of the Court upon the grounds that lottery tickets do not form a part of interstate commerce, but in view of the apparent importance of the decision in relation to the exercise by Congress of powers such as we have been considering in this chapter, it is believed that a few remarks concerning it will not be out of place at this time.

We shall examine only that part of the opinion which deals with the power of Congress to exclude articles from interstate commerce. It should be remembered, then, that Congress possesses no powers except those granted to it by the Constitution of the United States, and those which are necessary to carry them into effect; and that every act of Congress, therefore, to be declared constitutional, must be brought fairly within the scope of some one of these expressed powers. The act in question was clearly intended to be understood as an exercise of its power to regulate commerce among the states, and no attempt has been made to justify it upon any other grounds. Let us see if it has been shown to fall fairly within the legitimate exercise of that power. The court repeats the language of Chief Justice Marshall to the effect that the power of Congress to regulate commerce among the states in plenary, is complete in itself, and that the power to regulate such commerce is the power to prescribe the rule by which it is to be governed. It then remarks that these general observations leave it to be determined when the question comes before the Court whether Congress, in prescribing a particular rule, has exceeded its power under the Constitution. The general statement that Congress has complete power to regulate interstate commerce is, then, not to be accepted as sufficient to justify the enactment of the regulation in question, unless it can be shown to come within the true intent and purpose of the power.

The Court then says: "As a state may, for the purpose of guarding the morals of its own people,

forbid all sales of lottery tickets within its limits, so Congress, for the purpose of guarding the people of the United States against the widespread pestilence of lotteries and to protect the commerce which concerns all the states, may prohibit the carrying of lottery tickets from one state to another." The states undoubtedly have the power to suppress the sale of lottery tickets within their bounds, but no one ever thought of classing their right to do so as an incident to their power to regulate domestic commerce. Lottery tickets are carried from point to point within the state as well as from state to state, and if the right to suppress the traffic in them cannot properly be considered as an incident to the power of the state to regulate domestic commerce, it is difficult to understand how it can more properly be brought within the power of Congress to regulate commerce among the several states.

The power of the states to regulate or suppress lotteries and to prohibit traffic in their tickets, is a part of their police powers. The Federal government possesses no powers except those which have been delegated to it by the states, and as no police powers have ever been granted to it, except as to the territories and the District of Columbia and other territory over which it has been given exclusive jurisdiction, it follows that it cannot regulate or suppress lotteries by virtue of the same right under which they are controlled by the states.

It is then asked, "If a state, when considering legislation for the suppression of lotteries within its own limits, may properly take into view the evils that inhere in the raising of money in that mode,

why may not Congress, invested with the power to regulate commerce among the several states, provide that such commerce shall not be polluted by the carrying of lottery tickets from one state to another?"

Commerce is not a governmental function; it is essentially a private occupation, which is enjoyed by virtue of the natural right of every individual to exchange his products for those of other men, and exists independently of governmental provision or support. Congress has not been given the power to engage in commerce among the states, nor to prohibit such commerce, but merely to regulate it, and that for the purpose of preserving and encouraging it and of protecting it against unjust and discriminating legislation by the states and undue interference by private individuals. Commerce is not an instrument of government which may be used or restricted at the pleasure of the administration, but it is a private right which may be required to be so exercised as to allow the greatest freedom and opportunity to all.

The regulation, then, is clearly intended to be for the benefit of commerce, and we are led to inquire, does the carrying of lottery tickets from state to state in any way affect interstate commerce? Does the carrying of lottery tickets have any more injurious effect upon commerce than the transportation of newspapers, dry goods or other articles? We think not, and must, therefore, conclude that there is no interest of interstate commerce which demands that the carrying of lottery tickets shall be forbidden.

The statute prohibiting the shipment of diseased

cattle in interstate commerce is then cited as an instance in which congressional regulation has taken the form of prohibition of particular articles. The placing of cattle having contagious or communicable diseases, for shipment in commerce would be likely to infect all other cattle with which they come in contact, and thus be directly injurious to the rights of other shippers. A regulation, therefore, which forbade the transportation of such cattle, would be directly for the good of commerce and so within the power of Congress to prescribe.

The Sherman Anti-Trust Act is then referred to as an instance of the power of Congress to forbid the doing of certain things in relation to interstate commerce. The Court, however, then repeats the words of Justice Peckham to the effect that a contract to be prohibited must directly and not as a mere incident to other and innocent purposes, regulate to any substantial extent interstate commerce.

Do lottery tickets or the carrying of them in any way directly relate to interstate commerce? If they do, they will come within the principle of the last two cases, but if not, we must look further.

The traffic in alcoholic liquors is next mentioned as a further example of the power of Congress to exclude articles from interstate commerce. The regulation of the liquor traffic and of the transportation of lottery tickets appears to be precisely the same in principle, the states have power to regulate both, and they alike come within the police power of government to protect the health and

morals of its people. If, then, the Federal Government has power to control one it has the other.

The Court then proceeded to show that Congress has never attempted to regulate the liquor traffic, but that it has, on the contrary, placed the entire matter within the control of the states by providing that all liquors imported into any state shall become subject to its jurisdiction in the same manner and to the same extent as though they were produced therein. It is said that if all the states were to exercise the power secured to them by that act, and prohibit the production or sale of such liquors within their limits, the effect would be to exclude an article from interstate commerce as completely as is now done by the act in question.

The difference between the two cases is just that which exists between the doing of a thing oneself and the having it done for one without his consent. It is the distinction between a republic and a monarchy, between a government by the people and a government from a throne. The states possessed the undoubted right to regulate the liquor traffic within their limits, and Congress, in effect, merely provided that interstate commerce should not be used as a means of defeating that power. If, then, all of the states were to enact laws forbidding the production or sale of liquor, the prohibition would be of their own making, whereas, if a number of the states did not adopt such provisions, and Congress were to prohibit the carrying of liquors in interstate commerce, it would be an infringement of the rights of the citizens of these states to exchange their products with one another and with foreign nations; for if all of the states but one

were to enact prohibitory laws, that one would still have the right to export its products to foreign countries, and to import such liquors if it desired to do so. Congress did not exclude liquors from interstate commerce, and the circumstances seem to suggest no greater reason for its doing so in the case of lottery tickets.

The Court dwelt upon the widespread evils of lotteries, but the gravity of the evil affords no justification for the usurpation of powers. The inadequacy of any other power to deal with the evil is also suggested, but the regulation of the liquor traffic, which the Court so fully explained, affords a sufficient answer to this point. Make lottery tickets subject to state jurisdiction as soon as brought within its limits, and you place the whole matter completely under state control.

Finally, the test of constitutionality laid down by Chief Justice Marshall is cited: "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

"Let the end be legitimate, let it be within the scope of the Constitution." By legitimate is meant lawful, or within the recognized power of the government to act. It is also meant that the end shall be legitimate for the particular government in question, for many things might be perfectly legitimate for State action which would not be so for the National Government, and vice versa.

What, then, is the end sought to be accomplished by the act in question? It is entitled "An Act for

the Suppression of Lotteries," etc.; the language employed in it clearly indicates the intention of its framers to restrict and discourage lotteries, and the Court, speaking of its provisions, says: "If the carrying of lottery tickets from one state to another be interstate commerce, and if Congress is of opinion that an effective regulation for the suppression of lotteries, carried on through such commerce, is to make it a criminal offense to cause lottery tickets to be carried from one state to another," etc. The purpose of this legislation, then, is the suppression of lotteries. Is that end within the scope of the Constitution of the United States? Does it come fairly within the purpose of any one of the enumerated powers conferred upon Congress by that instrument? Or does the still broader purpose to which the suppression of lotteries may be said to contribute, the protection of the public morals, come within the scope of the Federal Constitution? We think not. That comes within the police power, and Congress has never attempted to exercise police power except in relation to territory over which it had exclusive and unlimited jurisdiction. The power to regulate lotteries or to protect the public morals has nowhere been expressly granted to Congress, and whatever may be said of the right to use its power to regulate interstate commerce as a means to that end, it seems like a stretch of the imagination to believe that the power to protect the public morals was intended to be included in the grant of power to regulate commerce among the states. The end, then, not being within the scope of the Constitution, according to the rule of Chief Justice Mar-



shall, the legislation which seeks to secure it must be unconstitutional, and the mere possession of powers which might be used for that purpose is of no avail.

We have now reviewed the several grounds suggested by the Court upon which the right of Congress to exclude certain articles from commerce among the states might be founded, but we fail to discover any convincing reason for basing it upon any one of them. We think it safe to predict, then, that in view of the exhaustive review of the subject made in this case, and the great uncertainty in which the right of Congress to act appears to be enshrouded, even in a case in which morality and popular opinion seem to unite in demanding such action, this decision will not establish a precedent which will be likely to lead to any extension of this power of Congress so as to affect other articles of commerce in which no moral questions are involved.

One of the principal points made clear by all these decisions is that interstate commerce is the subject which Congress has power to regulate, and that it cannot be used as a pretext for interfering with any other subjects, no matter how closely they may be allied to it. Speaking on the same subject, Mr. Tucker, in his work on the Constitution, after reviewing the decision of Chief Justice Marshall in the case of *Gibbons versus Ogden*, says: "It may be remarked that the power of Congress is not to regulate persons and things, but merely commerce in them."

It has recently been suggested by some persons high in authority, whose opinions on such subjects

are deserving of the most careful consideration, that the power of Congress to regulate combinations and monopolies has not yet been exhausted. They assert that the power to regulate it involves the power to prescribe regulations as to who may engage in interstate commerce, and upon what conditions they may do so; that combinations may therefore be required to procure a license from the United States Government before their products can be transported from state to state, and that suitable restrictions may be imposed upon them before such license shall be issued.

But what use do combinations make of interstate commerce, with which Congress would have the power to interfere? They cannot travel to and fro as individuals do; there is no thought of interfering with the right of individuals to go and come at pleasure, whether they be the officers or agents of combinations or monopolies, or merely engaged in private business. It must therefore be the transportation of their products, and that alone, which is to be relied upon to bring these combinations within the supposed right of control by Congress.

But the Supreme Court of the United States has already declared that the mere transportation of goods produced by a combination from one state to another, or the enhancement of the price of any commodities which are intended to be so transported, or the suppression of the manufacture or production of articles the transportation of which has heretofore constituted an important item of interstate commerce, does not constitute such an in-

terference with commerce among the states as to warrant Congress in assuming control of the manufacture or production of these articles. In the case of the United States versus the E. C. Knight Company it was admitted that some part of the products of the Sugar Trust, with which the defendant company was combining, would undoubtedly become a part of interstate commerce, and that the price of such products would in all probability be raised by the trust, which would tend to diminish the volume of interstate commerce; but this was held to be an indirect result of the trust agreement, the real object of which was to control the refining of sugar, and Congress was held to have no power to interfere in the matter.

In making the point so clear that the power of Congress (under this clause of the Constitution) to assume jurisdiction over any class of cases depends upon their interference with, restriction of, or obstruction to, interstate commerce, and not upon their use of, or relation to it, the Court would seem to have anticipated any attempt that might be made to legislate further upon the subject, and to have declared it to be of no avail.

We have already shown Chief Justice Fuller's statement of some of the evils which would be likely to result from any attempt on the part of the national government to regulate the manufacture or production of those articles which are intended for interstate commerce, and an attempt to say who may or may not engage in interstate commerce would be equally far reaching in its effects. As was said in Colonial days, the right to take a penny implies the right to take a pound; so the

right to assume jurisdiction over combinations because of their participation in interstate commerce would imply the right to assume jurisdiction over individuals who have anything to do with interstate commerce; and since commerce includes the carrying of passengers as well as that of merchandise, and includes the passengers carried as well as the carrying of them, it is clear that there would soon be but very little left for the states to retain jurisdiction over.

The power to regulate commerce among the several states was given to Congress by the Constitution for the purpose of preserving the freedom of that commerce, and not to be used as a means of extending the powers of Congress so as to include the regulation of every other industry with which commerce may come in contact. If the power to regulate commerce among the several states can be extended in this manner, there would seem to be no good reason why the power to establish post offices and post roads could not be extended so as to include the regulation of the business of all those who make use of the mails; and instead of being a government of clearly defined enumerated powers, we would then have a government exercising very general and far reaching powers, and the boasted sovereignty of the individual states in local affairs would soon cease to be more than an idle dream.

## CHAPTER VIII.

## QUASI-PUBLIC MONOPOLIES.

It is customary for writers upon the law of corporation to divide civil corporation, or those which are engaged in business or in the conduct of public affairs into two general classes, namely, public corporations and private corporations.

In public corporations are included all governmental bodies, municipalities, etc., while private corporations comprise all those which are organized for individual purposes.

A distinction is also made between those corporations which are devoted to strictly private business and those which, though organized by private persons, are engaged in the discharge of some duty or service which is necessary to the comfort, safety or convenience of the public, and over which, therefore, it is said to possess certain rights of control. This distinction has also been strongly emphasized by the decisions of the courts, and the latter class has been termed quasi-public corporations.

We then have three classes of corporations—public, private, and quasi-public corporations.

Recent writers upon the subject of monopolies have, among other classifications, also divided their

subject into the two general classes, public monopolies and private monopolies. This classification of monopolies corresponds exactly with the classification of corporations, public monopolies including all organized portions of the government, and private monopolies comprising all those organized or secured for private purposes. As the courts, in their efforts to apply the law to private corporations, have found it necessary to subdivide them into two classes, according to the public or private nature of their employment, it would seem that private monopolies, which have to do more directly with the subject matter of the employment than with the form of organization, should be subdivided in the same manner. Or, in other words, if certain employments contain peculiarities which require that corporations engaged in them shall be distinguished from other private corporations and subjected to special treatment and regulation, it would seem that they must contain elements which require special consideration and which therefore constitute them a class distinct from other branches of business or kinds of employment. This third class of monopolies we shall term quasi-public monopolies.

We then have three classes of monopolies—public, private and quasi-public monopolies—corresponding precisely to the three classes of civil corporations.

Inasmuch, then, as the great majority of combinations, trusts and monopolies of all kinds are rapidly assuming the corporate form of organization, and those which are not are engaged in the same general line of pursuits, and subject to the same

conditions, we wish the reader to bear constantly in mind the close relationship which exists between this classification of monopolies and that of corporations. It will help him to recognize the necessity and wisdom of adopting for the regulation of combinations and trusts, principles which are general in their nature and alike applicable to all cases falling within that class, and will afford him the experience and wisdom of the law as a warrant for making a distinction between the two classes of monopolies and for adopting radically different methods of treatment for each.

Numerous sub-classifications of monopolies have also been made, based upon the form and nature of their organization and the character of the business in which they are engaged, but it is not our purpose to enter into an analysis of the details pertaining to the operation of each specific branch of industry. We merely wish at this time to endeavor to determine upon a few general principles the application of which would promote the development of the whole industrial system, and for this purpose the three general classes, public, private and quasi-public monopolies, will suffice.

With public monopolies which relate merely to the subdivisions of the government we have nothing to do in this work, and as we have thus far devoted ourself exclusively to the consideration of private monopolies, we shall now turn our attention to the consideration of quasi-public monopolies, and of the treatment of combinations and trusts which have for their purpose the control of what are termed public utilities, such as railways, telegraphs, telephones, canals, street railways, etc.,

all of which fall within this classification of our subject.

By a quasi-public monopoly we mean the substantially exclusive right to discharge some duty or service to the public which is possessed by private persons, either as individuals or corporations, but over which the public retains certain powers of control, such as the right to regulate the service, to fix the charges, etc. In considering this branch of the subject, therefore, we should always keep in mind the rights of both parties, the public on the one hand, and the private individuals or corporations whose time and capital are invested on the other. Since the rights of the parties appear to interweave more intricately in relation to this class of employment than in any other known to the law, it is clear that we should first thoroughly understand the nature and origin of the rights which we are now about to examine, if we hope to avoid confusion in our attempt to adjust their relations to each other.

The rights of the public arise from the very organization of civil society. They grow out of the obligation which society has assumed to protect each and all of its members in the possession of property, and "in the enjoyment of life, liberty and the pursuit of happiness." These rights and obligations may be few and simple in primitive society, but they multiply and become more complex, comprehensive and far reaching as society becomes more highly developed and the social requirements become numerous and exacting.

Public highways were early recognized as one of the first requisites for the promotion of intercourse



among the inhabitants of civilized communities, and in order to protect the whole people in the full enjoyment of them, free from molestation or interference of any kind, they were placed in charge of the government.

The right of organized government thus to control the streets in towns and the highways throughout the country is generally admitted. It is the almost universal practice among civilized nations, and there would seem to be no difference in principle, whether the highway extends merely from town to town, from state to state, or from ocean to ocean, or whether it be made of clay, wood, stone, or of steel. The right of government to control highways intended for the general use of pedestrians, equestrians, bicycles, and vehicles propelled by horse, gas, compressed air, electricity, steam, or other forms of power, is everywhere conceded, and that though they may extend from one end of the continent to the other. The right to control navigable lakes and rivers, which are Nature's highways, has never been disputed. What distinction, then, should be made because of the fact that the roads be constructed of asphaltum, of granite blocks, or of steel rails? The purposes and ends of the road are identical, the people are entitled to the same protection in making use of it, and the government is under the same obligation to afford that protection to them.

Every right that a government possesses arises out of some duty which it owes to its people. Thus the government denies to its subjects the right to carry arms, which deprives them of the means of being at all times ready to repel assault or to en-

force redress of other wrongs, and it therefore assumes the obligation to protect them against molestation or injury. It is equally bound to afford this protection, whether the people be walking on the sidewalk or riding on a railway train, and is therefore endowed with all rights necessary for that purpose. Government denies to individuals the right to cross grounds or otherwise trespass on private property, and it is therefore bound to afford them a safe and suitable highway upon which they may be protected in passing through the country, and it possesses all rights and powers essential to that end.

In speaking herein of governmental control, we have not meant to refer to any particular branch or division of the government, for the public rights and obligations of which we have spoken pertain equally to all, so far as the subject matter lies within their particular jurisdiction, and it will serve equally well to illustrate our point, whether we have in mind a general Government, as a State or Nation, or one or all of its subdivisions, as in the case of highways which become successively subject to the jurisdiction of township after township, extending over perhaps the entire width of the country.

Among other subjects of public concern which have imposed additional duties upon government, and have therefore conferred certain rights of control, are bridges, which always have to be constructed under governmental authority, and have usually been retained under its exclusive control. Water-works have been required to supply the people of the towns with water, and in order to oper-

ate these pipes were required to be laid through the public streets, which, as we have seen, have been vested in the town government. The towns have therefore been obliged either to construct the water-works themselves or to grant to private persons or corporations the right to make use of the streets for that purpose; but the granting of these rights would be the giving to private persons the use of public property for the purpose of affording certain services to the people, and the government cannot thus escape its duty to see to it that proper services are rendered, and to regulate them both as to quality and price.

Gas and electric light plants, street car service, telephones, telegraphs, the postal system, elevators, warehouses and other public utilities all fall within this same class and impose similar rights and obligations upon the government. The education of children, the care of the sick, and the protection of the poor, the feeble and the helpless are also subjects of public concern, and impose duties upon the government which have generally been recognized and complied with, more or less satisfactorily, by the establishment of schools, the erection of hospitals, and the maintenance of asylums and homes of various kinds.

Thus we see that when society requires individuals to submit to the will of the majority in all matters in which their actions or property interests become intimately involved with, or appear to conflict with, the rights of their fellow citizens, it assumes the duty of regulating these matters and of protecting the people in the free and full enjoyment of all those rights and privileges which the

laws of civilized society have guaranteed to its members, and in order to discharge these duties it, in the form of organized government, assumes control of all property of every kind which is required to be used in common or for the public good, and acquires the right to do all things necessary to the complete discharge of the obligations which it has assumed.

It is not intended, in this review of the growth of governmental powers, to depict the successive steps by which any community or government has actually attained to the full possession of those powers which enable it to command the obedience and respect of its citizens, and for certain purposes to exercise absolute control over the lives and property of its people; but it does in effect present the course of development through which all governments have passed. Instead of progressing by clearly defined steps from the acquisition of one power to that of another, it is true that this development has been an almost imperceptible movement onward along many lines at the same time; there has been no deliberate assumption of new and distinct powers marking successive epochs in the development of the functions and scope of the government of to-day, but rather a gradual undertaking of a little here and a little there, without any consideration of the extent to which these small beginnings would ultimately lead, or the important part which these small duties so naturally assumed were to play in controlling the affairs of civilized society. By thus tracing the development of a few individual functions of government from their origin to their present advanced stage of per-

fection, it is believed that the true nature of the rights and obligations which they entail will be more clearly understood.

Let us now for a few moments turn our attention to the rights and privileges of the individual members of society. Among the earliest public employments to which private individuals devoted their services were stage lines, which were established for the purpose of carrying the mails and of conveying passengers and freight to and fro. These lines were owned and operated by private individuals, who invested large sums of money in them, and they frequently proved to be very profitable investments. In the course of time, however, as the country became more generally populated, and with the advent of the steam locomotive, railroads began to supersede the stage lines and to drive them out of business. Their proprietors complained grievously of the injustice that was being done them by the establishment of the railroads, the loss of the occupations they had followed for so many years, and the practical destruction of their property by rendering it useless for the purpose for which it was intended. They took no account of the fact that their properties may have repaid them several times the amount which they had originally invested in them, or that the business had afforded them a remunerative occupation during such time as they had followed it. They merely knew that they were in possession of a highly profitable business which was about to be wrested from them, and past profits count for but little when we are contemplating present or future losses; but the new and superior

accommodation afforded by the railroads prevailed, just as the more useful and progressive institutions of advancing civilizations always will, even though the interests of those who have built up and supported the institutions of the past and present must be sacrificed in their wake.

As the work of opening highways throughout the country progressed large rivers were encountered to be crossed, and in the absence of bridges this could only be done by the use of boats. Boatmen early began to devote their time to the operation of ferries for the transportation of freight and passengers across these rivers. Many of these ferries have continued in operation throughout several generations, and although subjected to certain governmental regulations, as to charges, to provide for the safety of passengers, etc., they have always been owned, operated and recognized as private property. But as a demand for open and unobstructed highways became more pressing, the cities, towns or counties in which these ferries were located in many instances constructed bridges across these streams, thus driving the ferries out of business, just as the railroads had done with the stage coach. The capital invested in these ferries was likewise sacrificed, and it is to be supposed that their proprietors did all in their power to oppose the construction of bridges, but the public recognized it to be the duty of the government to provide highways suitable and adequate to the needs of the community, and its right to adopt any or all means suitable or essential to that end, even though the interests of individuals might suffer in the transition from the old forms to the new.

The public was aware of the fact that the ferrymen had been discharging a service for which they had received compensation, and which it had a perfect right at any time to undertake to discharge for itself, in the same, or in any other way. In most cases ferrymen have been required to procure a license before being allowed to pursue their business. They have been subjected to official inspection, they are obliged to serve the whole public without discrimination, and they collect their fees from the people at rates which have been prescribed by law. In short, they have virtually been in the service and pay of the public, and to dispense with their services by the construction of a bridge or otherwise is no more unjust than it is to discharge a clerk who has for many years been employed in the county clerk's office but whose services are no longer required. The ferryman would have no more right to set up the claim of vested interest in the continuation of the ferry than the man who might be appointed to swing the bridge would have to claim property rights in that occupation.

The fact that a ferryman brings his property into the service of the public, together with his personal services, does not alter the principle in the least. It is just the same as when a man engages to work with his team of horses for the city—he will simply receive a larger salary than one who merely drives a team which belongs to the city or does other work of the same kind. So the ferryman is presumed to receive a greater amount of compensation in consideration of the amount of capital which he had invested in the property which he employs in the service.

The crowded condition of the population, and the erection of buildings covering practically every available foot of ground in the congested portions of large cities, renders it impracticable to obtain a supply of water from private wells as in the less thickly populated districts of the country. This makes it a necessity, as well as a convenience, to draw the water supply from a distant point for distribution. In order to do this, it becomes necessary to conduct the water through the city by means of pipes laid in the streets, and since it is also required to make provision for the laying of sewer and gas pipes, electric light and power wires, telegraph and telephone wires, cables, street car tracks, trolley wires, and perhaps pneumatic tubes and other services, all in the same street, it follows that whoever first secures the privilege of laying water pipes through the streets would have a practical, if not an absolute, monopoly of that service.

As we have before remarked, the streets belong to the public, or its representative, the government. No one, therefore, can undertake to furnish water or other public service of that character to the people of a city without first obtaining authority from the city government to exercise rights and powers which have been intrusted to it for the protection and interests of the people.

A public water service is an absolute necessity of city life, and the city government controls the only avenues through which this service can be supplied. If, then, no private parties were to come forward and offer to supply this want it would seem unquestionably to be the imperative duty of the city government to supply it; but if, on the



other hand, private parties did offer to provide this service, it would indicate that large profits are expected to be derived from the business, and would appear to afford an additional reason why the service should be rendered by the government itself. If, however, the government grants to private individuals or corporations the privilege of supplying water to the people of the city, it still retains its full share of responsibility to the people, not only to see that water is supplied, but to protect them from imposition and injustice of every kind as to price, quality, quantity and manner of service. If, then, the relationship of the water company to the city government be analyzed it will be found that it occupies precisely the same position as did the ferryman whose relations to the municipality having immediate jurisdiction over him we have just described at some length. That is to say, the government owes it as a duty to the people to provide an efficient supply of water, but instead of doing so directly itself it permitted a private company to do so for it. Thus the water company became the agent of the government, and might be dealt with just as any other employee.

It may be that the employment might be fixed by the franchise for a definite number of years, but that does not affect the relationship. The relation of the parties is that of employer and employee, and so long as a private company continues to devote time and capital to a public service, it should be regarded as a servant of the government, and be presumed to have undertaken the risks and liabilities of the employment. A laboring man who works for small wages is held by the common

law to have assumed all the ordinary hazards of the business in which he is employed; and though he may become permanently disabled, or even lose his life through the carelessness or negligence of a fellow servant, he and his family are wholly without redress and must bear their loss as best they can. Or, if an individual who has received no special privileges from the government invests a hundred thousand dollars in a plant for the manufacture of bicycles, and the following year the bicycle is superseded by the automobile, or the demand for bicycles otherwise decreases to such an extent as to render the business an entire failure, there is nothing left for him but to bear his loss in silence, and to make the best of a bad bargain. Why, then, should any greater consideration be shown for a corporation which has devoted its time and property to a public service upon conditions which it had carefully considered in advance, and from which it has almost invariably reaped a rich harvest?

The development of modern civilization has made gas and electric lights, street car service, the telephone and the telegraph quite as much a necessity of city life as is the supply of water. Since these can only be supplied through the use of the same public streets through which, as we have just seen, the water must be conducted, and as this use of the streets involves the exercise of precisely the same powers and privileges which we have just described in connection with the granting of franchises to water companies, it follows that the same conditions, rights and obligations which pertain to the operation of the public water service are equally

applicable to each of these several branches of the public service, whether they be supplied directly by the government or by private individuals or corporations; but as we have already described them with some degree of detail, it is unnecessary to repeat our observations here.

One of the most fundamental principles of organized society is to secure to every individual the right to engage in whatever business or employment he may select, and to pursue his happiness according to his own wishes, providing that he does not interfere with the right of any other citizen to do the same. This means that in the exercise of those rights in which he conflicts with the rights or interests of no other man, the individual is supreme, and the only relation which government bears to him is to protect him in the free and full enjoyment of them; but whenever the rights of two or more private persons conflict they are obliged to yield to the rules which the government has prescribed for the regulation of such cases. Thus if a person in the exercise of his right to travel the public highways free from all unnecessary interference or molestation chooses to keep to the left-hand side of the road, and another exercising the same right, but traveling in the opposite direction, resolves to keep to the right-hand side, it is evident that a collision will most likely occur. These individuals, then, are in these cases required to subordinate their own wishes to the expressed will of the public and to obey the law of the roads by keeping to the right.

It follows from the provision that no individual shall interfere with the rights of any other that no

person shall claim or acquire any exclusive rights in property, powers, privileges, duties or occupations in which a number of individuals or the whole public are equally interested. In those cases, then, in which the interests of the public are directly affected by the discharge of the duty, service, employment or business, the rights of the public are paramount, and those of the individual become a matter of mere secondary importance. Thus a public highway is a public necessity, and its preservation is a matter which directly affects the interests of the entire community. Every citizen is entitled to make free use of it in common with all other members of the community for certain purposes and in the manner prescribed by law; but no individual will be permitted to erect his house upon or otherwise to appropriate any portion of it to his own private use.

The fact that the appropriation by a private individual to his own use of a portion of the public highway or of certain rights or privileges in it, is for the purpose of affording some service to a large number of persons or even to the entire community, does not in any way affect his rights to do so. In either case he is a mere trespasser upon public property and he has no more right to place any obstruction upon it, or to attempt to exercise control over any portion of it, than he has to enter upon or to attempt to exercise the same rights over the private property of an individual. The public may choose to grant to certain private persons or corporations the right to use a portion of the public highway or to exercise certain privileges in it for the purpose of affording certain

services or conveniences to the community, but their right to exercise these privileges is derived solely from the grant or franchise which they received from the government, and is in no way dependent upon or influenced by the amount of capital which they may have invested in the construction or preparation of these highways, or in private properties which they have placed under, over, or upon them, or in a business which may be entirely dependent upon the exercise of these privileges. No amount of investment of capital by a stranger in the private property of an individual will give him a right to claim any interest in it as against the true owner, and it is just the same with the property of the public.

We may then sum up the situation briefly as follows: In those employments in which no public property is employed and in which no governmental powers are exercised the rights of the individual are supreme, so long as they are not used in such a manner as to interfere or impair the rights of any other person; and the government has no right to interfere with him except in those cases in which it becomes necessary to take private property for the use of the public, and then only upon conditions which secure to the owner full value in return for the property taken and compensation for any further injury he may have sustained. The government is, in these cases, further bound to protect private persons in the free and full enjoyment of their rights and is, in effect, the servant of the individual.

In those cases, however, in which public property is employed, in which powers and privileges

belonging solely to the government are required to be exercised, and in which the interests of the whole community are directly affected, the rights of the public are superior to every other consideration, and the private individual or corporation who devotes his time or property to such an employment becomes merely the agent of the government, and as such he can claim no rights in the property of his principal.

Much interest has recently been manifested in the discussion of the granting of perpetual franchises to railroads, street railways and other public service corporations, and it may be as well to make a few remarks on the subject here.

As we have already seen, all the collective powers of the people, as well as all public property, are vested by society in the government for the benefit and protection of all its citizens. That is to say, all those powers and privileges which are not allowed to be exercised by each and every individual at his own discretion and in his own manner are reserved to the government to be exercised for the common good of all. It should be carefully borne in mind, then, that all the powers of government are derived from the people; that they are entrusted to it for the mutual benefit of all; that the government in exercising these powers is acting merely as the agent of the people who support it and who owe allegiance to it, and of those who afterward ratify its acts, and that as such agent it has no power to bind its principal by anything done in excess of the authority vested in it.

Thus the government of to-day has authority to act only for the people of to-day, and can bind

future generations only in so far as they may elect to be bound by its acts, and to avail themselves of the benefits accruing therefrom. Nor can the government bind the people of to-day by any act or contract which is clearly prejudicial to their interests, or the terms of which are obnoxious to them. The form of government may be changed, its action may be repudiated by the people, or it may be overthrown; but the rights of its citizens remain inalienable, and no power on earth has any authority to sell the people into chattel slavery or otherwise to deprive them of their liberty, or to take away those natural and civil rights which make that liberty worth having. Any act of the government, therefore, which proposes to barter away the interests of the people, or in any way seeks to place control of their affairs beyond their power, whether it be for the purpose of affording to favored private individuals or corporations opportunities of amassing great fortunes at the expense of the public, or to secure temporary or permanent and substantial benefits to the people, no matter how valuable the consideration may be, is contrary to natural justice, and can only endure so long as the people are willing to tolerate it.

The reservation of these powers to the government for the purpose of safeguarding the interests of the people would seem, on the face of it, to imply that they were to be exercised and controlled by the government itself; but it is also clear that the government must act in all matters through its officers or agents, who are to be selected in some manner not definitely determined, and that it may therefore exercise these powers through agents di-

rectly appointed for the purpose, or let them out under terms to be fixed by itself, to be exercised by private individuals or corporations over which it has practically no control, if such an arrangement would be consistent with the obligations which the government owes to the people and with the trust imposed in it.

Let us suppose that the government were to delegate its police powers, such as are now exercised by marshals, sheriffs, constables and policemen, to a private detective agency. It might be urged that these agencies are managed by experienced, practical men who would employ only competent persons. It is quite possible that a much more efficient service might be secured in that way than is now to be had in many places, and that it would be much more economical for the government; but we know that the people would protest most vehemently against the placing of the enforcement of the law and the execution of its writs in the hands of private individuals, just as they now object to the exercise of police powers by those agencies when employed to protect mines or other property during strikes, lockouts, etc.

Suppose, then, that the government were to elect to confide the making of its laws to a private association of attorneys. It might be claimed in defense of this course that it would secure the making of wiser and better laws, that much time and money now lost through the efforts of inexperienced men to secure the enactment of impracticable, unconstitutional and unsafe legislation might be saved, and that the unseemly wrangling and manœuvring of party politicians, which occupies



so much time in all of our legislative assemblies, might be avoided. It is altogether likely that many benefits might be thus secured, but it would be said that in the government by the people they should make their own laws, and that it is better to have poor laws made by the people themselves than to have good laws imposed upon them in the making of which they have had no voice.

Again, it might be thought wise to turn the management and control of the courts over to a firm of private attorneys for a certain number of years. It might then be said that the judiciary would thus be taken entirely out of politics, that the service of the best legal talent might in that way be secured for the bench, and that the cost of litigation might be greatly reduced. It is easy to believe that many of the abuses which are now complained of, particularly in connection with the lower courts, might in that way be remedied, that the cost of litigation might be reduced, and that a much greater amount of business might be transacted. The people would, however, revolt against thus placing the administration of justice into the hands of private individuals, and would never submit to have their rights adjudicated by private persons over whom they have no control and in whose selection they had no choice.

Finally, suppose that in some one of our large cities the government were to become convinced that it would be a wise business venture, and profitable to the whole community, to grant the entire management and control of the city government to a well known private business corporation for a term of twenty or thirty years. It might be shown

that only in that way could strictly business methods be introduced into the management of municipal affairs, that the ordinary duties of the government, the construction of public improvements and the repair and preservation of public property, might be more efficiently and satisfactorily conducted, that many additional accommodations might be provided for the people, that the finances of the city might be more judiciously and economically expended, and that the taxes might be reduced. It is not difficult to see how it would be possible for even a very ordinary business corporation to provide a much more businesslike administration than is now enjoyed in many of our great cities, and that many of the reforms just indicated might be effected without any additional expense to the people, while yet affording a handsome profit to the corporation to which the franchise of government had been granted; but the love of freedom and pride of self-government are too strong in the hearts of the people to allow them to tolerate for an instant the thought of such a contract for the sale of their rights. It would be contrary to the instinct of a liberty-loving people and destructive of the spirit of our free institutions; and the mere material advantages which might doubtless, in many instances, be derived from such a letting out of the powers of government would be worth nothing in comparison to the loss of manhood and of the rights and privileges of a self-respecting citizenship resulting from such a surrender of the right of the people to govern themselves.

If, then, the very thought of granting to private individuals the power to exercise these important

functions of government is so repulsive to the people, why is the relinquishing of less important powers of government less distasteful to their sense of honor and love of principle? If the policy of delegating the powers and duties of government to private individuals or corporations, when carried to its natural and logical conclusion and full development, becomes so subversive of the fundamental principles of a republican form of government, why is the partial application of that policy less inconsistent with these same principles? In matters of principle there can be no question of degree. The action is either right or wrong.

Most of the important functions of government are made up of a number of more or less unimportant duties, and since the right to delegate one power implies the right to delegate another, it is clear that, even if we assume that the government has the right to assign merely its minor duties, a government disposed to dispense its powers might soon divest itself of practically all of those which the people had entrusted to it.

It is true that the government has, as a matter of convenience, in many instances permitted certain of its powers and duties to be exercised by private individuals or corporations, but these have been, for the most part, mere temporary arrangements, to continue only until such time as the government should choose to assume the direct discharge of such duties; or have been grants for a definite term of years, upon conditions which gave the government more or less complete control over the individuals who were to exercise or discharge the duties.

The relation of the community to the individuals to whom franchises are granted is precisely the same as that of the government to private property which has been employed for public purposes. Thus private buildings are frequently employed for use as post offices, custom houses, etc., and if the government were to take a lease of one of these buildings for a reasonable number of years it would be bound by its contract; but no officer of department would have the power to bind the government by a perpetual lease of such a building. It would also be free at any time to erect its own buildings and to abandon the private property which it has hitherto employed, subject only to the terms of such contract as it had entered into concerning it.

By these short term franchises the power to regulate these public services is kept well within the control of the government; but by perpetual franchises it is sought to place it beyond the reach of governmental interference. The distinction is precisely the same as that which exists between the leasing of a man's property for a term of years and the sale of that property altogether. In the one case he retains a large degree of control over it, while in the other, even though certain reservations as to its use may be made in the deed, he becomes an absolute stranger to it.

It may be urged that regulations as to the range of charges, the rates of compensation, the manner of service, etc., may all be provided for in the charter. Provisions, however, which would be fair and reasonable to-day might be very unjust under the conditions which obtain fifty years from now, and,

as explained before, the government of to-day has no right to impose unreasonable obligations upon future generations or to bind them by contracts for which they do not receive a good and sufficient consideration. No individual has any power to bind his heirs for the payment of his debts, unless he leaves them sufficient property out of which to pay them; nor can any heir be compelled to accept an inheritance unless he believes that it will be to his interest to do so. It is just the same with the government. It would seem, then, that a perpetual franchise could only hope to be enforced, so long as its terms continued to be reasonably just to the people.

If, now, it be proposed to grant a perpetual franchise, but to reserve to the government the right to revise its provisions from time to time, the government must then possess the power to revoke the grant whenever the grantee refuses to comply with its regulations; else it would be powerless to enforce the acceptance of the revised conditions. Having the power to terminate the grant and to impose new conditions, every readjustment of the terms would be equivalent to the granting of a new lease, and the franchise would, in fact, amount to but little more than a tenancy at will, or during good behavior.

The power of the government to bargain away any of the rights and duties which have been entrusted to it for the protection of the people is questioned by Chief Justice Waite, in the language used in deciding the Railroad Commission cases, 116th United States Reports, page 325, in which, speaking for the court, he says: "This power of

regulation is a power of government, continuing in its nature, and if it can be bargained away at all, it can only be by words of positive grant, or something which is in law equivalent. If there is a reasonable doubt, it must be resolved in favor of the existence of the power." The question involved in this case was the right of the state to regulate the charges of railroad companies, and while the court did not go further in its decision than was necessary to decide the case in hand, and found in the construction of the contract which existed between the state and its chartered corporations a sufficient opportunity to sustain the right of state control without placing its decision upon broader grounds, the language employed clearly indicates that, in the mind of the court, the right of the state to preserve its power of control over all public service corporations rests upon much broader principles of law, which might be invoked whenever the necessities of the case might require it.

The same principle was more fully expressed by the court in the case of *Stone versus Mississippi*, 101st United States Reports, page 814, as follows: "No legislature can bargain away the public health or the public morals. The people themselves cannot do it, much less their servants. The supervision of both these subjects of governmental power is continuing in its nature, and they are to be dealt with as the special exigencies of the moment may require. Government is organized with power to provide for them. For this purpose the largest legislative discretion is allowed, and the discretion cannot be parted with any more than the power itself." It has again been thus strongly approved in

one of the most recent decisions of the court, the opinion being delivered by Mr. Justice Harlan: "In other cases we have adjudged that the authority given by legislative enactment to carry on a lottery, although based upon a consideration in money, was not protected by the contract clause of the Constitution, this for the reason that no state may bargain away its power to protect the public morals, nor excuse its failure to perform a public duty by saying that it had agreed by legislative enactment not to do so." (Champion versus Ames, United States Reports, No. 188, page 321; also Douglas versus Kentucky, United States Reports, No. 168, page 488.)

It seems probable, therefore, that the principle of *Ultra Vires* will before long come to be applied to the government itself, as well as to its minor subdivisions and to private corporations, and that the granting of franchises will not be construed to bring the matter within the doctrine of the Dartmouth College case, except in cases in which the parties are clearly capable of contracting upon the subject in question.

Perpetual franchises, then, are contrary to the spirit and purposes of the government of a free people, and while there are instances in which such franchises have been granted to private corporations in various parts of this country, their duration, it is believed, will be found to depend upon the skill which is displayed by their proprietors in conforming to the wishes of the public.

We now come to consider the conditions which confront us at the present time. Nearly all those branches of public service commonly known as

public utilities, such as railroads, telegraphs, telephones, gas and electric light, water-works, street railways, etc., are in the great majority of cases now controlled by private corporations. We believe that what has already been said of the rights of private individuals and of the public in relation to these various forms of service will be sufficient to indicate our position on the subject, and that it is merely necessary to point out the conditions in order to suggest the remedy.

As we have seen, the convenience or benefit to the public is the only justification for the operation of these services by private individuals. The question arises, then, is the present service satisfactory to the public?

We will take the street railway situation in the city of Chicago as an instance. In 1883 the franchises of the principal lines of street railway in that city were extended for a period of twenty years, which was the full length of time to which they could be extended under the city charter. About ten years later these same companies began to work to secure a further extension of time, and to that end they invoked the aid of the State Legislature. From that time until the present day the City Council has had traction measures constantly before it claiming its attention, committees and commissions have been appointed, investigations made and elaborate reports returned upon the subject. For ten years the State Legislature has had measures pending at every session looking to some settlement of the traction question in the city of Chicago, out of which many scandals have arisen and which have occasioned much loss of time and



expense to the State Government. During that time committees of city officials and private citizens have gone from Chicago to Springfield to attend every session of the State Legislature to work for or against the passage of one or more of these traction measures; for six years the sole important issue in every municipal election held in the city has been the traction question, and during these contests neither political party has ever assumed the defense of the local traction companies; hundreds of suits have been instituted by the city government to compel these companies to comply with various provisions of city ordinances, most of which have been stubbornly contested, and in April, 1902, the people of the city were asked to vote by ballot for or against municipal ownership of the street car system. The vote stood 142,826 for municipal ownership and 27,998 against it; the question, however, was merely submitted to ascertain public sentiment, and the vote had no legal effect whatever. The traction companies have admittedly allowed their properties to sink into an intolerable state of neglect and inefficiency, until it is estimated that it will require an expenditure of from forty to fifty millions of dollars to put them in condition to afford to the people a first-class, up-to-date street car service. The accommodation rendered has for several years been very unsatisfactory, and no other subject since the days of the Spanish-American War has occupied so much space in the columns of the local press as have the various phases of the traction problem. The city has recently secured the enactment of legislation enabling it to enter into arrangements with the

traction companies looking to the early acquisition of the street car properties by the city, but no settlement has been effected and negotiations for the extension of the company's franchises are still pending. All this, at the end of more than forty years' experience with the operation of the street car system by private corporations, would seem to make it quite clear that private ownership of public utilities in this instance has not proved entirely satisfactory to the people of Chicago.

The railroad systems of the country are also owned and operated by private corporations, and nearly every state in the Union has attempted to regulate their affairs, and to secure to the people a fair measure of service at reasonable charges, by the enactment of laws and the appointment of boards for their supervision and control. In spite of these attempts on the part of the states to restrain them, they began to form trusts, pools and combinations of various kinds, to discriminate in their rates made to different persons and between different places, to pay rebates to some and to make excessively high charges to others, all of which caused such general and widespread dissatisfaction among the people that Congress in 1887 established the Interstate Commerce Commission for the purpose of correcting these and similar abuses.

The result of the labors of this commission, in conjunction with the efforts of the several states, to remedy these same evils may perhaps best be judged from the conditions which prevailed during the past year, as shown by the following expressions contained in the report of the Interstate Commerce Commission for the year 1902: "The

tendency to combine continues to be the most significant feature of railway development. The facts in this regard are matters of common knowledge, and little is gained by the mention of particular instances. It is not open to question that the competition between railroad carriers which formerly prevailed has been largely suppressed, or at least brought to the condition of effective restraint. The progress of consolidation, in one form or another, will at no distant day confine this competition within narrow and unimportant limits, because the control of most railway properties will be merged in a few individuals whose common interests impel them to act in concert. While this will insure, as probably nothing else can in equal degree, the observance of published tariffs, and so measurably remove some of the evils which the act was designed to prevent, the resulting situation involves consequences to the public which claim the most serious attention. A law which might have answered the purpose when competition was relied upon to secure reasonable rates is demonstrably inadequate when that competition is displaced by the most far reaching and powerful combinations. So great a change in conditions calls for corresponding change in the regulating statutes. . . . Thirty-eight formal proceedings, double the number brought in the preceding year, have been instituted before the commission since its last report to Congress. These cases directly involve some of the rates and practices of three hundred carriers. . . . Besides the injunction and criminal proceedings which have been instituted at the request of the commission, ten civil cases to enforce orders,

of the commission are pending in the Federal courts."

We have already referred to the extraordinary contract between the railroads and the Standard Oil Trust by which the railroads undertook to assist in crushing out the independent oil refiners by charging them in excess of the usual rates for carrying their products, and then paying over the excess so collected to the Standard Oil people. It is commonly accepted as an established fact that the railroads continued to pay rebates to favored shippers, at least until the establishment of the Interstate Commerce Commission, and most people believe that they have continued to pay them until very recently, if, in fact, they are not still doing so.

Mr. John W. Gates thus estimates the amount of such rebates which have been paid, and describes the prosperity and business methods of the railroad companies: "The amount of money paid out by railroad companies in rebates since the passage of the Interstate Commerce law in 1886 would, in my judgment, almost pay the national debt. What has made the railroads poor has been the carrying of people for nothing and cutting nominal tariffs actually in two in many instances. The railroad situation in the United States to-day, however, is better than ever in its history. While rates are low, they are adhered to. There is not one dollar paid out now in rebates where two years ago there were perhaps one thousand or ten thousand. This accounts very largely for the increased net earnings and the supposed decrease in cost of operation.

"People here in New York have but a remote idea of the magnificent condition of most of the rail-



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roads of the West, unless they have traversed them within the past three or four years.

“The railroads have been earning so much money that their greatest trouble has been to hide a large portion of their net earnings, and this they have done by charging them to operating expenses.”

Thus we see that private control of public utilities of national interest and importance has also given much cause for dissatisfaction.

Instances of this kind might be multiplied, and much might be said of the dissatisfaction occasioned by private control of the telegraph, the telephone, of gas and electric light plants, waterworks, etc., but the principle involved in all of these cases is precisely identical with that of the railroads and street railway service, some of the conditions of which we have just described, and the same evils are in a greater or less degree common to all and require a like remedy. It is not our purpose to attempt to make it appear that private management of public services has in all cases proved unsatisfactory or injurious to the public; we merely wish to show that there are instances in which it has proved to be so, and to indicate the remedy to be applied in those cases. We leave it to the general knowledge of the reader to suggest how many of such cases there are to be found. We have shown an instance of a local street railway system subject to the jurisdiction of city government, and of great railway systems subject both to state and federal jurisdiction, in both of which private management has resulted in very general discontent among the people, and we shall now turn

our attention to the consideration of the remedies to be applied.

Let us first inquire, what is it that gives rise to this general displeasure with the private control of public services? In the case of the street railway companies to which we have referred, it was the continual efforts of the corporations to increase their private gains by stinting the service they afforded to the people, and by securing greater powers and privileges, and longer leases of their right of way. In the case of the railroads, it was the unfair methods resorted to by the companies to increase their profits. Thus we see that in both instances it was private interest that inspired the persistent opposition to the will of the people, and which prompted the corporations to render the most inferior service that would be tolerated by the municipalities in return for the grants which they had received.

What, then, is the remedy which would naturally suggest itself? Eliminate private interest from the problem and you have removed the chief cause of all the evils of which we now hear complaints in connection with the operation of public services. We have already seen from our analysis of the rights of the individual and of the community, that all proprietary rights in these various services, as well as the duty of providing them, belong to the community. There can, therefore, be no valid objection to the right of the government to dispense with the services of private individuals or corporations in connection with these public duties whenever their management of them ceases to be beneficial to the public.

The natural obligation which rests upon the government to provide for the people all those forms of public service which the very structure and organization of society forbids and prevents any individual or group of individuals from providing without the sanction and assistance of the government; the ownership and control of the only avenues through which it is possible to afford these services to the people; the supervision and control which it is absolutely necessary for it to maintain over these services no matter by whom they may be provided; and the great difficulty of procuring the most efficient service from private individuals wherever their personal interests become directly opposed to the public; all serve to indicate it to be the imperative duty of the government to assume the direct management and control of all these several forms of public service.

That the assumption of these duties by government is correct in theory, has, we believe, already been made sufficiently clear by what has been said of the close relationship of such services to the functions of government, and of the nature of the duties to be discharged. The Government of the United States has recognized it to be the duty of the government to provide these services, by granting millions of acres of the public land and lending its own credit to private corporations for the purpose of encouraging the construction of railroads and canals, and the practicability of government operation of these public necessities would seem to be sufficiently demonstrated by the numerous well known instances both in this country and Europe in which nearly every form of these services has

for years been owned and operated by municipalities.

There are those, however, who question the expediency of the government undertaking the direct management of street railways and other branches of service, in which great amounts of capital are involved and large numbers of persons are employed. They do not question the correctness of the principle, of the right of government to assume the discharge of such duties; but they say that our municipal governments are too loosely managed; that they are too new and inexperienced, and too much subject to change and manipulation by partisan politicians to be intrusted with the management of the affairs of a great business enterprise.

Thus it is thought by many that it would be impracticable for the city of Chicago to undertake to operate its own street railway system. Yet these same people think nothing of establishing a sanitary district, comprising territory lying largely within the limits of the city and controlled by the votes of the same citizens, from which is elected a board of six trustees which is given the power to levy taxes and to expend forty or fifty millions of dollars in the construction and operation of a canal—an amount which would be more than sufficient to reproduce the entire street car system of the city, as it stands to-day.

It is admitted that municipal ownership may work well enough in England, Scotland and Germany where government is old and settled in its way, and not likely to be influenced by the enthusiasm and impetuosity of youth; but we are told that under our form of government, the placing



of so much power in the hands of the administration is apt to lead to the building up of strong political machines at the expense of the public service; that the appointment of politicians to more responsible positions would lead to greater corruption and mismanagement, and that the employment and control of so great a number of voters would give to any political party a very material advantage in its attempts to perpetuate itself in power.

As to the capacity of our municipalities to conduct their own public works in a thoroughly businesslike and satisfactory manner, we wish to remind the reader that the ability of the American people to govern themselves was also denied at the time of the American revolution, and the same thing has been said of every nation which has ever attempted to establish a republican form of government. In this case, however, it is the same American people, or their descendants, who have proven to the world their ability to govern themselves, who now question their own ability to conduct certain minor forms of public service which are merely designed to contribute to their own personal convenience and comfort.

But what is it that renders our people incapable of discharging these duties? It is not the power to do so that is denied, for that is admitted; it is not the intellectual capacity, for much greater things have been successfully undertaken; it is not the want of business experience, for the services of the very same men who are now employed to manage these properties could be secured by the government as well as by private corporations, and

the entire staff of employees might be retained, if desired. It is, then, their honesty that is called in question. If the honesty of the American people can be trusted with the protection of our lives and property; if it has built up the greatest government that the world has ever known and preserved its national institutions throughout a century and a quarter, free from corruption, and true to the purposes of their creation, surely it can be trusted with the management of a local street car line or water works.

Numerous instances of dishonesty in public life are to be found, it is true, but these may be shown to exist under every form of government, and are not peculiar to our own. Dishonesty is also to be met with in the management of private affairs, and our state penitentiaries are filled with examples. When an employee of a private corporation is found to be dishonest, he may be promptly punished; but when the corporation itself is dishonest in its dealings with the public, it cannot be effectively punished so long as it is allowed to remain in control of the public service. When, on the other hand, an employee of the government is found to be dishonest he may also be speedily punished; but if the administration of the government itself is found to be dishonest, it may be promptly removed by the votes of the people.

Dishonesty in private corporations which are operating public services may, and undoubtedly, does exist in spite of the efforts of the government to prevent it, but dishonesty in governmental affairs can only exist so long as the people are willing to tolerate it.

The American people have thus far proved equal to every emergency which has been encountered and it is believed that they will not now be found incapable of managing their own local affairs. Greater difficulties inspire more determined efforts, and increasing responsibilities suggest more perfect safeguards; and with the development and application of a thorough and practical civil service system to the affairs of municipalities, there would seem to be no reason why they should not be capable of managing all their various forms of public service.

As has already been suggested, one or more forms of these public utilities have for years been operated by municipalities in various parts of this country; but even in those localities in which one class of service has been successfully and satisfactorily conducted, the same objections are made to the extension of municipal ownership to other branches. Thus, in the city of Chicago, although the public water service has been owned and operated by the city government for more than fifty years to the entire satisfaction of the people, and while no one would now think of transferring this service to private management, yet there has been a considerable protest made against the extension of municipal control so as to include the street car system. The prevailing sentiment, however, appears to be in favor of acquiring this service at the earliest practical date.

It is the custom of this class of objectors to compare some weak point of municipal operation, not with the accommodation furnished by individuals in some similar service, but with some particular feature of the management of strictly pri-

vate property; such as to contrast the erection of public buildings when done directly by the government, with the speed with which similar structures are erected by private parties. This comparison is manifestly unfair, for in the case of individual property, every consideration requires the proprietor to use the utmost care and most skillful management; whereas in the operation of public property by private persons, the controlling purpose is to get the most out of it in the shortest time, lest it be taken from them. If comparisons are to be made, they should be with the management of public property by private corporations, and then, even in the case of the erection of the public buildings referred to, if the comparison is made with the numerous delays and innumerable devices which are resorted to, in order to procure extensions of time and additional expenditures of money, which are so common in the construction of public buildings by private contractors, it will not, it is believed, appear so entirely discreditable to the showing made by government work.

The operation of the postal system by the United States Government would seem to afford a sufficient answer to those who fear the use of the patronage thus afforded for political purposes. Tens of thousands of men, who belong to every political party, are there employed throughout the changing administrations of government, but with the aid of a rigid civil service system, they are kept practically free from political control, and afford but slight aid to the administration in matters of partisan politics. It is safe to say that the employees of the Post Office Department are much less obedient

to the political dictation of the administration in power, than are the employees of private corporations which have received special favors from the government.

While these are among the objections usually relied upon in opposing municipal ownership of public utilities, it is believed that the fear of invading the domain of private enterprise is the one which has had the most influence with the people at large, and it is chiefly to anticipate this objection that we have entered into so extended an analysis of the rights and powers of government. We have attempted to show from the very nature of these public services that the duty of providing them rests primarily upon the government, and that the letting of them to be operated by private individuals is a mere secondary consideration which is necessarily temporary in its duration; that the discharge of these duties is, therefore, a governmental function no matter by whom they may be performed, and the government has an absolute right to regulate them, and to change its methods of performing them whenever it sees fit to do so. It will, of course, be understood that it is not proposed to take any of the property of private individuals which may have been used in connection with the operation of these services without making due compensation therefore, as required by law.

We thus show that these services are proper functions of government, and make a distinction between the service itself and the property used in connection with it, and between the right of the public to control the service and its right to control the property employed in it, believing that

when the people understand the true extent to which the community may justly go in its control of public affairs, and realize that there is no danger of any encroachment upon the natural field of private business, they will unhesitatingly demand municipal ownership and control of all forms of public service.

In making this distinction between the service rendered by quasi-public corporations, and the property employed in connection with it, we have departed somewhat from the usual custom of writers upon the subject; but it is believed that it will be found to be in perfect accord with the spirit of the decisions of the courts and the principles announced by the best writers, if not always in entire harmony with the language employed.

Thus, the point established by these decisions is the power of government to regulate the charges and manner of service afforded by these quasi-public corporations. On this proposition the Supreme Court of the United States was unanimous, and is supported by the leading jurists and text writers. In the case of *Munn versus Illinois*, 94 United States Report, page 311, however, which is the leading case upon the subject, the Supreme Court of the United States expressed itself as follows: "It has been customary in England from time immemorial, and in this country from its first colonization, to regulate ferries, common carriers, hackmen, bakers, millers, wharfingers, innkeepers, etc., and in so doing to fix a maximum of charge to be made for services rendered, accommodations furnished and articles sold. To this day statutes are to be found in many of the states upon

some or all these subjects; and we think it has never yet been successfully contended that such legislation came within any of the constitutional prohibitions against interference with private property.

“When, therefore, one devotes his property to a use in which the public has an interest, he in effect grants to the public an interest in that use and must submit to be controlled by the public for the common good to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use, but so long as he maintains the use he must submit to the control.”

The court would thus appear to have emphasized the right of the government to exercise a certain amount of control in private property which is devoted to a public use, and this has given rise to much adverse criticism of the decision. It is said that the right of private property is as sacred as the right of life and liberty, and that the government is equally bound to protect the individual in the enjoyment of it. The power of the government to regulate the charge or compensation which a person shall receive for the use of his property is said to be in fact the right to deprive him of the fruits of his property and of all that makes it useful or desirable to him, leaving him merely the empty title, and that it amounts to a virtual confiscation of his property under the guise of regulation. It is declared to be subversive of the rights of private property and to destroy practically all the guaranties of the Constitution and of the common law invoked for the protection of vested corporate rights.

Speaking of *Munn versus Illinois* and the Granger

Cases, Mr. W. P. Wells, in his treatise entitled *The Dartmouth College Case and Private Corporations*, 9 Am. Bar Assoc. Rep., 229, says: "The decisions seem to us to be subversive of the rights of private property, heretofore believed to be protected by constitutional guaranties against legislative interference; they hold that all property and all business of the state are held at the mercy of the legislature; they deprive private and corporate owners of their property absolutely, although under the guise of mere regulations as to its use and employment and non-interference with its title and possession." Referring to the decisions in the *Railway Commission Cases*, 116 U. S., 307, which affirm the same principle, and to the dissenting opinions of Justices Harlan and Field, he continues: "These decisions assert principles which have not received, and, as we believe, cannot receive, the assent of the most weighty professional opinion. The reasoning of the dissenting opinions seems to be unanswerable. These express with cogent logic, abundant authority and masterly strength the consequences of a doctrine that the legislative power can be unchecked in its interference with business essentially private, or its prescription of the compensation which private and corporate owners shall receive for the use of their property."

The court in *Munn versus Illinois* quotes high English authorities in which similar language is employed and which shows that the right of the government to regulate the use of property which has been dedicated to a public use, has been recognized by the common law for the last three hundred years; but the point which the court had in mind



in these cases, as well as in the other cases cited, was clearly, the regulation of the service, and not the property. The property is regarded as a tangible representative of the service, which must be operated upon in order to control the service; it is merely an incident to the service and not an independent object which is sought to be controlled.

It is said that property becomes clothed with a public interest when used in a manner to make it of public consequence and to affect the community at large; but while the power to regulate these properties is said to be fundamental with the government, the public interest in them is admitted to be so slight that it may be destroyed at the pleasure of the individual proprietors. They may assign, remove, destroy, or otherwise withdraw their property from use without the leave or assent of the public, and in any of these cases the interest of the public is said to be terminated. Thus, the dignity of this power appears to be entirely disproportionate to the interests or title of the government to the property over which it is supposed to be exercised, and upon the existence of which it would seem to depend.

But the power to regulate does not cease with the destruction of the tangible property. The ferry may be destroyed, but the power to regulate the carrying of persons and property across the stream remains, and the duty to provide another ferry or bridge, continues to rest upon the government. It is therefore the service, and not the property which the government seeks to regulate; and it is that which the courts have had in mind.

Mr. Justice Field dissented from the finding of

the court in the case of *Munn versus Illinois*, in an elaborate opinion in which he was joined by Mr. Justice Strong. After assenting to the proposition that government has a right to control private property which has been regularly dedicated to a public use, he disagrees with a more general statement that property becomes clothed with a public interest whenever it is used in a manner to make it of public consequence. He said that the right to regulate private property meant the right to take the beneficial interest of that property, and that to give to legislatures the power to determine when property became so clothed with a public interest and, therefore, subject to governmental control, was to destroy for all useful purposes the efficiency of the constitutional guaranties.

The particular point at issue in the case was whether the grain elevators of the city of Chicago constituted such a public service as to bring them within the power of the state to control their charges. The court held that they did, but the dissenting opinion maintained that the rule announced by the court for determining the right of government to control private property, was so broad and indefinite that it might be extended so as to include nearly every form of private property that became in any way serviceable to the public; that the operation of grain elevators was not a form of public service known to the common law; that it was conducted by private persons upon private property; that no franchise or grant was received from the government; that no public property was employed in connection with it; and that it did not fall within any rule that would not be equally

applicable to almost every form of private business.

The criticism of the case, then, has chiefly been based upon the declared right of government to regulate certain classes of private property, and the fear of the extension of that power so as to abrogate all the safeguards which have been established for the protection of the rights of private property. But in spite of the storm of criticism with which it has been assailed, the principle announced in the case has been ever since sustained, and has not been extended in its application beyond that class of cases which we may reasonably presume to have been contemplated by the court.

Let us then inquire whether the difference between the court and its critics has not rather been one of definition, than of principle.

The following extract from the opinion of Lord Ellenborough in the case of *Alnutt versus Inglis*, 12 East., 527, decided in 1810, was approvingly quoted both in the opinion of the court and in the dissenting opinion of Mr. Justice Field; and as it would therefore seem to contain the principle which the whole court had in mind, the difficulty in reaching the unanimous decision appears to have been in construing it and applying it to the affairs of to-day.

“There is no doubt that the general principle is favored, both in law and justice, that every man may fix what price he pleases upon his own property, for the use of it; but if for a particular purpose, the public have a right to resort to his premises and make use of them, and he have a monopoly in them for that purpose, if he will take the benefit of that monopoly he must, as an equivalent,

perform the duty attached to it on reasonable terms."

After quoting this passage Justice Field observes that in this case it was the grant from the government together with the use which clothed the property with a public interest. This was undoubtedly, in a sense, true of the particular case in question, for that particular monopoly was created by royal grant; but it will be readily perceived that the language of Lord Ellenborough clearly announces a much broader principle. It is there declared to be the monopoly, together with the use, which creates the public interest, and that is just as true to-day as it was when announced nearly one hundred years ago; and it makes no difference whether the monopoly be created by governmental grant or otherwise.

That the court in *Munn versus Illinois* had this rule in mind, is shown by the reproduction of it in the opinion of the court, and by the statement that the elevators in question had acquired a virtual monopoly of the business in the city of Chicago, that the entire business was controlled by a few men who fixed prices at the beginning of the year to which all were obliged to conform, that competition was destroyed, and that the public was compelled to submit to their terms.

The rule laid down by Lord Ellenborough, then, appears to include all that was intended to be affirmed by the Supreme Court of the United States in *Munn versus Illinois*, and since it defines the means by which it may be determined with reasonable certainty the limits to which governmental control may be extended, and is not, therefore,

open to the same criticism to which that case has been subjected, it would seem to be a much more appropriate statement of the law than that adopted by our court. It will also be further observed that this definition of Lord Ellenborough eliminates the idea of governmental control of private property, and deals directly with the subject proposed to be regulated, which is the service.

We thus find a highly authoritative statement of the law in perfect accord with the views which we have already expressed; that government possesses the power to protect its people against every infringement of their rights, and that it is its duty to regulate and control all those forms of public service which the very organization of society requires to be kept equally accessible to all its members.

This rule which has stood as the definition of the common law upon the subject for nearly a century, is safe, yet comprehensive. It assures the people against the fear of governmental interference in the affairs of private business; it encourages them to allow to the government the full measure of power necessary to insure the best possible management of all public affairs, and secures to the government complete power to control monopolies of every kind wherever they may be found.

“There is no doubt that the general principle is favored both in law and justice, that every man may fix what price he pleases upon his own property, for the use of it; but if, for a particular purpose, the public have a right to his premises and make use of them, and he have a monopoly in them for that purpose, if he will take the benefit of that

monopoly he must, as an equivalent, perform the duty attached to it on reasonable terms." This is sound law. It means that the government is competent to protect every interest of its citizens; that whenever any person secures a monopoly of any service or commodity which is necessary to the comfort or convenience of the public, no matter in what way that monopoly may have been acquired, he thereby makes his business subject to governmental regulation and control for the benefit of all who are dependent upon its products; and in affording this protection and regulation, it may assume the ownership and operation of any or all of these public interests whenever, in its judgment, the best interests of the people and the welfare of the community may seem to require it to do so.

## CHAPTER IX.

## MONOPOLIES AND THE TARIFF.

IN considering the relations between monopolies and the tariff, we have no intention of allowing ourselves to be drawn into any discussion of the merits of the protective system in its general application, or of the relative merits of protection or free trade. We wish to keep constantly before our minds the fact that monopoly is the central subject of our investigation, and that we are to study the tariff merely to determine wherein it may tend to create, promote, perpetuate, assist, or otherwise affect monopolies. In pursuing this inquiry, we wish our readers to lay aside for the time, whatever feelings of political friendship or antipathy they may have associated with the policy of protection, and to examine this question strictly upon its merits, regardless of how their conclusions may prove to coincide, or be at variance with their views respecting the policy in general. We wish them to look upon the protection afforded to monopolies as a new application of the principle, and

one which was not contemplated by the founders of the protective theory, and to examine it impartially, with no disposition to question the motives or good intentions of those who framed the tariff laws; also, with no reference to the question as to whether protection should, or should not, continue to be afforded to the manufacturers of articles which are not controlled by monopolies.

Monopoly, in the first instance, depends upon the ability to secure control of a sufficiently large percentage of a commodity to enable the would-be monopolist virtually to control the market for that article. Thus, a concern which controls from sixty to eighty per cent. of the production of petroleum, can very largely dictate prices, and prescribe the conditions under which its rivals must do business.

The ability to secure control of such a percentage of a given commodity, depends upon the available supply of it in the market, the abundance and distribution of the raw materials of which it is made, and the difficulties attendant upon the production of the finished product. Thus, the greater the supply the more difficult it will be, and the greater amount of capital will be required to make it possible to purchase a sufficient quantity to be able to control the market; but even the greatest supply must eventually become exhausted or insufficient, and the power of the monopolist must ultimately depend upon his ability to control the sources of production, and the supply of the raw materials required.

Thus, the raw material required in the produc-



tion of corn, namely, the soil, is very abundant, and may be found in all parts of the country; the process of production, or cultivation, is simple, requiring but little skill and small capital, and is pursued by a very great number of individual proprietors. The attempt, therefore, to secure control of a sufficient percentage of the source of production to monopolize this commodity, would be attended with very great difficulties, and so there is no monopoly in the production of corn. Bituminous coal is found in large quantities, underlying large tracts of land in numerous districts, widely scattered throughout the country. It would require a great amount of capital to purchase and hold these lands, and we have thus far had no monopoly in the output of bituminous coal.

Anthracite coal, on the other hand, is deposited in comparatively small quantities, in relatively narrow districts, and in but few parts of the United States. It has been quite easy, therefore, for a few large corporations to purchase practically all these sources of supply, and we have a most powerful and oppressive monopoly in that product.

Iron ore is found in many parts of the country, and while it is not difficult to take the ore from the earth, yet it requires large amounts of capital to convert it into iron and steel, and we find a gigantic monopoly in the production of these metals.

Whatever serves to restrict the supply of any commodity, makes it easier to secure control of the market, and thereby facilitates the creation of a monopoly. A duty levied upon the importation of

a given class of foreign-made articles, for the purpose of encouraging the manufacture of them in this country, must necessarily raise the price of these goods to the American consumer, and will therefore tend to restrict their importation.

The purpose of the imposition of protective duties is to enable the home producer to raise the price of his product to a point just a little below that of the foreign-made article, plus the amount of duty imposed. So long, therefore, as the home producers are content to keep their prices a little below the point at which foreign-made articles of the same kind can be sold after paying the duties imposed, the tariff laws serve as a wall encircling our country, and excluding all products of foreign nations, which fall within the enumerated lists of articles to which protection is afforded.

The exclusion of this volume of foreign-made goods, manifestly greatly reduces the extent of what we term our home market, and renders it much more susceptible to manipulation by those who are seeking to secure a monopoly.

A moment's reflection will suggest to any one many of the difficulties which must necessarily attend any attempt to monopolize the world's production of any given article. Race distinctions and prejudices, variety of language, international political relations, difference of taste, customs, and manner of doing business, diversity of class, the difficulties of enforcing agreements between the parties to a combination, and the vast amount of capital that would be required,—all combine to discourage any attempt to form a monopoly. Whereas, with

the market restricted to the confines of a single nation, many of these difficulties would disappear entirely, and others would assume much less formidable proportions. It is just as though we were to attempt to dip out or control the waters of Lake Michigan; we would have before us an interminable task. But if we construct a wall around a small portion of it, just as is commonly done in the construction of dry docks in which vessels are to be repaired, we can then pump out the water, or control the volume within the inclosure at pleasure, and with but little difficulty.

Or, to be more specific, let us take a practical example. Suppose we wish to monopolize the world's output of penknives; we shall have to take into consideration the productive capacity of all the civilized nations, the different languages, customs and laws which are peculiar to each, the difficulty of inducing the manufacturers of one nation to confide in, and to combine with those of another, and the great amount of capital that would be required to unite the widely scattered plants, and we will soon be forced to realize that a task full of extraordinary difficulties awaits us. But, if one nation will levy an import duty upon penknives of, say, forty cents each on those valued at fifty cents, which is the duty imposed by the present tariff laws of the United States, a knife which before sold for fifty cents in the open market could not now be sold within that nation for less than fifty cents plus the duty paid, which in the case assumed is forty cents, making the selling price of the foreign-made knife ninety cents. The levying of the im-

port duty, or tariff, as it is termed, does not, however, necessarily increase the cost of production of the domestic article, and the manufacturers may continue to sell them at fifty cents each, or raise the price to eighty or eighty-five cents; but so long as they keep the price below ninety cents, it is clear that the foreign-made knives cannot be sold in competition with them. There are cases, however, in which peculiar excellence, familiar usage, or other distinction has established a reputation for some particular make, for which people may be willing to pay a premium in excess of the price charged for other knives of the same class, but this set of cases forms an exception to the operation of the laws of trade, and should be carefully excluded from every discussion of the natural and probable results of any proposed system of protection.

With the foreign-made knives thus excluded from our market, we have only the home manufacturers to deal with. These are all men of the same nationality, who speak one language, are subject to similar laws, customs and conditions, have a like class of employees to deal with, and substantially equal rates of wages to pay, and it is merely necessary to stimulate the growth of a few of the larger concerns, and to squeeze out a number of the smaller ones, in order to get the entire business into the hands of a few large manufacturers, when it will be comparatively easy for them to get together, and to make the necessary agreements and arrangements for consolidation into one great monopoly.

It is clear, therefore, that the imposition of a tariff for protection tends to create conditions which are favorable to the formation of combinations among manufacturers, and to the exercise of monopolistic powers.

Let us now inquire whether monopolistic combinations have actually been formed in the production of those articles upon which a protective tariff has been laid, for the purpose of encouraging their production in this country.

Those readers who will take the trouble to examine the schedules of the tariff law of 1897, commonly known as the Dingley law, may learn upon just what articles import duties are levied by the United States, and the exact amount of these duties. Any attempt to enumerate these articles, even in general classes, would require much more space than this work can afford, and we must rely upon the reader's knowledge of the general character of these articles to guide him in pursuing the investigation attempted in this chapter. Some notion of their character and variety may, however, be derived from the general statement that, in the Dingley law, tariff duties varying in amount from ten per cent. on diamonds to several hundred per cent. on proof spirits, are levied upon nearly every article that is manufactured or produced in this country, and especially those in which labor forms a large element of the cost.

It would be almost impossible to arrive at any accurate statement of what the average of all the duties imposed by the Dingley law really is, owing to the method adopted of levying both specific and

ad valorem duties, and to the great number and variety of articles, and grades of articles enumerated, but the amount of these duties actually paid into the treasury of the United States on goods imported into this country, as shown by the Monthly Summary of Commerce and Finance of the United States for June, 1902, prepared in the Bureau of Statistics of the Treasury Department of the United States, has during the last five years ranged from forty-nine and twenty hundredths per cent. to fifty-two and thirty-eight hundredths per cent. of the value of the articles upon which it was paid, being in 1901 forty-nine and eighty-three hundredths per cent. So it seems entirely fair to say that the average amount of duty paid upon articles imported into this country is fifty per cent., and that will be assumed to be the true rate for the purpose of this chapter.

In volume seven of the Twelfth Census of the United States, for 1900, Manufactures, Part One, page 86, there is given a table showing one hundred and eighty-five bona fide, legally chartered combinations that were engaged in the business of manufacturing in the United States during the year 1900, and the table is here reproduced in full, excepting the portions which relate to capitalization with which we are not now concerned, in order that the reader may examine for himself, and take such other and further means as he may choose to ascertain how many of them are engaged in the manufacture of tariff protected articles. Many more combinations have been organized since the date of the census table, such as the United States

Steel Corporation and others which might properly be added to this table, but it is preferred to give the table just as prepared by the Director of the Census, for it is sufficiently comprehensive for our present purpose, and the fact that it was not prepared especially to bring out the points which we have now in mind, will serve to make it more convincing to the average reader.

## CAPITALIZATION OF INDUSTRIAL

Name of Combination.	Location of General Office.
Alabama Consolidated and Iron Co.	Coal Equitable Bldg., Baltimore, Maryland.
American Axe and Tool Co.	253 Broadway, New York city.
American Bridge Co.	100 Broadway, New York city.
American Iron and Steel Co.,	Lebanon, Pa.
American Ordnance Co.	718 Crescent Ave., Bridgeport, Conn.
American Radiator Co.	Lake and Dearborn Sts., Chicago, Ill.
American Sheet Steel Co.	Battery Park Bldg., New York city.
American Steel and Wire Company of New Jersey.	Rookery Bldg., Chicago, Ill.
American Steel Casting Co.	Chester, Pa.
American Steel Hoop Co.	Carnegie Bldg., Pittsburg, Pa.
American Tin Plate Co.	24 State St., New York city.
American Wood Working Machine Co.	136 Liberty St., New York city.
Atlas Tack Co.	Taunton, Mass.
Central Foundry Co.	116 Nassau St., New York city.
Continental Gln Co.	Birmingham, Ala.
Empire Steel and Iron Co.	Empire Bldg., New York city.
Federal Steel Co.	Empire Bldg., New York city.
Herring-Hall-Marvin Co.	400 Broadway, New York city.
International Heater Co.	
International Power Co.	253 Broadway, New York city.
International Steam Pump Co.	26 Broadway, New York city.
National Enameling and Stamping Co.	81-83 Fulton St., New York city.
National Malleable Castings Co.	Cleveland, Ohio.
National Saw Co.	Newark, N. J.
National Shear Co.	Fremont, Ohio.
National Steel Co.	Carnegie Bldg., Pittsburg, Pa.
National Tube Co.	Havemeyer Bldg., New York city.
Niles-Bement-Pond Co.	136 Liberty St., New York city.
Ohio Tool Co., of Auburn, N.Y.	Columbus, Ohio.
Otlis Elevator Co.	71 Broadway, New York city.
Pittsburg Stove & Range Co.	610-612 Wood St., Pittsburg, Pa.
Republic Iron & Steel Co.	Stock Exchange Bldg., Chicago, Ill.
Shelby Steel Tube Co.	American Trust Bldg., Cleveland, O.



## COMBINATIONS AND DIVIDENDS PAID.

Date of Organization.	Number of Plants Controlled.	Total Stock authorized by Charter.	Dividends Paid during Census.	
			Rate on Pre-ferred Stock.	Rate on Common Stock.
July 10, 1899...	4	\$5,000,000	7 per cent.	None.
Dec. 1, 1889..	6	2,000,000	None.	None.
April 14, 1900..	24	70,000,000	None.	20 per cent.
Aug. 21, 1899..	5	20,000,000	5 per cent.	None.
Dec. 31, 1895..	2	2,500,000	None.	None.
Feb. 10, 1899..	9	10,000,000	7 per cent.	None.
March 28, 1900.	29	53,000,000	None.	None.
Jan. 13, 1899..	42	90,000,000	7 per cent.	5 per cent.
Feb. 23, 1894..	6	4,200,000	7 per cent.	6 per cent.
April 14, 1899..	15	33,000,000	7 per cent.	None.
Dec. 15, 1898..	65	50,000,000	7 per cent.	None.
Nov. 20, 1897.	8	4,000,000	None.	None.
June 1, 1891...	4	700,000		None.
July 15, 1899..	14	14,000,000	None.	None.
Nov. 27, 1899..	6	3,000,000		None.
March 14, 1899.	10	5,000,000	6 per cent.	None.
Sept. 9, 1898..	17	200,000,000	6 per cent.	3 1/2 per cent.
June, 1892....	2	3,300,000	None.	None.
July 1, 1898..	2	1,800,000		
Jan. 14, 1899..	2	8,000,000	6 per cent.	None.
March 24, 1899.	6	27,500,000	6 per cent.	None.
Jan. 29, 1899..	10	30,000,000	7 per cent.	None.
Jan. 30, 1891..	4	3,000,000		None.
May 23, 1890..	4	1,000,000	4 per cent.	None.
May 23, 1898..	3	3,000,000		
Feb. 25, 1899..	22	59,000,000	7 per cent.	None.
June 16, 1899.	26	80,000,000	7 per cent.	None.
Aug. 11, 1899..	4	8,000,000	6 per cent.	None.
Sept. 12, 1893..	2	350,000		None.
Nov. 28, 1898..	6	11,000,000	6 per cent.	None.
Sept. 1, 1899..	8	2,000,000	7 per cent.	None.
May 3, 1899...	35	55,000,000	7 per cent.	None.
Feb. 9, 1900..	14	15,000,000	3 1/2 per cent.	None.

## CAPITALIZATION OF INDUSTRIAL

Name of Combination.	Location of General Office.
Standard Chain Co.	First National Bank Bldg., Pittsburg, Pa.
Steel Tired Wheel Co.	New York city.
Susquehanna Iron & Steel Co.	Columbia, Pa.
United Shoe Machinery Co.	205 Lincoln St., Boston, Mass.
United States Cast Iron	80 Broadway, New York city.
Pipe & Foundry Co. Virginia Iron, Coal and Coke Co.	Bristol, Va.—Tenn.
Wheeling Steel & Iron Co.	Wheeling, West Va.
American Beet Sugar Co.	32 Nassau St., New York city.
American Caramel Co.	20 E. Allen St., Philadelphia, Pa.
American Cereal Co.	1340 Monadnock Bldg., Chi- cago, Ill.
American Chiclé Co.	Park Row Bldg., New York city.
American Pastry & Manufac- turing Co.	Broadway, Thirty-sixth St., and Sixth Ave., N. Y. city.
American Preserve Co.	950 Beach St., Philadelphia, Pa.
American Sugar Refining Co.	117 Wall St., New York city.
California Fruit Cannery Ass'n.	203 California St., San Fran- cisco, Cal.
Columbia River Packers' Ass'n.	Astoria, Ore.
Continental Biscuit Co.	Chicago, Ill.
Continental Creamery Co.	523 Jackson St., Topeka, Kan.
Glucose Sugar Refining Co.	845 Rookery Bldg., Chicago, Ill.
National Biscuit Co.	205 La Salle St., Chicago, Ill.
National Rice Milling Co.	542 Montegut St., New Or- leans, La.
National Sugar Refining Co.	109 Wall St., New York city.
Pacific Coast Biscuit Co.	Seattle, Wash.
Pillsbury-Washburn Flour Mills Co., Ltd.	301 Guaranty Bldg., Minne- apolis, Minn.
Royal Baking Powder Co.	100 William St., New York city.
Seacoast Packing Co.	Royal Ins. Bldg., Chicago, Ill.
Sperry Flour Co.	134 California St., San Fran- cisco, Cal.
Standard Sardine Co.	Eastport, Me.
United States Flour Milling Co.	207 Produce Exchange, New York city.

## COMBINATIONS AND DIVIDENDS PAID.

Date of Organization.	Number of Plants Controlled.	Total Stock authorized by Charter.	Dividends Paid during Census.	
			Rate on Preferred Stock.	Rate on Common Stock.
Feb. 2, 1900..	11	\$3,000,000	None.	None.
Jan. 26, 1897..	5	4,000,000	3 per cent.	3 per cent.
June, 1899....	7	1,500,000		18 per cent.
Feb. 8, 1899...	5	25,000,000	6 per cent.	8 per cent.
March 13, 1899.	17	30,000,000	3½ per cent.	None.
Jan. 2, 1899...	21	10,000,000		None.
April 16, 1892..	7	5,000,000	8 per cent.	
March 24, 1899.	4	20,000,000	6 per cent.	None.
March 28, 1898.	2	2,000,000	8 per cent.	None.
June, 1891....	6	3,400,000		8 per cent.
June 30, 1899..	6	9,000,000	6 per cent.	8½ per cent.
July 7, 1899..	6	3,000,000	None.	None.
Dec. 21, 1897..	1	125,000		6 per cent.
Jan. 10, 1891..	5	10,000,000	7 per cent.	9 per cent.
July 30, 1899..	20	3,500,000		60 cts. per share monthly.
Feb., 1899....	4	2,000,000		2½ per cent.
June 15, 1898..	5	500,000		7 per cent.
March 1, 1900..	13	500,000	None.	
Aug. 3, 1897..	5	40,000,000	7 per cent.	6 per cent.
Feb. 3, 1898..	95	55,000,000	7 per cent.	4 per cent.
May, 1892....	5	5,000,000	None.	None.
June 2, 1900..	3	20,000,000	None.	None.
Sept. 15, 1899..	12	4,000,000	None.	None.
Oct. 18, 1899..	5	4,850,000	8 per cent.	4 per cent.
March 1, 1899	3	20,000,000	6 per cent.	None.
April 5, 1899..	36	8,000,000	None.	None.
Sept., 1892....	11	10,000,000		1¼ per cent.
March 16, 1899.	25	5,000,000	None.	None.
April 27, 1899..	16	25,000,000	None.	None.

## CAPITALIZATION OF INDUSTRIAL

Name of Combination.	Location of General Office.
American Agricultural Chemical Co.	26 Broadway, New York city.
American Cotton Oil Co.	27 Beaver St., New York city.
American Linseed Co.	100 William St., New York city.
Barrett Manufacturing Co., The.	1205 Land Title Bldg., Philadelphia, Pa.
California Powder Works.	330 Market St., San Francisco, Cal.
The Celluloid Co.	30-36 Washington Pl., New York city.
Continental Cotton Oil Co.	45 Cedar St., New York city.
The Fisheries Co.	135 Front St., New York city.
General Chemical Co.	25 Broad St., New York city.
Grasselli Chemical Co.	784 The Arcade, Cleveland, O.
National Salt Co.	26 Broadway, New York city.
National Starch Manufacturing Co.	1 Broadway, New York city.
Standard Oil Co.	26 Broadway, New York city.
United Starch Co.	24 State St., New York city.
Virginia-Carolina Chemical Co.	Crenshaw Warehouse, Richmond, Va.
Amalgamated Copper Co.	52 Broadway, New York city.
American Brass Co.	Waterbury, Conn.
American Shot & Lead Co.	902 Security Bldg., St. Louis, Mo.
American Smelting & Refining Co.	71 Broadway, New York city.
American Type Foundries Co.	25 William St., New York city.
Cherokee-Lanyon Spelter Co.	Laclede Bldg., St. Louis, Mo.
International Silver Co.	Meriden, Conn.
Magnus Metal Co.	830 Ellicott Sq., Buffalo, N. Y.
National Lead Co.	100 William St., New York city.
New Jersey Zinc Co.	71 Broadway, New York city.
Standard Sanitary Manufacturing Co.	531-533 Wood St., Pittsburg, Pa.
American Distributing Co.	27 William St., New York city.
American Malting Co.	63d St. & East River, New York city.
American Spirits Manufacturing Co.	27 William St., New York city.
California Wine Association.	661-671 3d St., San Francisco, Cal.

# Trusts and Monopolies.

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## COMBINATIONS AND DIVIDENDS PAID.

Date of Organization.	Number of Plants Controlled.	Total Stock authorized by Charter.	Dividends Paid during Census.	
			Rate on Pre-ferred Stock.	Rate on Common Stock.
April, 1899....	27	\$40,000,000	6 per cent.	None.
Oct. 14, 1899..	57	34,799,400	6 per cent.	4 per cent.
Dec. 5, 1898..	47	33,500,000	7 per cent.	None.
Jan. 1, 1896..	12	5,000,000		10 per cent.
Dec. 23, 1861..	2	1,500,000		12 per cent.
Nov. 28, 1890..	1	6,000,000		6¼ per cent.
April 2, 1899... 7	7	6,000,000	7 per cent.	6 per cent.
May 25, 1900... 5	5	3,000,000	None.	None.
Feb. 14, 1899... 17	17	25,000,000	6 per cent.	4 per cent.
June 10, 1885... 7	7	7,500,000		7 per cent.
March 18, 1899 31	31	12,000,000	7 per cent.	None.
April 12, 1890. 22	22	10,500,000	4 per cent.	None.
Aug. 1, 1882... 26	26	110,000,000	6 per cent.	45 per cent.
Aug. 31, 1899... 3	3	6,000,000	3 per cent.	None.
Sept. 12, 1895... 33	33	50,000,000	8 per cent.	4 per cent.
April 27, 1899. 4	4	75,000,000		8 per cent.
March 1, 1899... 4	4	20,000,000		5 per cent.
Aug. 27, 1890... 12	12	3,000,000		None.
April 4, 1899... 13	13	65,000,000	7 per cent.	None.
Feb. 8, 1892... 12	12	4,000,000		4 per cent.
Jan. 1, 1896... 14	14	600,000		None.
Nov. 19, 1898... 13	13	20,000,000	1¾ per cent.	None.
June, 1899.... 5	5	3,000,000	8 per cent.	10 per cent.
Dec. 7, 1891... 17	17	30,000,000	7 per cent.	1 per cent.
June 30, 1880... 8	8	10,000,000		6 per cent.
Jan. 1, 1900... 6	6	5,000,000	None.	None.
Aug. 10, 1891... 2	2	5,000,000		None.
Sept., 1897.... 26	26	30,000,000	3½ per cent.	None.
Aug. 22, 1895... 13	13	35,000,000	None.	None.
Aug. 10, 1894... 9	9	10,000,000		6 per cent.

## CAPITALIZATION OF INDUSTRIAL

Name of Combination.	Location of General Office.
Chicago Breweries, Ltd.	Chicago, Ill.
Chicago Consolidated Brewing & Malting Co.	1422 Monadnock Bldg., Chicago, Ill.
Cleveland & Sandusky Brewing Co.	Cleveland, Ohio.
Connecticut Breweries Co., Ltd.	Bridgeport, Conn.
Consumers' Brewing Co.	Philadelphia, Pa.
Erie Brewing Co.	Erie, Pa.
Evansville Brewing Ass'n.	5th & Ingle Sts., Evansville, Ind.
Indianapolis Brewing Co.	820 High St., Indianapolis, Ind.
Kentucky Distilleries and Warehouse Co.	27 William St., New York city.
Maryland Brewing Co.	Brewers' Exchange Bldg., Baltimore, Md.
New Orleans Brewing Co.	New Orleans, La.
New York & Kentucky Co.	67 Lake Ave., Rochester, N. Y.
Paterson Brewing & Malting Co.	Paterson, N. J.
Pennsylvania Central Brewing Co.	431 N. Seventh St., Scranton, Pa.
Pittsburg Brewing Co.	Pittsburg, Pa.
St. Louis Brewing Ass'n.	Walnwright Bldg., St. Louis, Mo.
San Francisco Breweries, Ltd.	240 Second St., San Francisco, Cal.
Seattle Brewing & Malting Co.	Seattle, Wash.
Springfield Breweries, Ltd.	Springfield, Ohio.
Springfield Breweries Co.	Springfield, Mass.
Standard Distilling and Distributing Co.	27 William St., New York city.
United Breweries Co.	Stock Exchange Bldg., Chicago, Ill.
United States Brewing Co., Ltd.	788 Broad St., Newark, N. J.
United States Brewing Co. American Bicycle Co.	Monadnock Bldg., Chicago, Ill. Park Row Bldg., New York city.
American Car & Foundry Co.	Lincoln Trust Bldg., St. Louis, Mo.
Pressed Steel Car Co.	Tradesmen's Bldg., Pittsburg, Pa.
Pullman Co., The.	309 W. Third St., Chicago, Ill.
Standard Wheel Co.	Terre Haute, Ind.
Southern Car & Foundry Co.	Birmingham, Ala.

## COMBINATIONS AND DIVIDENDS PAID.

Date of Organization.	Number of Plants Controlled.	Total Stock authorized by Charter.	Dividends Paid during Census.	
			Rate on Preferred Stock.	Rate on Common Stock.
April, 1889....	2	\$3,000,000		
June, 1890....	4	5,000,000		½ per cent.
June 7, 1898...	9	6,000,000	6 per cent.	None.
1890 .....	3	700,000	8 per cent.	None.
Oct. 26, 1896..	4	3,800,000		None.
March 20, 1899.	2	1,500,000	7 per cent.	None.
March, 1894...	3	400,000		None.
Feb. 3, 1899...	50	32,000,000	None.	None.
Dec. 23, 1898..	16	6,500,000	6 per cent.	None.
Oct. 6, 1899...	4	2,790,000	None.	None.
Jan. 25, 1900..	3	2,000,000	7 per cent.	None.
July 1, 1899...	6	3,000,000		None.
Aug. 23, 1897..	12	5,600,000	None.	None.
Feb. 4, 1899...	18	13,000,000	7 per cent.	4 per cent.
June 1, 1889...	11	5,250,000		\$2.70 per share.
April 30, 1899..	6	1,023,300	None.	None.
1893 .....	3	1,000,000		6 per cent.
June 1, 1890..	11	509,250	8 per cent.	6 per cent.
April 19, 1899..	3	1,375,000	8 per cent.	None.
June 27, 1898..	10	24,000,000	None.	None.
Aug. 8, 1898...	12	5,600,000		None.
1889 .....	5	3,500,000	8 per cent.	5 per cent.
Sept. 1, 1890..	6	5,000,000		70 cts. per share.
May 12, 1889..	35	30,000,000	None.	None.
Feb. 20, 1889..	17	60,000,000	7 per cent.	None.
Jan. 12, 1899..	4	25,000,000	7 per cent.	6 per cent.
Dec., 1899....	5	74,000,000		8 per cent.
Aug. 20, 1892..	6	1,000,000	6 per cent.	None.
June 1, 1899..	5	3,000,000	None.	None.

## CAPITALIZATION OF INDUSTRIAL

Name of Combination.	Location of General Office.
American Snuff Co. American Tobacco Co. Continental Tobacco Co. Havana-American Co., The	111 Fifth Ave., New York city. 111 Fifth Ave., New York city. 111 Fifth Ave., New York city. 1322 Avenue A, New York city.
American Felt Co.	110-112 E. Thirteenth St., New York city.
American Grass Twine Co.	35 Wall St., New York city.
American Thread Co.	260 Broadway, New York city.
American Woolen Co.	Ames Bldg., Boston, Mass.
Mt. Vernon-Woodberry Cotton Duck Co.	Equitable Bldg. Baltimore, Md.
New England Cotton Yarn Co.	37 N. Water St., New Bedford, Mass.
Standard Rope & Twine Co.	17 State St., New York city.
United States Finishing Co.	320 Broadway, New York city.
American Hide & Leather Co.	92 Cliff St., New York city.
Elk Tanning Co.	Ridgway, Pa.
Penn Tanning Co.	Sheffield, Pa.
Union Tanning Co.	Williamsport, Pa.
United States Leather Co.	26 Ferry St., New York city.
American Lithographic Co.	Fourth Ave. & Nineteenth St., New York city.
American Straw Board Co.	84 Van Buren St., Chicago, Ill.
American Writing Paper Co.	Springfield, Mass.
International Paper Co.	30 Broad St., New York city.
National Wall Paper Co.	121-127 Crosby St., New York city.
Union Bag & Paper Co.	1602 Fisher Bldg., Chicago, Ill.
United States Envelope Co.	Springfield, Mass.
American Cement Co.	22 S. Fifteenth St., Philadelphia, Pa.
American Clay Manufacturing Co.	Akron, Ohio.
American Window Glass Co.	200 Ninth St., Pittsburg, Pa.
Baltimore Brick Co.	1002 Atlantic Trust Bldg., Baltimore, Md.
Illinois Brick Co.	Chamber of Com. Bldg., Chicago, Ill.
International Pulp Co.	41 Park Row Bldg., N. Y. city.
Macbeth-Evans Glass Co.	Telephone Bldg., Pittsburg, Pa.
National Fire Proofing Co.	Carnegie Bldg., Pittsburg, Pa.
National Glass Co.	Neeren Bldg., Pittsburg, Pa.



## COMBINATIONS AND DIVIDENDS PAID.

Date of Organization.	Number of Plants Controlled.	Total Stock authorized by Charter.	Dividends Paid during Census.	
			Rate on Preferred Stock.	Rate on Common Stock.
March 12, 1900.	9	\$25,000,000	None.	None.
Jan. 21, 1890..	15	70,000,000	8 per cent.	6 per cent.
Nov. 28, 1898..	9	100,000,000	7 per cent.	None.
Nov. 9, 1899..	8	10,000,000	7 per cent.	None.
Feb. 9, 1899...	5	5,000,000	6 per cent.	None.
June 8, 1899...	3	15,000,000		None.
March 10, 1898.	10	12,000,000	5 per cent.	10 per cent.
March 29, 1899.	30	65,000,000	7 per cent.	None.
Aug. 29, 1899..	7	9,500,000		1½ per cent.
July 15, 1899...	9	11,500,000	7 per cent.	None.
Nov. 1, 1895...	5	12,000,000		None.
July 1, 1899..	3	3,000,000	7 per cent.	None.
Aug. 29, 1899..	30	35,000,000	None.	None.
April 17, 1893.	23	12,500,000		\$1.50 per share.
April 13, 1893.	14	13,500,000		None.
April 13, 1893..	18	10,000,000		\$1.50 per share.
Feb. 25, 1893..	23	128,000,000	6 per cent.	None.
Jan. 1, 1896...	1	4,000,000		None.
May 29, 1889..	17	6,000,000		3 per cent.
July 25, 1899..	25	25,000,000	None.	None.
Jan. 31, 1898..	32	45,000,000	6 per cent.	None.
June, 1892.....	18	30,000,000		None.
Feb. 27, 1899..	17	27,000,000	7 per cent.	None.
June, 1898.....	9	5,000,000	7 per cent.	None.
March 11, 1890.	3	500,000		32½ per cent.
March 1, 1900..	28	10,000,000		None.
July 31, 1899..	39	17,000,000	7 per cent.	None.
June 23, 1899..	28	2,100,000	6 per cent.	None.
Feb. 13, 1900..	36	9,000,000	None.	None.
March, 1893...	1	5,000,000	4 per cent.	None.
July 7, 1899...	7	2,200,000	7 per cent.	4 per cent.
Dec. 20, 1899..	5	2,000,000	7 per cent.	None.
Nov. 1, 1899...	19	4,000,000	None.	None.

## CAPITALIZATION OF INDUSTRIAL

Name of Combination.	Location of General Office.
Pittsburg Plate Glass Co. Suburban Brick Co. Trenton Potteries Co.	Carnegie Bldg., Pittsburg, Pa. Wheeling, V. Va. 309 N. Clinton Ave., Trenton, N. J.
United States Clay Manufac- turing Co. United Glass Co.	Fifth & Liberty Sts., Pitts- burg, Pa. Ninth & Bingham Sts., Pitts- burg, Pa.
Western Stone Co.	Chamber of Com. Bldg., Chi- cago, Ill.
American School Furniture Co.	111 Fifth Ave., New York city.
Brunswick-Balke-Collender Co. Diamond Match Co.	860 Broadway, New York city. 504 Pullman Bldg., Chicago, Ill.
Heywood Bros. & Wakefield Co. National Casket Co.	Gardner, Mass. Onelda, New York.
National Cooperage and Wood- ware Co.	Peoria, Ill.
United States Bobbin & Shut- tle Co.	270 Butler Exchange Bldg., Providence, R. I.
Yellow Pine Co.	16 Beaver St., New York city.
American Glue Co.	419 Atlantic Ave., Boston, Mass.
American Hard Rubber Co.	9-13 Mercer St., New York city.
American Ice Co.	131 E. Twenty-third St., New York city.
American Shipbuilding Co. American Soda Fountain Co.	120 Viaduct, Cleveland, Ohio. 278 Congress St., Boston, Mass.
Central Fireworks Co.	15 Exchange Pl., Jersey City, N. J.
Commonwealth Roofing Co.	100 William St., New York city.
Consolidated Ice Co.	Thirteenth and Pine Sts., Pittsburg, Pa.
Consolidated Railway Electric Lighting & Equipment Co.	100 Broadway, New York city.
Electric Boat Co.	100 Broadway, New York city.
General Aristo Co.	343 State St., Rochester, N. Y.
National Carbon Co.	Lock Drawer L., Cleveland, O.
Pittsburg Coal Co.	Pittsburg, Pa.
Rubber Goods Manuf. Co.	New Brunswick, N. J.
United States Rubber Co.	9 Murray St., New York city.
United States Whlp Co.	Westfield, Mass.

## COMBINATIONS AND DIVIDENDS PAID.

Date of Organization.	Number of Plants Controlled.	Total Stock authorized by Charter.	Dividends Paid during Census.	
			Rate on Preferred Stock.	Rate of Common Stock.
April 1, 1895..	10	10,000,000	12 per cent.	6 per cent.
Dec. 29, 1898..	5	200,000		6 per cent.
May 27, 1892..	6	3,000,000	None.	None.
Dec. 26, 1899..	2	240,000		None.
Feb. 12, 1891..	13	5,000,000	None.	None.
Sept. 16, 1889..	1	2,250,000		None.
March 13, 1899.	17	10,000,000	None.	None.
Jan. 30, 1884..	2	1,500,000		6 per cent.
Feb. 13, 1889..	9	15,000,000		10 per cent.
March 16, 1897.	4	6,000,000	8 per cent.	None.
July 1, 1890..	11	6,000,000		5 per cent.
Oct. 21, 1899..	6	500,000	None.	
July 31, 1899..	7	2,000,000	7 per cent.	None.
Nov. 12, 1891..	3	2,500,000	None.	None.
July 7, 1894...	6	1,800,000	8 per cent.	None.
April 21, 1898.	3	2,500,000		7 per cent.
March 11, 1899.	7	40,000,000	6 per cent.	4 per cent.
March 16, 1899.	11	30,000,000	7 per cent.	None.
Feb. 4, 1891...	7	3,750,000	3 per cent.	None.
June 8, 1896..	6	3,500,000	3½ per cent.	None.
June 6, 1899..	6	500,000	3½ per cent.	None.
April 1, 1899..	7	4,000,000	6 per cent.	4 per cent.
Jan. 6, 1900...	3	16,000,000		None.
Feb. 7, 1899...	3	10,000,000	None.	None.
Aug. 4, 1899..	5	5,000,000	7 per cent.	10 per cent.
Jan. 16, 1899..	5	10,000,000	7 per cent.	None.
Sept. 1, 1899..	5	64,000,000	7 per cent.	None.
March 26, 1899.	14	50,000,000	7 per cent.	None.
March 30, 1892.	5	50,000,000	7 per cent.	3 per cent.
Dec. 20, 1892..	4	2,200,000	12 per cent.	None.

It may be suggested that some of these combinations are protected by internal revenue provisions as well as by import duties, and we are willing to admit this. We are also willing to admit that other circumstances contribute to aid in the formation and protection of other combinations, and that some of them receive no tariff protection whatever, for we wish it to be clearly understood that it is not our present purpose to attempt to prove that the protective tariff has been the cause, or even the chief among many circumstances which have aided in the formation of monopolistic combinations. The purpose of the present point of our inquiry is merely to determine whether manufacturers, who have been afforded protection by the tariff, have entered into combinations the presumptive purpose of which is to exhort larger profits from the people.

By merely looking over the names of the combinations shown in the table, it will be seen that these are sufficient to identify them with the branches of industry with which the protective tariff is always associated in the mind of every business man; and upon a careful comparison of the table with the schedules of the tariff law, it will be found that of the one hundred and eighty-five combinations shown, one hundred and seventy-six were engaged in the manufacture of articles which are protected by the tariff, while only nine were engaged in the manufacture of articles to which no tariff protection is afforded. A more convincing answer to the query, have combinations been formed among manufacturers engaged in the production

of tariff protected articles, can hardly be devised, than that afforded by the foregoing table prepared by the Census Department.

It appearing, therefore, that manufacturers whose products are protected by tariff duties, have formed combinations for the purpose of controlling prices, for the power to control prices is the natural result of these combinations, and people must always be presumed to have intended to do that which is the natural and probable result of their acts; let us inquire whether they have misused the protection afforded them, to the detriment of the people at large.

The purpose of the government in levying the protection duties was to increase the number of factories in the country, the number of persons employed, the wages of the employees, and to encourage home manufacturers until such time as they could compete with the manufacturers of foreign nations. The purpose of the combinations, on the other hand, is to reduce the number of factories in operation, the number of persons employed, the amount of wages to be paid, and to enter into competition with the manufacturers of Europe, while still retaining the protection of the tariff.

Thus in the one hundred eighty-five combinations shown in the table, there were two thousand two hundred sixteen plants controlled, of which one hundred seventy-six were idle during the year 1900, as shown by the same volume of the Census, page 83. The reduction of the number of plants to be operated is one of the chief sources of the economies effected by combinations, for it carries with it the reduction of the number of employees.

The number of wage earners employed by these one hundred eighty-five combinations, is shown by the same authority to have been only eight and four-tenths per cent. of the total number of wage earners employed in all manufactories, whereas their product was fourteen and one-tenth per cent. of the output of all establishments, and the wages paid by these combinations was only nine and six-tenths per cent. of the total wages paid by all manufacturers.

Thus we see that the purposes and results of these large trusts and combinations are directly opposite to those which were sought to be secured by the protective tariff, and that the protection enjoyed by them has been greatly abused, and diverted from the purposes for which it was originally granted.

The ability of the manufacturers of the United States to compete with those of any other nation has been testified to in many ways.

The frequent appearance in newspapers and magazine articles, of allusions to the inroads which the American manufactures are making into the markets of Europe, is an evidence that the exportation of American-made goods has become sufficiently large to attract the serious attention of writers at home and abroad.

The often repeated statement that many of the largest manufacturing establishments of Europe send representatives to visit and study the industrial institutions of this country, gives assurance that the attention of the foreign producers has been attracted, and that they see in our factories, competitors whose ways must be studied with care if

they do not wish to be outdone by them. This solicitude on the part of foreigners must be solely due to apprehensions of the competition of our manufacturers abroad, for the amount of our tariff duties would preclude the possibility of their ever thinking of driving competition into our home market.

The well known fact that many of the largest manufacturing institutions of Europe have been remodeled and equipped with American machinery and appliances, at a cost of vast sums of money, bears most substantial testimony to the conviction in the minds of the foreign producers that they must either prepare to meet our manufacturers with their own machinery or submit to be outsold by them.

The common experience of travelers in Europe, in finding American-made articles for sale in every large city, and in use among the people, shows how general the exportation of the products of our factories has become; and the report of the Secretary of the Treasury of the United States, which shows that the exports of American manufactures for the years 1900, 1901 and 1902 have exceeded four hundred million dollars per annum, affords indisputable evidence of the magnitude to which the exportation of American-made articles has attained.

The magnitude of these figures must convince the reader that the export trade of the American manufacturers has passed far beyond the experimental stage, and, by comparing these figures with the exports of Great Britain, Germany and France, it will be seen that this country is rapidly taking

rank with the leading nations of Europe, as an exporter of manufactured products.

The character and variety of the manufactured articles exported from this country for sale in foreign markets, can, perhaps, best be brought home to the reader by presenting a list, taken from the Monthly Summary of Commerce and Finance of the United States for June, 1902, showing the articles of domestic manufacture exported from the United States during the year 1901.

EXPORTS OF DOMESTIC MANUFACTURE FROM THE  
UNITED STATES, BY PRINCIPAL ARTICLES  
DURING THE YEAR ENDING  
JUNE 30, 1901.

<i>Articles.</i>	<i>Total.</i>
Agricultural implements.....	\$16,313,434
Aluminum, and manufactures of.....	221,249
Art works: Painting and statuary.....	344,287
Asbestos .....	135,258
Babbitt metal .....	102,909
Asphaltum and manufactures.....	97,851
Blacking .....	799,895
Books, maps, etc.....	3,472,343
Brass and manufactures of.....	2,007,450
Bricks .....	656,626
Brooms and brushes.....	254,047
Candles .....	236,547
Cars, carriages, etc.....	10,920,931
Celluloid and manufactures .....	211,781
Cement .....	438,915
Chemicals, drugs, dyes, etc.....	13,312,631
Clocks and watches.....	2,340,761
Coke .....	1,433,197
Coffee and cocoa, prepared .....	333,036
Copper manufactures .....	43,267,021
Cork manufactures .....	36,717
Cotton manufactures .....	20,272,418
Dental goods .....	252,418
Earthen, stone and china ware.....	512,913
Fertilizers, other than crude.....	377,567
Emery wheels.....	163,774
Fiber manufactures .....	4,302,876
Furniture of metal.....	271,289
Glass and glassware.....	2,126,309
Gunpowder and other explosives.....	1,712,102
India rubber manufactures.....	3,659,361



Ink .....	\$291,225
Scientific instruments.....	7,361,231
Iron and steel, and manufactures thereof, as follows:	
Iron ore .....	175,817
Bar iron .....	884,094
Ferro-manganese .....	1,296
All other .....	3,763,287
Scrap and old, fit only for remanufacture....	544,394
Bars or rods of steel:	
Wire rods .....	336,680
All other .....	2,651,089
Billets, ingots, and blooms.....	3,158,239
Hoop, band and scroll.....	167,942
Ingots, bars and rods of steel rails for rail-ways:	
Iron .....	32,567
Steel .....	10,841,189
Sheets and plates:	
Iron .....	498,964
Steel .....	1,752,873
Tin plates, terne plates, and taggers tin.....	66,550
Structural iron and steel.....	3,357,023
Wire .....	4,104,563
Builders' hardware, saws, and tools:	
Locks, hinges and other builders' hardware....	5,569,903
Saws .....	327,859
Tools not elsewhere specified.....	3,306,751
Car wheels .....	203,396
Castings, N. E. S.....	1,135,453
Cutlery:	
Table .....	33,647
All other .....	200,640
Firearms .....	958,324
Machinery, machines, and parts of:	
Cash registers.....	873,121
Electrical .....	5,812,715
Laundry machinery .....	479,274
Metal workings .....	4,054,313
Printing presses and parts of .....	1,005,929
Pumps and pumping machinery .....	2,187,246
Sewing machines, and parts of.....	4,095,663
Shoe machinery.....	953,898
Steam engines, and parts of:	
Fire .....	23,370
Locomotives .....	4,039,006
Stationary .....	901,888
Boilers and parts of engines.....	1,696,385
Typewriting machines, and parts of.....	2,827,329
All other .....	20,864,352
Total machinery.....	49,814,489
Nails and spikes:	
Cut .....	575,285
Wire .....	982,313
All other, including tacks.....	257,700
Pipes and fittings .....	5,139,895

Safes .....	\$112,068
Scales and balances .....	532,640
Stoves, ranges, and parts of.....	548,716
All other manufactures of iron and steel .....	15,459,491
Total iron and steel, not including ore.....	117,319,320
Jewelry and gold and silver manufactures.....	1,455,487
Lamps, chandeliers, etc.....	1,021,435
Lead manufactures .....	671,679
Leather, and manufactures of.....	27,923,653
Lime .....	29,562
Malt liquors .....	1,723,025
Marble and stone manufactures.....	1,544,594
Matches .....	88,739
Musical instruments .....	2,780,796
Oil cloths .....	172,635
Oils, refined or manufactured.....	65,021,591
Paints, pigments and colors.....	2,036,343
Paper, manufactures of.....	7,438,901
Paraffin and paraffin wax.....	6,857,288
Perfumery and cosmetics.....	380,924
Photographic materials.....	1,998,445
Plated ware .....	517,208
Silk manufactures (and waste).....	253,816
Soap .....	1,569,180
Spirits, distilled.....	3,054,723
Starch .....	2,005,865
Straw and palm leaf manufactures .....	412,668
Sugar, refined and confectionery .....	981,356
Tin, and manufactures of.....	516,343
Tobacco manufactures .....	5,092,603
Toys .....	280,546
Trunks, valises, etc.....	115,881
Varnish .....	611,459
Vessels sold abroad.....	112,906
Wood manufactures .....	11,099,643
Wool manufactures .....	1,542,733
Zinc manufactures .....	965,510
All other articles .....	6,317,480
Total .....	\$412,155,066

The table shown does not include the exportation of breadstuffs, comprising bread, wheat flour, corn meal, oatmeal, grains of all kind, and all preparations of food made from them, or meat, dairy products, and other articles, all of which amount to hundreds of millions of dollars, but which are included, in the statistics prepared by the Treasury Department, under the head of agricultural products.

The exports of domestic manufactures, strictly so-called, from the United States during the last thirteen years have amounted to \$3,389,931,951, as follows: \$151,102,376 in 1890, \$168,927,315 in 1891, \$158,510,937 in 1892, \$158,023,118 in 1893, \$183,728,808 in 1894, \$183,595,743 in 1895, \$228,571,178 in 1896, \$277,285,391 in 1897, \$290,697,354 in 1898, \$339,592,146 in 1899, \$433,851,756 in 1900, \$412,155,066 in 1901, \$403,890,763 in 1902.

With this long list before us, of articles which have actually been exported from this country and sold in foreign markets in competition with foreign producers, it would seem to be established beyond the possibility of contradiction that the manufacturers of this country are now able to compete with those of the world in the production of these articles.

The fact that large quantities of the products of the American factories have been sold abroad—having been, we believe, now fully established, we are led to inquire by whom has this great volume of goods been created, and who is it that has thus risen from the position of mere local producers to the rank of manufacturers of international reputation, and to be competitors in the markets of the world?

The combinations recently formed, and still forming, among manufacturers are steadily reducing the cost of production to the lowest possible point; it has been claimed by the promoters of combinations that by reducing the cost of production, they would be enabled to sell in foreign markets, thus opening up new sources of profit; these com-

binations have been sending their representatives abroad, and going to considerable expense in developing foreign trade. The remarkable increase in our exportation of manufactured articles, from \$151,102,376 in 1890 to \$433,851,756 in 1900, has been coincident with the even more remarkable development of the industrial combinations of which, as shown by the table given from the Twelfth Census, there were only five in existence prior to 1889 while there were 185 in 1900; and even a most casual examination of the foregoing list of exported articles, will be sufficient to enable the reader to discover in them the products of nearly every branch of manufacture represented by the combinations shown in the table presented in this chapter.

We are forced, then, to the conclusion that it is the industrial combinations which have attained to this proud distinction, and have proved their ability to compete with the older institutions of Europe.

The ability to sell in foreign markets carries with it, as a necessary incident, the power to sell for the same, or lower prices than those demanded by foreign producers; but our protective tariff is levied upon the selling value of articles in the foreign market in order to enable our home producers to charge higher prices, and for the purpose of protecting them in those higher prices until such time as they shall be able to compete with foreign manufacturers.

The question then arises, are our industrial combinations charging high prices to the home consumer, while they are selling at low prices in the

foreign markets? If so, it is a most grievous violation of the spirit of the tariff law, for the purpose of that law is to secure benefits to the American citizens, and not to secure lower prices to the people of Europe at the expense of our home consumers; nor merely to afford larger profits to a few manufacturers.

The combinations will, however, generally deny that they thus discriminate in prices in favor of the foreign markets; and admitting their denial to be true, we then have this condition of affairs. We have positive assurance that large quantities of American-made articles are annually exported from this country which must, therefore, be sold in foreign markets and at foreign prices; and we are assured that there is no discrimination made between the prices charged for wares at home or abroad; it follows, therefore, that these combinations are selling their products in this country at the same prices for which similar articles are sold by foreign manufacturers in foreign markets, which means that our home producers have ceased to avail themselves of the protection afforded by the tariff, and that it is therefore useless so far as they are concerned.

We have, therefore, these two alternatives to choose from:—either our home manufacturers are charging high prices at home and low prices abroad, which is an absolute abuse of the protection afforded to them by the tariff, or they are selling their goods in this country for the same prices at which foreign manufacturers are selling the same article in foreign markets, and therefore as cheaply as these foreign manufacturers could sell in this country if there were no tariff duties imposed,

which is making no use whatever of the protective tariff.

In the year 1900 the Department of Labor of the United States prepared a list of questions for the purpose of determining the effects of industrial combinations upon wages, prices, etc., and the replies received to these inquiries have been skillfully classified and analyzed by Professor Jeremiah W. Jenks and published in the bulletin of the Department of Labor No. 29, for July, 1900, entitled Industrial Combinations. Twenty-nine combinations replied to the questions relative to the prices made to the export trade which are classified by Professor Jenks as follows: "Sixteen stated that their export prices are the same as the prices within the boundaries of the United States, due allowance being made for transportation; three more said that they are approximately so, while ten stated that the prices differ; eight of the ten giving lower prices to foreign buyers in order to secure their market, one reporting higher or lower prices to meet European competition, and one reporting higher prices in foreign countries."

Admitting the reports of these combinations to be true and to be representative of their classes, and in view of what has already been said on the subject, the situation which confronts us is briefly this: a large number of the industrial combinations are making no use whatever of the protective tariff, while others make only an abusive use of it; the tariff has, therefore, ceased to be of any further legitimate service to them; no one has ever claimed that a protective tariff is of any direct benefit to

the consumer as such, and since it does not benefit the consumer and has ceased to be of any legitimate service to these producers, the tariff, so far as it applies to the products of industrial combinations, should be removed.

The tariff duties should be removed from all articles the production of which is controlled by combinations, for, as has been said, some of these combinations admit that they afford lower prices to foreign buyers than to home consumers, which is a perversion of the purpose of protection; others claim to sell for the same prices at home and abroad, which is equivalent to saying that they take no advantage of the protection afforded them by the tariff, while the published tables of manufactured articles exported from this country afford ample evidence of the ability of nearly all of them to compete with foreign manufacturers. It is contrary to common justice and public policy to continue to afford protection to combinations whose purpose it is to defeat every object for the promotion of which the protective tariff was originally established.

The exportation of domestic manufactures affords an indisputable test of the ability of our industrial combinations to sell as cheaply as foreign producers; but in times of heavy home consumption the capacity of our factories may be taxed to meet the demands of domestic trade and the exports of their products may therefore show a temporary decrease. This will, however, be simply due to the fact that our manufacturers have found a more profitable market at home, and not to any inability to compete for the foreign trade. The

annual Treasury statement of our exports, while it affords a very appropriate list of articles from which to begin removing tariff duties, cannot, therefore, be accepted as the only guide to be followed in withdrawing tariff protection from monopolies, for many combinations which are engaged in production may not export their products, yet it is desirable that protection shall be withheld from them, and every legitimate means should be employed to identify their products and to exclude them from the schedules of protected articles, for, as we have already shown, all of these combinations are organized for the purpose of destroying competition, and of depriving the public of every benefit which the framers of the tariff laws sought to secure to it.

There are those, however, who attempt to explain our exports of manufactured products, and to excuse the practice of making lower prices to foreign buyers than to home consumers, by saying that after the demands of domestic consumption have been supplied, they can continue to operate their plants for the balance of the year at a less proportionate expense; and in order to give continuous employment to their employees, they can afford to send this surplus product to Europe, and to sell it below the prevailing rates of prices in this country. It is something of a revelation to discover that these combinations are so solicitous to secure steady employment for their employees; but let us inquire a little further into this reduction in the cost of operating their plants, which enables them to sell so much more cheaply to foreign buyers.



The best way to prove or disprove a proposition of this kind is to attempt its practical demonstration by the use of figures known to represent the true operating expenses of manufacturing concerns similar to those in which the reduction in the cost of the production of surplus products is said to have been effected. Instead, however, of adopting a set of figures relative to the operation of some one particular factory, for the accuracy of which the reader would have to depend upon the judgment and information of the writer, we prefer to use the figures furnished by the Census Department of the United States, in volume seven of the Twelfth Census, relative to industrial combinations. The figures given relate to the expenses of all of the one hundred and eighty-five combinations reported, but they will serve our purpose as well, and be, perhaps, more truly representative of the real situation than would the figures of any one plant.

In the table shown in the Census the expenses of the industrial combinations are classified under the following heads: wages, salaries, cost of material used and miscellaneous expenses. It requires no argument to show that the item of wages must continue to increase with the amount of the product, and that it cannot be even relatively reduced whether the plant be operated for ten months or for twelve months in the year. Under the heading "salaries" are included salaried officials, general superintendents, managers, clerks, etc.; and the total salaries paid by the combinations during the year 1900 amounted to \$32,738,208, which amount is subdivided as follows: \$7,152,067 was

paid to officers of corporations and \$25,586,141 to general superintendents, managers, clerks, etc. The amount thus shown to have been paid to salaried officials of corporations may be admitted to be a fixed charge, which would not have been increased by the continuous operation of the plants, but the amount paid to general superintendents, managers, clerks, etc., cannot be properly so classed. In order to be entirely fair, however, we may grant that one-third of the entire force of superintendents, managers, clerks, etc., would have to be retained, even though the plant were to be obliged to close down during a portion of the year, thus making their salaries a fixed charge which might properly be added to the cost of production for home consumption. We then have, including the salaries of the officials of corporations, the sum of \$15,680,780 which may properly be classified as fixed charges.

The materials used, like the wages paid, must continue to increase with the amount of the output, and having been already reduced to about the minimum cost, by their production and sale in quantities necessary to supply the large scale production of finished products for the home market, their relative cost cannot be much further decreased, whether the plants be operated for a longer or a shorter time.

Under the title miscellaneous expenses are included rent of works, taxes, rent of offices, insurance, interest and all sundry expenses not elsewhere included, most of which we may allow to be taken as fixed charges, and to be added solely to the cost of production for home consumption,

though it is obvious that the expense of such items as light, heat, wear and tear of machinery, etc., must continue to increase with the operation of the plant, and cannot fairly be classed as a charge which must be met whether it is operated or not.

We find, then, the total possible fixed charges to be: miscellaneous expenses, amounting to \$152,157,700, and salaries of officers of corporations, general superintendents, managers, clerks, etc., amounting to \$15,680,780, making a total of \$167,838,480. The total value of the products of these combinations during the census year, as shown by the same table was \$1,667,350,949. Thus, we find that in the production of \$1,667,350,949 worth of products, there were incurred fixed charges amounting to \$167,838,480 which is approximately ten per cent. of the total value of the products.

Suppose, then, that the preparation of this amount of product or the amount required for home consumption would only require the plants to be operated for ten months during the year, and that the fixed charges sufficient to cover the whole year's operation of the plants have been paid. It would then be possible to continue to operate the plants during the remainder of the year for the purpose of manufacturing surplus products intended for the export trade, at a reduced expense equal to the percentage of the fixed charges to the entire operating expenses of the business, and the cost of the output so manufactured would be just that much less than the cost of the goods produced for home consumption. We have just seen that the fixed charges

constitute ten per cent. of the cost of wares intended for domestic use, and the so-called surplus product, or that manufactured for sale in foreign markets, would therefore be ten per cent. less than the cost of the goods produced for sale in this country. This is the full extent of the reduction in the cost that can be effected in this way.

It may also be urged that these producers are willing to accept smaller profits in order to secure foreign trade, but the expenses of selling in foreign markets are much larger, the freight charges are higher, and the risks involved are much greater than they are in selling to the home trade, and if the profits received are still large enough to induce those combinations to assume these additional burdens and responsibilities, they should be sufficient to compensate them for engaging in the less burdensome task of supplying the demands of home consumption. We must, therefore, conclude that the ten per cent. decrease which we have shown that it is possible to effect in the cost of production, is the total reduction that can be made from a legitimate price charged to home consumers, in order to enable manufacturers to sell in foreign markets; and, that, if any greater discount than this is made in the price to foreign trade, it must be due to a decrease in the profit, and as we are not prepared to believe that these combinations are willing to go to great additional expense and incur much greater risks in order to secure smaller profits abroad than the investment of the same money would bring at home, their disposition to sell in foreign markets must be taken as an indi-

cation that they have been reaping unusually large profits from the American consumers.

Since this claim of reduced cost in the production of products for foreign markets has been offered in defense of the claims of these combinations to continued protection by tariff duties, let us inquire to what amount of protection they are entitled upon the showing made.

If, as is claimed, the reduction in the cost of production, which it is possible to effect by including all the fixed charges of the business in the cost of manufacture for domestic use, is sufficient to enable our industrial combinations to sell in competition with foreign producers in foreign markets, and, as we have already seen, the total reduction which it is possible to effect in that way is ten per cent., it follows that ten per cent. must represent the difference in the cost of production in this country and in foreign nations, for we are not willing to believe that foreign manufacturers cannot afford to sell on as small margins of profit as can our own producers. If, then, ten per cent. represents the difference in the cost of production at home and abroad, it is clear that the imposition of a duty of ten per cent. would prevent foreigners from underselling our manufacturers in our home markets, for the amount of the duty would in effect equalize the cost of production and place the producers on equality, whereas a duty of twelve to fifteen per cent. would suffice to exclude foreign manufacturers from our market altogether.

The prevailing rates of tariff duties, as we have already shown in the beginning of this chapter,

average fifty per cent. of the value of the article upon which it is laid, which is five times the amount of the protection to which the products of our combinations would appear to be entitled under the most favorable showing. What, then, becomes of the forty per cent. of protection which is afforded in excess of the ten per cent. which is claimed to be necessary in order to equalize the cost of production? If ten per cent. is sufficient to equalize the cost of production, which includes all that is paid out in wages, for material, and all expenses of the business, it is clear that the remaining forty per cent. of the protection afforded must go to swell the profits of the manufacturers. But some will tell us that no advantage is taken of this additional forty per cent. of protection, and that prices are not raised unnecessarily high on account of it. Why, then, we ask, should this unnecessary protection be retained as a temptation to the less scrupulous to extort exorbitant profits whenever an opportunity to do so is presented?

Whether these combinations are taking full advantage of the opportunity which the high protection affords them, and are charging excessively high prices to American consumers; or whether, as many of them claim, they are selling to home consumers at the same prices for which they sell abroad, and are thus making no use of the protection offered them, it is remarkable that none of them are ever willing to consent to a reduction of the tariff upon their products. A notable instance of this has recently been presented in the case of the anthracite coal combination.

It had popularly been supposed that the tariff

on anthracite coal was merely nominal, and that it had little or no effect in enhancing the price of coal; but in view of the great scarcity of fuel and the consequent high prices, due to the recent strike in the anthracite coal region, President Roosevelt, in his message to the second session of the Fifty-seventh Congress, recommended that the tariff be removed from anthracite coal. Measures were at once prepared to carry into effect the President's recommendation, but notwithstanding the extreme necessity to which the people in all parts of the country were reduced for want of fuel, and the supposed indifference of the anthracite coal combination, a determined opposition at once developed to the repeal of the duty, and it became evident that a compromise was all that could be hoped for. A bill was then passed repealing the duty on anthracite coal for the period of one year.

With this record before us of successful participation by our home manufacturers in the trade of foreign markets, and in view of the small difference which it is possible to make in the cost of production, even by throwing the whole burden of the fixed charges upon the home consumer, we are forced to believe that our industrial combinations can produce as cheaply as any other manufacturers in the world; but the rapidity with which these combinations are increasing in numbers and in power, leads us to believe that they are reaping much larger profits than could be derived from the sale of their entire product at the same prices for which they are obliged to sell that portion of it which they send abroad, and the desperate determination with which they resist every

attempt to lower the tariff duties upon their products, as has recently been illustrated by the action of the beet-sugar interests and by the anthracite coal combination, confirms the belief that the protection afforded by the tariff is being used for the purpose of protecting them in charging high prices at home, while they are able to sell for much lower prices abroad. It would seem, therefore, to be the plain and imperative duty of the National Government to remove the tariff duties from all articles which are produced or controlled by combinations, trusts or monopolies of whatever kind, and thus to diminish their power to levy tribute upon the American people for the sole purpose of swelling their private treasuries.

But we are told that by removing the duties from articles the production of which is controlled by combinations, we would not only cripple the combinations, but would also destroy the business of the individual manufacturers who are engaged in the production of the same articles. Let us see if this is true.

The purpose of the protection afforded by the tariff is to enable home manufacturers to demand high prices for their products, and to prevent them from being undersold by foreign producers. One of the purposes of our industrial combinations is to acquire the ability to produce as cheaply as foreign manufacturers and to sell their products in the foreign markets, and the published statistics of the exports of our domestic manufactures appear to furnish conclusive proof that many of them have succeeded in accomplishing their purpose. We have, then, individual manufacturers



who are protected from foreign competition by high protective duties, and, side by side with them, combinations which are active competitors of those same foreign producers from whose competition our manufacturers are protected. If our domestic combinations can compete with foreign manufacturers abroad, they must be even better able to compete with them at home in our own country, where the extra burden of ocean transportation must be borne by the foreigner and be saved by the domestic producers, and since the tariff does not protect our individual manufacturers against homemade products of combinations or trusts, what is there to protect them from this competition which is capable of being even more severe than that of the foreigner from whom they have already sought and secured protection? Are we to suppose that the combinations will prove to be less active competitors of our individual manufacturers than the foreigners would be? Experience has already shown that they can, and will, undersell the individual producer whenever and wherever it becomes necessary, in order to enable them to secure control of the market, and the power of most of these combinations is built upon the ruins of the once prosperous business of individual producers. Are we to be expected to believe that the combinations and monopolies will be more merciful to their individual competitors than they are to the consumers of their products? No; we must recognize the fact that the tariff affords no real protection to the individual manufacturer, wherever he is opposed by a combination of sufficient size to control the market.

Our individual manufacturers may be able to produce as cheaply as the manufacturers of Europe, but we are not discussing that point. We have every reason, however, to believe that our industrial combinations certainly are able to produce as cheaply, and that they may at will depress prices to the level of the foreign market, or raise them to the highest level to which the tariff affords protection. Thus the tariff is made to serve the purpose of the combinations, and if the individual manufacturers derive any benefit from it, it is merely during the will and pleasure of the combinations to allow them to do so. Instances have already been shown of the power of monopolies to destroy competition by the arbitrary raising and lowering of prices in this way, and it makes no difference whether the articles produced or dealt in are protected by tariff duties or not, save that the tariff excludes foreign competition altogether, and to that extent facilitates the control of the home market or domestic combinations or monopolies.

We are also frequently reminded that combinations and monopolies have been formed in the production of articles upon which there are no tariff duties imposed, and this is advanced as an evidence of the fact that combinations can exist independently of tariff protection. In reply to this we would say that the fact that one or more combinations exists independently of tariff protection, does not in any way tend to prove that others may not be largely, or even entirely, dependent upon it.

We wish to repeat that we have not attempted to prove that combinations are dependent upon the

tariff, but rather that they are independent of it. It affords to them a protection which is no longer necessary to enable them to pursue their legitimate business, and which they now use merely as a means of extorting high prices from the American consumers, while they are at the same time displaying their ability to compete with those foreign manufacturers against whose products they are receiving protection.

We admit, and have shown by the table of combinations herein published, that there are combinations and monopolies which receive no protection from the tariff, and, for the purpose of this discussion, we are willing to admit that there may be industries and individual manufacturers which are deserving of, and entitled to receive tariff protection; but the same table also shows that a great majority of the combinations which have been formed are engaged in the production of tariff protected articles, and the record of the exportation of domestic manufactures from this country, appears to show further that a large majority of these combinations are able to sell their products abroad in competition with the products of foreign manufacturers, and that they are therefore able to compete with these foreign manufacturers in our home market and require no tariff protection.

We therefore contend, that whenever a sufficient number of producers to represent fifty per cent. or more of the output of any one industry combine together,—they forfeit all further right to tariff protection. They then take the matter of protection into their own hands; they have the individual producers completely at their mercy and can

deprive them of the benefits of tariff protection at will; and since the individual producers cannot be protected against the competition of the combinations, the power of the combinations to levy excessive charges upon the people under the shelter of tariff protection, should be destroyed by removing the tariff duties altogether from all articles, the production of which is controlled by combinations, trusts, or monopolies of any kind.

## CHAPTER X.

## REMEDIES.

THE first and most fundamental purpose of every government is the protection of the life, liberty and property of its citizens.

When man first ceased to roam the world in savage freedom, and became a member of organized society, he surrendered the right to wage war upon his neighbor, and yielded to society the right to make laws for the control of his intercourse with his fellow-man. In return for this, he received the assurance that the government would, by its duly appointed officers, afford him protection to life, liberty and property, and make laws which would secure to him the greatest possible amount of freedom consistent with the rights of every other member of the community: and his descendants have inherited his rights under this unwritten contract.

Mutual concession is the foundation of all society. The power of the wealthy depends upon the strength of society, and its ability to afford them protection. Let the stability of a government be shaken, and a financial panic will immediately ensue, and the confidence of the wealthy disappear. The strength of society depends upon the readiness of the people to support it, to obey its laws,

and to respond to the demands of its officers; to support it with their money by paying taxes, and with their lives in the enforcement of its laws, or in waging war in defense of its rights when necessary. Can any one doubt, then, that the first and highest function of every government is the protection of the rights of the whole people, whose mutual sacrifice brought it into being, and whose constant support is necessary to its preservation?

There would be no difference in principle whether a foreign prince were to come with force of arms to our shores to take possession of our land, and then to exact tribute from the people for the privilege of living upon it, or whether a syndicate of our own citizens were to secure title to the same lands by purchase, and then to proceed to exact an exorbitant rental for the use of it; or, again, whether the foreign conqueror were to assume the absolute control of the production of some one of the necessaries of life, and then to raise its price to an unreasonable figure, or suspend its production altogether, at pleasure; or whether our domestic syndicate were to acquire control of the same commodity by purchasing the source of production, and then, by exercising the power of monopoly, to proceed to oppress the people as mercilessly as any foreign conqueror might do. In either case, it would be the plain and imperative duty of the government to relieve the people from the unjust oppression to which they were being subjected. The remedy might not be the same in both cases, and the people might be a little more tolerant and slower to demand the restoration of their rights in one case than in the other; but relief must come

in either case, and come before it is too late, or revolution, if not anarchy will be certain to result.

This right of every individual to protection, and the corresponding obligation on the part of the government to afford it, may seem to be more clearly recognized by some forms of government than by others; but they are equally binding upon all, and it is merely a matter of time and development until they shall become generally recognized as the most important considerations for the preservation and development of which all governments are formed. Blackstone, speaking of this subject in his "Commentaries on the Laws of England," says: "And this is what we mean by the original contract of society; which, though perhaps in no instance it has ever been formally expressed at the first institution of a state, yet in nature and reason must always be understood and implied, in the very act of associating together; namely, that the whole should protect all its parts and that every part should pay obedience to the will of the whole; or, in other words, that the community should guard the rights of each individual member, and that (in return for this protection) each individual member should submit to the laws of the community; without which submission of all it was impossible that protection could be certainly extended to any."

Numerous revolutions, from the time of the Magna Charta down to the American Revolution, have served to fix this principle most clearly in the common law of England and the Constitution of the United States, and those of the several states recognize it as a part of the fundamental law of this country.

Constitutions are always written to provide for the conditions which obtain at the time of their adoption, and to anticipate so far as practicable those which are likely to arise in the future; but time and progress are always certain to bring about situations which seem to be beyond the limits of the constitutional provisions, and with which the people therefore seem powerless to deal. We should bear in mind, however, that constitutions are made for the benefit of the people, and that whatever right there is inherent in the people, will always prevail in the end, even though constitutions may have to be changed or set aside in order to accomplish it.

The calamities attending the American civil war of 1861, were in a large measure due to a failure to recognize this absolute right of the people to control, in spite of constitutional or other artificial limitations. The Constitution of the United States recognized the right of the people of the South to hold slaves, and they felt perfectly secure in their right, believing that no power could deprive them of it. But they went too far in their confidence; they afforded the opportunity, and the North took advantage of it, destroyed the institution of slavery, as a war measure, and amended the Constitution afterwards.

Another instance of the arrogance of power and vested rights, has just been afforded in the case of the anthracite coal strike which prevailed throughout the summer and part of the fall of 1902. The miners refused to work under existing conditions, and the operators could not get a sufficient number of men to operate the mines. The supply of coal



was rapidly becoming exhausted throughout the country; its price rose to double that ordinarily demanded, and in many places hard coal could not be had at any figure. Winter was at hand, and great suffering for want of fuel was threatening the people; yet the coal operators persistently refused to submit the matters in dispute to arbitration, or to make any settlement whatever with their former employees, short of an absolute surrender of their claims. The President of the United States, several United States Senators, and the Governors of the two largest states in the Union, pleaded with them for weeks in vain, the operators, all the while, declaring their determination to stand upon their absolute rights, under existing laws, to use their private property as they saw fit; but they were finally prevailed upon to submit the matter to arbitration before any more serious consequences resulted.

It is impossible to tell what might have been the result of a continuation of the policy adopted and maintained by the coal operators for so many months. It is certain, however, that they would not long have been allowed to keep the coal locked up in the earth, while the people were suffering from cold and disease in consequence of the want of fuel. The common people are patient and slow to resent an injury; they may endure much suffering and many wrongs for a time, but they will at last be moved to anger, and when they do rise in their might and take the law into their own hands, no mere conventional forms or regard for vested rights can restrain them. The means which they employ

may not always be the wisest or the best, but they are usually sweeping and thorough, and are always most disastrous for those who have excited their wrath.

We believe that we have now made this principle sufficiently clear, namely, that the chief purpose of government is to protect the rights of every citizen, and that the power of redress against every wrong, always resides in the people. We believe that a more general recognition of this fact by monopolists will afford the first, and a most effective protection against the abuse of monopolistic power.

Corporations, combinations, trusts, and all those who control large aggregations of capital should remember that their security and their power rest solely upon the will and pleasure of the common people. They should bear in mind that all supreme power resides in the people, and that the powers of government are merely delegated powers; that constitutions are merely obstructions to the free manifestations of the popular will, agreed to for the sake of convenience and expediency, but which may be swept aside at any time by the powers which made them.

“Power in the people is like the sun, native, original, inherent, and unlimited by anything human. In government it may be compared to the reflected light of the moon, for it is only borrowed, delegated and limited by the intention of the people, whose it is, and to whom governors are to consider themselves as responsible, while the people are responsible only to God; themselves being the losers, if they pursue a false scheme of politics.”

(Burgh's "Political Disquisitions," Vol. I., Bk. 1, Ch. 2.)

Our republican form of government affords to the people a temperate and peaceable means of expressing their will through the instrumentality of the ballot, and they are naturally disposed to abide by the restrictions which they have thrown about themselves; but if combinations of capital, by changing from one form of organization to another, or by removing from the jurisdiction of one state into that of another, continue to seek refuge behind some provision of constitutional or statutory law, from which position of fancied security they hope to be able to prey upon the rights and necessities of the people, they will find that these protections are worth but little more than the ink it took to write them, whenever the people resolve that they shall be removed.

But if, on the other hand, these combinations will recognize the fact, that the rights of the public must be respected no matter what it may cost to secure it, if they will be satisfied with reasonable profit, and will be content to allow to the public a fair share of the benefits of their improved facilities for production, they will find the people ready to allow them all the facilities and powers necessary to conduct their business in the manner and on such a scale as the requirements of the age may demand. It is the fear of monopolies and of the abuse of the powers of corporations which has led to this continual warfare upon the growth of corporate powers, and not any disposition to deprive capital of its legitimate profits in business.

The great aggregations of capital which menace

the public interests, and with which we are concerned in this chapter, have nearly all now assumed the form of corporations. Those which still retain the trust form, or other forms of agreement, may generally be reached by the anti-trust statutes of the several states, or by the common law, and the large amounts of capital owned by single individuals are in most instances invested in the stocks of corporations; so it is chiefly of corporations that we shall now speak.

Believing, then, that good faith both on the part of corporations and on that of the public, a mutual recognition of each other's rights, and confidence in each other's fidelity, will prove to be the most effective, the most natural, and the most enduring remedy that can be applied to the present strife between the corporations and the people, let us inquire in what way can these be best secured.

Good faith and fair dealing, or honesty and fairness of purpose, cannot be created by legislation. We may impose penalties for the gross violation of them, but these can only hope to reach their most conspicuous offenses which, like the great deeds of individuals, form but a small portion of their life's work. So long as the disposition is evil and the opportunity is afforded, there will always be quibbling and evasion. Honesty, to be effective, must come from within. Dishonesty in corporations, like dishonesty in individuals, does, however, in a measure bring about its own punishment; for unfairness on one side is certain to induce antagonism and a corresponding unfairness on the other, which usually results in a loss to both parties. It

is this deadlock of mutual mistrust that we wish to dissipate.

We can, however, encourage the growth of these virtues in corporations by diminishing the opportunities of doing evil, by letting in the sunlight upon the dark and hidden by-ways, and thus exposing their every act to public view. There is nothing that helps to encourage the growth of honesty so much as the full light of day.

Confidence, on the other hand, can be directly fostered and promoted by legislation. A full knowledge of all the facts and circumstances, is the only true basis of confidence in human affairs, and by affording this knowledge to the public, the growth of honesty and fair dealing will also be encouraged, both of which must be found to exist, or the knowledge gained will tend to destroy rather than to inspire confidence; but in order to obtain this necessary knowledge, there must be public supervision of some kind. Corporations are created by the legislative power of the people, exercised by their representatives in general assembly; they receive their power from the people; they receive their immunities and privileges from the public; their operations directly affect the interests of the public, and it is clearly necessary, therefore, that it should possess complete knowledge of the affairs of corporations in order to be able to understand what should justly be granted and what withheld. By whom shall this supervision be exercised is what we shall now inquire.

The importance of the subject considered as to its effect upon the welfare of the people; the extent and variety of the combinations and corporations

to be affected, operating as they do in every state and territory in the Union; and the apparent conflict between the purposes of the legislative provisions of the several states in relation to combinations and corporations would seem to stamp it as a subject requiring national regulation and control. The Government of the United States, however, is a government having merely certain enumerated powers. It does not possess all the usual inherent rights and powers of sovereignty, and is limited to the exercise of those powers which have been delegated to it by the states. In order, therefore, to enable Congress to assume control over this subject, it must be brought fairly within the scope of the enumerated powers granted to Congress by the Constitution of the United States.

The only industry over which Congress is given any express power of control is commerce with foreign nations, and among the several states and with the Indian tribes; but the combinations and corporations with which we have chiefly to do in this chapter are, for the most part, engaged in manufacture, mining, and kindred industries, the greater part of which are conducted wholly within the jurisdiction of some one state or states, and merely employ interstate commerce as a means of transporting their products. These corporations, then, do not fall within the powers conferred upon Congress unless the transportation of their products in commerce among the states, gives Congress the right to assume control over them. In the case of the *United States versus the E. C. Knight Company*, 156 United States Report, P. 1, the Supreme Court of the United States held that a company en-

gaged in the business of manufacturing, within the bounds of any state, even though it might employ interstate commerce in the transportation of its products, was, nevertheless, subject solely to the jurisdiction of the state; that Congress had no power to interfere with the affairs of the company so long as it did not attempt to regulate interstate commerce; and that the shipment of its products was merely an incident to its principal business of manufacture, and did not constitute such an interference with commerce among the states as would bring the case within the jurisdiction of Congress. The Supreme Court has also repeatedly declared that the power of Congress to regulate commerce does not imply the power to regulate the incidents of commerce.

We are therefore obliged to conclude that Congress has not the power to assume the general supervision and control of these combinations and corporations.

Many writers and statesmen have urged the necessity of amending the Constitution of the United States so as to enable Congress to assume supervision and control over all combinations, trusts, corporations, or other aggregations of capital which may possess, or seek to create monopolies of any kind; but no definite form of amendment to the Constitution, by which to confer these powers upon Congress, has yet been agreed upon by the friends of this method of procedure.

An amendment to the Constitution of the United States for the purpose of granting these powers to Congress, was proposed in the House of Representatives during the first session of the fifty-

sixth Congress, in March, 1900, by George W. Ray, of the State of New York, the provisions of which were as follows:

“Sec. 1. All powers conferred by this article shall extend to the several states, the territories, the District of Columbia and all territory under the sovereignty and subject to the jurisdiction of the United States.

“Sec. 2. Congress shall have power to define, regulate and control, prohibit or dissolve trusts, monopolies or combinations whether existing in the form of a corporation, or otherwise. The several states may continue to exercise such power in any matter not in conflict with the laws of the United States.

“Sec. 3. Congress shall have power to enforce the provisions of this article by appropriate legislation.”

This amendment was referred to a committee by which it was favorably reported, and on June 1, 1900, it received the vote of the majority of the members present and voting in the house, 154 members voting for it, but failed of the two-thirds vote necessary for its adoption.

As may be seen at a glance, this amendment would give to Congress almost unlimited power over all combinations, corporations, etc., which tend in any way to create monopoly. As Congress would have the sole right to judge of the existence of the tendency to monopoly, and since it could not be in a position to properly judge of the existence of the tendency unless it were familiar with the internal affairs of corporations, it follows that Congress might



soon acquire exclusive jurisdiction over nearly the entire business of the country; but the far-reaching effects of the exercise of such powers by Congress, and its destructive influence upon the right of self-government, which was originally possessed by the several states and afterwards reserved to them by the Constitution of the United States, have been so forcibly set forth by the Supreme Court in relation to the extension of the power of Congress to regulate commerce among the states, as shown by the extracts from the opinion of Chief Justice Fuller presented in a preceding chapter,—that it is unnecessary to say anything further upon that point, except to remark that the tendency toward monopoly is almost as prevalent among business corporations as is their use of interstate commerce, and that it is therefore apparent that the same reasoning will apply with equal force to this class of cases.

It is true that in the case of the United States versus The E. C. Knight Company, the Court referred directly to the extension of the powers of Congress by construction, whereas in the case in question, it is proposed to extend them by amending the Constitution, and that, in so far as the power to act is concerned, the cases are entirely different; but the Court, in rendering its decision, went further than merely to determine the question of its power to extend the jurisdiction of Congress, and announced the principles upon which the power to regulate commerce was granted to Congress, and the reasons which led to the reservation to the several states of the power to regulate domestic commerce, manufacture and the like, and

which require it to be still retained by them. So far as the principle and reasons which led to this distribution of powers are concerned, the cases are precisely alike.

The power of the people to amend the Constitution of the United States so as to grant to, or withhold from, Congress, or from the several states, whatever powers they may desire to extend or withhold, cannot be denied; but the wisdom of exercising that power too freely may be very seriously questioned and it would seem that the same reasons which led the Supreme Court of the United States, in the Knight case, to refuse to even entertain the thought of allowing Congress to invade the fundamental right of the states to self-government in local affairs, even though a temporary benefit might be obtained thereby, should be sufficient to induce the people to refuse to grant these same powers in any other way.

Mr. William J. Bryan has proposed the following remedy for regulation of trusts: "Every corporation doing business outside of the state of its creation shall obtain a license from the national government which shall, first, prevent watering of stock; second, prevent monopoly; third, require publicity as to all its transactions, else that license shall be revoked."

The adoption of these provisions would also require an amendment to the Constitution of the United States, which would be subject to the same objection as the one which we have just considered. Nearly all corporations of any considerable size do more or less business outside of the state of their creation, and would, therefore, fall within the

provision of such an extension of the powers of Congress; and the power to prevent monopoly is essentially the same, and would be quite as far-reaching in its effects as the powers proposed by the Ray amendment.

The magnitude of the interests which are thus sought to be taken from the jurisdiction of the states and placed under the immediate control of Congress, will perhaps be more fully appreciated when it is remembered that fifty-nine and five-tenths per cent. of the total amount of products manufactured in this country during the year 1900, as shown by the Twelfth Census, was produced by corporations.

In attempting to give Congress control of these corporations which seek to become monopolists, it is exceedingly difficult to tell where to draw the line between the good and the bad, and this is the bulwark of the modern combinations. They have assumed the same form of organization as that of the smallest business corporation, and it is almost impossible to make laws which will apply to one and not to all. If the capital stock were to be adopted as the means of classification, it would be very difficult to say whether the line of distinction should be drawn at one hundred thousand, at one million, at ten millions, or at one hundred million dollars, and it would seem to be equally difficult to classify them no matter what standard of comparison may be adopted for the purpose.

The extreme difficulty of framing an amendment to the Constitution of the United States, for the purpose of granting these powers to Congress, arises from the necessity of defining a power which will

be sufficiently comprehensive to enable Congress to reach the evils sought to be remedied, but yet, not so broad as to admit of any extension of the power beyond the purpose sought to be accomplished, or to any unnecessary invasion of the sovereign rights of the states. Judging from the zealous care with which the original thirteen states guarded their reserved powers at the time of the making of the Constitution of the United States, and from the strong love of local self-government which so generally animates the people of the numerous states which have become members of the Union since that time, as well as from the very conflicting views entertained by the people of the various states as to the manner in which these corporations would be dealt with; and in view of the significant fact that of the fifteen amendments which have been made to the Constitution of the United States since the time of its adoption, not one has conferred any additional powers upon Congress, and of the further fact that, with the exception of the last three amendments which were adopted during the pressure of the circumstances arising out of the civil war, it lacks but a little more than one of being a hundred years since the last amendment of any kind was made to the Constitution: it seems improbable that any amendment to the Constitution of the United States making any extensive grants of power to Congress in this direction, will be ratified by the legislatures of three-fourths of the states within the very near future.

Nearly all of the corporations which are doing business in this country, with the exception of those which serve in some way to discharge a particular

function of the national government, as the national banks, etc., and a few foreign corporations organized in Great Britain and elsewhere, are created by the legislatures of the several states. They are subject to the jurisdiction of the state which created them and are amenable to its laws; they have no legal existence beyond its limits, and that state has almost absolute power to control and regulate their affairs.

It appears, therefore, that the state is the proper authority to exercise this power of supervision and inspection over the affairs of corporations in order to obtain the information which we are seeking to secure. Chief Justice Fuller, speaking on this point for the Supreme Court of the United States in the *E. C. Knight Company* case, says: "It cannot be denied that the power of a state to protect the lives, health and property of its citizens, and to preserve good order and the public morals, 'the power to govern men and things within the limits of its dominion,' is a power originally and always belonging to the states, not surrendered by them to the general government, nor directly restrained by the Constitution of the United States and essentially exclusive. The relief of the citizens of each state from the burden of monopoly and the evils resulting from the restraint of trade among such citizens, was left with the states to deal with and this court has recognized their possession of that power even to the extent of holding that an employment of business carried on by private individuals, when it becomes a matter of such public interest and importance as to create a common charge or burden upon the citizen; in other words,

when it becomes a practical monopoly, to which the citizen is compelled to resort and by means of which a tribute can be exacted from the community, is subject to regulation by state legislative power."

It should be borne in mind that the purpose of the public supervision which it is proposed to establish over the affairs of corporations, is to secure the necessary information to enable the state to deal intelligently with them. The affairs of the public are open to the inspection of every one; the motive and end of every act of the legislature are more fully understood by the officials of corporations than they are by the majority of business men, while the public knows practically nothing of the affairs of corporations save what their officials choose to disclose.

The creation of a corporation is merely a business transaction between incorporators on the one side, and the public on the other. A set of incorporators apply to the state legislature for the privilege of carrying on a given business in the name of an association, to be relieved from individual liability for the debts and responsibilities incurred in the business; to be allowed to sue in the courts; and to receive the full protection and benefit of the laws of the state to the same extent as natural persons; to be empowered to hold real and personal property, and to dispose of the same at will; and to be allowed to issue stocks, bonds and other securities, in forms which are popularly supposed to be safeguarded by legislative provisions, and which therefore sell readily among the people. A

charter is granted conferring those powers, and the association is said to be incorporated.

In return for this grant of powers, the corporation is presumed to render some service to the public by way of compensation, else why were these extraordinary privileges granted? This service may be rendered in the form of a direct accommodation to the public, as in the case of railroads and the like; or it may be in conducting manufacture or trade on a large scale, which may be expected to result in better goods, or lower prices to the people; but in whatever way the service may be rendered, the acknowledgment that it is due, implies the right of the community to take the necessary precautions to see that it is receiving the full amount to which it is entitled.

Again, all the powers that are granted to corporations are granted under the presumption that they will be exercised subject to certain safeguards and restrictions, and if there is no means provided by which the state may at all times know whether these requirements are being complied with or not, the legislature has failed to discharge the trust imposed in it, and the state, therefore, cannot perform its full duty to the people.

Under the present system, after a corporation has been doing business for a time, it returns to the legislature and asks for an extension of its powers; but the legislature has known practically nothing of the company since the date of its incorporation and can learn nothing now except such matters as its officials are willing to disclose. The public and the members of the legislature know well that the corporation is actuated by selfish mo-

tives, and that its statement of its case cannot, therefore, be accepted as an impartial statement of facts upon which legislative action may be founded. The legislature, therefore, finds itself obliged to act in the dark, not knowing the real conditions, and feeling satisfied that if it grants what the corporation asks, it will be allowing too much, it usually prefers to take no action, even though it may be convinced that some concession of power might be beneficial both to the corporation and to the public.

The result of this mutual mistrust is a continual contest between the corporations and the people, which engages the attention of nearly every legislative assembly in the country. So it would seem to be clear that fair and upright, frank and open dealing would, in the end, prove to be most profitable for both sides.

We have spoken of individual corporations as applying directly to the legislature for their corporate powers, for this is in effect what they still do, and what they all had to do in fact, originally; and the taking of an individual company serves better to illustrate the principle, and more directly expresses the relations of the parties. The general incorporation laws which have been enacted in most of the states, are merely a means of facilitating the granting of charters, and do not alter the situation in the least; the principle is the same whether a charter be granted directly to an individual corporation, or to a number of them which fall within a prescribed class. The extension of their powers is also now made by amendments to the general corporation laws, and the endeavor to



so frame these amendments as to meet the demands of the various kinds of corporations embraced within a given class, makes this task a most difficult undertaking.

Let us now examine some of the objections which are likely to be urged against the establishment of public supervision of corporations. It is said in the first place that their business is of a private character and that the public has, therefore, no right to interfere with it; but, as we have already seen, these corporations have not only been created by the public, but have also been granted special powers and privileges, and justice demands that wherever a grant is made, whether it be by an individual or by a state, there shall be some compensation made in return. These corporations do not make any specific payment in return for the corporate powers which they receive, and since the state cannot be presumed to give away valuable privileges merely as a matter of charity, it follows that the compensation must be paid in the form of improved service of some kind, and it devolves upon the state to exact its full share of such service from them. The state has relieved their stockholders from individual liability for their corporate debts, and it should therefore see that their creditors are protected; it has authorized them to issue bonds and other securities and it owes it as a duty to the purchasing public to see that these securities are issued only under proper safeguards and against sufficient assets; and how can the state perform those duties without an intimate knowledge of the affairs of these corporations?

Many small companies are organized merely for

the purpose of enabling some irresponsible individual to carry on business under the name of a corporation with a view of securing greater credit thereby. The wives and sisters of these persons join with them for the purpose of obtaining a charter, but the business continues to be conducted as the private property of the individual proprietor and the corporation exists merely in name. This class of corporations would object to publicity, but an exposure of their affairs would be greatly to the benefit of their creditors, and of the public at large.

Another class of corporations object to publicity because they fear the exposure of the discrimination of prices which they make to customers, and discriminating rates which they receive from others, and often, also, because of secret agreements as to prices, etc., which exist between concerns engaged in the same business; but these are all acknowledged evils which it is to the interest of the public to eradicate. The national government has established a commission known as the Interstate Commerce Commission for the express purpose of preventing similar abuses among railroad companies, and why should not the public be protected from being wronged in the same way by manufacturing and other corporations?

Nearly all large corporations also place their stock on the market for sale, and invite the people to invest their money in it. Whatever the public is asked to purchase, it has a perfect right to examine, and to inquire into every particular which enters into its value. The operations of the company and the properties held by it, are the elements

which give value to the stock, and the public, therefore, has a perfect right to inspect them.

These stocks and bonds of industrial corporations have already become a most important source of investment. They are rapidly invading the position once held by real estate as the only recognized safe investment for men of small means, and prudence and the welfare of the nation demand that the greatest care and protection should be thrown about them. The convenient form of these securities and the ease with which they may be transferred in large or small amounts, make them most desirable and tempting forms of investment, and many fortunes have already been lost by persons who have yielded to the temptation to purchase without having the means of securing adequate information as to the real value of the properties which the paper purported to represent.

What business man would think of loaning five or ten thousand dollars upon a piece of real estate without first having an attorney examine as to every detail of the title, and then inquiring particularly as to the amount of rent or other revenue derived from it, the taxes to be paid, the insurance carried, the repairs needed, etc., and why should a man be required to invest the same amount of money in the stock of some industrial corporation with no better assurance as to its value than the mere statement of some stranger who may chance to have it for sale?

Most of these large corporations invite public investigation of their affairs by publishing annual statements of their receipts and expenditures, their assets and liabilities, and the dividends paid

upon their stock; for the purpose of inducing the public to purchase their securities. These statements are given out to the public as true and accurate accounts of their affairs; yet these same corporations are most careful and most determined in their efforts to exclude the public from access to their books. A familiar instance of the extent to which these companies are willing to go in order to prevent public inspection of their affairs is that of the Standard Oil Trust which, when commanded to bring its books into court, burned a large number of them in order to prevent their inspection, thus wilfully disregarding the orders of the court, and risking the imprisonment of its officers rather than expose accounts which it claimed to be unimportant.

If these published statements are true, if all of the properties of the corporations are thus fully shown, the receipts and expenditures of the business thus fully exposed, and the profits earned so frankly disclosed; what reasonable objection can there be made to a public inspection of the operations by which these results have been obtained?

If, however, these statements are merely the result of a peculiar system of corporation book-keeping; if miscellaneous expenses, salaries, and other accounts have been raised or lowered or so manipulated as to produce large dividends when it is the purpose to attract purchasers to the stock; or small dividends, when it is sought to ward off public inquiry or to avoid taxation; then these statements are given out clearly for the purpose of defrauding the public, and furnish an additional rea-

son why the state should exercise a close supervision over their affairs.

Another objection made to public inspection of the affairs of corporations is the fear of exposing trade secrets. These are merely private means of manufacturing or producing certain articles, such as are usually protected by patents, but which some persons prefer to preserve by maintaining strict secrecy among all those concerned in the process of their production.

The public is directly interested in every new invention or discovery in science or the arts, which either serves any useful purpose or adds to the general store of knowledge, and it has a right to secure to the people the benefits arising from their application, and to take all necessary precautions to prevent them from being lost through the death of their inventors or discoverers, or those to whom the secrets may have been imparted. The Government of the United States, as well as all other civilized nations, has exercised this right by the adoption of patent laws, which secure to every inventor or discoverer the exclusive and absolute control of his invention or discovery for a definite number of years, during which time he may use it freely and openly without fear of interference with his rights by any one, and affords him the means of obtaining full redress in the courts for any infringement or invasion of them; but after the expiration of the period for which the patent is granted, the invention or discovery becomes public property and any one may manufacture, use or vend it at pleasure.

This government has never exercised the right to

compel inventors, discoverers or authors to bring their works within the protection of the laws made for that purpose, though it is claimed by many that the public has an absolute right in every new invention or discovery, even as against the inventor or discoverer himself, on the principle that it is not merely the genius or skill of the individual which has enabled him to attain such results, but that it is the combined knowledge and experience of the whole community which have educated him up to that point of efficiency, which have produced the conditions and surroundings which have made his achievement possible, and which have placed him in the position to see that which he is said to have discovered. But we are now considering the relations of corporations to the government, and not the relations of the individual to the community, and we shall, therefore, notice this right of the individual to the exclusive use of his invention, only in so far as he calls upon the government to assist him in the exercise of it.

Some writers have found much difficulty in endeavoring to apply public inspection to the affairs of corporations without exposing these trade secrets, the right to which they admit, but we hold that any man who is unwilling to trust his invention to the protection of the laws which the people have made for his benefit, is unworthy of citizenship in the government under which he lives, and should not be afforded the assistance of the corporation laws to enable him and his associates to preserve in secrecy that which it is the policy of all governments to make public at the earliest

possible moment consistent with due compensation to the inventor.

If our patent laws do not afford adequate protection to inventors, they can be amended; but no pains should be taken to enable inventors to become patent laws unto themselves, and the fear of exposing this class of secrets should constitute no obstacle to the immediate application of state supervision to the affairs of corporations.

The importance of the subject of trade secrets has greatly diminished in recent years, and the practice of preserving them is rapidly falling into disuse. In nearly all of our important industries, those interested in the same line of business may readily obtain leave to visit and inspect each other's plants, and it is customary to exchange such visits both with the producers of this country and of foreign nations.

The necessity for public inspection of the affairs of the very large and the very small corporations being thus apparent, what reason is there in principle why the same inspection should not also be applied to those of medium size? If they have not worked as much injury or fraud upon the public, it has in many instances been simply because they have not been able to attract the same amount of attention to their affairs or confidence in their paper, and in all cases a systematic supervision of the conduct of their business will serve in many ways to keep them from falling into evil practices. In respect to those corporations which are improperly managed, an exposure of their methods would be a direct benefit to the people; while with those which are conducted in a straight business-

like manner, it would serve to strengthen public confidence, thus benefiting the corporations; and it does not appear likely that publicity would prove to be at all injurious to those whose methods are fair and whose purposes are honest.

By state supervision and inspection of the affairs of corporations, all the abuses which it is the purpose of the Interstate Commerce Commission to remedy among railroad companies, can be prevented in manufacturing and business corporations, for the state possesses complete control over them; and when their misconduct shall have been brought to the light, it has full power to deal with them and to impose such regulations as it may find necessary.

Most of the evils to which we have referred in the preceding pages, would cease to be practiced merely because of the exposure of them, the temptations and opportunities for dishonest practices which secrecy of action affords would be removed, the provisions of the present corporation laws could then be practically enforced, honesty and fair dealing would be encouraged, and the necessary information to enable the state to enact such new laws and regulations as the situation might require, would always be at hand.

Many restrictions and penalties are now imposed upon corporations for the purpose of preventing some of the more familiar evils to which the public have been subjected, such as the issuing of false statements or reports; the payment of unearned dividends, the incurring of excessive indebtedness and the like. But how can these provisions be enforced so long as the state has no means of knowing the true condition of the affairs of the



corporation, what its earnings really have been, or what are its true assets and liabilities? Of what value is the sworn statement or report of an agent or officer of a corporation, so long as the state has no means of learning whether it is true or false?

A large part of the objection to state supervision of corporations, and of the hesitancy on the part of legislative bodies to adopt it, arises from the popular feeling that the various kinds of business in which they are engaged have always been regarded as the subject of strictly private affairs. It is true that these industries have been and still are looked upon as belonging peculiarly to the sphere of private enterprise so long as they continue to be the property of individuals and remain subject to personal supervision and management; but when they come to demand more powerful forms of organization to conduct them, it is an acknowledgment that they have outgrown the capacity of individual control. This new form of organization demanded must possess extraordinary powers and privileges; it must be more powerful than individuals; it cannot be created by those persons who desire to employ it; it must come from the supreme power in the land which is the government. The government is established for the equal benefit of all its citizens and cannot, therefore, be presumed to grant special powers and privileges to any set of incorporators merely for the private benefit of the few individuals who are directly interested in the corporation. It follows, therefore, that whenever a corporation is created, no matter for what purpose it may be, there are

certain rights reserved to the government for the benefit of the whole people, from whom, in theory, these special powers have been drawn, and the duty of preserving these rights rests with the government. The state, it is true, has in most instances neglected to insist upon the supervision necessary to preserve its rights in the management of corporate affairs, and the long disuse of the authority to exercise such supervision has led most of us, including the corporations, to forget that it ever existed; but the right still exists; the power to enforce it remains in the state, and immediate steps should be taken to exercise it without further delay.

This right of privacy which is claimed by corporations, also applied with equal force to the business of banking until within the last thirty or forty years; but since the establishment of the national banking system by the Government of the United States, it has maintained a strict supervision and inspection over the affairs of all banks organized under its laws. This has not in any way interfered with the successful management of these banks; no one has complained of the exposure of private business methods or of the intermeddling of competing concerns; the rights of the public have been preserved; yet the business has proved highly profitable to the members of these corporations. No one has been driven from the business because of this public supervision to which their private affairs have been subjected, but on the contrary, the number of these national banks has constantly increased until they have very generally supplanted the state banks; and if the rate of their increase has diminished during the last few years,

it has been because of the tendency to merge the smaller ones into larger and more powerful institutions, and not because of any dissatisfaction with the system under which the business is conducted. We have all become accustomed to the exercise of public supervision over national banks, and since it has proved so successful with this class of corporations, why can it not, with equal justice and success, be applied to those engaged in manufacturing or in general business?

The United States Government has established the Interstate Commerce Commission for the purpose of exercising supervision and a large degree of control over the affairs of railroad companies. Many of the states have also established more or less thorough systems of inspection of the affairs of companies engaged in the operation of railroads, warehouses, etc., a certain degree of supervision is exercised over factories, tenement houses and the like, whether they are operated or controlled by corporations or by private individuals, and all are familiar with the exercise of public inspection over the sale of milk, meat and various kinds of food, of gas, oil and various commodities, so there is nothing new or revolutionary in the proposition to make this supervision more thorough and general in its application.

By public supervision and inspection of the affairs of corporations, it is not meant that their books shall be kept open for the accommodation of every curiosity seeker who may chance to come that way. It is intended that they shall be open to the inspection of regularly constituted state officers appointed for the purpose, who shall at all

times have access to them; who shall have power to require them to be kept in accordance with some established system of bookkeeping in order to show the true condition of the business; who shall promptly report all violations of the law to the proper officers whose duty it shall be to institute immediate proceedings against the offenders. A report should also be required to be made at stated periods to the governor of the state, showing the standing and general condition, together with such particulars as the law may require, of every corporation doing business in the state. This is substantially the same as the reports that are now made by the bank examiners to the proper officials on the condition of the national banks, and of the building and loan associations by the various state auditors.

The mere exposure of the acts of corporations to the public gaze, would in itself be sufficient to cure many of the evils which have made large corporations so odious to the public, just as the light of the sun is sufficient to kill many germs of disease in the human body, even the deadly microbes which we are told infest the water we drink, the food we eat, and the air we breathe, being rendered harmless if exposed to its full rays for only a few moments; but public inspection of corporations should be coupled with the power to remedy evils when they are discovered, and we believe that the light that may be obtained from a close inspection of their affairs, will furnish a truer guide to a fair and amicable adjustment of the relations between the corporations and the public than any

system that can be devised from the study of their mere external relations and appearances.

What is called watering of stock is one of the evil practices most commonly complained of in connection with corporations. By watering of stock is meant the issuing of certificates of stock, for which no money or other property has been paid, and which, therefore, represents no increase in the value of the company's property. In other words, a company doing business on a capital of fifty thousand dollars, all of which has been paid in and regularly invested, has earned a sufficient amount of profit during the year to pay a dividend of ten or twelve per cent.; but its directors, fearing that the payment of so large a dividend might attract public criticism, and perhaps inquiry into the business, resolve to increase the capital stock to one hundred thousand dollars, and this is done by merely adopting a resolution to that effect, filing the necessary papers with the state officers and issuing the stock certificates. The same profits are then distributed at the rate of five or six per cent. upon the increased capital, and the business is said to be only fairly profitable. There has not been a dollar added to the assets of the company to support this extra fifty thousand dollars worth of stock which has been issued, but the public has no means of knowing this, and it is put upon the market for sale in precisely the same manner as the original stock has been offered, and just as though it represented an actual investment of capital to the amount of the full face value of the stock, while in truth it merely represents an investment of only one-half

of that value. This stock is sold on the market for as high a price as the public can be induced to pay for it, and the inside operators are thus frequently enabled to reap large profits from purchasers who have not learned of the recent inflation of the stock in which they are investing.

This practice of issuing new stock for the purpose of reducing the rate of dividends to be paid, is sometimes spoken of as the issuing of stock against the earning power of the corporation. This method of capitalization is justified by some economists, and aside from the deception practiced upon the public, and the powerful influence which it exerts in maintaining fictitiously high prices, it might not be so seriously objectionable if the public could be guaranteed that a given rate of dividends could be maintained; but it looks very much like a one-sided proposition, for while the issue of stock is increased when the profits are large, it is never contracted when they diminish, and the stockholder finds himself obliged to accept decreasing profits while he has only half the security for his money that the original shareholders held. Yet this increased volume of stocks remains as the nominal capital upon which dividends are expected to be paid, and serves therefore to increase the cost of production and consequently to increase prices to the consumers.

Stocks are watered in this way for various purposes, one of which is to avoid the appearance of making exceptionally large profits, as has just been described; another is to reduce the value of the individual shares of high priced stock in the hope of securing a more ready sale for it on the

public market; and a third use of watered stock is the compensation of the promoters of these large corporations. Large blocks of this stock are given to these promoters, for which nothing has been paid, which represents no value in the corporation, but which they place upon the market; and they thus proceed to collect from the outside public millions of dollars as compensation for their services in organizing these same combinations of capital which the political representatives of the people are taxing their best ingenuity to restrain.

The most common explanation offered in cases of the consolidation of large concerns, for the issuing of stock in excess of the value of their tangible property, is that it is to pay for good-will. A more convenient form of asset could hardly be conceived for the purpose, for there is nothing less susceptible of exact measurement than good-will in business. It depends upon so many varying conditions; its value is so liable to be overestimated by those who have it for sale, and its very existence is so apt to be entirely imaginary, that we think it should be confined within very narrow limits and given very little consideration as an asset against which to issue securities, or as a principal upon which dividends must be paid. We are willing to concede the claim to a reasonable amount of good-will in cases where a reputation and demand have been created for a particular article, or a special brand, by means of extra care in its preparation, by reason of many years devoted to the development of the business, or by means of extensive advertising; but in the case of staple articles, in the manufacture of which these large corpora-

tions are chiefly engaged, which sell upon their merits, and the demand for which depends upon the necessities of the people, there would seem to be but little or no foundation for the claim to goodwill. More especially is this true since it is the purpose of these large combinations to create a virtual monopoly in their products, and it makes but little difference whether they have the good or the bad will of their former customers, for they must still continue to buy from them or go without.

A mild admission of the practice of watering the stocks of corporation is to be found in the replies to the questions sent out by the Department of Labor of the United States, and published in the Bulletin of Labor, No. 29, July, 1900, asking industrial combinations to report as to what percentage the original cost of their plants, the cost of reproducing the plants actively employed, and their working capital, bore to their stock issued, to which twenty-four combinations responded. Twelve reported that the original cost of the plants entering into the combinations was fifty-five and fifty-eight-hundredths per cent. of the stock issued by them; ten reported that the original cost of the active plants of the combinations was fifty-six and ninety-two-hundredths per cent. of the stock issued; fifteen reported that the estimated cost of reproduction of plants of the same capacity as those actively engaged in manufacturing was forty-eight and twelve-hundredths per cent. of the capital stock; and twenty-three reported that their working capital was sixteen and thirty-hundredths per cent. of their capital stock. Thus it will be seen that,



taking the working capital and the cost of reproduction of the active plants together, the capital actually invested at its cash value would amount to sixty-four and forty-two-hundredths per cent. of the nominal capitalization; or if, in place of the cost of producing the active plants, the original cost of those plants be substituted, the above per cent. will be increased to seventy-three and twenty-two-hundredths.

A further evidence of the extent to which stock watering has been carried by these large combinations, as well as an illustration of how little the public can really learn of their affairs by merely taking note of their capital stock, is afforded by the latest phase of combination management, which is to reorganize by reducing their capital to a small percentage of what it has been heretofore, while still retaining the same properties and business as under the heavy capitalization. Thus, the Continental Tobacco Company, capitalized at one hundred million dollars, the American Tobacco Company at seventy million dollars, and the Ogdens Cigarette Company, of England, at one million dollars, were, in 1901, merged into the Consolidated Tobacco Company with a capital stock of only forty million, but with a funded indebtedness of over one hundred fifty-six million dollars. All of the properties owned by the old combinations are now held by the Consolidated Tobacco Company, but its capital stock is less than twenty-five per cent. of the total stock of the merging companies. The Distilling Company of America, with a capital of eighty-five million dollars, was organized in 1902

into the Distillers' Securities Corporation with a capital of only thirty-two million five hundred thousand dollars; and still later the American Steel Hoop Company with a capital of thirty-three million dollars, and the National Steel Company with a capital of fifty-nine million, the Carnegie Steel Company with a capital of one hundred sixty million dollars, have been merged into the National Steel Company with a capital of only sixty-three million dollars. In each of these cases, the new combination owns all of the properties and conducts the same business as did its several members before they merged, and it is worth just as much under the new capitalization as it was under the old. It is difficult to say what is the controlling motive in this latest movement of combinations, but it is probable that one of the chief purposes of the change is to avoid the payment of taxes upon their capital stock. It is probable, therefore, that in the future we shall not hear so much of the organization of great combinations with enormous capitalization, and that we shall hear more of the formation of combinations which control even greater property interests, but which have but a comparatively small nominal stock. It is likely, however, that the market value of the stocks of these new combinations will soon approximate the total values represented by the stocks of the old concerns, and our revenue laws should be amended so as not to allow these combinations to escape legitimate taxation by merely changing the form of their title deeds.

It will be perceived, from what has been said, that the watering of stock depends for its success

chiefly upon the secrecy with which the actions of corporations are guarded and their ability to deceive the people; and that public supervision of their affairs would render this deception impracticable, and place the state in a position to effectually prevent this and many other abuses which merely require to be exposed in order to enable it to remedy them. Some of these abuses, it is true, might continue to be practiced for a time even under state supervision, but it would be with the acquiescence of the people, and only for so long as they chose to tolerate it; whereas their right to existence now depends upon their ability to deceive the state and the public as to whether they are really abuses of power or merely the necessary outgrowth of legitimate business methods.

Having now agreed to adopt state supervision of corporations and thus provide against the practice of stock watering and many other evils of corporation management which may easily be remedied under existing laws or amendments thereto when the state has been fully informed as to all the facts involved; we now come to consider the source of the chief evil of monopoly, namely, its power to raise prices and to extort excessive profits from the people.

Since the modern monopolist has very generally assumed the corporate form of organization which we have just agreed to subject to state supervision, we are now presumed to be in a position to know when this power to fix prices is being exercised unnecessarily to the injury of the public; but under the present method of dealing with corporations it may be commonly known that they have fixed

prices sufficiently high to yield enormously large profits, and yet the state be held powerless to interfere with them on that ground alone, as in the case of the Standard Oil Company, the dividends of which have reached as high as forty-eight per cent. per annum, according to its published statements. The state, it is true, might, under present practice, attack these corporations on the ground of creating a monopoly or conspiracy in restraint of trade, for the power to raise prices implies the power to corner the market and thus more or less to restrict trade, and it might dissolve corporations which offend in this way, just as was done in the instances already shown of prosecutions under the anti-trust acts of the several states; but these large corporations are capable of doing much good as well as evil. The great economies which they achieve in production may enable them to afford lower prices and better service to the people; their improved facilities for extending trade into foreign countries may furnish more regular and steady employment to their employees, and their destruction is therefore not to be desired if their evil propensities can be eliminated.

Shall the remedy be applied to large corporations only? If so, to what size? Where shall the line of distinction be drawn? But small corporations are liable at times to offend in this way as well as large ones, and monopolies are not always the result of a combination of small concerns suddenly united into the form of a large corporation, but are frequently the result of a more or less gradual growth, and it is altogether likely that the germs of monopoly might have been found in

the ambitions of the officers and members of these smaller concerns, long before they had attained to proportions which were considered inimical to the interests of the public. It appears, then, that size cannot be adopted as a means of classification, and that some remedy should be devised which will be alike applicable and equitable, at least, to all corporations.

The price of commercial articles depends upon so many varying conditions of supply and demand, upon the rates of wages to be paid, the price of raw materials, the cost of transportation, etc., that it would be practically impossible for the state to fix a standard of prices that would remain fair to all parties much longer than the time it would require to establish it. We must, therefore, look to some other means of regulating this power of monopolies.

The purpose of establishing and maintaining artificially high prices is to obtain an unusually large share of profits from a moderate amount of business. The particular point in monopolies to which all of the people object is their disposition to extort excessively large profits from the purchasing public. If prices are high and wages are correspondingly so, a portion of the people at least share in the benefits of the enhanced charges, and the profits are in a measure divided; but when prices are high and wages low, the cost of materials for production remaining the same, the profits become unreasonably large and they all go to the monopolists, while no part of the people share in the benefits of the high prices which all are obliged to pay. Why not, then, strike directly

at the profits, and apply the remedy to that which is, at once, both the end and the immediate cause of the greatest oppression of the people?

Take away the power of monopolies to reap unreasonably large profits, and you remove the incentive which leads them to grind the people beneath their feet in order to obtain them. Limit them to the acquisition of a reasonable return upon the capital actually invested in their business, and you effectually check many of the excesses which the greed for gain is constantly urging them to employ in order to increase their profits, but will not stifle that ambition which stimulates them to strive for new and greater possibilities in business, in the hope of securing an adequate, but legitimate, reward. Limit the profits which corporations shall be allowed to earn, to a certain percentage upon the capital actually invested in their business, requiring them to return to the people all that may be earned in excess of that percentage in the form of reduced prices of their products, and you draw the venom from the monster which is now terrorizing the community, and leave him a harmless but powerful and useful servant of society. Deprive them of the power to increase their own profits by depressing the wages of their employees to the lowest possible level, and you remove the chief cause of that incessant warfare which is ever going on between capital and labor; you eliminate the one great obstacle to the establishment of a fair and satisfactory scale of wages for all classes of labor, and place employer and employee in a position to become truly united in purpose, for their interests will no longer conflict, but must become

mutually dependent upon the volume of business transacted.

The objection will at once be made that this would be an unwarrantable invasion of the natural right of every man to secure the best possible compensation for his labor, skill or foresight, whether it be expended in direct application of physical labor, in the management or prosecution of business in which large amounts of capital may be employed, or in the direction of the labor of other men. To this we reply that the right of a man to secure the greatest possible return upon capital when accompanied by the expenditure of personal skill or supervision as in the management of a business, is no greater than that which entitles him to obtain the largest possible amount of return upon the same capital when unaccompanied by such personal services; and that, therefore, a man is justified in procuring the highest rates of interest on money which he is about to loan that his shrewdness in bargaining can enable him to obtain. As an elementary proposition, this is just as sound as the theory that a man is entitled to secure the largest possible amount of profits upon capital which he has invested in business; but we have become accustomed to the placing of restrictions upon the rates of interest to be charged for the use of money, and no one now thinks of questioning the right of the state to do so.

As money is now generally regarded as property, or as the equivalent or representative of property, there would seem to be no good reason why a person should not be allowed to exercise the same power of disposition and employment over it as

he does over other forms of property. It is true that in early times it was considered unlawful to receive interest upon money loaned, and that in this respect it was considered as an exception to the rights which pertained to other forms of property; but in modern times, this distinction has been done away with, and a person is now as fully protected in requiring interest for the use of his money as in demanding hire for the use of any other form of property.

We have, however, restricted the right to receive interest on money loaned, to what is considered a reasonable rate for the use of it. As early as the reign of Henry the Eighth, the legal rate of interest to be charged for the use of money, in England, was fixed by statute laws at ten per cent. per annum, which was afterwards reduced to eight per cent., to six per cent., to five per cent., and so on until about the seventeenth year of the reign of Queen Victoria, when all legislation upon the subject was repealed.

But why should we restrict the rate of compensation to be charged for the use of money, any more than that to be charged for the use of a horse? Mr. Blackstone says: "To demand an exorbitant price is equally contrary to conscience, for the loan of a horse, or the loan of a sum of money, but a reasonable equivalent for the temporary inconvenience which the owner may feel by the want of it, and for the hazard of his losing it entirely, is not more immoral in one case than it is in the other." If it is equally unconscionable and immoral, it is equally unjust and should be made equally illegal.



Why should a man who has money to lend be required to accept five per cent. for the use of it, while the borrower is allowed to make fifty per cent. upon the investment of the same money? If it be said that the rates of interest are fixed by law in order to prevent money lenders from taking advantage of the necessities of the borrowers and exacting excessively high rates of interest from them, we ask, are not many of the borrowers in like manner availing themselves of the needs of the public in exacting forty or fifty per cent. profit upon the money which they invest in business? Why should a man be obliged to accept five per cent. on his money if he loans it to another, but allowed to make one hundred or even a greater percentage upon the same money if he invests it in business or in property of any kind? The truth is, there is no just distinction to be made between the earnings of money pure and simple when let out as a loan, or when invested as capital in business, save the difference in the risk involved, and the uncertainty of regular returns, and these points can be taken into account in determining the rates of profit to be allowed by law.

The right of the state to regulate the rates of interest to be charged for the use of money is founded in the power and duty of government, to which we have before referred, to protect every individual from oppression by the wealthy and the powerful, and the right extends equally to the regulation of the use of every other kind of property as well as money. Every individual has an undoubted right to use his own property as he pleases and to charge

for it whatever price he will, so long as he does not interfere with the rights of other individuals; but whenever he acquires a monopoly of any article which is essential to the comfort or convenience of other members of society, or involves the aid of government to assist him in the conduct of his business, he subjects himself to the right of the government to interfere in his affairs so far as may be necessary to protect the rights of all its citizens. The rule laid down by Lord Ellenborough in the English case of *Alnutt versus Inglis*, to which we have before referred, applies as well to the affairs of industrial combinations as to natural monopolies, and as it is so clearly in point we shall repeat it here. He says: "There is no doubt that the general principle is favored, both in law and justice, that every man may fix what price he pleases upon his own property for the use of it; but if for a particular purpose the public have a right to resort to his premises and make use of them, and he have a monopoly in them for that purpose, if he will take the benefit of that monopoly he must as an equivalent, perform the duty attached to it on reasonable terms." The futility of legislative attempts to regulate the rates of interest is now quite generally conceded, but the right of government to impose such restrictions, if they could be enforced, has not, we believe, been seriously questioned.

The reasons for the establishment of limitations upon the rates to be charged for the use of money are to be found, in the first place, in the fact that in early times loans were chiefly made for the purpose of purchasing tools or farming implements,

seed, stock, etc., or in cases of great distress, and it was thought to be taking an undue advantage of the unfortunate, as well as being unchristian-like, to exact from the debtor the repayment of a greater sum than he had borrowed. As trade developed, however, and loans began to be made for commercial purposes, thus becoming the means of securing large profits to the borrowers, the payment of moderate rates of interest for the use of money began to be tolerated. But in deference to the long established moral objection to the acceptance of interest of any kind, and in order to protect those for whose benefit the moral prohibition had been invoked, from unreasonable oppression, it was determined to establish a legal rate of interest which might be charged for the use of money, and, at first, the exaction of a higher rate than this was called usury, and was made punishable by severe penalties. In more recent times it has been the practice, in some jurisdictions, to establish what is usually termed a legal rate which must prevail in all cases in which the parties have not agreed upon any specified rate, and also a higher rate commonly known as the contract rate, up to which the parties are at liberty to contract. In the next place, the money of civilized nations is seldom left free to follow the natural requirements of trade to the same extent that other commodities are, but it is coined and issued by the government itself or by banks which are subject to its control. Thus the supply of money is increased or diminished by artificial means, though it is supposed to follow the requirements of a reasonable supply and demand as understood by the persons who happen

to be, at the time, intrusted with the administration of the affairs of government. But the regulation of the supply is always presumed to be for the benefit of the whole people, and as it was feared that some individuals might take advantage of special conditions and make an unreasonably high price for the use of money, it was thought best to establish a uniform rate for all.

After endeavoring for over three hundred years to regulate the rate of interest by law, it gradually began to be perceived that the legislative provisions on the subject had, in a large measure, failed to accomplish the purpose for which they were intended, and economists are now pretty well agreed that the economic effect of placing limitations upon the rates of interest has been to raise the rate of interest actually paid, rather than to lower it; or, in other words, that restrictions have failed to restrict, and that the law of supply and demand has proved to be more potent than statutory enactments. At times when money was scarce and the demands of the borrowers were pressing, both parties conspired to evade the law by paying in excess of the established rates of interest, and as in many places this jeopardized the entire principal, lenders have exacted an additional amount of interest by way of insurance against the risk involved. While these provisions have thus fallen far short of attaining the ends for which they were designed, they have undoubtedly deterred many, especially among the unprofessional lenders, from demanding excessively high rates, and have thus been a benefit to many of the poorer class of borrowers; and though all attempts at legal regulation

of the rates of interest have been abandoned in England, the practice is still adhered to by nearly every other civilized nation, and similar laws are to be found on the statute books of most of our own states.

The failure of all attempts, by legislation, to enforce the observance of a uniform rate of interest is due to the fact that whatever restrictions or burdens may be placed upon the making of loans, must eventually be borne by the borrower, and this is the vital distinction between the attempted regulation of interest and the proposed limitation upon the rate of profits. Another source of weakness in the usury laws is that they have sought only to affect the rates of interest upon loans without attempting to reach the natural interest on capital used in production.

Economists are agreed that a tax upon loans, no matter how it may be imposed, will always be shifted so as to fall upon the borrower, but they are equally agreed that a tax levied upon all profits must remain with the payer and cannot be shifted. John Stuart Mill, speaking of a tax on profits, says: "A tax on profits, like a tax on rent, must, at least in its immediate operations, fall wholly on the payer. All profits being alike affected, no relief can be obtained by a change of employment. If a tax were laid on the profits of any one branch of productive employment, the tax would be virtually an increase of the cost of production, and the value and price of the article would rise accordingly, by which the tax would be thrown upon the consumers of the commodity, and would not affect profits. But a general and equal tax on

all profits would not affect general prices, and would fall, at least in the first instance, on capitalists alone.

“There is, however, an ulterior effect, which, in a rich and prosperous country, requires to be taken into account. It may operate in two different ways: (1) The curtailment of profit, and the consequent increased difficulty in making a fortune or obtaining a subsistence by the employment of capital, may act as a stimulus to inventions, and to the use of them when made. If improvements in production are much accelerated, and if these improvements cheapen, directly or indirectly, any of the things habitually consumed by the laborer, profits may rise, and rise sufficiently to make up for all that is taken from them by the tax. In that case the tax will have been realized without loss to any one, the produce of the country being increased by an equal, or what would in that case be a far greater amount. The tax, however, must even in this case be considered as paid from profits, because the receivers of profits are those who would be benefited if it were taken off.

“But (2) though the artificial abstraction of a portion of profits would have a real tendency to accelerate improvements in production, no considerable improvement might actually result, or only of such a kind as not to raise general profits at all, or not to raise them so much as the tax had diminished them. If so, the rate of profit would be brought closer to that practical minimum to which it is constanly approaching. At its first imposition the tax falls wholly on profits; but the amount of increase of capital, which the tax pre-

vents, would, if it had been allowed to continue, have tended to reduce profits to the same level; and at every period of ten or twenty years there will be found less difference between profits as they are and profits as they would in that case have been, until at last there is no difference, and the tax is thrown either upon the laborer or upon the landlord. The real effect of a tax on profits is to make the country possess at any given period a smaller capital and a smaller aggregate production, and to make the stationary state be attained earlier, and with a smaller sum of national wealth."

A tax on profits would afford no relief to the present situation, for though it might deprive the combinations of some portion of their ill-gotten wealth, it would fall alike upon the just and the unjust, and thus prove an injury to many of those whom it was intended to relieve. Or, if a given rate of profits be exempted from taxation, as is now done in many places with household goods, mechanics' tools, etc., the tax collected upon the excessive profits would only be a portion of that which is wrongfully taken from the public and be but a partial measure of relief, while if the whole of the excessive profits were confiscated to the state, the benefits resulting from it would be purely local and the people would not be relieved of the burden of high prices. Taxation of profits, then, would not afford the relief sought.

A limitation upon the rate of profits is precisely the same in principle as a tax on profits. The weight of the burdens thus imposed cannot be cast upon the consumer of the commodity from the production of which the profit has been derived,

and it secures all the beneficial results of such taxes, except the cash which it is not intended to collect, while it avoids their objectionable features. It serves to stimulate invention and industry in the manner suggested by Mr. Mill, but precludes the evil consequences which he says might follow from the imposition of a tax, by not attempting to reduce profits below the normal level.

Writers on political economy have heretofore held that competition and the shifting of capital from one industry to another would always reduce profits in all lines of industry to what they term "the ordinary rate of profit"; but conditions have so completely changed within the last few years, and co-operative control has so generally supplanted the competitive system in the industrial field, that these old safeguards can no longer be relied upon to protect the people from unjust extortion. Professor Richard T. Ely speaking of the subject concludes as follows: "It is to be noted that while pure profit, apart from the gains due to a happy combination of affairs (conjuncture), is largely a surplus produced by genius, and is in so far no burden to the community which tends to profit by it eventually, monopoly profit is a surplus extorted by power and privilege, and invariably a loss to the community. Distribution of wealth comes increasingly under the influence of monopoly. The economic surplus yielded by monopoly is the source of many of the largest fortunes of our day, and is the prime cause of the growth of inequalities of fortune during the present century. While in general competition increases in severity, an increasing proportion of the industrial field is withdrawn



from competition and falls under the control of monopoly. There is thus a growing class enjoying special economic privileges." It is this excess of profit which is wrongfully taken from the consumer by means of the power which monopoly gives to the producer that we wish to reach, and by means of a reasonable restriction upon the rate of profits to be collected, it is proposed to diffuse the benefits of improved facilities for production in the form of reduced prices among the people.

Economists are wont to include as one of the elements of profit, what they term salaries of superintendents. This is on the supposition that industrial establishments are owned and operated by individual proprietors, and the item is intended to represent, at least, a part of the profit of the owner; but in this day of trusts and combinations, when corporations have assumed control of practically every branch of industry, every one who devotes any time to the business is paid a fixed salary, and these must all be charged under the general head of wages and can no longer be classed as an element of profit. The other items commonly included as profit; interest on capital, insurance against risk of loss, replacement of capital consumed and clear profit, are now separately accounted for in the system of bookkeeping used in many of our large industrial establishments and can be required to be shown by all, and it is this item of clear profit that we wish to restrict within reasonable limits. The economic nature of profit and its relation to production have been quite fully discussed by writers on economics, and it does not seem desirable to go any deeper into the sub-

ject here than is necessary to indicate the manner in which it may be affected by legislative provisions. With public supervision of the affairs of corporations once established, it would be an easy matter to determine the profits of any given concern, and it is merely a matter of detail in the framing of a statute, to arrange provisions which will require these to be kept within the prescribed limits.

Some attempts at legislation in this direction are already to be found in the regulation by the state of the charges to be made by public service corporations, such as railroad companies; the regulation of street car fare; cab and carriage hire; telegraph and telephone rates; warehouse charges, and the like; so our proposition is merely to do directly and effectively with all corporations, that which it has already attempted to do indirectly in these cases.

But, as we have before remarked, we are, in this discussion, merely considering the application of remedies to corporations, and since these are merely creatures of legislation and have no inherent or natural rights of any kind, most of the objections to the proposition to limit the profits to be derived from business, which are based upon the natural rights of individuals, do not relate to these cases; while the considerations which have been urged in support of its adoption, apply with special force to corporations because of the greater apparent necessity for it in relation to their affairs.

Another distinction which should be carefully borne in mind in relation to this proposition is

this, that it is not proposed to limit the compensation to be paid to any individuals for labor, skill, judgment, or services of any kind. This is already sufficiently restricted by the selfishness of those who employ them, and it is not proposed to interfere with these relations, but it is intended to limit the profits to be paid upon capital which is invested in the business of these corporations, distinct from the compensation which is paid to those who are in any way engaged in their management. The wages and salaries of all employees are now determined and apportioned before the profits or dividends are declared, and it is with these profits that we now propose to deal.

It may now be suggested that the adjustment of wages and salaries would furnish a convenient means of appropriating all surplus profits, and that it would doubtless be used as a means of defeating any restrictive provisions which the law might attempt to place upon the earnings of the business; but the temptation would be no greater than it now is, to induce the officers and directors of a corporation to appropriate an unreasonably large share of the profits to their own use in the form of salaries; yet the interest of the stockholders is usually sufficient to restrict them to what is considered a reasonable amount of compensation for their services. The state exercising supervision over the affairs of corporations would have a much better opportunity of knowing the condition of the business and be far more capable of enforcing its will than the stockholders now are, and why should it not be as successful in restricting corporation management within the bounds of rea-

sonable expenses? Under the present system of strict privacy in the management of corporate affairs, it would be manifestly impracticable to enforce such a remedy as we are now considering, and an attempt to do so would be merely placing an additional premium upon dishonesty; but having adopted public supervision of the affairs of corporations, it becomes not only possible but easy of application.

The proposed regulation is, of course, intended to affect only the clear profits as shown by a true account of the operations of the business; and that, whether they are held in reserve in the treasury, invested in the erection of new plants or in the extension of old ones, or paid out in dividends; but the public has become accustomed to judge of the profits of corporations merely by the rates of dividends paid to their stockholders, and it is believed that the practical operation of the proposed remedy will be more generally understood if we illustrate it in that way. Dividends are liable to include any or all of the elements which constitute gross profit, but for the sake of convenience we shall assume that the rate of profit fixed by law is such that together with insurance and the amount allowed for replacement, which is virtually a repayment of a portion of the capital invested, it will just equal the established rate of interest. If conditions were free from the control of trusts and combinations, this rate would probably be sufficient to attract a large amount of free capital into the business and thus lead to a reduction of the profits, but they are not; hence the necessity for legislative interference. We shall also assume that the

legal rate of interest be paid on the capital actually invested, or necessary for duplication of the plants, working capital, etc.; and we then have a legal rate of dividends equal to twice the rate of interest now allowed to be charged on loans. This rate would seem to be large enough to satisfy the reasonable demands of investors, and yet small enough to prevent the excessive profits which many of the great combinations are known to extort from the people.

It may seem strange that so high a rate of profit, amounting in most states to ten or twelve per cent., should be suggested, in view of the fact that the public is daily investing its money freely in stocks which pay only five, six or seven per cent. dividends per annum; but it should be remembered in the first place, that this is merely a rate beyond which profit shall not be drawn; and in the second place, that the great majority of these stocks upon which the public draws five, six and seven per cent. dividends, have been so well watered that they pay to the inside operators of these corporations two, three, four and five times these rates upon the capital actually invested in the business.

Lest this estimate of the profits earned by these large corporations may seem to those who are not familiar with the subject, to be too large to be taken seriously, we here present a statement of the earnings of the Standard Oil Company for the last nine years, as shown by "Poor's Manual of Railroads" for the year 1902.

The Standard Oil Company has paid dividends as follows: twelve per cent. in 1894, twelve per cent.

in 1895, thirteen, ten, three and five per cent. in 1896; ten, ten, five and eight per cent. in 1897; ten, eight, five and seven per cent. in 1898; six, twelve, five and ten per cent. in 1899; twenty, ten, eight and ten per cent. in 1900; twenty, twelve, eight and eight per cent. in 1901, and forty-five per cent. in 1902.

While this company has thus boldly announced its profits to the public, and made itself a conspicuous target for attack, it is believed that many more of these large corporations would not appear to be so much less guilty of extortion, if they had not resorted to the watering of their stocks in order to hide their profits.

The legal rates of interest to be charged for the use of money are not established by law for the purpose of fixing the value of money; that is regulated by supply and demand, and by the custom and conditions of business, just as its purchasing power is determined, and the statute merely gives definite expression to the law which the custom of the commercial world has already established. The question in the mind of the legislator who is about to frame a statute on this subject, is not—how much can we lower the rates of interest now charged for the use of the money, but—what is the prevailing rate now recognized by the business world? It would be folly for any state to attempt arbitrarily to reduce the rates of interest below that fixed by the money market of the state; for as money is free to move from state to state, its value is determined by the conditions which prevail throughout the whole country, and a general level of rates proportionate to the securities to be obtained, and

the profits that may be earned, is preserved, and any attempt to fix any other value upon it, would merely serve to drive the money from the state and thus defeat the very purpose which the law sought to secure. If it were otherwise, since the borrowers are always in the majority, they might just as well lower the rate of interest at once to two or three per cent., and make good times for all.

The purpose of these statutes, then, is to prohibit the overreaching of the prevailing rates of interest in extreme cases; to prevent lenders from availing themselves of any special advantages which they may possess, such as a corner upon the available supply of money, etc., or of the ignorance or necessities of the borrowers, and it would be just the same in establishing a legal rate of profit to be earned by corporations.

The customary course of trade would determine what should be considered a fair and reasonable average of profits to be derived from business enterprises, and the law should prevent the collection of an unreasonable amount in excess of that average. We have already unconsciously come to recognize what may be termed a reasonable rate of profits to be derived from business investment; thus, no one objects to a statement showing earnings of six, eight, or even ten per cent. per annum, but when we speak of thirty or forty per cent., as in the case of the Standard Oil Company, there is a universal gasp of surprise, and every one feels that a gross injustice is being done to the consumers who pay the prices which produce these enormous profits, and that it should be remedied in some way.

A liberal range of profits should, however, be allowed at first until the graver offenders can be brought within bounds, and the system put into working order, and then, in the light of experience, the limit may be lowered, as in the judgment of the people it may be required, just as has been done with the rates of interest upon money loaned. A small margin should, also, always be allowed above the level of the general average of profits as an encouragement to enterprise and invention, and no attempt should be made to stamp the speculative element entirely out of business, for it is that which gives life to trade, and which has, more than anything else, led to the wonderful growth and development of our industrial system.

Again, at times the profits in business are liable to be very high in one year, and lower in another, and to prevent any injustice which might arise from these fluctuations, it would doubtless be necessary to average the profits from year to year or, perhaps, during a number of years. Thus, if the legal rate of profit be ten per cent., and the earnings of a given company for the year are forty per cent., a dividend of ten per cent. would be paid, but the balance would be held in the treasury for the payment of dividends in succeeding years, the price of the products would have to be reduced say twenty-five per cent. which would still leave a profit of five per cent. if business conditions remained the same, and further reductions and adjustments would have to be made from time to time in order to prevent the accumulation of too large a surplus.

The operation of this remedy would thus lead



directly to a reduction in the price of those articles from the production of which excessive profits are now derived, and the knowledge that the legal rate of earnings could not be exceeded, would most effectively check the natural disposition of monopolists to raise their charges whenever a favorable opportunity to do so is presented.

From all this it appears that the enactment of laws limiting the dividends to be paid by corporations to a certain percentage upon the capital actually invested in their business, would be a reasonable exercise of the powers of government, that it would not be an invasion of any natural right of individuals, that it would not be a violation of any right which corporations might reasonably expect to receive from the state as a necessary incident to the powers granted for the prosecution of their business, that it would be in perfect harmony with the principles of law under which the legal rates of interest to be charged for the use of money have been established, and the charges of railways and other public service corporations have been regulated, that it would remedy many of the evils which now appeal most strongly to the people for redress, that it would tend to establish more harmonious relations between employers and employees and effect a more equal division of the fruits of production between capital and labor, and that it would, in conjunction with state supervision of the affairs of corporations, be practicable, effective, and simple of application, and be just, alike to the corporations and the public.

Having thus provided for the control of domestic corporations which, as we have before remarked,

are creatures of the legislative power of the state and therefore amenable to any kind of conditions which it may see fit to impose, how are we to regulate foreign corporations which seek to do business within our states? These foreign corporations, like our domestic ones, are merely creatures of legislative power, and as the legislative acts of any state have no force beyond its territorial limits, no body or corporation created by it can claim any rights or exercise any powers beyond its jurisdiction, except such as may be tolerated by the legislature of the state in which it seeks to do business. There are no natural rights or constitutional restrictions to protect corporations from discriminating or oppressive legislation, and their very right to existence in a foreign state depends solely upon the will of its legislature to allow them to enter its territory.

Mr. Hare, in his lecture on the American Constitution, speaking on this subject, summarizes the decisions of the Supreme Court of the United States, as follows: "Corporations are creatures of legislation, and have no legal existence beyond the jurisdiction of the government to which they owe their being. No other government, therefore, need recognize them or give them the protection of its laws; save from a comity of which the legislature must judge; and as artificial persons they are not within the clause that the citizens of each state shall have all the rights, privileges, and immunities of the citizens of the several states. A state may, therefore, exclude foreign corporations, or prescribe the terms on which they shall be permitted to transact business within her limits, and exact

a license fee as the price of admission; but the power must be so exercised as not to hinder, regulate, or burden the commerce among the states or with foreign countries, which is exclusively under the control of the General Government, whether the persons who carry it on are natural or artificial citizens of the states, or subjects of a foreign government; and a statute which imposes limitations on the right of companies chartered by other states to make contracts in the prosecution of interstate commerce, is a usurpation of a power that belongs solely to Congress." The several states of this country have, heretofore, been so indulgent with corporations created by other governments, that many persons have taken advantage of their liberality, by procuring charters under foreign laws and then returning to their domicile and doing business as foreign corporations. In the preceding chapter we have already referred to this disposition on the part of corporations to seek protection of foreign laws, and shown, by an analysis of the table of combinations presented in the Twelfth Census, the very large percentage of them which derive their powers from a single state the laws of which are known to be particularly favorable to corporation interests, and if any other general list of very large corporations be examined, it will be found that a great majority of them have been incorporated under the laws of the State of New Jersey, no matter in what states their business may be actually located.

The objects which lead corporations thus to procure their charters from foreign states are, as has already been explained, to escape the taxation which

is imposed by many states upon the capital stock of domestic corporations, and to secure the authority to exercise certain powers and privileges which are not granted to those created under the laws of the state to which they naturally belong. As another instance of the extent to which promoters have availed themselves of this leniency of the states towards foreign corporations, the statement has been recently made that ninety per cent. of the foreign corporations which have applied for permission to do business in the State of Illinois, are in reality Illinois corporations which have gone elsewhere to procure their charters in order to evade the provisions of the Illinois laws.

This comity between states, or respect for each other's acts, has been carried so far in relation to this subject as to amount to a practical discrimination in favor of foreign corporations. It is now time for them to throw aside this conventional rule of propriety by which they have been bound, which is founded upon the belief that the general legislative provisions of the several states would become substantially uniform, and that the benefits conferred upon the citizens of other states by the recognition of their laws, would in a large measure be returned by like favors shown to its own people abroad; but which has resulted in a practical cession of the power to create corporations, to a few states, which power must be respected by all the others although they receive nothing in return for this extraordinary grant of extra territorial jurisdiction.

If it is just to tax domestic corporations upon the full amount of their capital stock, notwith-

standing the fact that a considerable portion of its property and business may be located in other states, it is just to tax foreign corporations upon the full amount of their capital stock, although there may be only a small portion of their property or business within the actual jurisdiction of the state; and if it is unjust to tax foreign corporations upon that portion of their stock which represents the property which is not within the state, it is a much greater injustice to tax that portion of the stock of domestic corporations which represents a legitimate extension of their business into other states. Whatever method of taxation is adopted, the states should cease to wage continual warfare upon their own corporations while allowing those of foreign creation to go practically unmolested, and whatever the provisions of their laws may be, none should be allowed to evade them by resorting to the expedient of assuming the nominal protection of some other state and thus becoming foreign corporations.

As has already been stated, the power of a state to deal with foreign corporations is unquestioned, and absolute. They should, therefore, in the sober and judicious exercise of their powers, enact uniform, just and consistent laws for the regulation of both foreign and domestic corporations, and cease to rely upon the laws of other states to regulate a considerable portion of the business which is carried on within their jurisdiction, and to affect to believe that other states will do that which they know very well they will not do. They owe it to their own corporations which are trying to observe their laws while obliged to compete with

those created in other states which are not subject to them; they owe it to their own citizens who are doing business with these foreign corporations and who are liable to be injured by unjust methods in business, or to be oppressed by high and unreasonable prices or charges, and they owe it to their people whose money is invested in these stocks, and who are now obliged to depend entirely upon other states, and foreign laws to protect them from fraud and deception.

Nearly all large corporations, and especially those which have resulted from the consolidation of smaller concerns, and those which are striving to secure a monopoly of their particular line of trade, have plants or branches of their business in many of the states, and if these would only, seriously, resolve to lay a firm hand upon the branches which lie within their jurisdiction, they could readily compel compliance with all reasonable regulations which they might wish to impose upon these corporations. If a number of the larger states would adopt a uniform and adequate system of laws for the regulation of foreign corporations, they could readily compel them to abandon many of the practices which now make them so obnoxious to the people, in spite of the efforts of a few states to make capital out of the sale of licenses to foreign corporations for the undisguised purpose of enabling them to defy the laws of other states.

Having once seriously resolved to adopt practical measures for the regulation of foreign corporations, it would be a very simple matter to subject them to state supervision, and to require them to submit to local regulations as to the maximum

profits to be earned by corporations; just as foreign capitalists, who desire to loan out money, are now required to submit to the legal rates of interest established by the states in which they seek to transact business.

We have spoken in another chapter of the direct relations which the protective tariff bears to the industrial trusts and combinations, and it will not be necessary to discuss the subject further here; but as we are now considering remedies, the importance of the subject demands that we briefly state the considerations which lead us to class tariff revision as among the most important remedies that can be applied to the trust evil. We have already shown that the purpose of the protective tariff is to encourage the development of home industries, but that the imposition of high protective duties, by its exclusion of foreign competition, facilitates the formation of combinations among home producers, the purpose of which is rather to secure control of the industries which have already been established than to promote or extend them; that if these trusts and combinations are deriving a benefit from the protective tariff, they are wholly undeserving of it; that it was never intended for their protection and should be withdrawn from them; that if they are not aided by this protection, then they must be selling as cheaply as the foreign producers could do without the tariff; that the independent producers must also sell at the same prices if they sell at all, and that the duty on these articles would therefore seem to be of no use to any one and should consequently be repealed. Also, that these trusts and combinations are sell-

ing large quantities of their products in competition with foreign producers in foreign markets, and that they therefore seem to require no protection from the government in order to enable them to carry on their business with profit; that experience affords us no reason to believe that domestic combinations will deal any more mercifully with their independent rivals than foreign competitors would, and since there is no means of affording the benefits of protection to individuals and denying them to the trusts, and no means of securing them to individuals so that they cannot be deprived of them by the trusts, it is better to abandon protection entirely in these cases. We therefore suggest that the tariff be removed from all articles which are produced or controlled by trusts or monopolies, and that the people be given the benefit of foreign competition in those lines of trade in which combinations have practically stifled it at home.

In view of what has already been said upon the subject of national legislation, we believe that this would prove to be the most practical and most effective remedy that can be adopted by the Government of the United States for the prevention of monopolies, and for the suppression of the power and arrogance of these gigantic combinations of capital. A striking confirmation of the truth of this position is found in the recent almost universal demand for the repeal of the tariff levied upon the importation of anthracite coal, both as a means of relieving the fuel famine which existed in consequence of the recent strike in the anthracite coal regions, and as a precautionary measure to prevent the anthracite coal



combination, which possesses complete control of the production of that product in this country, from extorting excessively high prices from the people in the future.

Many other remedies directed against particular evils resulting from the operations of trusts and monopolies, have been proposed, such as, to prevent the watering of stock, discrimination in rates afforded to customers, over-charging, underselling of competitors in particular districts for the purpose of destroying competition, to require the making of reports, the keeping of certain books, etc., but these are for the most part matters of detail which should naturally grow out of the application of some well considered general principles such as we believe we have here indicated.

Taxation is believed by many to be the proper means of curtailing the profits, suppressing the power, and discouraging the formation of trusts and combinations; but taxes, with one exception, must always, in the last analysis, be paid by the consumer, and the collection of them from the manufacturers of a given product is merely a convenient way of collecting revenue from a slightly increased price of that product which the consumer is obliged to pay.

Economists are pretty well agreed that there is one exception to this general rule, though some writers contend that even though the exception claimed may be theoretically correct, the value of the property which would be thus excluded would be so small as to render the amount of taxes which could not be shifted to the consumer, comparatively unimportant. The exception referred to, is that of

a tax upon property the supply of which is fixed by Nature and can neither be increased nor diminished by human agencies. This form of property may be included in the general term land, and we are told that the burden of a tax levied upon land exclusive of the value given to it by labor or improvements (sometimes termed Nature), must fall wholly upon the landlord and cannot be cast upon the tenant. The theory is, that the value of the land is determined by supply and demand as affected by its fertility, location, density of population, etc., but that as its quantity is fixed, the imposition of a tax can neither stimulate nor discourage its production, nor affect the price by means of which it might be transferred to the tenant. In this discussion, however, we have merely been considering the products of human skill to all of which the general laws of taxation pertain; and as a tax upon land has not been proposed as an important part of a remedy for the trust evils, except by those who would substitute a land tax in lieu of all others and thus revolutionize our whole system of taxation, (not denying the necessity for reform in our revenue system, or questioning the good results which might follow from the collection of all taxes from land values if such a system could be brought into operation within a reasonable length of time), it is not necessary for us to consider the economic effects of such a tax at this time.

If no trust or combination has been formed and the taxes levied upon corporations are high in one state while they are low in others, the only effect of the tax will be to drive them from the state to

do business elsewhere; but if a combination has been formed, the tax will simply be added to the cost of production and the price of the articles produced will be raised accordingly; or if there is no combination, and the taxes levied by the various states are uniform, they will be added to the price of the product, just as though an actual combination existed. Thus we see that taxation would not, in any material way, interfere with the operation of combinations, but that it would directly tend to increase the burden of high prices, which is one of the very things that the people are striving to avoid.

It is true that by the levying of such taxes a large amount of revenue might be raised for the government; but if, as we have just seen, these taxes must eventually be paid by the purchasing public, and that they would amount in reality to a direct tax upon the consumers for the collection of which the combination merely acts as the agent of the government, it would be far better to abandon this tax altogether, for we may rest assured that these combinations will always be careful to collect a sufficiently large amount from the public to pay them handsomely for their services as tax collectors. Moreover, even if these taxes were to be successful in appropriating to the community a considerable portion of the profits of some of these combinations, the benefits would wholly accrue to the state or municipality in which the combination happened to be located, and would be purely local; while the remainder of the country would still be obliged to pay tribute in the form of high prices.

Some would have us rely upon education as a

cure for the trust evils, and this is perhaps the most general, as well as the most indefinite remedy which has yet been suggested. We need education it is true, but by it we mean the serious and immediate consideration of the conditions which confront us, with a view to the practical application of the remedy to the affairs of to-day, not of to-morrow, and not the deliberate, scholarly investigation of the relation of the trusts to the people as an abstract proposition, with a view to a thorough understanding of the subject by the next generation. The action of the statesman is what the occasion requires rather than the deliberation of the scholar.

The trusts and combinations are not wasting any time considering what their course shall be; they have plunged boldly into the field of action where they are growing more and more powerful every day, and the evils complained of are becoming correspondingly harder to remedy. It is always much more difficult to redress wrongs which have become established and intrenched behind vested interests than it is, by wise and judicious legislation, to prevent their growth in the first place. Any one can readily understand how much more arduous it would be to apply the remedies herein proposed to the giant corporations of to-day than it would have been to have imposed them upon the comparatively small ones of forty or fifty years ago; and the longer we delay, the more perplexing it becomes: hence the necessity for prompt and decisive action.

It has been suggested by others that the wealth accumulated by these combinations and distributed among their stockholders as dividends, will in time

be reinvested in business in competition with the same or some other monopoly, and that prices will eventually be reduced so low as to make it unprofitable for them to remain in the business; but this does not seem to be entirely logical. If these combinations have built up their power by underselling and driving independent producers out of the business, it does not seem reasonable to expect that new competitors, possessing no greater advantages, will be any better able to successfully compete with them; and, if the mere reduction of the profits is to be relied upon to deter them from business, it would seem that the combination, possessing the greater amount of capital, could much better afford to continue the contest than its independent competitor. If, however, it should come to pass that the opposition should become so powerful as to possess more capital than the combination, the result would in all probability, be merely a surrender of the one to the other, thus forming a new combination which would result in no benefit to the people.

In connection with this prospective competition, much is made of the advantages which small producers are said to possess over the very large ones, such as closer inspection, catering to local trade and conditions, etc., but the small producers have shown by their act of combining that they believe that greater advantages are to be secured by the use of greater capital. It is certainly possible to keep as close and accurate an inspection over the operations and affairs of a great combination as it was over those of the concerns which have entered into it, and since the interests involved are so much more important in the case of the combina-

tion, we would seem to be justified in presuming that the inspection maintained would be correspondingly greater. Every one in business is more or less familiar with the care which is taken by large corporations in the employment of their help, the references and securities required of them, the secret service which is employed to shadow those who are intrusted with responsible positions, the many opportunities afforded in large concerns for comparing the work of one department or plant with that of another, and with all these facilities available for the use of combinations, we are forced to believe that the advantages of the small producers have been entirely over-estimated, and that they are greatly over-shadowed by the numerous economies which may be secured by combination.

In summarizing the reports made by twenty-eight combinations to the Bureau of Labor in reply to questions submitted on this point, Professor Jenks says: "Most of the more ardent advocates of the competitive system are of the opinion that the pressure from competition is necessary in order to secure the most efficient work and the greatest care in saving waste. To the question as to whether there had been any loss of efficiency apparent in the combinations through carelessness brought about by the lack of competition and the certainty of profits, the answers were quite general. Twenty-one made the statement that no such loss of efficiency appeared, while seven others went so far as to assert positively that there had been a distinct increase in efficiency. The reason for this was stated to be the competitive cost system. It has been explained that the managers of the different plants working under the combination are each

compelled to keep careful records of the cost of production in his own plant, and that the various plants are then frequently compared one with the other as regards their efficiency in this particular. In this way, without there being any competition among the different plants so far as the marketing of the product is concerned, there is brought about a most vigorous competition among them in manufacturing, a competition more searching in its nature than any that could come from entirely independent establishments, owing to the fact that the exact cost is known and the exact degrees of difference in efficiency can be measured. If one may judge from the reports furnished, this factor of loss of efficiency through certainty of profits has not appeared to any noteworthy extent in any of the large combinations reporting. The central office is able to keep accurate note of the efficiency of the different plants in most cases, inasmuch as frequent reports are required in eighteen cases daily, in other cases weekly or monthly; and most of the combinations, in addition to these regular reports sent in from the different establishments themselves, are also in the habit of sending special inspectors to examine the work done in the different plants, and to make, in this way, personal reports, as well as personal suggestions, to the superintendents of the different establishments.

It is also claimed that the overgrowth of trusts and combinations will eventually lead to their own disruption and dissolution, but we find nothing in the progress of the movement thus far to support this theory. Thus, the Distilling and Cattle Feeding Company of Illinois, organized in 1887, was

re-organized in 1895 as the still more powerful American Spirits Manufacturing Company which has since, in 1899, become amalgamated with the Distilling Company of America, forming the most complete and the most powerful combination of the various branches of that line of trade which has yet been attempted. Many other instances of similar development might be cited. Of the one hundred eighty-five industrial combinations shown by the Twelfth Census as doing business during the year 1900, only six are reported to have failed, while we have before us a list of sixty-two which have been since organized and are now engaged in business, and twenty more of those shown in the census table have since combined with others, or have been absorbed by still greater combinations. Of the six reported to have suspended one had gone into the hands of a receiver in 1899, leaving only five failures during the last three years, or less than one per cent. per annum which is not more than the average for individuals or for ordinary corporations.

In the failures which have already occurred we are unable to detect the germs of any disorder peculiar to combinations, or which we deem likely to develop into any fruitful cause of their general dissolution; and in view of the further fact that ten new combinations are being formed, for every one that has failed, we do not believe that it would be the part of wisdom to stand calmly by, waiting for their automatic dissolution to cure the ills of which the people complain.

Competition of rival concerns has frequently been announced as the hope of many statesmen and



writers on the subject, for the ultimate regulation of combinations and destruction of monopolies. And this is the remedy which, above all others, commends itself most readily for adoption by those who do not wish to enter seriously into the discussion of the relations which combinations bear to the people, and who prefer to trust to the future to produce remedies sufficient to meet all evils that may arise. Competition is the governor which has always been relied upon in the past to regulate the conditions of trade, and to adjust the inequalities between the great and the small, but it has been entirely overridden in the recent rush to combination, and thrown completely out of gear.

If competition, which was so thoroughly established and maintained for so many years, has been so completely overborne and almost entirely swept away by the gigantic combinations of to-day, it is difficult to understand how new competitors who are placed at so much greater disadvantage can be expected to be more successful unless some substantial assistance be afforded them. If these trusts and combinations, and the evils which have resulted from them, have grown up during the full strength and power and at the expense of the competitive system which was the pride of our age, how can we reasonably expect them to be reformed by this same competition which has been so badly crippled and undermined?

In view of the enormous rate of increase in combinations to which we have before referred, it would seem that all substantial competition in many lines of trade must soon disappear if something is not speedily done to prevent it. Competi-

tion and the fear of it, are wholesome means of regulating trade, but it seems clear that if we are to secure their services, speedy and definite means must be adopted to encourage and preserve them.

It is believed that the insight into the ways and practices of these combinations which would be afforded by state supervision of the affairs of corporations, together with the consequent prevention of discriminating rates such as are now made by them in order to destroy competition in particular localities, and which are received by them from transportation companies, etc., would do more to foster competition than any other remedy that has yet been proposed.

One of the most effective means yet adopted by trusts and combinations for the suppression of competition, is that of securing a monopoly of the sources of production of raw material. Without resorting to any more drastic measures, we believe that this evil can be remedied by a proper enforcement of a limitation upon the profits to be derived from that branch of their business. This would in the first place tend to restrict their desire to obtain control of the raw material, inasmuch as it could no longer be used as a means of oppressing or crippling their rivals, and in the next place, even though they have secured a monopoly of it, they may be compelled to supply it to competing concerns on the same terms at which it is furnished to their own mills, thus preserving the natural supply of raw material substantially accessible to all and removing the most serious impediment to competition in the production of finished products.

The power of the government to protect the people against injustice and oppression, to which we referred in the beginning of this chapter, includes the power of the state to seize, to operate, and to control coal lands, mineral lands, timber lands, agricultural lands, railroads, or other properties which may be necessary to supply the necessities of the public wherever and whenever the welfare of the people may require it. Existing laws may require that the people shall determine upon a price which they shall pay to the owner for the use of his property, but if the provisions of these laws conflict with the full exercise of their rights, the state always possesses the power to remove these obstructions: that is, no group of men shall be permitted to say we control the coal mines, but we refuse to mine coal even though the people perish for want of fuel; or, we own the iron mines but will not operate them, though manufacture may be obliged to cease for want of iron; or, we command the copper mines, the gold mines, the silver mines, etc., but decline to work them, though trade may suffer thereby; we possess the timber lands but refuse to produce lumber, though the people demand it; we control a sufficient amount of the agricultural lands to make provisions scarce, but refuse to cultivate them though the inhabitants may starve for want of food; or, we rule the railways, but will not operate them though the commerce of the nation may be stopped in consequence thereof. The power of government to regulate the public highways and navigable waters is universally admitted, and this, upon the ground that the preservation of the rights of the public demands it.

Why, then, should not the same reasons lead the government to assume control of these other properties whenever an occasion may require it to do so? The right to command these natural sources of wealth and avenues of public service rests in the state by virtue of its sovereign power, and it may and must exercise it whenever it becomes necessary in order to protect the rights and well being of its people.

The cry of paternalism is frequently raised for the purpose of frightening off any serious attempt at state regulation of the affairs of corporations; but every act of government partakes more or less of this character, since it is intrusted with the care and protection of the rights, liberties, property and lives of its people; every measure adopted for the protection or encouragement of trade, science, literature or art, for the promotion of education, or for the care and support of the poor, the sick, and the afflicted, is met by this cry from one quarter or another; so the term has really lost all its odious significance in its application to governmental functions, and now merely implies that the proposed measure goes further than its opponents (owing either to selfish motives or perhaps to real fears of excessive interference with private affairs) desire to see it go. It is merely a question of degree, not of kind. We should not, therefore, be deterred by the charge of paternalism, but examine any proposed remedy or reform solely upon its merits, mindful only of its justice and the results it is designed to secure, remembering that governments are formed for the benefit of the whole people, and that whatever seems likely to

contribute to the general welfare, should receive our careful consideration and support, no matter by what name it may be called or how it may be characterized.

The very act of creating a corporation and granting to it powers and privileges which are not enjoyed by individuals, is in a sense paternalism; yet it is not so termed by corporation promoters, and if it is not offensive paternalism to create corporations, why is it more obnoxious to impose such regulations as are necessary to require them to conduct their affairs with due respect and regard for the rights of the public?

It is believed that after reviewing the various measures which have been proposed for the relief of evils growing out of the trust problem, a number of which we have herein referred to, it will be found that most, if not all, of the evils sought to be cured by them, can more simply and effectively be prevented by a judicious application of the following three principles which we have already explained at some length: first, in the abolition of all special protection, favors or privileges which are now afforded by the government to trusts or combinations or to the industries in which they may be engaged; second, state supervision and inspection of the accounts and affairs of all corporations; and third, the establishment by law of a maximum rate of profit which corporations shall be allowed to earn in business.

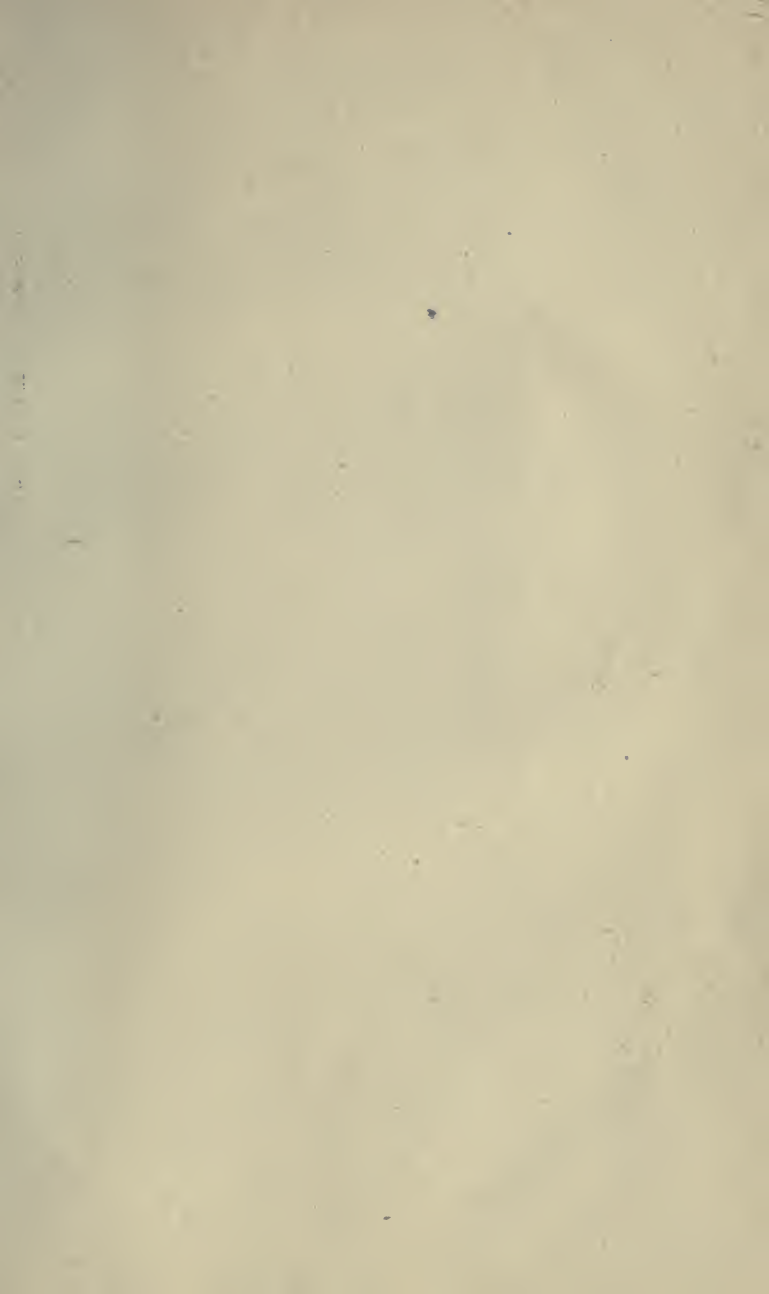
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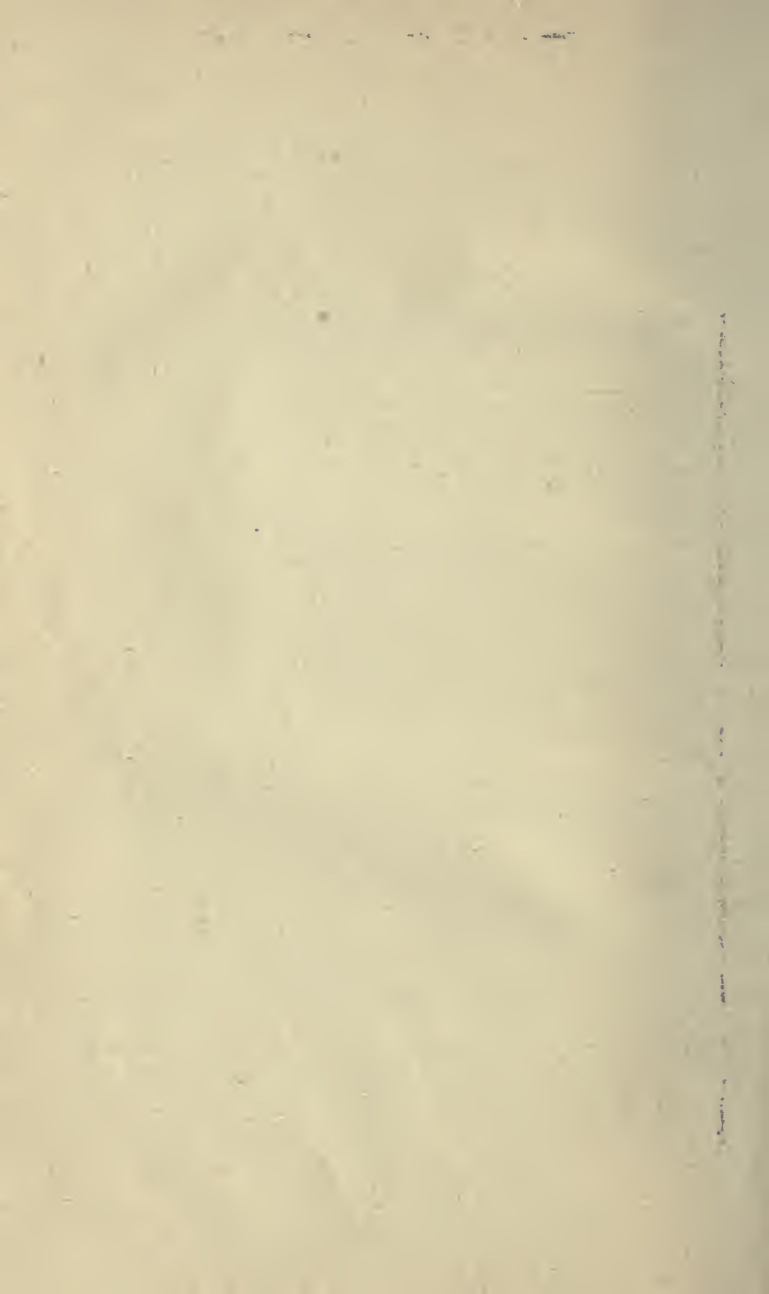


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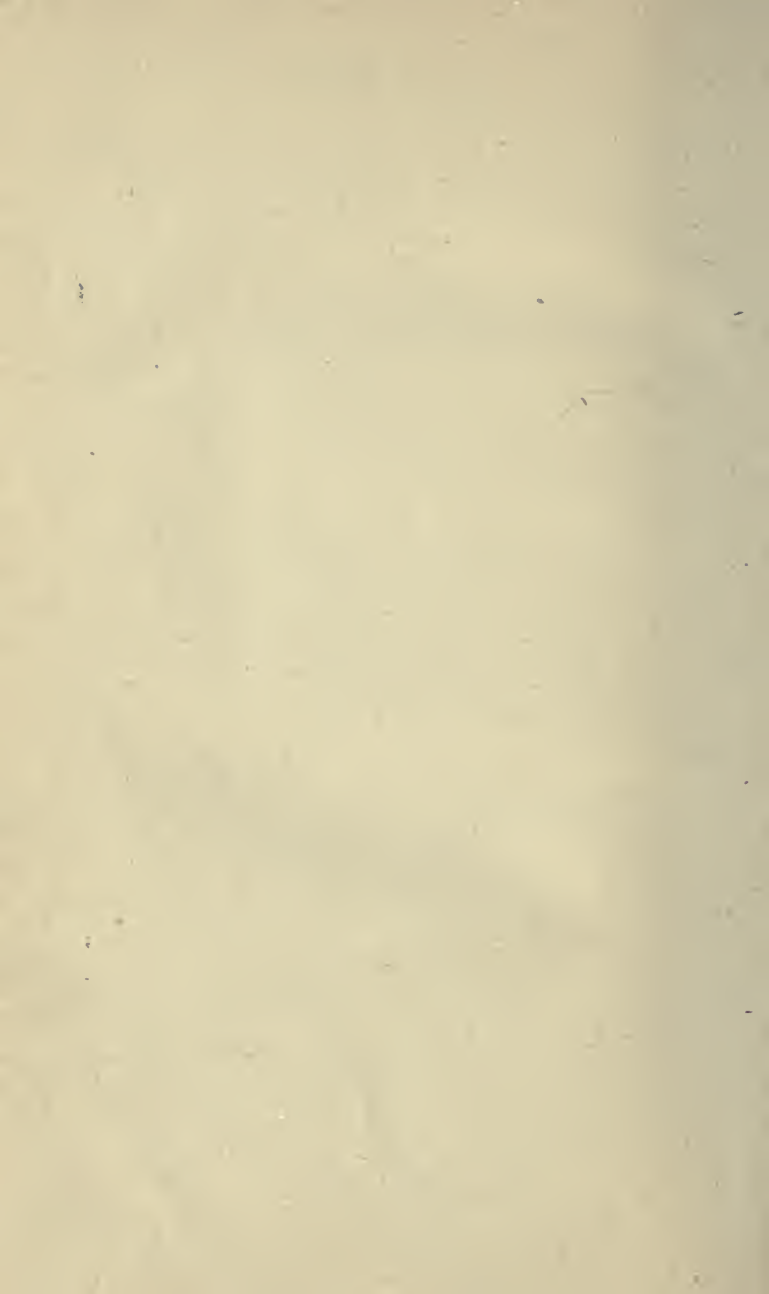




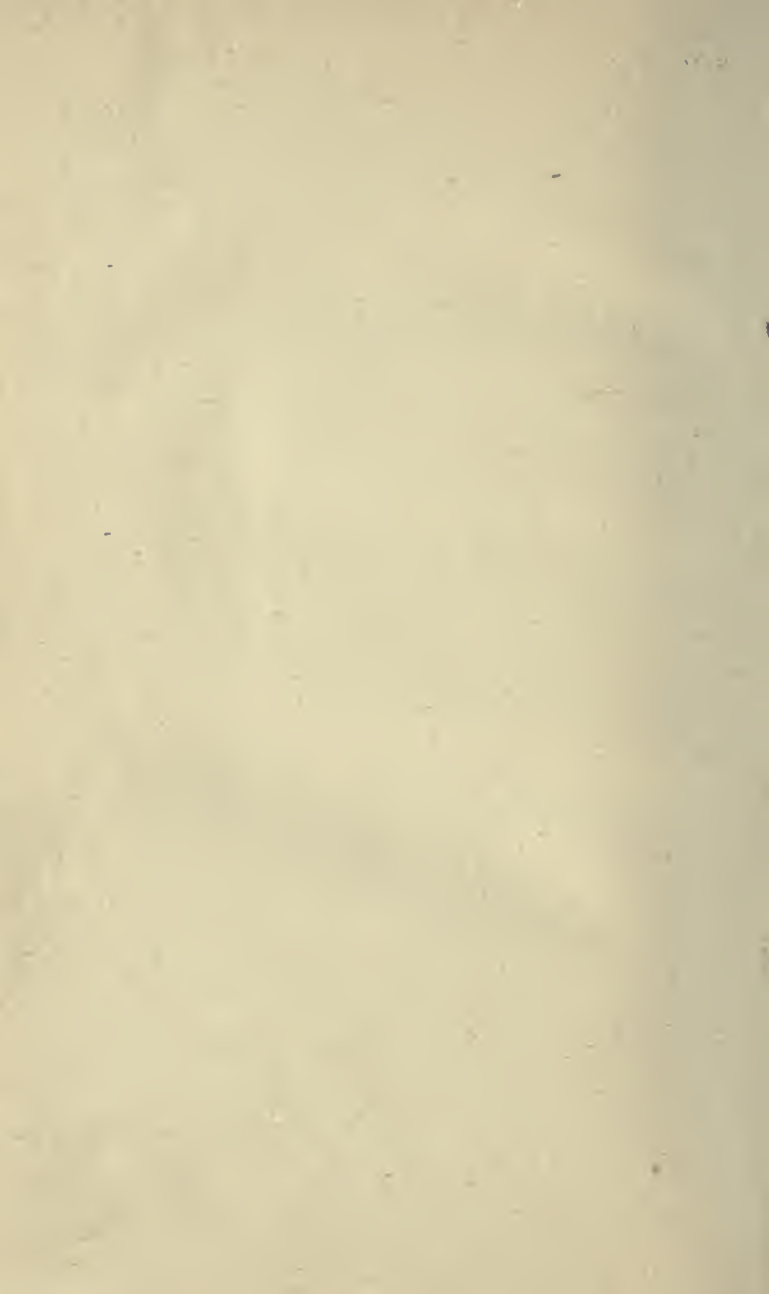


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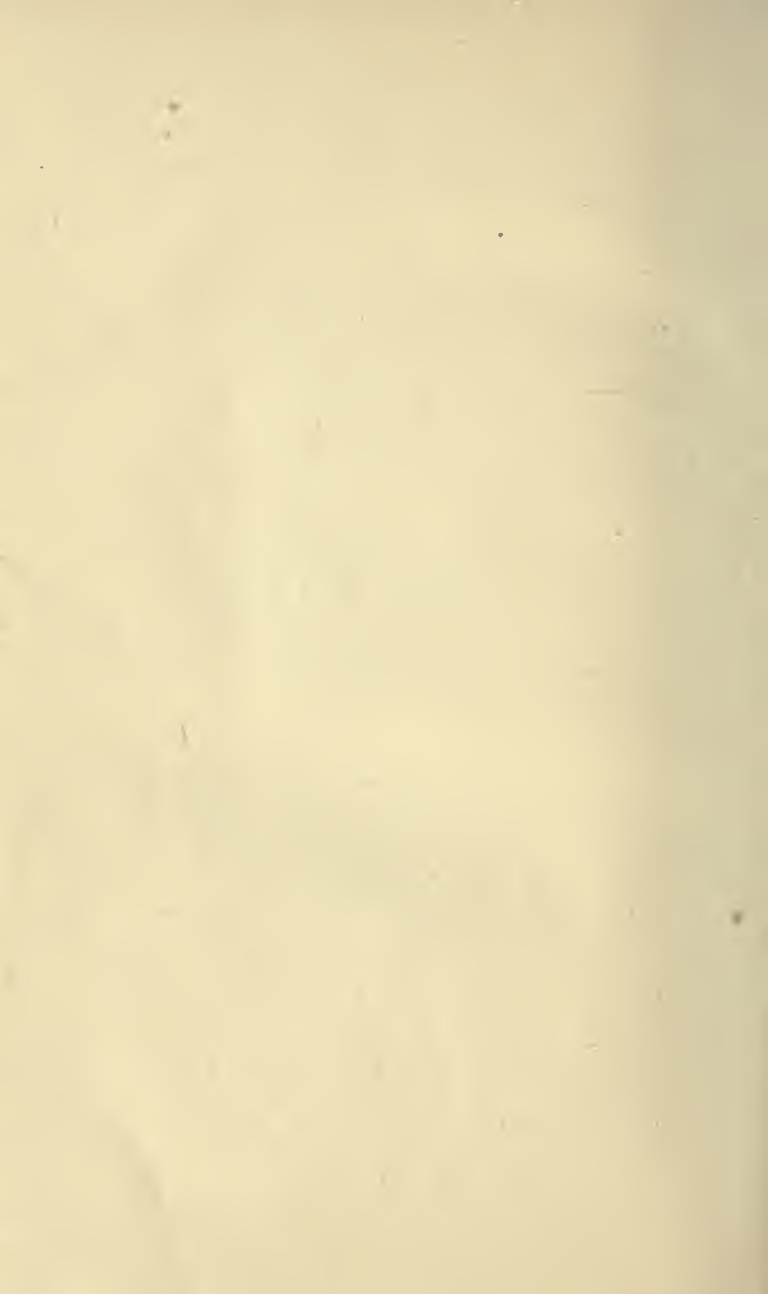
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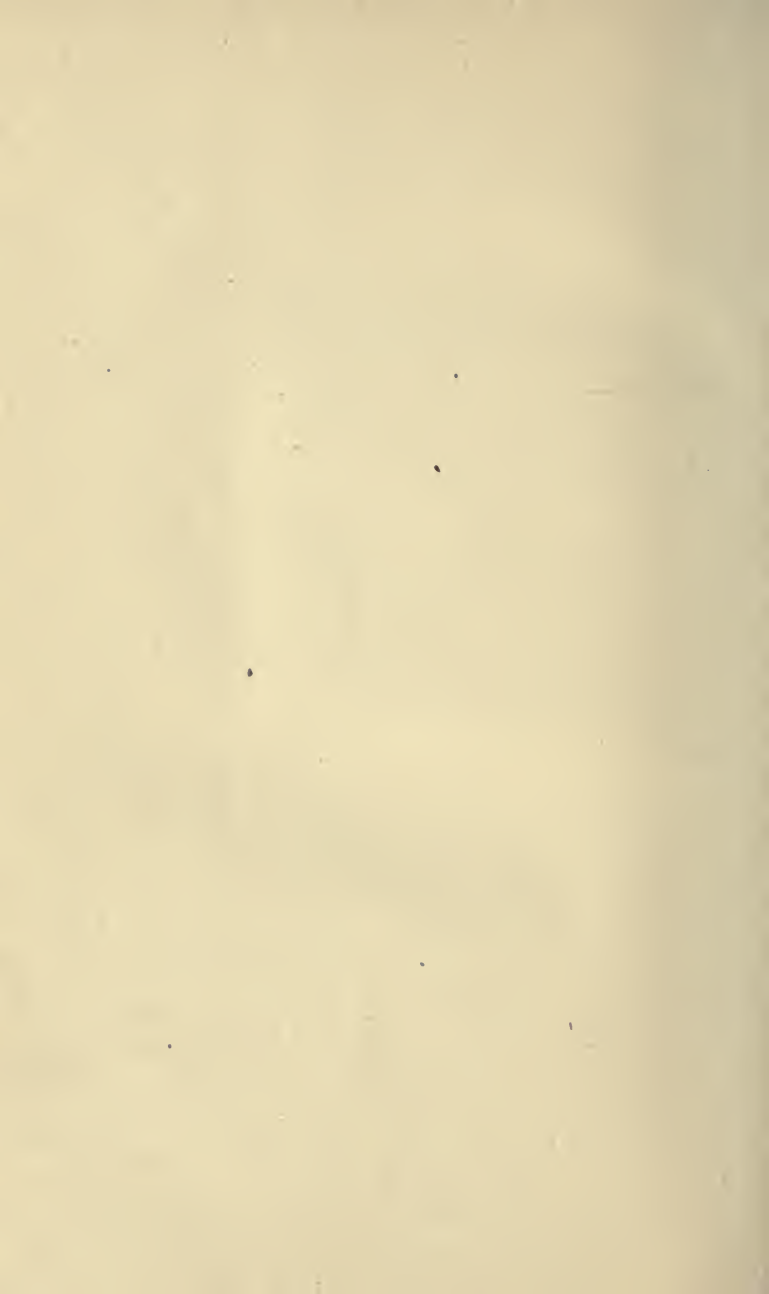
























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