

Territory, and constitution submitted with the memorial—to the Committee on the Territories.

By Mr. SWENEY: Resolutions of Charles J. Pixley Post, Grand Army of the Republic, of Rockford, Iowa, favoring a service pension—to the Committee on Invalid Pensions.

Also, resolutions of Reynolds Post, Grand Army of the Republic, of Maynard, Iowa, in favor of a service pension—to the Committee on Invalid Pensions.

Also, resolution of Brush Creek Post, Grand Army of the Republic, Iowa, in favor of a service pension—to the Committee on Invalid Pensions.

By Mr. TOWNSEND, of Colorado: Petitions of Subordinate Union No. 4, of Colorado Springs, Colo., of the Bricklayers and Masons' International Union of America, and of Subordinate Union No. 3, Pueblo, Colo., same international union, for the employment of citizens of the United States on Government works whether let by contract or otherwise—to the Committee on Labor.

By Mr. TOWNSEND, of Pennsylvania (by request): Petition of citizens of Pennsylvania, against alien labor—to the Committee on Labor.

By Mr. TRACEY: Petition of the Subordinate Union No. 8, Cohoes, N. Y., Bricklayers and Masons' International Union of America—to the Committee on Labor.

Mr. WHEELER, of Alabama: Petition of Mobile Cotton Exchange, praying that Congress will not enact a bill taxing lard which contains cotton-seed oil—to the Committee on Agriculture.

Also, petition of Memphis Cotton Exchange, for same purpose—to the Committee on Agriculture.

By Mr. WILSON, of Missouri: Papers in case of T. J. Rice, for relief—to the Committee on Invalid Pensions.

By Mr. WILSON, of Washington: Memorial from Legislature of State of Washington, in relation to Puyallup Indian reservation—to the Committee on Indian Affairs.

## SENATE.

WEDNESDAY, March 26, 1890.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.  
The Journal of yesterday's proceedings was read and approved.

### VISITORS TO WEST POINT.

The VICE-PRESIDENT. Under the provisions of existing law, the Chair appoints the Senator from Connecticut [Mr. HAWLEY] and the Senator from Delaware [Mr. GRAY] as members of the Board of Visitors to attend the annual examination of cadets at West Point.

### PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a memorial of the Monthly Meeting of Friends, of Dover, Ohio, numbering 352 adult persons, remonstrating against large expenditures for the Navy and coast defenses; which was referred to the Committee on Naval Affairs.

Mr. McMILLAN presented a petition of the Farmers and Bee-Keepers' Association of Hesperia, Newaygo County, Michigan, praying for the free coinage of silver; which was referred to the Committee on Finance.

He also presented a petition of Subordinate Union No. 5 of the Bricklayers and Masons' International Union of America, of Muskegon, Mich.; a petition of Subordinate Union No. 9 of the Bricklayers and Masons' International Union of America, of Detroit, Mich.; a petition of Subordinate Union No. 8 of the Bricklayers and Masons' International Union of America, of Manistee, Mich.; a petition of Subordinate Union No. 2 of the Bricklayers and Masons' International Union of America, of Detroit, Mich.; and a petition of Subordinate Union No. 6 of the Bricklayers and Masons' International Union of America, of Saginaw, Mich., praying for the employment of none but citizens of the United States on Government buildings, etc.; which were referred to the Committee on Education and Labor.

He also presented a petition of 474 citizens of the State of Michigan, praying for a national Sunday-rest law, etc.; which was referred to the Committee on Education and Labor.

Mr. VANCE presented a memorial of the Holly Spring Monthly Meeting of Friends, in Randolph County, North Carolina, remonstrating against appropriations of money for the Navy and coast defenses; which was referred to the Committee on Naval Affairs.

Mr. VEST presented a petition of George Elston, of Elston, Mo., praying for the repeal of the tax on sugar of all grades above and below No. 13, Dutch standard; which was referred to the Committee on Finance.

Mr. REAGAN presented a petition of 36 citizens of Wheeler County, Texas, praying for the free coinage of silver, like gold; which was referred to the Committee on Finance.

Mr. STEWART presented a petition of 30 members of the Farmers and Laborers' Union No. 714, of Shelby County, Missouri, praying for the free coinage of silver; which was referred to the Committee on Finance.

He also presented 34 petitions signed by 1,038 members of the Farm-

ers' Alliance, citizens of Nebraska, praying for the free coinage of silver; which were referred to the Committee on Finance.

### REPORTS OF COMMITTEES.

Mr. FAULKNER, from the Committee on Claims, to whom was referred the bill (S. 1258) for the relief of Charles Murphy, reported it with an amendment, and submitted a report thereon.

Mr. WILSON, of Maryland, from the Committee on Claims, to whom was referred the bill (S. 1028) for the relief of William Bushby, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 405) for the relief of James A. Terrell, reported it with an amendment, and submitted a report thereon.

Mr. SAWYER, from the Committee on Pensions, to whom was referred the bill (S. 2017) to increase the pension of Henry H. Penrod, reported it with an amendment, and submitted a report thereon.

Mr. SPOONER. I am instructed by the Committee on Claims, to whom was referred the bill (H. R. 5965) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department, to report it without amendment. This is the bill commonly known as the Fourth of July claims bill.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

Mr. ALLEN, from the Committee on Claims, to whom was referred the bill (S. 1618) for the relief of Margaret Kennedy, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. PASCO, from the Committee on Claims, to whom was referred the petition of Frederick A. Schmidt, administrator of Thomas H. Yeatman, late of Cincinnati, Ohio, deceased, praying payment of claim for war supplies, submitted an adverse report thereon, which was agreed to; and the committee were discharged from the further consideration of the petition.

Mr. DAVIS, from the Committee on Pensions, to whom was referred the bill (H. R. 4865) granting a pension to Carrie B. Wirtz, reported it without amendment, and submitted a report thereon.

Mr. PADDOCK, from the Committee on Pensions, to whom was referred the bill (H. R. 2832) granting a pension to Sarah McTavey, reported it without amendment, and submitted a report thereon.

Mr. PETTIGREW, from the Committee on Indian Affairs, to whom was referred the bill (S. 2695) in relation to a farm for the Indian training school at Pierre, S. Dak., reported it without amendment.

### MEAT EXPORTATION AND INSPECTION, ETC.

Mr. SHERMAN. I am directed by the Committee on Foreign Relations to report an amendment to an amendment of what is commonly called the meat-inspection bill, being the bill (S. 2594) providing for the inspection of meats, etc. I ask that the amendment to the amendment be printed.

Mr. ALLISON. I ask that the amendment to the amendment may be read, so that it will go into the RECORD.

The VICE-PRESIDENT. The proposed amendment will be read.

Mr. SHERMAN. It is a substitute for the first section and is made to conform to the desires and requests of a committee that appeared before the Committee on Foreign Relations.

The CHIEF CLERK. It is proposed to substitute for section 1 of the amended bill:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture may cause to be made a careful inspection of salted pork and bacon intended for exportation with a view to determining whether the same is wholesome, sound, and fit for human food whenever the laws, regulations, or orders of the government of any foreign country to which such pork or bacon is to be exported shall require inspection thereof relating to the importation thereof into such country; and also whenever any buyer, seller, or exporter of such meats intended for exportation shall request the inspection thereof.*

Such inspection shall be made at the place where such meats are packed or boxed, and each package of such meats so inspected shall bear the marks, stamps, or other device for identification provided for in the last clause of this section: *Provided*, That an inspection of such meats may also be made at the place of exportation if an inspection has not been made at the place of packing, or if, in the opinion of the Secretary of Agriculture, a reinspection becomes necessary. One copy of any certificate issued by any such inspector shall be filed in the Department of Agriculture; another copy shall be attached to the invoice of each separate shipment of such meat, and a third copy shall be delivered to the consignor or shipper of such meat as evidence that packages of salted pork and bacon have been inspected in accordance with the provisions of this act and found to be wholesome, sound, and fit for human food; and for the identification of the same such marks, stamps, or other devices as the Secretary of Agriculture may by regulation prescribe shall be affixed to each of such packages.

Any person who shall forge, counterfeit, or knowingly and wrongfully alter, deface, or destroy any of the marks, stamps, or other devices provided for in this section on any package of any such meats, or who shall forge, counterfeit, or knowingly and wrongfully alter, deface, or destroy any certificate in reference to meats provided for in this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$1,000, or imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Mr. SHERMAN. This amendment is intended to meet the objections made by the packers and dealers in pork, and I believe covers substantially the objections they made. At least, so the committee intended.

The VICE-PRESIDENT. The amendment will be printed and placed upon the Calendar to accompany the bill.

## PRINTING OF DOCUMENTS.

Mr. SHERMAN. I am directed by the Committee on Foreign Relations to ask for an order to print certain documents from the Department of State in relation to certain Mexican territory.

The VICE-PRESIDENT. That order will be made if there be no objection. The Chair hears none, and it is so ordered.

## ELLIS ISLAND, NEW YORK HARBOR.

Mr. MCPHERSON. I am instructed by the Committee on Naval Affairs, to whom was referred the joint resolution (S. R. 46) authorizing the Secretary of the Navy to remove the naval magazine from Ellis Island, in New York Harbor, and to purchase a site and erect a naval magazine at some other point, to report it with amendments. I am directed by the Committee on Naval Affairs to ask for the immediate consideration of the joint resolution.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The VICE-PRESIDENT. The first amendment reported by the Committee on Naval Affairs will be read.

The CHIEF CLERK. In section 2, line 1, the committee report to fill the blank by inserting the words "seventy-five thousand;" so as to make the section read:

That the sum of \$75,000, or so much thereof as may be found necessary, be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to purchase, or to obtain by condemnation, a site for, and for the erection of, a naval magazine; and that the Secretary of the Navy shall select a site at a safe distance from populous cities and from the shipping of the harbor of New York.

The amendment was agreed to.

The VICE-PRESIDENT. The committee also report an amendment to strike out the preamble, which will be considered at a later stage.

Mr. HISCOCK. I move to add to section 2 the following:

And the further sum of \$75,000, or so much thereof as may be necessary, is hereby appropriated to enable the Secretary of the Treasury to improve said Ellis Island for immigration purposes.

Mr. MCPHERSON. I have no objection to the amendment.

The amendment was agreed to.

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

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

The title was amended so as to read: "A joint resolution authorizing the Secretary of the Navy to remove the naval magazine from Ellis Island, in New York Harbor, and to purchase a site and erect a naval magazine at some other point, and for other purposes."

The VICE-PRESIDENT. The Committee on Naval Affairs report as an amendment to strike out the preamble.

The amendment was agreed to.

## HOUR OF MEETING.

Mr. EDMUNDS. I offer a resolution as a matter of privilege, and ask for its present consideration if there is no objection.

The resolution was read, as follows:

Ordered, That on and after Monday next, March 31, the daily sessions of the Senate shall commence at 11 o'clock a. m. until otherwise ordered.

The VICE-PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. MORGAN. Let it go over, Mr. President.

The VICE-PRESIDENT. Objection being made, the resolution will lie over.

## BILLS INTRODUCED.

Mr. DAWES introduced a bill (S. 3271) to enable the Secretary of the Interior to carry out in part the provisions of "An act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations, and to secure the relinquishment of the Indian title to the remainder, and for other purposes," approved March 2, 1889, and making appropriations for the same, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. INGALLS (by request) introduced a bill (S. 3272) for removal of charge of desertion from Alfred Lane; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MOODY introduced a bill (S. 3273) for the relief of Frank M. Allen; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 3274) for the relief of James Ballard; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3275) for the relief of John William Cable; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3276) for the relief of Thomas W. Thompson; which was read twice by its title, and referred to the Select Committee on Indian Depredations.

Mr. CHANDLER introduced a bill (S. 3277) to define the route of the Baltimore and Ohio Railroad in the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 3278) to amend section 416 of the Revised Statutes of the United States, relative to the establishment of the Department of the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

## REPRINT OF SUNDAY-REST BILL.

On motion of Mr. BLAIR, it was

Ordered, That the bill (S. 946) to secure to the people the privileges of rest and of religious worship free from disturbance by others on the first day of the week be reprinted for the use of the Senate.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the concurrent resolution of the Senate for the printing of the annual report of the health officer of the District of Columbia.

The message also announced that the House had passed a bill (H. R. 8393) to provide for celebrating the four hundredth anniversary of the discovery of America by Christopher Columbus by holding an international exhibition of arts, industries, manufactures, and the products of the soil, mine, and sea in the city of Chicago, in the State of Illinois; in which it requested the concurrence of the Senate.

## ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 525) to establish two additional land offices in the State of Montana; and it was thereupon signed by the Vice-President.

## TRUSTS AND COMBINATIONS.

The VICE-PRESIDENT. Is there further morning business? If not, the Calendar will be taken up.

Mr. SHERMAN. I move that the Senate proceed to the consideration of the unfinished business, being the bill (S. 1) to declare unlawful trusts and combinations in restraint of trade and production. The motion was agreed to.

## AID TO COMMON SCHOOLS.

Mr. HARRIS. Before proceeding with the unfinished business, I should be glad, if it suits the convenience of the Senator from New Hampshire, that we could fix some hour of such day as may be convenient to him to dispose of his motion to reconsider the vote by which the educational bill failed of a third reading. Would it suit the convenience of the Senator to name a day?

Mr. BLAIR. I am not now able to indicate a time to the Senator, but I shall conveniently call up that motion.

Mr. HARRIS. I think the Senate ought to know in advance the time at which it will come up.

Mr. BLAIR. I will say to the Senator that it will not be called up without ample notice to the Senate.

Mr. INGALLS. I call the attention of the Senator from Tennessee to the fact that the pending question is on the motion that I made to lay the motion to reconsider on the table.

Mr. HARRIS. So I understand.

Mr. INGALLS. Therefore, I suppose that properly speaking the interrogatory should be addressed to me and I should be inquired of when it would suit my convenience to call up the motion to lay on the table.

Mr. HARRIS. It affords me a great deal of pleasure, then, to ask the Senator from Kansas what hour of what early day will suit his convenience.

Mr. INGALLS. I should be very glad to have the motion taken up now.

Mr. HARRIS. I should be very glad to have it taken up now or at the earliest day possible.

## TRUSTS AND COMBINATIONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1) to declare unlawful trusts and combinations in restraint of trade and production.

Mr. SHERMAN. There are one or two verbal amendments that I should like to have made. They are made necessary by the amendments agreed to yesterday. In line 4 of the first section of the reprinted bill I move to strike out the word "citizens" and insert the word "persons."

The amendment was agreed to.

Mr. SHERMAN. In line 15 of the first section I move to strike out the word "citizens" and insert the word "persons."

The amendment was agreed to.

Mr. SHERMAN. There is an amendment prepared by the Senator from Wisconsin [Mr. SPOONER] to come in on line 26. If he is ready to offer it now, I should be very glad to have it presented.

Mr. SPOONER. I offer the amendment which I send to the desk to come in after the word "execution" in line 26 of section 1.

Mr. INGALLS. Is that an amendment of substance?

Mr. SPOONER. I think it is.

Mr. INGALLS. If the Senator will allow me a few moments, I wish to offer certain amendments which are rendered necessary by the change in the enumeration of the sections. On page 5 of the reprinted

bill, in line 7 of section 6, I move to strike out the word "three" and insert the word "eight;" so as to read:

In section 8 of this act.

The amendment was agreed to.

Mr. INGALLS. In section 7, line 4, I move to strike out the word "three" and insert the word "eight;" so as to read:

In section 8 of this act.

The amendment was agreed to.

Mr. INGALLS. In section 9, line 9, I move to strike out the word "three" and insert the word "eight;" so as to read:

In section 8 of this act.

The amendment was agreed to.

Mr. INGALLS. In section 9, line 12, I move to strike out the word "one" and insert the word "six;" so as to read:

As defined by section 6 of this act.

The amendment was agreed to.

Mr. INGALLS. In section 9, line 14, I move to strike out the word "two" and insert the word "seven;" so as to read:

As defined in section 7 of this act.

The amendment was agreed to.

Mr. INGALLS. In section 13, line 19, I move to strike out the word "three" and to insert the word "eight;" so as to read:

Any of the other articles mentioned in section 8 of this act.

The amendment was agreed to.

Mr. INGALLS. In section 14, line 8, I move to strike out the word "four," after "section," and insert the word "nine;" so as to read:

Being liable for the amounts prescribed in section 9 of this act.

The amendment was agreed to.

Mr. INGALLS. In section 14, line 12, after the word "section," I move to strike out the word "eight" and insert the word "thirteen;" so as to read:

A false or fraudulent return or report required by section 13 of this act.

The amendment was agreed to.

Mr. REAGAN. I desire to have two verbal amendments made. In section 3, line 3, I move to change the word "employed" to the word "engaged." I think that is a more appropriate word.

The VICE-PRESIDENT. The amendment will be stated.

The CHIEF CLERK. In section 3, line 3, it is proposed to strike out the word "employed" and to insert the word "engaged;" so as to read:

Manager of any trust engaged in any business carried on with any foreign country.

The amendment was agreed to.

Mr. REAGAN. In section 3, line 7, I move to strike out the word "employed" and to insert the word "engaged;" so as to read:

Corporation, company, or person engaged in any such business, etc.

The amendment was agreed to.

Mr. VEST. Does that conclude the amendments?

Mr. SHERMAN. No; there is another amendment to be offered by the Senator from Wisconsin [Mr. SPOONER].

The VICE-PRESIDENT. There is an amendment, and there is also an amendment to an amendment pending now. Yesterday the Senator from Nevada [Mr. STEWART] offered an amendment, to which the Senator from Massachusetts [Mr. HOAR] proposed an amendment. The amendment and the amendment to the amendment will be read.

Mr. HOAR. I will withdraw the amendment to the amendment.

The VICE-PRESIDENT. The amendment proposed by the Senator from Massachusetts to the amendment offered by the Senator from Nevada is withdrawn.

Mr. HARRIS. Let the amendment offered by the Senator from Nevada be read.

The VICE-PRESIDENT. The pending amendment, offered by the Senator from Nevada, will be read.

The CHIEF CLERK. On page 2, section 1, line 17, of the reprinted bill, after the word "articles," insert the words "or of the value of money by which such cost may be advanced or reduced;" so as to read:

And all arrangements, trusts, or combinations between such persons or corporations made with a view or which tend to advance the cost to the consumer of any such articles, or of the value of money by which such cost may be advanced or reduced, are hereby declared to be against public policy, unlawful, and void.

The VICE-PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Nevada [Mr. STEWART].

The amendment was agreed to.

Mr. SHERMAN. Now the Senator from Wisconsin can offer his amendment.

Mr. SPOONER. I offer now the amendment which I send to the desk, to come in after the word "execution," in the twenty-sixth line of section one of the reprint.

The VICE-PRESIDENT. The amendment will be read.

The CHIEF CLERK. In section one, line 26, of the reprinted bill, after the word "execution," insert:

And whenever in any action commenced under the provisions of this act in the name of the United States any arrangement, trust, or combination herein declared void is found by any such court to exist, the court may, in addition to other remedies, issue its writ of injunction, temporary or final, running and to

be served anywhere within the jurisdiction of the United States, prohibiting and restraining the defendants or any thereof, or their or any of their servants, agents, or attorneys, from proceeding further in the business of said arrangement, trust, or combination, except to wind up its affairs; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, issued in any such cause, it shall be lawful for said court to issue writs of attachment, running and to be served anywhere within the United States, against the defendants or any thereof, and against their or any of their agents, attorneys, or servants, of whatever name or office, disobeying said injunction or other process; and the court may, if it shall think fit, in addition to fine or imprisonment for contempt, make an order directing any such defendants disobeying such writ of injunction or other process to pay such sum of money, not exceeding \$1,000, for every day after a date to be named in such order that such defendant or defendants or their or any of their agents, attorneys, or servants as aforesaid shall refuse or neglect to obey such injunction or other process; and such money shall be paid into court, and may be paid in whole or in part to the party or parties upon whose complaint said action was instituted, or into the Treasury of the United States, as the court shall direct. And in any action brought by the United States under the provisions of this act the Attorney-General may bring the action in any district in which any one of the parties defendant resides or transacts business, and any other parties, corporate or otherwise, may, regardless of residence or location of business, be brought into court in said action, in the manner provided by section 738 of the Revised Statutes, and the court shall thereupon have jurisdiction of the defendant or defendants so brought in, as fully to all intents and purposes as if they had appeared in said action.

Mr. SPOONER. Mr. President, I offer this amendment to cure what seems to me to be a very great defect in the bill. Most if not all of the combinations, however they may be called, aimed at by the bill, are detrimental to the public interest. I think of them all it will be agreed that two of them, whose ramifications extend throughout the whole country and who directly affect the people generally in the country, the sugar trust and what is called the beef combine, are infamous in their oppression, the sugar trust dealing with an article which goes into the daily consumption of the people, which goes into every house, to every family. I believe 52 pounds per year per capita are used by the people of the United States. The object of this trust is to keep up to consumers the price of sugar. The beef combine, with which the Senator from Missouri [Mr. VEST] has been endeavoring to deal, has been so successful as to maintain at the war rate the price of beef to consumers throughout the United States, and to depress it among those, the farmers and others, who raise cattle, so as to render that industry no longer a profitable one.

The sugar trust is made up, as I understand it, of seventeen different corporations, some of them citizens of different States. Manifestly to deal efficiently with a trust or combination of that character it must be possible to bring into one action, into one court, the essential parties defendant. One of the arguments made by the Senator from Ohio in favor of this bill was that there might be under its provisions such a concentration of defendants; but as the law stands to-day there could be none, and I desire to call the attention of the Senate for a moment to the sections of the Revised Statutes bearing upon the subject. Section 737 provides:

SEC. 737. When there are several defendants in any suit at law or in equity, and one or more of them are neither inhabitants of nor found within the district in which the suit is brought, and do not voluntarily appear, the court may entertain jurisdiction, and proceed to the trial and adjudication of the suit between the parties who are properly before it; but the judgment or decree rendered therein shall not conclude or prejudice other parties not regularly served with process nor voluntarily appearing to answer; and non-joinder of parties who are not inhabitants of nor found within the district, as aforesaid, shall not constitute matter of abatement or objection to the suit.

Whoever may be parties defendant in the action, under that section the court might proceed as to those within the jurisdiction; but its judgment could have no effect whatever upon those not served or not voluntarily appearing.

Section 738 provides:

SEC. 738. When any defendant in a suit in equity to enforce any legal or equitable lien or claim against real or personal property within the district where the suit is brought—

And it was amended so as to include suits brought to remove a cloud upon title to land in a district—

is not an inhabitant of nor found within the said district, and does not voluntarily appear thereto, it shall be lawful for the court to make an order directing such absent defendant to appear, plead, answer, or demur to the complainant's bill at a certain day, therein to be designated.

Then follows a provision for obtaining jurisdiction in a mode to be pointed out by the order of publication or otherwise:

But the said adjudication shall, as regards such absent defendant without appearance, affect his property within such district only.

Then comes this section, to which I call the attention of the Senator from Ohio:

SEC. 739. Except in the cases provided in the next three sections, no person shall be arrested in one district for trial in another, in any civil action before a circuit or district court; and except in the said cases and the cases provided by the preceding section, no civil suit shall be brought before either of said courts against an inhabitant of the United States, by any original process, in any other district than that of which he is an inhabitant or in which he is found at the time of serving the writ.

One object of the amendment is to provide that the court may bring in these parties wherever they reside or wherever they are doing business and have as full and complete jurisdiction over them upon publication as if they voluntarily appeared in the action. This provision I regard as absolutely essential to the efficiency of the bill.

Another matter which is covered by the amendment is this. For myself, I think the efficacious remedy will be found to be, not the crim-

inal prosecution provided for by the Senator from Texas [Mr. REAGAN], but the vigorous and drastic use of the writ of injunction. Under the law as it stands to-day that writ can only be served and punishment for its disobedience enforced within the district over which the court has jurisdiction. By the amendment which I have sent to the desk, this writ of injunction may be served anywhere within the United States, and if it is disobeyed the attachment for contempt may be served anywhere within the United States. I think the amendment ought to be adopted.

The VICE-PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Wisconsin.

Mr. HOAR. I ask that it be read once more.

The VICE-PRESIDENT. The amendment will be read.

The Chief Clerk read the amendment proposed by Mr. SPOONER.

Mr. GRAY. Mr. President, I did not have the pleasure of hearing the remarks of the Senator from Wisconsin, explanatory, I suppose, of this amendment, owing to the confusion in the Chamber; but so far as I can understand the amendment proposed by him as just read at the desk, it is that when jurisdiction once is obtained by a court there shall be attached also those additional remedies, a general power to issue remedial process by injunction and otherwise, which are recited in the amendment of the Senator, process and remedies which I agree with him in thinking would be exceedingly important to effect any proper object under this bill. But I should like to ask the Senator from Wisconsin, who has no doubt studied carefully the provisions to which he has offered the amendment, as to the clause he seeks to amend, commencing at line 18 of the first section of the bill and reading as follows:

And the circuit court of the United States shall have original jurisdiction of all suits of a civil nature at common law or in equity arising under this section, and to issue all remedial process, orders, or writs proper and necessary to enforce its provisions. And the Attorney-General and the several district attorneys are hereby directed, in the name of the United States, to commence and prosecute all such cases to final judgment and execution.

I should like to ask him how under that language, taken in connection with what precedes it in the prior part of the first section, the court is in the first place to obtain any jurisdiction of any matter or thing or parties with reference to the subject of this first section. The Senator will remember the previous part of the first section declares:

That all arrangements, contracts, agreements, trusts, or combinations between two or more citizens or corporations, or both, made with a view or which tend to prevent full and free competition in the importation, transportation, or sale of articles imported into the United States.

And so on; I do not read further. These arrangements, etc., are declared to be against public policy, unlawful, and void; and then the section goes on to declare in the language that I have just read that the circuit courts of the United States shall have original jurisdiction of all suits of a civil nature at common law and in equity. I ask the Senator how that jurisdiction is to be invoked? What is to be the *lis mota* in any circuit court of the United States whereby the provisions of this first section shall be brought into activity? I grant you that when jurisdiction has attached the amendment offered by the Senator from Wisconsin would be exceedingly important in rendering thorough and effectual that jurisdiction; but I do not understand how or under what circumstances the circuit court of the United States is to obtain the jurisdiction spoken of in the language which the Senator seeks to amend.

Mr. SPOONER. Mr. President, the observations submitted by the Senator from Delaware are aimed really not at the amendment which I have offered, as it seems to me—

Mr. GRAY. Not at all. I was asking for information.

Mr. SPOONER. But at the bill. I have some doubts about the efficacy of the section. I should have been glad, for I want the best bill that can be drawn, if this bill had been in the first instance—and I say that with all due respect to the Senator from Ohio and the Committee on Finance—referred to the Committee on the Judiciary, in order that it might receive from that committee careful examination and study. I think it will be agreed that no subject has been brought before the Senate involving questions of law of a more complicated character and more difficult of solution than the propositions involved in this bill.

The Senate saw fit yesterday to reject the proposition to refer the bill to the Committee on the Judiciary, and in view of the protest made by the Senator from Ohio on behalf of the Committee on Finance I voted against the reference. I am assuming that the bill will be a constitutional enactment and that it will give to the circuit courts of the United States jurisdiction at the suit of the United States to dissolve, suppress, and enjoin these combinations which are declared by this bill to be void, as against public policy.

Mr. GRAY. If the Senator from Wisconsin will allow me to interrupt him with a question at this point—

Mr. SPOONER. Always.

Mr. GRAY. The remarks that I made in regard to the amendment and the clause that was sought to be amended were not directed to any question of the constitutionality of the bill, but were merely an inquiry as to how under the mechanism of this first section the court was to obtain in the first instance the jurisdiction which the Senator from Wisconsin seeks to enlarge by his amendment.

Mr. SPOONER. The bill attempts to give it; but that is not a question which I care to discuss at any length now.

Mr. PUGH. Will the Senator from Wisconsin allow me to ask him a question?

Mr. SPOONER. Certainly.

Mr. PUGH. Would not the court under the general jurisdiction already conferred by the bill have the power to issue any remedial process?

Mr. SPOONER. Of course, in any case in which the court would have jurisdiction, the suit being in equity, the court would have the power to issue remedial writs within its territorial jurisdiction.

Mr. PUGH. Then what is the necessity for the amendment of the Senator from Wisconsin?

Mr. SPOONER. I will explain again to the Senator from Alabama. How far this bill will give jurisdiction in any case in which the United States courts are not now possessed of it, I do not undertake now to say.

The bill declares certain trusts, combinations, and agreements void. It gives the circuit courts of the United States original jurisdiction of all suits of a civil nature at common law or in equity arising under this section. That would include, of course, controversies between citizens of different States.

Mr. GRAY. That is just the point if the Senator will allow me: How shall a suit at common law or in equity, arising under this section, be brought?

Mr. SPOONER. It is not my province to attempt now to satisfy the Senator on that question, for I am only discussing my amendment. I am only, on the assumption that there is something of substance in this bill, endeavoring to incorporate in it a provision without which, to my mind, it will be in any event utterly without strength or efficiency.

Mr. HOAR. I should like to ask the Senator a question if he has got through his answer to the Senator from Delaware.

Mr. SPOONER. Certainly, I yield.

Mr. HOAR. I rise to ask the Senator from Wisconsin a question in reference to his amendment. I understand that the amendment assumes that somehow or other the court has obtained jurisdiction, and that it has found that somewhere in the United States this offense or injury has been committed. Then it issues an injunction. The court may be held in Maine and the party against whom the injunction is to issue, or the transaction which it strikes at, the business which it strikes at, may have been carried on or performed in California in whole or in part. Now, the amendment of the Senator, as I heard it read and as I read it, provides that the court shall have jurisdiction and shall have power to punish by fine and imprisonment for contempt for the disobedience of its orders. For the purposes of my question we may concede legality, constitutionality, and the wisdom of the section up to that point, without going into any such question. Now, the Senator, in addition to that, if I understand his amendment, says that the court shall have power to order a penalty for the carrying on of the business of \$1,000 a day.

Now, that is a clear penalty and nothing but a penalty for an offense. It is a part of the civil remedy of the individual who suffers; it is not the sum which is to be recovered by the United States if it has suffered in any of its properties or functions which would make it a suitor for it to assert its own rights, but it is a clear, sheer penalty. The contempt of court has been satisfied previously by the assumption of the amendment. The injury to the United States or to anybody else in the way of property or business or any other material necessity is satisfied in another way. Then is this anything more than asserting the principle that you may enforce the penal or criminal laws of the United States by getting an injunction against a man in advance against offending against those criminal or penal laws and having judgment without a jury and punish him by a fine of \$1,000 for every day? You are not trying that offense; or rather I put that question to the Senate at this point. You are not trying that offense in the vicinity where it happened, in the district where it was committed previously ascertained by law. You are not trying it by a jury; you are not trying it in the presence of the party accused, where he has met the witnesses against him face to face. Now, is it the constitutional right of the law-making power to say that, in addition to all civil remedies, including the remedy for contempt of court, you may suppress offenses against public order by getting an injunction in advance against permitting the act, and then having so acted the judge in his discretion may fine the party?

Mr. SPOONER. Mr. President, the bill as it now stands, if I may continue what I was saying, declares that certain trusts, combinations, and agreements are void. I repeat it gives to the circuit courts—jurisdiction of all suits of a civil nature at common law or in equity arising under this section, and to issue all remedial process, orders, or writs proper and necessary to enforce its provisions. And the Attorney-General and the several district attorneys are hereby directed, in the name of the United States, to commence and prosecute all such cases to final judgment and execution.

The amendment which I have sent to the desk does not apply to any suit which is a controversy between citizens of different States to recover damages because of such unlawful arrangement. It is limited in its operation to suits commenced by the Attorney-General and the several district attorneys in the name of the United States, and to be prosecuted to final judgment, to suppress, dissolve, and destroy the combinations found to exist detrimental to the public interests and declared void by this act.

As I said in explaining this amendment at the outset, all of these trusts, or nearly all of them, are made up of different firms, of corporations, and of citizens of different States. The Senator from Ohio argued that in the suits brought by the United States under the provisions of this act all of the parties to the trust might be made defendants, and the court having acquired jurisdiction of the subject-matter and of the defendants could deal with them. I brought to the attention of the Senate the fact that that assumption by the Senator from Ohio is a mistaken one as the law now stands, and that the statutory rule is that no man shall, with a single exception or so, be sued in the United States courts except in the district where he happens to reside or where he happens to be found. So, then, in prosecuting the sugar trust under the provisions of this act, made up of seventeen distinct corporations, as I understand it, only one of which, if you please, is a citizen of the State of New York, there would be no power to obtain jurisdiction in a single suit except over one. Seventeen different suits would be necessary, possibly. That, it seemed to me, was a weakness in this bill which ought to be remedied.

It seems to me that in dealing with it we ought to deal with it, although a civil suit brought in the name of the United States, just as we would deal with it if it were a criminal case involving as defendants half a dozen citizens of different States, because the combination aimed at is criminal, is a crime against the people, and it requires strong measures to afford any remedy for it.

To remedy this defect I provide in the pending amendment that the action may be brought in any district where any one of the defendants resides or is doing business, and that if there be other defendants, other members of the combine or trust, located in other districts in the same State or in other States, they may be brought into court and made defendants in that action, in order that the parties to the trust may be consolidated and dealt with under the suit of the United States by one of its courts in one case, under the provisions of section 738 of the Revised Statutes, with which I suppose every Senator is familiar. That is a section which provides—

Sec. 738. When any defendant in a suit in equity to enforce any legal or equitable lien or claim against real or personal property within the district where the suit is brought—

There has been since added to it, as I stated, a suit brought in equity to remove a cloud from title—

is not an inhabitant of nor found within the said district, and does not voluntarily appear thereto, it shall be lawful for the court to make an order directing such absent defendant to appear, plead, answer, or demur to the complainant's bill at a certain day, therein to be designated; and the said order shall be served on such absent defendant, if practicable, wherever found, or, where such personal service is not practicable, shall be published in such manner as the court shall direct. If such absent defendant does not appear, plead, answer, or demur within the time so limited or within some further time to be allowed by the court in its discretion, it shall be lawful for the court, upon proof of the service or publication of the said order, and of the performance of the directions contained therein, to entertain jurisdiction and proceed to the hearing and adjudication of such suit, in the same manner as if such absent defendant had been served with process within the said district. But the said adjudication shall, as regards such absent defendant without appearance, affect his property within such district only.

The next section I again read, as some Senators who now are present did not hear it read before:

Sec. 739. Except in the cases provided in the next three sections, no person shall be arrested in one district for trial in another, in any civil action before a circuit or district court; and, except in the said cases and the cases provided by the preceding section, no civil suit shall be brought before either of said courts against an inhabitant of the United States, by any original process, in any other district than that of which he is an inhabitant or in which he is found at the time of serving the writ.

Now, the object of one branch of the amendment is to enable the United States court, when the suit is brought in the name of the United States to suppress one of these combinations or trusts made up of citizens or corporations of different States, to bring them all into that suit, wherever they may happen to reside. I have no doubt it is within the constitutional power of Congress to do this, because I think the entire power to regulate the procedure is under the Constitution in Congress.

So much for that. I stated, although I did not get the attention of some, that I thought the only efficient remedy in this bill, if it shall become a law, is not in the penal clause introduced by the amendment of the Senator from Texas, but is in the merit of injunction.

As the law stands to-day that writ can not be made effective except where it is served within the jurisdiction of the court; it can have no effect whatever beyond the jurisdiction of the court; and so I have provided (which I think is also clearly within the constitutional power of Congress) that in addition to other remedial process the court shall have the power to issue its writ of injunction running anywhere and to be served anywhere within the United States. I would not agree to that in any ordinary case; I would not agree to it in controversies between citizens of different States; but it has seemed to me, as it was necessary to make this an efficient bill in view of the fact that we were dealing with a set of combinations of great power whose oppressions are criminal, that we ought to make these writs of injunction run throughout the country and to be served anywhere.

Now, Mr. President, I come to the suggestion made by the Senator from Massachusetts [Mr. HOAR]. The amendment provides—and of course the proposition to make the writ of injunction servable any-

where must carry with it, to make it forceful, the proposition to make the writ of attachment run anywhere—that the writ of attachment also for disobedience to the writ of injunction, it having been so served, may go anywhere within the United States. And it provides—I am not particular about this provision—that the court may, in addition to the imprisonment for contempt, direct the payment of a thousand dollars a day for every day after a date to be fixed in the order that the defendants or any one of the defendants shall neglect or refuse to obey the injunction.

I took that from the interstate-commerce law. I had doubt when that bill was under discussion, and the same doubt, I think, which the Senator from Massachusetts indicates now, not perhaps as to the legality of the provision, but as to its expediency. I never was absolutely certain that it was valid. It was drawn, I think, by the Senator from Vermont [Mr. EDMUNDS]. It provides, after giving power to restrain common carriers from continuing such violation or disobedience—

to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and, if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money not exceeding for each carrier or person in default the sum of \$500 for every day after a day to be named in the order that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining, or into court to abide the ultimate decision of the court, or into the Treasury; and payment thereof may, without prejudice, etc.

Mr. HOAR. The Senator will pardon me. My attention was not called to that when that law passed as a particular item of the bill; but without going into any discussion as to whether that is valid or not, my question to the Senator was whether it would be valid, in his judgment, having fully exhausted the punishment by fine for contempt, then to make an additional penalty which should be in the nature of the case only something in the nature of a penalty, not for contempt, but for the offense against public order. If that be true, if that be the difference between that and the Senator's amendment, is it within the constitutional power of Congress, in authorizing the courts to punish for contempt, to provide that any offense against the law shall be reached by a judge imposing a fine, by way of penalty, trying him in a different district from the one in which he lives? In other words, what is the thousand dollars' fine for which the Senator provides? It is not a fine for contempt. You have got that in addition. Is it anything else than a penal punishment?

Mr. SPOONER. I think it can not fairly be regarded otherwise than an additional penalty. I am not strenuous about that feature of the amendment at all. It might be so amended as to make it in the disjunctive, so that the court might punish by fine or imprisonment, or by requiring payment of a sum of money for each day's disobedience.

Mr. HOAR. The Senator can remove my objection, which is a very narrow one in one sense, but at the same time it is a constitutional one.

Mr. SPOONER. I think there is force in the objection.

Mr. HOAR. I suggest that the Senator say "in addition to fine or imprisonment for contempt make an order punishing for contempt."

Mr. SPOONER. I am quite willing to accept that amendment. It seemed to me that there ought to be something more than an ordinary fine for contempt. These corporations and trusts, which make tremendous profits, can very well afford to pay such a fine; but I think that in such cases, just as in the operation of the interstate-commerce law, it would have an excellent deterrent effect if every day's indulgence in the luxury of disobeying the injunction of the court is made to be a costly one. I am quite willing to accept the amendment proposed by the Senator from Massachusetts.

Mr. GRAY. I should like to ask the Senator what is the amendment he accepts?

Mr. HOAR. I suggest to the Senator from Wisconsin where he says "in addition to the fine or imprisonment for contempt" to say "in addition to other lawful punishment for contempt make an order" directing so and so.

Mr. SPOONER. I accept the amendment.

Mr. HOAR. Let the amendment be read from the desk so that it may be understood by the Senate.

The VICE-PRESIDENT. The amendment will be stated.

The SECRETARY. In line 8 of the amendment of the Senator from Wisconsin [Mr. SPOONER], on the second page, after the word "to," it is proposed to strike out the words "fine or imprisonment" and insert the words "lawful punishment;" so as to read:

And the court may, if it shall think fit, in addition to other lawful punishment for contempt, make an order directing any such defendant disobeying such order of injunction, etc.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Massachusetts to the amendment of the Senator from Wisconsin.

The amendment to the amendment was agreed to.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Wisconsin as amended.

Mr. GRAY. Before the amendment is adopted, I want to ask the Senator from Wisconsin another question, because, if there is to be a jurisdiction provided for in the courts that is to be effectual, it might as well be in the line indicated by the Senator.

The jurisdiction given in the first section, in the clause which the Senator from Wisconsin seeks to amend, is in "all suits of a civil nature at common law or in equity." That embraces the whole judicial power of the United States. Now, in all suits at common law, Article VII of the amendments to the Constitution of the United States provides:

In suits at common law, where the value in controversy shall exceed \$20, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

I ask the Senator from Wisconsin if his amendment goes to the extent of providing by way of execution of a judgment at common law that the court may issue this writ of injunction for which he provides.

Mr. SPOONER. My intention was that in any action in which it would be appropriate to issue the writ of injunction it might be issued.

Mr. GRAY. If the Senator will allow me, I will make my question a little broader. He knows very well that the Supreme Court of the United States has decided that in the conferring of jurisdiction by the Constitution of suits at common law and in equity where equity jurisdiction is obtained it must be according to the interpretation of that word in the law of England at the time of the adoption of the Constitution; that is, it must be the general equitable or chancery jurisdiction as known then by lawyers to exist in English jurisprudence, and in suits in equity in which juries are not required the process by injunction is appropriate and ancillary to the main process, and I know no reason why it should not be to the minor process; that is, the amendment would be appropriate. But does the Senator from Wisconsin undertake by his amendment to make the remedy by injunction as by way of execution appropriate to a common-law suit?

Mr. SPOONER. I did not intend to change the cases in which the writ of injunction is within the jurisdiction of the Federal court as a proper writ. I think the Federal courts sometimes in actions at law issue a writ of injunction. It is in those cases where the proceedings in the cause conform to the laws of the State in actions at law, and in many of the States it is provided as one of the remedies that the writ of injunction may issue. In an action of ejectment sometimes a writ of injunction is issued pending the determination of the cause. I did not intend by the amendment to work any revolution in the law on that subject as it now stands.

Mr. GRAY. Of course the Senator from Wisconsin did not intend to work any revolution, but in order that his amendment might accomplish what he really intends I wanted to bring his attention to the point I have suggested.

Mr. SPOONER. It was intended to have reference to what preceded:

And the circuit court of the United States shall have original jurisdiction of all suits of a civil nature at common law or in equity arising under this section, and to issue all remedial process, orders, or writs proper and necessary to enforce its provisions.

I thought that left it where it is now, and my amendment was intended to have reference to that general language which preceded it; and I think, taking the section together, there can be no doubt as to that construction. In other words, I have not intended by the amendment, nor will it have that effect, to impart to or to ingraft upon an ordinary action at law commenced in a Federal court the remedy by injunction where, under the general jurisdiction of the country, it does not now exist.

Mr. GRAY. Inasmuch as the remedy by injunction and the power to issue injunction is a peculiar feature and power of an equitable court exercising equitable jurisdiction, I suggest to the Senator from Wisconsin that it might be well to confine the scope of his amendment to a suit so arising.

Mr. SPOONER. I have no objection to that, although I think it quite plain, taking the section as it will read, that the writ of injunction would under this amendment be only authorized to issue where under the law now it would be authorized to issue. This bill does confer upon the court the right in any action to issue a writ which it would not be at liberty in an action of the same nature to issue now, as I understand it, and the amendment, I think, would have no larger scope or effect.

Mr. STEWART. Mr. President, the original bill has been very much improved, and one of the great objections has been removed from it by the amendment offered by the Senator from Ohio [Mr. SHERMAN], which relieves the class of persons who would have been the first prosecuted under the original bill without the amendment. I am very much gratified that the Senator offered the amendment, and that the Senate adopted it, which reads as follows:

Provided, That this act shall not be construed to apply to any arrangements, agreements, or combinations between laborers made with the view of lessening the number of hours of their labor or of increasing their wages; nor to any arrangements, agreements, associations, or combinations among persons engaged in horticulture or agriculture, made with a view of enhancing the price of their own agricultural or horticultural products.

Those were the points to which I called the attention of the Senate yesterday. I am glad that much is granted, and I am glad of other additions which have been made. The bill ought now in some respects to be satisfactory to every person who is opposed to the oppression of labor and desires to see it properly rewarded.

I beg leave of the Senate, however, to call attention to the way, if this should become a law, in which everybody might be put in the penitentiary who attempted to carry on any kind of business, provided the bill becomes a law and can be enforced. The third section of the bill as amended provides that certain things which are enumerated in that section shall be high crimes and misdemeanors and punished by a fine—not exceeding \$10,000 or imprisonment at hard labor in the penitentiary not exceeding five years, or by both of said penalties, in the discretion of the court trying the same.

It then, in order to warn people so that they may not fall into the penitentiary inadvertently, defines what a trust is. The fourth section commences with the definition of a trust, as follows:

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

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

Well, just what would be a restriction in trade it would be difficult to define, but we will not comment upon that particular provision now. It is vague, and a man might be liable under it without knowing exactly what he had done. The second provision reads:

Second. To limit or reduce the production or to increase or reduce the price of merchandise or commodities.

That would make pretty nearly everybody criminal. It says "to limit or reduce the production." That would apply to a case where, if in one line of industry there was overproduction and the volume of money was being rapidly contracted and those engaged in that industry were on the eve of bankruptcy and they should attempt to make an agreement to limit their production until they could bridge over the particular difficulties, they would all have to go to the penitentiary. The alternative would be the penitentiary or bankruptcy.

Then, "to increase or reduce the price of merchandise or commodities." If a person should make an invention which would have a tendency to reduce the price of any article he would, if he formed a combination to carry that invention into execution—if two or more persons united to push that invention (and that is the usual means by which inventions have been brought into use), all who united themselves together would certainly be engaged in an effort to reduce the price of a commodity or of the merchandise which the improved method would produce. So the inventors would all pretty much have to go to the penitentiary, because all useful inventions have a tendency to reduce the price of articles to the consumer; and if two or more of them unite together they are criminals. That, I think, would put a very great damper upon all enterprise if it were carried out according to the terms of this bill.

The third clause of the same section reads:

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

I suppose that trade-marks are a legitimate thing, and we have many laws on our statute-book protecting trade-marks so that one man shall not have the advantage of another in the use of his credit or standing as a business man or as an inventor. I thought a trade-mark was a right which parties could be protected in, so that they might have their goods distinguished from other people's goods. I know most of the States have criminal laws to protect trade-marks, so that each individual may have the benefit of his own enterprise and industry in the conduct of his business.

Mr. REAGAN. Will the Senator from Nevada allow me to make an explanation? I think his reasoning upon the subject is utterly wrong. The Senator will see that what gives the court jurisdiction is the third section. That fixes what is the offense. The fourth section simply enumerates certain things which being done are made, in pursuance of the first section, unlawful. If the Senator supposes that the paragraphs to which he refers are meant to give power to Congress to regulate and do these things independent of the first section, he will see that is not my purpose, for it would be confessedly what Congress can not do. But I will put it so that he will understand it by a transposition of the sentence:

"That all persons engaged in the creation of any trust, or as owner or part owner, agent, or manager of any trust engaged in any business carried on, first, with a foreign country; second, between the States; third, or between any State and the District of Columbia; fourth, or between any State or any Territory of the United States."

That is, as between foreign countries and States and Territories, using its powers for either of the purposes specified in the fourth section of this act. That is what the provision is. Now, look at the first paragraph: "Using its powers to create or carry out any restrictions in trade." That is, in dealing with the commerce between this country and others, or between the States and Territories, or the States and the District of Columbia; those who create restrictions in trade become subject to the penal clause. Then that clause operates. You have to read each one of these separate paragraphs, not that Congress may undertake to do these things independently of the first section, but it is one

of the definitions of the class of things that would come within the province and purview of the first section.

Mr. STEWART. I think I comprehend it. The business made unlawful, as I understand it, is business that is carried on with any foreign country, or between any of the States, or between a State and a Territory, or between a State and the District of Columbia. Any business of that kind that extends throughout the States is the business referred to. The trust defined in the fourth section is to be composed of "two or more persons, firms, corporations, or associations of persons." Any two or more persons engaged in the business of manufacturing any article vended in different States or in any foreign country who attempt to have an exclusive trade-mark would have to go to the penitentiary, as I understand the bill.

We ought to know who is to go to the penitentiary, and whether a man would be liable to go to the penitentiary if he confines the products of his manufactures to his own State. I admit this bill would not apply if he did not send his goods out of the State; and some of the Eastern States are so small that they would have a very small custom if they were compelled to keep their goods within their own State. When the goods are sent into other States, of course they are liable to go to the penitentiary under this bill.

The next clause is:

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

If two or more persons fix the price at which they will sell any article they have got to go to the penitentiary. Well, I think they ought to. [Laughter.]

The next clause is:

Fifth. To create a monopoly in the making, manufacture, purchase, sale, or transportation of any merchandise, article, produce, or commodity.

If two or more persons combine to create a monopoly they are to go to the penitentiary. "Monopoly" is a very difficult word to define. It has several significations. Its legal signification is something created by law which gives a special privilege. Of course it can not apply when all the world can go into the manufacture. It is not then, legally speaking, a monopoly. Popularly speaking, where a man has accumulated a large amount of money and carries on a large business, he is called a monopolist. Whether this is to abolish all the laws of all the States which have organized corporations, and the patent laws of the United States, which create the greatest monopolies of the country, will be left for the courts to construe, and they will have some difficulty, I think, in doing it. Next:

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

That would absolutely preclude the possibility of those engaged in any kind of business fixing any price upon their goods which they are going to sell in other States. If two or more persons or firms should agree not to dispose of their goods unless a certain price should be obtained, which goods were to be transported to another State, that would be criminal under this clause; and the multiplicity of crimes that business men would be likely to commit every day would be beyond conception if that were the law.

I think that as the bill now stands it will answer every purpose that anybody may desire in the embarrassment of trade and business.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The question is on the amendment proposed by the Senator from Wisconsin [Mr. SPOONER]. The Chair would suggest that the Senator from Wisconsin desires to modify his amendment. The modification will be stated.

The SECRETARY. In line 12 of the amendment, after the word "within," strike out the words "the jurisdiction of;" so as to read:

Running and to be served anywhere within the United States.

The PRESIDING OFFICER. The question is on the amendment as modified.

Mr. VEST. Mr. President, it is not my purpose to offer the slightest obstacle to the passage of this measure. I have expressed my doubts in regard to this bill, and have said all I propose to say as to its provisions, but I find in the RECORD of this morning a statement by the Senator from Texas [Mr. REAGAN] that I feel called upon to notice. I find this statement made by him which I did not hear, or I should have answered it at the time:

Mr. President, I am inclined to think, in view of the fact that but one member of the Committee on the Judiciary has given any expression that indicates a purpose to mature a law to repress the evil effects of trusts and to punish those engaged in them, that it is not best to refer these measures to that committee.

Now, there are but three members of the Judiciary Committee who

have spoken at all upon this question—the Senator from Mississippi [Mr. GEORGE], the Senator from Alabama [Mr. PUGH]—and he is entirely in accord with every portion of the bill—and myself; but, as only two of us criticised the bill, it is fair to assume, and I take it for granted, that the remarks of the Senator from Texas were intended for the Senator from Mississippi and myself.

Mr. President, the statement is unjust and it is not based upon the facts. I stated emphatically, and as distinctly as my power of language would permit, that for six months I had been endeavoring to find a measure which I thought would be effective as against this great evil of trusts, and which would at the same time stand the legal criticism to which it must eventually be subjected; and, if I were disposed to speak of my personal history in connection with this matter of trusts I could refer to the fact alluded to to-day by the Senator from Wisconsin [Mr. SPOONER], that for eighteen months I have been engaged in a conflict with one of the greatest of the trusts, the most destructive in the entire country, and have received more abuse on account of my attacking it than from any other act of my public life.

The Senator from Mississippi in the early part of the session introduced a bill looking to the destruction of these trusts, and in the Judiciary Committee more than two months ago I asked for the appointment of a subcommittee in order, if possible, to have my doubts solved as a lawyer in regard to the measures on this subject pending before the Senate and House of Representatives. I undertook to say the other day, as plainly as I could, that I was willing to go just as far as I considered my oath as a Senator to support the Constitution would permit me to go in the direction indicated by the Senator from Ohio.

I am not here as the special advocate of, nor do I feel myself called upon to defend, the Judiciary Committee from the assaults made by the Senator from North Carolina [Mr. VANCE]. I am, unfortunately, in the minority in that committee, and there are many measures reported by it which I do not approve of, but so far as this general question is concerned I can stand here with a clear conscience in regard to all I have done or said upon the subject.

Mr. President, we have had a remarkable winter. The warm breezes of summer have kissed the flowers during all the winter months, and we have now in public affairs a phenomenon equally as startling: a combination in loving embrace between the Senator from North Carolina [Mr. VANCE] and the Senator from Ohio [Mr. SHERMAN], while my venerable friend from Texas [Mr. REAGAN], in a patriarchal and benedictory mood, stands by and blesses the alliance, and says, "Love each other, my children, and be happy." Why, I remember a very few years ago, when the oleomargarine bill was before the Senate, the columbian eloquence of every Senator on this side of the Chamber—if I mistake not, including the Senator from North Carolina—was heard denouncing the use of the revenue power of the Government as a police power. The oleomargarine bill pretended to be a revenue bill, although it was an open secret that the Government needed no revenue, and it was simply intended as a police regulation.

But what have we here to-day? Here is a bill that upon its very face says, as it stands now before the Senate, that it proposed to use the revenue power for the undisguised purpose of effecting police purposes, in language so distinct and plain that a wayfaring man, although he could not read, would be able to understand it.

That for the purpose of preventing as far as may be the dealing in options and futures as herein defined special taxes are imposed.

No pretense that it is to collect revenue, no pretense that it is anything else but the bald, naked use of the revenue power of the Government for police regulation; and yet, sir, it will be supported with a unanimity utterly unparalleled in this Chamber.

For myself I shall say nothing more about the Constitution. I am prepared to join the procession. I heard once of a hunting party who went into camp and made an agreement that the first man who complained of any dish set before him at the camp table should cook for a week. One happened to kill an old and very tough crow, and, as he was acting as cook for the mess, he prepared it for the table, and every man swore it was the most delicious morsel that ever went into his mouth. The Farmers' Alliance are cooking now, and there is no dish that can be put on this Senatorial table which will not go down with a gusto that will astonish any gourmand from the restaurants of Paris.

Mr. President, I simply rise, not to make an argument, but to suggest that I should like before the debate closes to hear from the Senator from Ohio whether he believes the clauses now incorporated in this bill which propose to originate in the Senate of the United States a revenue measure are constitutional or not. This bill does not come from the House of Representatives. It has not even the poor excuse that it was originated in the House, and that we have struck out the whole and put in a substitute by way of amendment. This is an original bill to raise revenue, providing revenue, putting on a tax, and it performs the most remarkable act of legislative legerdemain ever known since the foundation of the world. It licenses an illegal combination which it denounces as opposed to the laws of the United States and all the States. In other words, we say to the option dealers, "You are a lot of criminals, thieves, and robbers, but if you will give us a thousand dollars we will let you go on robbing." I shall be obliged to the Senator from Ohio if he will explain what is his opinion of those clauses of

this bill, to say nothing about the feature which we have discussed before, that propose to levy taxes under the revenue power of the Government exercised by the Senate of the United States without any originating act upon the part of the House of Representatives.

Mr. REAGAN. Mr. President, it was certainly the furthest from my desire to do any wrong to any Senator by any statement I may have made. The Senator from Missouri [Mr. VEST] was in his place when I made the remark to which he has called attention this morning. I knew when I made that remark what the Senator had stated here upon the floor. I knew when I made that remark what the Senator from Mississippi [Mr. GEORGE] had said and done on that subject.

The idea which I intended to convey—perhaps I may not have been happy in the choice of the words I employed—was that but one member of the Judiciary Committee had expressed himself favorable to legislation on this subject, and that in the discussion the Senator from Missouri and the Senator from Mississippi had furnished us with many criticisms upon the propositions before the Senate. No doubt there was ground for a good deal of the criticism which they made; but it occurred to me that the criticisms were so general, so sweeping, as to cover everything which had been presented or could be presented to the Senate on this subject.

I called attention to the fact that the Senator from Mississippi said that he had been five years trying to formulate something on this subject and the Senator from Missouri has just told us that he has been five months trying to formulate something on this subject.

Now, Mr. President, is it true that the Constitution of the United States gives Congress no power over this subject? Will either of the distinguished Senators affirm that that is true? Are they not compelled to concede that we have certainly some power over the subject. If we have some power over the subject, has it taken that long for these Senators to discover that they can not find where that power exists nor how it is to be exercised?

Mr. President, I have made my share of criticism on the provisions of the bill, and I have had an ample amount of criticism on the portion which I have participated in making. However, I have not been hunting for criticisms and speculations that would defeat this bill or any bill with this object in view; but I have been trying to see if it were not possible for this Senate to mature a measure which would arrest and punish combinations and trusts that are robbing and plundering the people of this country. That is what I am hunting for.

I stated, when giving my consent to place my bill as an amendment to the bill of the Senator from Ohio, that while I doubted whether the provisions of that bill were sufficient, except so far as the general purpose of the first part of the first section was declared, I believed that the part which I added to it had actual virtue in it and would do good, and I felt under the circumstances that it was better to put it there, if possible, and get all we could of good in order to meet the great evils which the Senator from Missouri concedes, and which all other Senators here concede, and which are notorious to the country.

The Senator has alluded to the great cattle trust which he has been combating; he has seen and known of evils growing out of that; and the great sugar trust has been referred to, which the whole country feels the effects of; and so of the cotton-seed-oil trust, by which a combination has crushed the cotton-seed-oil manufacturers throughout the South and stopped the mills wherever it was to their interest to do so by paying interest upon the investment rather than let the establishments run in competition, and thus they fix the price of oil and cottonseed as they please and by their monopoly they put down the price of cotton seed about one-third and put up the price of oil to whatever they please by a monopoly.

The people that I in part represent feel the effects of these trusts both in cattle and cotton-seed oil. They feel their effects in many other things. So I have felt and so I have tried, during this and the last Congress, by the best efforts I was able to make, to see if we could not devise a law that would arrest and prevent these trusts as far as the jurisdiction of Congress would go. I have said from the beginning, and I repeat again, that the power which we have over this question comes from the commerce clause of the Constitution. If it comes from any other source, I do not know where to trace it. I have limited the bill which I presented to an execution of the commerce power of the Constitution and to preventing the evils complained of as far as it seemed to me they might be prevented by Congress. It would be assuming a great deal for me to say that I know I have succeeded in doing it, but I say I believe I have presented a proposition to the Senate under which the owners and managers of trusts and persons connected with them may be indicted and convicted.

Mr. President, it is very easy for gentlemen to assume that everybody is wrong but themselves. I heard the Senator from Missouri upbraid the Senator from Ohio yesterday for his broad assumption of knowledge that others had not. I shall not retort upon the Senator from Missouri, but he should remember that there are others who have tried to read the Constitution as well as himself, who have tried to understand the Constitution as well as himself, who stand responsible upon their oaths of office to their God and to the people who sent them here to discharge their duties, and who, it is to be presumed, intend to conscientiously perform their duty. I intend to do so, whether it hap-

pens that I agree with the Senator from Missouri or not. I shall do what I can do in my view of the Constitution to arrest and punish these trusts, and if I err on either side I mean to err on the side of trying to do something rather than to err on the side of hypercritical criticisms which look, it seems to me, to the defeat of any possible proposition which may come before the Senate.

Mr. VEST. Mr. President, I have introduced no bill here upon this subject, although I have prepared one and propose to submit it for what it is worth at the time when the committee of which I am chairman makes its report. I have not stood here in this Senate and, because a pet measure of my own was not supported by other Senators, taunted them with a disposition to do nothing.

Mr. REAGAN. The Senator ought not to make that statement. I have done no such thing.

Mr. VEST. The Senator from Texas says that it looks to him very much as if those of us who are throwing obstacles in the way of this legislation are indulging in hypercriticism and attempting to do nothing. If his language did not mean that, then I can not hear and I can not interpret when I do hear.

I do not propose to interfere between the Senator from Texas and his Creator. That is a delicate relation. I have nothing whatever to do with his conscience. It is all I can do to keep my own quiet. I have nothing to do with his construction of the Constitution. I know that the Constitution has been the source of a great deal of contention, criticism, and debate. I am trying in my own feeble way to preserve my oath to support the Constitution as I can best do it.

The Senator speaks of the interstate-commerce clause of the Constitution. I agree with him as to that, but I confess at the beginning under the decisions of the Supreme Court of the United States the remedy that was in us to exercise under that clause of the Constitution was not at all commensurate with the enormous evils which we propose to remedy. That is the trouble. Because I am not able to say honestly that I believe these bills presented here are full and complete and in accordance with the Constitution, I am to be told that I am trying to do nothing, and we have here *par excellence* the friends of the people, who are struggling and worrying to preserve them, while some of us are sitting here spectators and worse than spectators, attempting to throw obstacles in the way of this gigantic reform!

Now, sir, I only claim that I am endeavoring to do my duty as I see it, and I do not interfere with anybody else's conscientious convictions upon that subject. If I am not able to see that these bills are in accordance with the Constitution, if I am not able to see that they will not stand the crucible of the criticism through which they must go in the Supreme Court of the United States, I do not propose to have it said to me that I am in the way of the judicial or legal ability of my colleagues. That is all, sir.

Mr. EUSTIS. Mr. President, I was not present yesterday when the amendments to this bill were adopted. In looking over the RECORD of the last sitting, and considering the amendments which have been adopted, I ask myself whether the Senate of the United States is seriously engaged in the attempt to impair or destroy what are known as trusts, or whether it is simply engaged in a sham battle, playing the rôle of Don Quixotes.

When this bill came up at the last session, I rose and asked the Senator from Ohio whether it was his intention by this bill to deal with existing trusts or future trusts; that is to say, we know that all the great trusts have been already formed, they could be easily enumerated, and their enumeration would include all the great products and industries known to our country. Strange to say, the Senator could not then state distinctly whether the bill referred to actually existing trusts—that is, trusts *in esse*, such as the sugar trust, the lead trust, and other trusts—or whether it applied to the shadowy and non-existent trusts to be formed in the future. Under the law which was then proposed and under this bill—for, of course, when the Congress of the United States enacts a penal statute it can only operate in the future—I take it that there will be very few trusts created in defiance of the law. Therefore, if the bill did not apply to the existing trusts, you would have a statute which did not reach any existing evil, and you would have a statute which would operate in the future, which would be entirely inoperative and nugatory.

I have the colloquy which took place between the Senator from Ohio and myself at that time, and I will read it:

Mr. EUSTIS. I would ask the Senator from Ohio whether this proposed law is to apply, as I understand it, only to future trusts, or whether he desires that it shall be applied to existing trusts? The reason I ask the question is this: A great many of these trusts are already in existence. That is the evil which, as I understand, is to be reached by this new legislation.

The Senator from Ohio replied to my question as follows:

Mr. SHERMAN. As far as I can perceive I think that the continuing agreement, arrangement, combination, etc., such as described in the first section will become illegal on the passage of this act, and not before. Our laws can not be made retroactive.

Then I offered the following amendment in order to reach existing trusts:

SEC. —. That any person who, ninety days after the passage of this law, shall act as a manager, officer, trustee, or agent of any arrangement, contract, agreement, trust, or combination as described in the first section, shall be liable to the penalties prescribed in the fourth section.

The language of the bill which we are discussing is the same as the language which is used in the bill that I criticize; that is to say:

That all arrangements and contracts made with a view or which tend to prevent full and free competition, etc.

So that if the Senate of the United States had adopted my amendment, which provided a penalty and which struck at existing trusts, the effect of the legislation under my amendment would have been to destroy the existing trusts. Yet, in the face of that, we have a bill reported by the Senator from Ohio, which, under his own interpretation at the last session, does not in the remotest degree affect any existing trust.

Mr. GRAY. Will the Senator allow me?

Mr. EUSTIS. Certainly.

Mr. GRAY. I should like to ask the Senator from Louisiana on this point what construction he puts upon section 3 of the bill in regard to its efficiency.

Mr. SHERMAN. Will the Senator from Louisiana be kind enough to read again the words he quotes as to my declaration? I do not remember to have made a declaration as broad as that. If I did it could not have any weight.

Mr. EUSTIS. The Senator from Ohio, in answer to the question which I propounded whether this proposed law was to apply to future trusts or whether he desires that it should be applied to existing trusts, said:

Mr. SHERMAN. As far as I can perceive, I think that the continuing agreement, arrangement, combination, etc., such as described in the first section will become illegal on the passage of this act, and not before. Our laws can not be made retroactive. But I do not see myself any objection to making the continuance of a combination like this after proper days' notice an offense. I think, however, thirty days' notice is too short, because a law of this kind ought to have a broad circulation before it becomes operative.

Mr. SHERMAN. I think it does apply to existing trusts where they continue to do the acts complained of after the passage of the law.

Mr. EUSTIS. They are simply declared null and void. Now, the proposition of the Senator from Texas [Mr. REAGAN] is that all persons engaged in the creation of any trust commit a misdemeanor. Of course, that only applies to the future.

Mr. REAGAN. I hope the Senator will not stop reading there.

Mr. EUSTIS. I will read the whole of it:

That all persons engaged in the creation of any trust—

Mr. REAGAN. It goes on:

or as owner or part owner, agent, or manager of any trust.

Mr. EUSTIS. Yes, "employed." Does not that refer to the creation, I ask the Senator from Texas?

That all persons engaged in the creation of any trust, or as owner or part owner, agent, or manager of any trust employed in any business carried on with any foreign country.

Does the Senator construe that to apply immediately after the passage of this act?

Mr. REAGAN. That is the way I understand it.

Mr. EUSTIS. Immediately after the passage of this act?

Mr. REAGAN. It commences to take trusts as they are and make them unlawful.

Mr. EUSTIS. But immediately after the passage of this act?

Mr. REAGAN. It can not operate until after its passage.

Mr. EUSTIS. Of course; I understand that.

Mr. REAGAN. And at common law they are unlawful already.

Mr. EUSTIS. Then do I understand the Senator's amendment to mean that the manager or agent of any trust company existing at the time of the passage of this act commits a misdemeanor the day after its passage?

Mr. REAGAN. Yes, sir.

Mr. EUSTIS. I ask the Senator whether he does not think that is too harsh, and whether it would not be better to provide that the act shall not take effect for ninety days?

Mr. REAGAN. I have no objection, if it is thought best, to give them reasonable notice. I would accept an amendment, if it is thought advisable to do so, which would give notice and give time for people to abandon these combinations, though they are not entitled to much mercy.

Mr. BUTLER (to Mr. REAGAN). The Reporter can not hear you.

Mr. REAGAN. These combinations have robbed the people without mercy themselves, and they are doing about what is unlawful at common law. I do not know; I think probably I shall not accept the amendment suggested.

I was notified that I could not be heard by the Reporters. I want to say in their presence and to the Senate that I shall not hereafter hold myself responsible, and I hope nobody else will hold me responsible, for the reports of my remarks in our debates here. I find that in what I said yesterday what I thought was very emphatic and very clear, and in close hearing of the Reporters, some of it was so reported that I do not know how to revise it.

Mr. EUSTIS. If the provisions of the bill, beginning at the first section, apply to existing trusts, and if the penal provision applies to the managers or agents of an existing trust immediately after the passage of the law—

Mr. HOAR. It also, I will suggest to the Senator from Louisiana, includes the owner of stock in a corporation so employed.

Mr. EUSTIS. It is to cover the case of existing trusts; and I am perfectly willing to strain a point to vote for such a bill as that. I have had some very serious difficulty in reaching that conclusion, but very able lawyers think that it is constitutional, and I am willing to acquiesce in their judgment so far; but I can not vote for this measure for the reason that upon many propositions I have no sort of doubt whatever as to its unconstitutionality. I refer to contracts in what are known as "futures." I should like to know what the Congress of the United States has to do with the Cotton Exchange, for instance, in New Orleans dealing in futures. I notice that nearly all the articles which are referred to with regard to future contracts are things that people consume: wheat, corn, oats, rye, barley; but the authors of the measure have included cotton. If we are going to include cotton why do we not include steel rails? People are as liable to eat steel rails as they are to eat cotton.

Why do we not include lead or salt? Why do we not include everything? Why do we not include manufactured cotton goods, a subject with reference to which there are very large operations in futures in Boston and in New York, Philadelphia, and elsewhere? If the broad proposition be that Congress should declare its policy upon the question of gambling, of which I confess I know very little; if the States have become so debilitated and emasculated and if the people of the States have become so demoralized that we are to surrender the whole question of police, of policy, and of public morality to the Congress of the United States, for one it will not be done by my vote.

Where are we going to stop? If the State of Louisiana, for its own interest and from its own motives, owing no apology to any other State or to the Government of the United States, chooses to legalize contracts in futures with reference to cotton, by which a large and most respectable portion of our population make a living, which many and many a time have enabled the planter to get a much higher price for his product than he would get in the absence of a cotton exchange, when the planter many and many a time has been able to protect himself against flood and unfavorable seasons by making a future contract in cotton—if the State of Louisiana chooses to consider that a perfectly proper and legitimate business, a business that should exist and should be sustained by the State, from which the State derives a revenue, and legalizes that business, where is the authority of Congress to step in and tell the State of Louisiana or any other State that those contracts are illegal and immoral and shall be suppressed by the power of Congressional legislation?

Mr. President, I am not surprised that a Republican Senator should have introduced such an amendment as this. I am not surprised that it should receive votes from Republican Senators, who believe that what they call nationality has been substituted for the Constitution of the United States, who believe that we have nothing in fact but a parliamentary government whose powers are supreme and indisputable, a government of the majority which can control the minority, that there are no balances, no adjustments, no limitations in our system of government; but it would be amazing to me to find that a Democratic Senator should vote for it, who believes that the police powers, ever since the foundation of this Government, belong exclusively to the State; that each State government is responsible to the people inhabiting that State for the exercise of that police power; and that whenever the Congress of the United States undertakes to regulate that State power, that police power, in defiance of the sovereign will of the State, then you attempt the grossest usurpation that has ever been attempted in the history of our Government. Then it will be that the people will be ready to lay down their liberties and their rights on the footstool that you create by your legislation, and surrender every principle of local and self government. It will then be that our Federal Government will become not only central, but overshadowing. It will be the only voice that can speak to the people of the United States. To this source alone will they look for their rights and for their liberties, if any they have left. Strike down once the police power of the State, which is the supreme attribute of its sovereignty, invade that sacred domain by this bill, declare what is immoral, what is illegal, what is proper, what is reprehensible with reference to a purely domestic, local, and State question, and then you will have statehood stand as nothing but a mockery and a sham, an emblem of what was great in the past, but has disappeared for the future.

Mr. VANCE. Mr. President, I simply rise to say that in charging an alliance between myself and the Senator from Ohio [Mr. SHERMAN] I think the Senator from Missouri [Mr. VEST] did not act in a christian spirit. We are told, sir, that there should be more rejoicing over one sinner that repenteth than over ninety and nine just persons, like the Senator from Missouri and myself, who need no repentance. [Laughter.] As the Senator from Missouri and the Senator from Ohio had just dissolved a very successful alliance for defeating the proposition to extend aid to educate the poor, illiterate children of the South, it seemed to me that the Senator from Missouri ought to have congratulated the Senator and myself that we had come together at last on a platform attempting to do something for the good of the people.

I do not suppose that there is a stump in the United States of America which ever contained an orator on either side, of any shade of political opinion, even including that neuter gender called a Mugwump, but has

made the circumambient atmosphere resound with denunciations of trusts and combinations. We put it in our platforms; we put it on the headlines of our campaign papers and circulating campaign documents; we talk at the fire-side and everywhere in denunciation of trusts and combinations.

We are all the friends of the people. We are all enemies to these illegal combinations of capital which devour the substance of the people and grind the faces of the poor. But when it comes to putting that friendship to the test we find that every proposition which human Senatorial ingenuity can suggest bristles with legal and constitutional objections. "We are your friend, farmer; we are your friend, little fish who are being swallowed up by the big ones; would to God we could help you, but we can not."

Now, Mr. President, my profession of regard for the people and their interests, as contradistinguished from those of the combinations of capital in this country, is a sincere one, and those expressions have characterized me ever since I was in political life. So far as my recollection extends, there is not a single vote that I have ever given in this or other legislative bodies which was not as I believed in the interests of the people.

It may be, sir, that these constitutional objections are valid, but at all events there is certainly ingenuity and legal learning enough in this body to devise some measure to correct these evils of which every one complains, these trusts that have even extended to the bagging that envelops the cotton of the planter in the South, to the plow with which the Western and Southern farmers stir the soil. There is scarcely any article of prime necessity in this country as to which the people do not complain that its price has been enhanced by these combinations.

Now, we ought either to do something or we ought to say to the people "It is not worth while to talk about the subject; the Constitution of the United States gives no power whatsoever to Congress to redress these evils, and you must look to the States alone." As honest men we must tell them that, if it be the truth, and let them endeavor to find redress in their State Legislatures.

For one, sir, I am willing to make an effort to do something. So far as the amendment which was proposed by the Senator from Kansas [Mr. INGALLS], which has been adopted and has now become a part of the bill, is concerned, I did not vote for it. I was not in the Chamber when it was adopted. It was agreed to without a yea-and-nay vote, in the confusion which was in the Senate yesterday in regard to the various amendments and propositions submitted upon the bill. I acknowledge that is an unconstitutional amendment. I believe it to be so, so far as a layman has any right to express a constitutional view.

Mr. GEORGE. Which amendment is that?

Mr. VANCE. The amendment of the Senator from Kansas [Mr. INGALLS], which is undoubtedly a revenue bill, and such a bill can not under the Constitution originate in this body. I admit that. I expect to vote to strike it out of the bill, but should it be adopted I believe that I shall still continue in support of the bill, believing that the courts can decide that portion of the law as it will then be, unconstitutional, without interfering with or disturbing the remainder, for it is not at all dependent upon the remainder of the bill, nor is the remainder of the bill dependent upon it.

I am determined, so far as it is in my power, to do something to repress the operation of these trusts and combinations, and having done my endeavor so far as I am able to do it, then the results rest not with me. I make no imputations upon other Senators. If I ever have done it, I have not been correct in doing so, because it is not the thing to do here. We are all responsible to our own consciences for our actions and for our views of the Constitution. But I say that it is our duty either to do something to repress these trusts and combinations or stop talking to the people about them. So far as the imputation is made that my action or that of any other Senator is influenced by the Farmers' Alliance, I say that the demagogy of the whole proposition consists in continuing to talk to the people as though we could do something when we know that we can not do anything.

Mr. GEORGE. Will the Senator allow me to ask a question?

Mr. VANCE. Certainly.

Mr. GEORGE. Does the Senator know any gentleman on this side of the Chamber who denies that Congress has the constitutional power to do something?

Mr. VANCE. Yes.

Mr. GEORGE. Who is it?

Mr. VANCE. I am one of the Senators myself who believe that Congress can do something to remedy these evils.

Mr. GEORGE. Who denies that Congress can do something, I ask?

Mr. VANCE. Oh, I did not understand the question. I do not deny it, but it so happens that every proposition ever made so far meets with a constitutional objection.

Mr. GEORGE. Now, I will ask the Senator another question, if he will allow me.

Mr. VANCE. Certainly.

Mr. GEORGE. Does he not believe that the great mother of these trusts lies in a protective tariff?

Mr. VANCE. I do.

Mr. GEORGE. Then if the duty were taken off the articles which

are manufactured by the trusts, would not that be a constitutional remedy?

Mr. VANCE. It would, so far as those performances are concerned which are enacted behind the wall of the protective tariff; but there are others which are not behind that wall, and I want to strike at them all, every one of them. As a matter of course, the great bulk of the articles the purchase price of which is enhanced by combinations are protected by the tariff law which excludes the competition of foreign articles, and it would break down their combination if those articles were admitted freely into this country or upon the payment of a reasonable duty. There is no doubt about that; but there are many other articles which would be unaffected by any action we might take in regard to the tariff, and for that reason I am in favor of doing what is before us to be done, rather than waiting for the trusts to be broken down by a reduction of tariff duties.

The Senator from Mississippi knows as well as I do and as well as any other Senator that there is no earthly prospect of reducing tariff duties for the purpose of suppressing trusts. Yesterday, upon the vote on the amendment of the Senator from Texas [Mr. COKE], which authorized the President of the United States to suspend the tariff duties whenever he may be satisfied that trusts are formed under their protection, the Senator saw at once how promptly every Senator on the other side rallied to the rescue of the tariff.

Mr. GEORGE. Including the Senator from Texas [Mr. REAGAN], who voted against the amendment offered by his colleague.

Mr. REAGAN. What is that?

Mr. GEORGE. The Senator from North Carolina, in alluding to the vote yesterday upon the amendment offered by the Senator from Texas [Mr. COKE], which struck down tariff duties when they were fostering these trusts, said that every Senator on the other side of the Chamber very promptly voted against it. I called his attention to the fact—I thought it was a fact, and, if it is not, the Senator from Texas [Mr. REAGAN] can correct me—that the Senator from Texas [Mr. REAGAN] voted with the other side on that proposition.

Mr. REAGAN. I voted against the adoption of my colleague's amendment as a substitute for the entire bill. I understand that the provision which the Senator from Mississippi and the Senator from North Carolina refer to is in that substitute, but it had not been mentioned in the debate, and I doubt if many members knew it was there. I did not vote against it on that ground, but for the reason that I had a better provision to substitute for it, in my judgment, than that was, because I relied on the commerce clause of the Constitution for my authority and because that relied for its constitutional authority upon an act of a State Legislature to create Federal jurisdiction, and I did not choose to vote for a substitute which I did not believe derived its power from the right source to supplant another which I did believe was derived from the right source. I hope the Senator from Mississippi will not set me down as a high-tariff man because of that vote.

Mr. GEORGE. Oh, no. I only made that suggestion to relieve my friends on the other side of the Chamber from the charge made against them by the Senator from North Carolina. If the excuse given by the Senator from Texas is good for him, it is good for the Senators on the other side; that is all.

Mr. REAGAN. If the Senator from Mississippi thinks he can deter me from the discharge of my duty according to my convictions by telling me that I am voting with the wrong side, he misapprehends the man. When I believe I am right, if I stood alone in front of all the world I would do it. If I believe I am right, I care not what party it takes me to, I will go with it. So the Senator need not think that he can twit me by saying that I have been voting with the Republican side of the Chamber. Let him assume to champion a measure which I have said in my judgment had no authority under the Constitution to defeat one which rested upon the commerce clause of the Constitution. That is where I stood.

It is immaterial to me what side I stand on in standing for what I believe to be my duty, and the Senator will not intimidate me from the discharge of duty by any statement that I vote with the opposite side.

Mr. GEORGE. Mr. President—

The VICE-PRESIDENT. The Senator from North Carolina [Mr. VANCE] has the floor.

Mr. GEORGE. I beg leave to say a word.

Mr. VANCE. I yield once more.

Mr. GEORGE. I think I ought to answer the charge of attempted intimidation. I can assure my distinguished friend from Texas that I meant no harm; that I did not intend to intimidate him or to deter him. The Senator from North Carolina in his speech assailed my friends on the other side (whom I assail sometimes, but I do not like to see them assailed unjustly) upon the ground that they had voted against a proposition to suspend the operations of the tariff as a means of suppressing trusts. His condemnation was directed entirely to our friends upon the other side, and I merely called his attention to the fact that he was unjust in confining his denunciation to the other side; that in that vote was included the distinguished Senator from Texas [Mr. REAGAN], who is *par excellence* a Democrat and a friend of the people.

Mr. REAGAN. Will the Senator from North Carolina allow me a moment?

Mr. VANCE. If I can get permission I will take my seat, for I am about through, anyhow.

Mr. REAGAN. I want to say just one word.

Mr. VANCE. I now yield the floor for all intents and purposes. The VICE-PRESIDENT. The Senator from Texas will proceed.

Mr. REAGAN. I do not want to take the Senator off the floor.

Mr. VANCE. I was about done. Go ahead.

Mr. REAGAN. I would not do injustice to the motives of the Senator from Mississippi, but the Senator took occasion a few days ago, when I had no opportunity to reply, to call attention to my inconsistency about something. If I had had occasion to reply then, I should have said that a Senator who could make as able a constitutional argument as he could make for a strict construction of the Constitution and then vote for the Blair bill ought to understand the full force of the word "inconsistency."

Mr. GEORGE. Well, Mr. President, I do not care to quarrel with my friend because he could not see in the Constitution of the United States the power to give money from an overflowing Treasury to educate the poor people of this country who had lost their property by the results of the war. I acquit him of anything wrong on that subject. My constitutional views have been expressed here, and if the Senator does not like them, either upon this subject or upon any other, he has the liberty which every American citizen has to try to show that I am wrong.

The VICE-PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from Wisconsin [Mr. SPOONER], which has been read.

Mr. PUGH. Mr. President, I desire to say that there seems to be a very great misconception of the character of the amendment of the Senator from Kansas [Mr. INGALLS]. I think myself that that amendment is not germane to the subject of the bill introduced by the Senator from Ohio [Mr. SHERMAN], and I believe it is totally out of place and ought never to have been connected at all with the bill for the suppression of trusts and combinations. The amendment of the Senator from Kansas, it seems to be understood by my friend from Louisiana [Mr. EUSTIS], operates against dealing in futures by cotton exchanges in the South. There is nothing whatever in the bill that prevents a cotton exchange, or any farmer, any cotton-owner, in the South or anywhere else, from selling his cotton to be delivered at any time in the future. It only aims at dealing in these commodities when they are not owned, and when it is a part of the contract of sale that they are not to be delivered. I understand that to be the express provision of the bill.

Mr. EUSTIS. Will the Senator allow me to ask him a question?

Mr. PUGH. Certainly.

Mr. EUSTIS. Does not the amendment aim to prevent what is known as dealing in futures?

Mr. PUGH. In the way specified in the bill—that is, by making contracts to deliver commodities not owned by the parties to the contract at the time and never intended to be delivered.

I will state further that, as a lawyer engaged in the trial of a case involving the character of this business, I examined the best-informed men in the city of New York upon that subject, and every one of the witnesses testified that in that system established in New York by which they dealt in futures there was not a single transaction in which any party to it would say it was no part of the agreement that there was not to be an actual delivery of the commodity. Every one of them will testify to-day, I have no doubt, as they have done in the past within my knowledge, every member of these cotton exchanges, every man who is engaged in this business of selling for future delivery, will swear that it is no part of the contract between the parties that there is not to be a delivery of the article sold for future delivery.

I say that under this bill there will be no license issued to any man who wants to engage in the business as it is going on to-day in the country, and I look upon the amendment as being utterly useless and harmless in its operation. I state these facts from personal knowledge and from the express provisions of the bill.

Mr. EUSTIS. Mr. President, I desire to correct my friend from Alabama. What is known as a contract in futures is this: A person buys or sells a thousand bales of cotton deliverable at a fixed date. There is nothing whatsoever in the contract to show whether he intends to deliver the thousand bales or not. When the contract matures he can do one of two things, at his option: He can either deliver actually the thousand bales of cotton according to the grade called for by the contract, and the seller is bound to receive the thousand bales of cotton, or he can pay the difference in the market between the time that the contract was made and the time of the delivery. That is the way the business is conducted in New Orleans; that is the way the business is conducted in Liverpool. Not quite a year ago there was a man by the name of Steiner, who made a corner in cotton at Liverpool, and every ship that he could get all over the world was loaded with cotton by those people who had made contracts in order to tender him the actual cotton, which they did, and that prevented him from reaping the enormous profit which he otherwise would have secured.

There is no question whatever that in New Orleans and in Liverpool, and I take it in New York, and Mobile, and Memphis, and every other city they have only one system of business, and that regulated by what

is known as the National Exchange, composed of all these cotton exchanges in the various cities, and that is one of their rules. I know that is the way they conduct their business; there is nothing in the contract to show what the intention of the parties is except that it is understood generally that they will settle the difference when the contract matures; but if a man chooses to go and sell one hundred thousand bales of cotton and tender them to the purchaser he has the right to do that, and the purchaser is obliged to take them under what is known as a future contract. That is the business that is conducted in New Orleans.

Mr. PUGH. Mr. President, I understood the Senator to state that this bill prevented cotton-growers in the South from selling their cotton for future delivery. I deny that that can be the effect of the bill. In the next place, I would ask that Senator what there is in the bill which would prevent the Cotton Exchange in New Orleans from selling to a manufacturer at Lowell a thousand bales of cotton for delivery, selling them in the spring or summer for delivery to a manufacturer in Lowell? What is there in the bill to prevent that transaction?

Then again, if it is no part of the contract, as he admits, that this commodity, whatever it may be, provisions, food, or cotton, is not to be delivered at the time when the contract is to be performed by delivery, what is there in the bill to prevent the parties from arranging to settle upon the actual value of the cotton in the market at the time of the delivery and accepting the money in the place of cotton? What is there in the bill to prevent a man from selling 10,000 bushels of wheat for future delivery, and at the time when the contract requires the actual delivery, can not the parties under that contract agree upon the value of the wheat and settle the difference? I do not see anything whatever in the bill to prevent that transaction, to prevent dealings of that character.

Mr. BUTLER. Mr. President, I have no desire whatever to enter into this debate at this stage of it, but I think my friend from Alabama has clearly overlooked the whole object and purport of the bill. If I understand the text, the first thing that a man must do before he can carry out the agreement to which the Senator refers, he must pay a tax under the internal-revenue system.

Mr. PUGH. There is no tax necessary to enable parties, any number of them, members of the Cotton Exchange or producers, to deal in these commodities when they are to be actually delivered. There is the bill to speak for itself.

Mr. BUTLER. Then I have misunderstood the entire purport of it; that is very certain.

Mr. PUGH. I call on the author of the bill, the Senator from Kansas [Mr. INGALLS], to know if I am not correct in my construction.

Mr. INGALLS. Mr. President, the statement of the Senator from Alabama who sits farthest from me [Mr. PUGH] correctly indicates the purpose of the amendment which I had the honor to submit and which has been adopted by a practically unanimous vote of the Senate. It is not intended in any manner whatever to interfere with the bargain, purchase, sale, or exchange of any product of which the parties may be possessed, or of which they may be the producers, or which they intend actually to deliver, provided they are the owners of it. It is directed against that gigantic modern invention known as dealing in futures, conspiracies artificially to raise the prices of products, to change the value of products, to create artificial scarcity of products, to juggle with values irrespective of ownership by processes that are just as nefarious and just as reprehensible as those of the poker-table or the faro-bank, in which there is no pretense of ownership, in which there is often an agreement to sell ten or fifty times more than the annual product of what is offered in the market, the sole purpose being to enable those "who neither toil nor spin," but who are clad in purple and fare sumptuously every day, to settle up on the 1st day of October, or the 1st day of November, if it may be, the difference between the price that they had bet a certain product would bear on that date and the price at which the producer is compelled to sell it on that day.

If my amendment is susceptible of any other interpretation than that, if it can be tortured by any ingenuity into any other effect and operation than that, it is not what I intended; it is not what the Senate believed it to be when they voted for it; and all the ingenuity, all the casuistry, all the hair-splitting of those who for one reason or another are opposed to it, can not deceive anybody who does not desire to be deluded. There is not in this country, from the Atlantic to the Pacific, a man so humble or so obscure outside of this Chamber who does not know exactly against what practice this amendment is directed. It is reserved for these great doctors of finance, these learned pundits who stand here, by one means and another to interfere between the law-making power and the rights of the people, to declare that there is something mysterious, something that is vague and undetermined about this amendment of mine.

I must complain, Mr. President, among other things, that the Senator from New Hampshire [Mr. BLAIR], like Mrs. Malaprop in the celebrated comedy of Sheridan, cast aspersions upon my parts of speech, and declared that the orthography, or the orthoepy, or the syntax, or the prosody of the amendment might possibly be improved. In exculpation I have to say that it was drawn and prepared by an eminent member of the House of Representatives. It seemed to me to carry

out more clearly and more accurately and more thoroughly than anything I had seen the purposes I had in view, and I offered it as an amendment to the pending bill. At every stage of the proceeding it has been met by the interposition of some question of order; some question of etiquette, that it ought to have proceeded from some other committee; some question of the Constitution, that it infringed the great reserved rights of the States; some question of locality, that it ought to have appeared in some other place in the bill.

Like those who were bidden in the Scriptures to attend the wedding feast, those who are invited to vote for this amendment, which they all admit is directed against a pernicious, nefarious, and most reprehensible practice, with one consent begin to make excuses. The Senator from Louisiana [Mr. EUSTIS] and others question the sincerity, question the good faith, question the intelligence of those who offer and adhere to this amendment. The Senator from Louisiana desires to know if this is a sham battle. Another Senator rises and inquires if those who support this amendment are not playing the part of Don Quixote and fighting a windmill. Still another rises and intimates that this is being done at the dictation of the Farmers' Alliance, as if "the isle" had been frightened "from her propriety," and that we were trembling in a state of trepidation in this endeavor to do a great act of justice.

Mr. President, the people of the United States have a reasonable degree of respect for the Constitution, but they are not afraid of it. A constitution is a growth, and not a manufacture, and the Constitution of 1890, by reason of the operation of the will of the people who made it, is a vastly different instrument from the Constitution of 1789. Its authors would not know it. They made it for specific purposes, not for the object of enabling country lawyers to devise definitions, not for the purpose of interposing obstacles and barriers to the will of the people.

Let us refresh our recollection for an instant to see what the Constitution was made for—not by the States, either.

We the people of the United States—

And for what?—

in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Therefore, Mr. President, we are instructed what the purpose, and object of "the people of the United States" was in the formation of the Constitution under which we live and which is perpetually invoked by the narrow and rigid and illiberal constructionists to interpose an insuperable barrier against every effort to better the condition of the people. Sir, the people of the United States do not regard the Constitution with superstition or awe. They know that there are some things more venerable than charters, more sacred than constitutions, and those are the rights and the privileges which charters and constitutions were ordained to establish and to maintain. At every stage of national growth and progress we have been met by the interposition of these minute and insectivorous propositions that the Constitution was a barrier against the determined and resolute will of the people, and we are taunted with bad faith, with false chivalry, with fighting sham battles when we attempt here to carry into effect a provision which I shall show before I get through with my statement is entirely within the limits and purview of the Constitution itself.

Mr. President, I can not conceive of anything that is more humorous, more grotesque, more qualified and competent to make the sides of the nation shake with derisive laughter, than for the Senator from Louisiana, and the Senator from Mississippi, and the Senator from Missouri, and their associates, to rise with terror upon every occasion and plead the Constitution with a simulation of terror as if the minutest abrasion of that sacred instrument would, as we are told at the death of Kosciusko, make "freedom shriek." If I recollect aright, those gentlemen spent a considerable portion of time in endeavoring to destroy the Constitution. What is the secret of this new-found reverence for the Constitution? Did they bear it away in the ark of the covenant for four years and then bring it back to us as its chosen guardians, and be permitted in that same instant to taunt those who endeavor to carry out the ideas of national growth and progress with being the violators of the Constitution? There is a constant pleading of the oath that was taken to support the Constitution, as if those who differed with them in their interpretation of the Constitution were perjured and oblivious of their moral obligations.

It seems to me it will be a little more becoming for those men who are scourging us, who hold us up to public castigation, if they possess the modesty of opinion to recollect that their views of the Constitution have not been maintained by the people of this country. There has been no step in the national progress in the last thirty-five years against which the Senator from Louisiana and the Senator from Mississippi and the Senator from Missouri have not arisen and declared that it was against the Constitution. I recollect there was a great demonstration that there was no power in the Constitution to coerce a State which saw fit to go out of the Union. But we found it, Mr. President; we found it somewhere in its latent recesses, "public welfare," "blessings of liberty," wherever it might be, we found it. We were told that

the abolition of slavery was without warrant in the Constitution, but we found it, and when it could not be found in the letter it was amended by the sword. It is a fair warning to those who attempt to insist upon verbal and lingual interpretations against the will of the people, that whenever the elasticity, the capacity to carry out the wishes and the will of the people is not sufficient there will always be found a way to amend it.

So we were told when reconstruction came that there was no constitutional power to reconstruct the rebellious States. We were told there was no power in the Constitution to make a paper a legal tender. We were told, by the same men who are now declaiming against this bill and against those who support it as being pretenders and insincere and uncanid, that there was no power under the Constitution to make legal tender out of paper; and later on that there was no constitutional power to resume specie payments.

The other day, when there was a little resolution offered here to inquire into some violation of law in Mississippi, the whole organization rose up and said, "It is a violation of the Constitution. You have a right to go to England, to Germany, to Austria, to Spain, wherever the rights of an American citizen have been assailed, but there is no power in the Constitution to take care of the rights of an American citizen that have been assailed and overthrown in Mississippi." And later than that, upon a little petty question of convenience here in the Senate, when there was an order proposed for the election of a President *pro tempore* who should hold during the pleasure of the Senate, up rose the guardians of the Constitution and said there was no power to elect a President of this body except in the absence of the Vice-President.

I commend, Mr. President, to these construers of the Constitution the contemplation of the results of their criticisms for the last thirty years, and suggest whether it is not barely possible that they may be mistaken in invoking against this effort to relieve the people, for whom the Constitution was made, of one of the great, monstrous, crying evils of any century.

The Senator from North Carolina, prematurely, I think, the Senator from Alabama, improvidently, I think, said that the amendment proposed by me was outside the limits and purview of the Constitution in this, that it was a violation of the privilege and prerogative of the House of Representatives. To the two operating clauses of the Constitution I will call the attention of the Senate. Article I, section 7, says:

All bills for raising revenue shall originate in the House of Representatives.

That is plain; that is explicit; that is unmistakable. If this is a bill for raising revenue, I admit that it is improperly introduced into this body.

Section 8 says:

The Congress shall have power to lay and collect taxes, duties, imposts, and excises—

For what?

to pay the debts and provide for the common defense and general welfare of the United States.

I go further and I admit that if this measure which proposes to lay a tax is a bill for raising revenue then it is not properly in this body. I accept logically all the consequences of those declarations. There is the major premise; there is the minor premise; there is the conclusion. It is a syllogism. Bills for raising revenue must originate in the House of Representatives; this is a bill for raising revenue; therefore it can not properly originate in the Senate. But are the power to tax and the raising of revenue the same thing? Are they identical under the Constitution? Under section 8 is the exercise of the power to tax for the purpose of paying debts, providing for the common defense and general welfare of the United States, a bill for raising revenue? I deny it. I affirm that this is in no sense whatever a bill for raising revenue. It is not intended as a bill for raising revenue any more than the bill for the taxation of oleomargarine was intended for raising revenue. Everybody who voted for that bill or against it knew that it was not a bill for raising revenue. It was a bill that was introduced and passed for the purpose of suppressing the production of an article that was believed to be injurious to the general welfare of the United States, whether that belief was right or wrong. I did not believe in it myself.

Mr. GRAY. Will the Senator from Kansas allow me to ask him a question?

Mr. INGALLS. Certainly.

Mr. GRAY. The Senator from Kansas has just said, and I think said truly, that every one knew that the real object of the oleomargarine bill was not to raise revenue, that it was for some other purpose, to wit, to suppress the manufacture and sale of a counterfeit article of food. I ask the Senator, if the real object of the bill had been expressed in its title and it had been entitled "A bill to prevent the manufacture and sale of counterfeit butter," whether he believes that the Supreme Court of the United States would have sustained its constitutionality.

Mr. INGALLS. I do not know whether the Supreme Court of the United States decides upon the constitutionality of acts by their titles or not. I never heard that it did. I never heard that the title was anything more than descriptive, and I should be very much surprised, indeed, to learn that as a matter of legislative declaration of intent and

purpose the Supreme Court of the United States had ever minutely and critically examined the title of an act. I read from Story on the Constitution, volume 1, page 687 of the edition that I hold in my hand, section 965:

The language of the Constitution is: "Congress shall have power to lay and collect taxes, duties, imposts, and excises." If the clause had stopped here and remained in this absolute form (as it was, in fact, when reported in the first draught in the convention) there could not have been the slightest doubt on the subject.

Now the material part comes in.

The absolute power to lay taxes includes the power in every form in which it may be used, and for every purpose to which the Legislature may choose to apply it. This results from the very nature of such an unrestricted power. *A fortiori* it might be applied by Congress to purposes for which nations have been accustomed to apply it. Now, nothing is more clear, from the history of commercial nations, than the fact that the taxing power is often, very often, applied for other purposes than revenue. It is often applied as a regulation of commerce. It is often applied—

And this becomes more interesting as I proceed—

It is often applied as a virtual prohibition upon the importation of particular articles, for the encouragement and protection of domestic products and industry; for the support of agriculture, commerce, and manufactures; for retaliation upon foreign monopolies and injurious restrictions; for mere purposes of State policy and domestic economy; sometimes to banish a noxious article of consumption—

Like oleomargarine—

sometimes as a bounty upon an infant manufacture or agricultural product; sometimes as a temporary restraint of trade; sometimes—

I call the attention of the doubting Thomases to this declaration:

sometimes as a suppression of particular employments; sometimes as a prerogative power to destroy competition and secure a monopoly to the Government.

Section 970:

If the common defense or general welfare—

The phrase employed in the eighth section of the first article of the Constitution—

can be promoted by laying taxes in any other manner than for revenue, who is at liberty to say that Congress can not constitutionally exercise the power for such a purpose? No one has a right to say that the common defense and general welfare can never be promoted by laying taxes, except for revenue.

Those, therefore, who hold the opinion above stated must unavoidably maintain that the power to lay taxes is not confined to revenue, but extends to all cases where it is proper to be used for the common defense and general welfare.

Section 973:

So that, whichever construction of the power to lay taxes is adopted, the same conclusion is sustained, that the power to lay taxes is not by the Constitution confined to purposes of revenue. In point of fact it has never been limited to such purposes by Congress; and all the great functionaries of the Government have certainly maintained the doctrine that it was not constitutionally so limited.

If the authority of this great writer on constitutional law is worth anything, the power to raise revenue and the power to levy a tax are absolutely different. They are capable of being exercised by entirely different functions. We may tax irrespective of the question of revenue, and that is what is intended to be done in the amendment I proposed to the bill reported by the Senator from Ohio. That is the reason why the language in the ninth section, in the first and second lines, upon which the Senator from Louisiana animadverted, was inserted, not with any idea of leaving it doubtful whether this was a tax bill for the purpose of revenue or a bill for the suppression of a nefarious and reprehensible practice. I do not desire to be misunderstood, or mistaken, or misapprehended. Those words were inserted for a purpose, for the purpose of asserting affirmatively that under the Constitution, the power to tax being admitted to exist in order to suppress a traffic believed to be injurious, this was the intention and the design of the amendment.

But, sir, we are not without witnesses so far as the validity of the interpretation of the Constitution by Mr. Justice Story is concerned. I refer to the well known case in *8 Wallace, of Veazie Bank vs. Fenno*, in which the power of the United States to levy a 10 per cent. tax upon the circulating medium of State banks, not for the purpose of raising a revenue, but for the purpose of destroying their circulation, was directly brought within the purview of the Supreme Court itself. The holding of the court was:

The tax of 10 per cent. imposed by the act of July 13, 1866, on the notes of State banks paid out after the 1st of August, 1866, is warranted by the Constitution—although it was admitted in the argument that the object and purpose of that tax was not to raise a revenue, but to suppress the circulation of the State banks and practically destroy it. I read the closing sentence of the opinion of the dissenting judges, who reached the same conclusion by a different route, disagreeing with some of the precepts laid down by the majority of the court in the decision, which was delivered by Chief-Justice Chase:

We say nothing as to the purpose of this heavy tax of some 16 per cent. upon the banks, 10 of which we can not but regard as imposed upon the power of the States to create them. Indeed, the purpose is scarcely concealed, in the opinion of the court, namely, to encourage the national banks. It is sufficient to add that the burden of the tax, while it has encouraged these banks, has proved fatal to those of the States; and if we are at liberty to judge of the purpose of an act from the consequences that have followed, it is not perhaps going too far to say that these consequences were intended.

Mr. BUTLER. How did the court stand, if I may ask the Senator? How many dissented?

Mr. INGALLS. Two dissented. Justices Nelson and Davis dissented. In further support of the same proposition I refer to the case in 101 United States Reports, of *The National Bank vs. United States*, in error to the circuit court of the United States for the eastern district of Arkansas. In this case the opinion was delivered by Mr. Chief-Justice Waite in October, 1879, and he alludes to the power of taxation and expounds it, and shows wherein it differs from the revenue power, and the fact that it can be used otherwise than for revenue purposes. This is his language:

The tax thus laid is not on the obligation, but on its use in a particular way. As against the United States, a State municipality has no right to put its notes in circulation as money. It may execute its obligations, but can not, against the will of Congress, make them money. The tax is on the notes paid out; that is, made use of as a circulating medium. Such a use is against the policy of the United States. Therefore, the banker who helps to keep up the use by paying them out, that is, employing them as the equivalent of money in discharging his obligations, is taxed for what he does.

The closing paragraph is as follows:

The taxation was no doubt intended to destroy the use; but that, as has just been seen, Congress had the power to do.

I think, unless some decisions or some argument or some evidence or the authority of some great writer can be adduced to the contrary, that those who have pronounced against the validity, the legality, the constitutionality of this amendment will see fit to revise their opinion. Unless this amendment which proposes to tax is intended to raise revenue it need not originate in the House of Representatives, because only those measures which are for raising revenue must originate in that place. I have shown by authority, by the express declaration of purpose, that this is not intended for the purpose of raising revenue, but for another purpose, in itself constitutional and expressed in the body of the bill itself; and therefore I contend that it is not obnoxious to the objections which have been urged.

Mr. HOAR. I desire to ask the attention of the Senator from Kansas to a little matter of detail, which I may forget if I do not call his attention to it now. I wish to propose an amendment which I believe he will accede to. At the bottom of the fifth page, after the proviso at the end of section 7, I wish to add the words:

Or of articles to be consumed by the person to whom they are delivered or in his establishment.

The Senator will observe that the bill as it is now drawn, especially section 8, will be open to the criticism that it prohibits contracts for the delivery to large establishments like hotels of beef, or lard, or milk for the daily use of their customers, and that class of contracts which have no sort of connection with those aimed at; but it is better, I suppose, to have the phraseology of the bill clearly exclude that intention, and I ask him, therefore, if he sees any objection to the amendment which I propose.

Mr. INGALLS. I see none. I ask that it be adopted.

The VICE-PRESIDENT. Will the Senator from Massachusetts repeat the amendment?

Mr. HOAR. There will be unanimous consent, I presume, to make it now. I desire to add after the proviso at the bottom of the fifth page, in section 7, the words:

Or of articles to be consumed by the person to whom they are delivered or in his establishment.

The VICE-PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add at the end of the proviso in section 7 "or of articles to be consumed by the person to whom they are delivered or in his establishment;" so as to make the proviso read:

Provided, That this act shall not apply to contracts for the delivery at any one time of articles of not more than \$50 in value or of articles to be consumed by the person to whom they are delivered or in his establishment.

The VICE-PRESIDENT. If there be no objection, the amendment proposed by the Senator from Massachusetts will be agreed to. The Chair hears none, and it is agreed to. The question recurs on agreeing to the amendment proposed by the Senator from Wisconsin [Mr. SPOONER].

Mr. VEST. Mr. President, I do not propose to detain the Senate at this time in the afternoon by making even a brief reply to what was said by the Senator from Kansas [Mr. INGALLS] in regard to the impropriety of those of us who, as he says, tried to destroy the Constitution during the late war in now having the immodesty and hardihood to ask that the provisions of the Constitution be honestly and faithfully carried out. If the result of the war, as claimed by the Senator from Kansas—for it is the legitimate consequence of his argument—was to put the entire Southern people outside of the pale of constitutional obligations and to put upon them the ban that they should never hereafter be permitted to question the violation of that instrument, then his conclusions are correct and we are liable to his criticisms. That great struggle, as I understand it and as the world understands it, was in regard to the construction of the Constitution, and when force of arms brought about a result, when the arbitrament of battle decided against the Southern people, there has never been with any honorable man since but one single question, and that was whether the South accepted honestly that result and intended to abide by it.

Mr. INGALLS. Will the Senator allow me a question?

Mr. VEST. Certainly.

Mr. INGALLS. Does the Senator believe that the constitutional construction for which the South contended was right or wrong?

Mr. VEST. I believed at the time it was right.

Mr. INGALLS. Well, but now?

Mr. VEST. I believed that it was right, but I accepted the result, and I accepted that result to be that I was honestly to abide by the construction of the Constitution of the United States put upon it by the Supreme Court, the highest judicial tribunal in this country, and made the arbiter as to what the meaning of the Constitution was.

I did not accept as the result of that struggle all the constructions put upon the Constitution by the Republican party or by the Senator from Kansas. I deny that the war put me in a position where I was bound to take for all time to come what he or his associates might say this instrument meant. Sir, if I came to the Senate representing a sovereign State in this Union under the proscription which the Senator from Kansas has announced here to-day, my State might as well, for all intents and purposes, be out of the Union with the rights and guaranties of the Constitution nullified as to it and its people. I am here, as I understand my obligation, to obey the Constitution of the United States as the result of the war, and not to take the construction put upon it by the Senator from Kansas.

No question can come into the Senate, from the highest to the lowest, but what the Senator from Kansas invokes the war, and he brings it here now as a means of constitutional construction. He tells us that this portion of the bill which I have before me is not intended for revenue purposes, but is intended to legislate out of existence these unlawful combinations and trusts. If that is so, why is a license issued to them? Why are they given the right under the authority of the United States to continue their unlawful and wicked machinations and evils?

Mr. INGALLS. They will not continue, if this proposed law goes into effect.

Mr. VEST. I shall propose an amendment to this portion of the bill. I shall propose to strike out the words "one thousand dollars" wherever they occur and to insert "ten thousand dollars." If the object of the bill is to make these combinations impossible, if it is to use the taxing power to tax them out of existence, why put upon those immense and wealthy combinations the paltry tax of \$1,000 in order to allow them to continue their nefarious business?

Mr. President, my only object in rising was to move that in section 10 wherever the words "one thousand dollars" occur they be stricken out and there be inserted the words "ten thousand dollars."

Mr. EUSTIS. Mr. President, the Senator from Kansas would have us understand that we know nothing about the Constitution of the United States.

Mr. INGALLS. I beg pardon, Mr. President.

Mr. EUSTIS. I say the Senator from Kansas would intimate that we are not able to understand the Constitution of the United States.

Mr. INGALLS. Oh, no; not exactly. You have been on both sides of it; you ought to understand it.

Mr. EUSTIS. Therefore I will limit my endeavor to the understanding of this bill. I ask the Senator from Kansas, suppose I agree to sell a thousand bales of cotton to A, deliverable on the 1st of May. I make that contract to-day. Suppose that on the morning of the 1st of May the purchaser A actually gets the thousand bales of cotton, that I actually deliver the thousand bales of cotton, is that a future contract under this proposed law which is to be suppressed?

Mr. INGALLS. Not if I correctly understand the statement of the Senator from Louisiana.

Mr. EUSTIS. I will repeat it so that there can be no misunderstanding.

Mr. INGALLS. And I will go further and say that if a contract based upon the actual delivery of property that is in the possession of the person agreeing to sell is covered by this bill, it ought not to be. I am entirely candid about it.

Mr. EUSTIS. That does not answer my question. My question is this, if the Senator will give me his attention—

Mr. INGALLS. Yes, I am attending.

Mr. EUSTIS. Suppose that to-day I make a contract selling a thousand bales of cotton to A, deliverable on the 1st of May.

Mr. INGALLS. Which cotton you do not now possess?

Mr. EUSTIS. Yes. On the 1st of May I get that cotton and deliver it. I ask whether in the contemplation of this proposed law that is a future contract to be suppressed.

Mr. INGALLS. If on the 1st of May the contracting party has the cotton actually in his possession and delivers it, the transaction ought not to be obnoxious to the provisions of the bill.

Mr. EUSTIS. Then I understand that if I do not own it at the date of the contract, but I do at the date of the execution of the contract, it is not amenable to this bill?

Mr. INGALLS. It ought not to be.

Mr. EUSTIS. It ought not to be! I assume that the Senator knows what amendment he has offered to the bill.

Mr. INGALLS. It is not intended to be.

Mr. EUSTIS. Section 7 covers exactly the case which I stated, be-

cause it requires that the person shall own the property at the date of the contract. It provides:

That for the purposes of this act the word "futures" shall be understood to mean any contract or agreement whereby a party agrees to sell and deliver at a future time to another any of the articles mentioned in section 8 of this act when at the time of making such contract or agreement the party so agreeing to make such delivery, or the party for whom he acts as agent, broker, or employé in making such contract or agreement, is not at the time of making the same the owner of the article so contracted and agreed to be delivered.

So this amendment does prohibit and suppress the making of a contract for future delivery unless the party making the contract is the actual owner of the thing sold and to be delivered.

Mr. President, as I said, if you have a right to apply this to wheat and to cotton, of course there is no limitation to your power. How would the Senator from Massachusetts like to have inserted in the bill a provision that contracts for future delivery under the provisions of the bill shall include cotton prints, of which there are ten or twenty millions of dollars' worth made every year in the city of Boston. I understand in fact that nearly 90 per cent. of the cotton prints manufactured in this country are sold under future contracts. Yet here we have a proposition before Congress that under the pretense of the taxing power—I will recall that expression; it is not under the pretense of the taxing power, because the bill itself says that it is for the purpose of suppressing and preventing these contracts—the Congress of the United States is called upon to regulate these private contracts and dealings between individuals.

To-day we are acting with regard to contracts for future delivery because these contracts are considered obnoxious and objectionable. Admitting that they are, where are we to stop? If the taxing power has no limit and if we believe that the taxing power should not be exercised to absolutely control the police power of the States, we incur the criticism of the Senator from Kansas and are to admit that we are to stand here in disgrace.

My friend from New Hampshire [Mr. BLAIR], whose views of the Constitution are as broad as the ocean and as high as the blue heavens, felt it his duty to offer a constitutional amendment to change the Constitution in order to regulate the question of marriage contracts. The Senator from Kansas has discovered a new way of dealing with questions of contract. It is not necessary to amend the Constitution of the United States to deal with any civil contract, either the making of the contract or the dissolving of the contract, or the regulation of any of its civil consequences whatever. You are not called upon any longer to amend the Constitution of the United States when the power of Congress is to be invoked to regulate a contract between A and B in the State of Louisiana, when a Congressional law is to determine how that contract is to be performed, what shall be the consideration of that contract, when that contract shall be dissolved, because we have this new light which has been shed to-day coming from the State of Kansas, which informs us that under the taxing power every detail of the police power can be absolutely controlled by the Congress of the United States, every law that every State has can be abolished, every provision existing in every State constitution can be expunged, not an iota of State authority, or State law, or State constitution can ever have any operation in this country because, forsooth, under the taxing power the Congress of the United States can regulate any contract that is made between individuals in any State! Because we doubt the correctness of that doctrine, because we do not bow in humble submission to that mandate, because we do not worship such authority as that which tells us that he is able to revolutionize this Government, that he has made a discovery by which every vestige of State right, statehood, State sovereignty can be expunged, we are, forsooth, to be chided, and this hall is to resound with the amplified phraseology and the grandiloquent declamation for which the Senator from Kansas is so pre-eminently distinguished.

Yet, Mr. President, when I come to the practical question of asking him what does he mean by his bill, I absolutely demonstrate that he does not know what it means, and that he thought it meant directly contrary to what it does mean. I say that the bill does provide that, if any man in Kansas, in Massachusetts, or in Louisiana makes a contract with another man for the delivery of cotton, or wheat, or cotton print goods (that will come afterwards, not in this bill), at the time he makes that contract he must be the owner of the property which he sells and which he proposes to deliver. The Senator from Kansas did not know that that was in the amendment. He thought it was just the opposite. I wish to inform him that whenever the Congress of the United States undertakes to legislate in that direction, whether it be unconstitutional or constitutional, it will be a sorry day for the citizens of Kansas as well as the citizens of Louisiana. The people of the States have not been accustomed to come to Washington to ask the privilege of anybody of a license from Congress as to what contracts they shall and what contracts they shall not make.

Talk of centralization, talk of the Blair bill, talk of the oleomargarine bill! Why, Mr. President, any comparison to this bill of those bills might be considered under the shelter and shield of the Constitution of the United States. No such gap has ever before been attempted as is attempted by this bill, no such stride has been made in the direction of centralization, absolutism, tyranny, as has been made by this bill as

amended to regulate the private contracts of individuals in the States. I wish for one, Mr. President, to declare to the Senator from Kansas that the State of Louisiana is able to manage that detail of human affairs without any assistance from him or from any other Senator. We are able in the State of Louisiana to regulate contracts with regard to property, contracts with regard to money. We are able to regulate our own marriage contracts, to regulate our own succession. And we are not willing and not ready yet to surrender our police power to Congress.

If the people of Kansas dislike contracts in futures, if they think they are obnoxious and odious, if they think these contracts are injurious to morals and against public policy, let them appeal to the Legislature of the State of Kansas to remove that evil, if it exists; and if this blow is aimed at Chicago—that city which has stolen the world's fair from New York and Washington, I will not say under false pretenses, for I believe they are incapable of resorting to such means—Chicago, which is said to be the great center of gambling in wheat, and corn, and barley, and oats, and bacon, and cattle—if the Senator from Kansas seeks to correct the morals of the State of Illinois, that overlooks his border, and is ashamed of that people because they countenance that species of gambling, if he is to assume the rôle of *ensor moros*, instructor of the youth, guardian of public morals, the archangel that looks down and weeps for the depravity of his fellows living in the State of Illinois, I ask him, in the name of Heaven, to leave out Louisiana, and let us, if we choose, engage in future contracts.

Mr. INGALLS. We may need to take hold of your lottery by and by.

Mr. BLAIR. I should like to ask a question of the Senator from Kansas purely for information, for I had not supposed the bill went quite to the extent now alleged. The cotton manufactured in New England is nearly all of it purchased from brokers or farmers and institutions at the South, prior to its growth oftentimes, and nearly always before it is in the possession of the parties with whom the corporations, the mill-owners at the North, make their contracts for future delivery. So, then, the manufacture of cotton in New England is based upon contracts for the future delivery of cotton which is not in the possession of the other contracting party at the time the contract is made. I should like to know if the Senator means or understands this amendment of his to render illegal that practice, the regular business practice between New England and the South, between the manufacturers at the North and the cotton producers and middle-men at the South?

Mr. INGALLS. It is not aimed at any legitimate business. It is aimed at gambling in agricultural products, dealings between men who own none of the products they purport to sell and buy, and only intend to settle up the margin between the price at the time when they are to adjust their differences and the market price.

Mr. BLAIR. Should not the Senator, then, amend the second section of his amendment by inserting language tantamount to that which he has just used on the floor of the Senate, which is a declaration of the true intention; for certainly the second section as it now reads and the third section, which includes cotton, would absolutely destroy the existing basis of the cotton-manufacturing business in New England, and also, I doubt not, of the woolen manufacture, because the system of purchase and collection of cotton and of wool is precisely the same as that which I have stated. The manufacturing business is based upon contracts which are agreed upon as matters of certainty, frequently made long before the planting or the growing of the cotton, so that it is impossible that the cotton can be at the time of the contract in the possession of the party who contracts to deliver it in the future, and of course, however anxious a man might be to do something for the "blessed people" and get their votes, never could any New England man vote for the bill in that form. The language of the second section is very different from the explanation of what the Senator meant to do, as given by the Senator from Kansas. I will read it, so that there can be no doubt that he certainly will have this language called to his attention:

That for the purposes of this act the word "futures" shall be understood to mean any contract or agreement whereby a party agrees to sell and deliver at a future time to another any of the articles mentioned in section 3 of this act when at the time of making such contract or agreement the party so agreeing to make such delivery, or the party for whom he acts as agent, broker, or employé in making such contract or agreement, is not at the time of making the same the owner of the article so contracted and agreed to be delivered.

Now, the Senator's explanation of what he means to do if it should be embodied in an amendment to this section would exclude the legitimate business of the country in the cotton manufacture and the woolen manufacture from the operation of the bill, but, as it now is, the cotton business has got to stop in New England. A Senator asks, "How about corn?" That is a Kansas affair. I am not so much interested in corn and wheat personally. The election in New Hampshire does not turn on the corn and wheat business [laughter], but if we get by the ears on the cotton business I remind my colleagues and I remind the Senator from Massachusetts that here is something to look after. The election comes off next November in New Hampshire. [Laughter.]

Now, the third section of the amendment as offered runs in this way:

That the articles to which the foregoing sections relate are wheat, corn, oats, rye, barley, cotton.

I live in a city that manufactures more cotton, at least that has one

corporation that does a larger business in that line, than any other corporation on the face of the earth. If I voted for a bill like this, what could I do? Manchester would go against us by a four-fifths majority, and we have hard work to hold her as it is. [Laughter.] The Democrats are getting ahead rapidly. To pass a bill like this loses us the next House of Representatives inevitably. [Laughter.] I fear the Senator is only calculating with reference to the result in Kansas that grows so much corn, oats, rye, barley, and some wheat. If the Senator would insert here something to the effect that the business of Manchester should not be affected by the operations of this bill, I might, perhaps, consider whether I could not vote for it, because I am exceedingly anxious to be understood to be a particular friend of the people. [Laughter.]

Mr. SHERMAN. I call for a vote on the pending amendment.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Wisconsin [Mr. SPOONER].

Mr. BUTLER. Mr. President—

Mr. SHERMAN. I should like to have the pending amendment disposed of.

Mr. BUTLER. I merely want to ask the Senator from Kansas a question.

Mr. INGALLS. I would say to the Senator from South Carolina that my amendment is not pending now.

Mr. BUTLER. I understand that, but I wanted to put a question. The phraseology of the bill, it seems to me, is a little confusing. However, I will wait until this vote is taken.

Mr. INGALLS. I will hear the Senator.

Mr. BUTLER. I observe that reference is made to articles specified in section 3 of the bill.

Mr. INGALLS. That has been changed. That was an error of the clerk in the enumeration. The numbering of the sections has been changed. That amendment has been made.

Mr. BUTLER. To what section does that refer?

Mr. INGALLS. Section 8. Quite a large number of these amendments were made this morning.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Wisconsin [Mr. SPOONER].

The amendment was agreed to.

Mr. BLAIR. My attention was diverted for a moment. I should like to know what amendment that was.

Mr. SHERMAN. The amendment offered by the Senator from Wisconsin [Mr. SPOONER]; it has been so long pending that we have forgotten all about it.

Mr. GEORGE. Let me ask a question. Does the Senator from Ohio expect to have a vote on the bill this evening?

Mr. SHERMAN. I do. I hope for mercy's sake we shall finish it.

Mr. GEORGE. The amendment of the Senator from Wisconsin was so long that I could not understand it by the reading of it at the desk, and I was going to say that if the Senator from Ohio did not expect to have a vote this evening I should like to have the amendment printed.

Mr. SHERMAN. I have no objection to having it printed, but I hope we shall have this bill closed to-night.

Mr. GEORGE. I will not make the request, then, if the Senator desires to proceed.

Mr. SHERMAN. Mr. President, the plain purpose and meaning of the Senator from Kansas and the meaning of section 7 is to prevent gambling contracts, to prohibit what is done in all the boards, especially where wheat and corn not in existence are sold in immense quantities, to prevent such contracts and I think the sentiment of every member of the Senate would be against such contracts. They are very injurious. They enable persons without any property whatever, and sometimes without any money, to combine and put up the price of corn, wheat, etc. I am more familiar with the combinations in regard to corn and wheat than to cotton, but I can see that the same rule applies to that great staple. The language I think is too strong in the seventh section, and I would suggest to the Senator from Kansas to add to it in describing the contracts words which will indicate that there was no intention on the part of either party to deliver the actual article.

I can imagine many cases where men could go into the market and buy wheat, expecting the wheat to be delivered and to be sold again to the miller or somebody else. There are transactions of that kind occurring constantly, and it certainly is not the desire or intention of the Senator from Kansas to interfere with that kind of a contract.

Mr. MITCHELL. Will the Senator allow me to make a suggestion at that point?

Mr. SHERMAN. Certainly.

Mr. MITCHELL. Why would not this fix the matter? Insert after the word "same," in line 9, something like this, "or does not in good faith expect to be the owner thereof at the date fixed for the delivery of the same?"

Mr. EDMUNDS. Will the Senator from Oregon repeat that, for it is impossible to hear him?

Mr. MITCHELL. In section 7, insert after the word "same," in line 9, the words "or does not in good faith expect to be the owner thereof at the date fixed for the delivery of the same."

Mr. SHERMAN. I think the words in the preceding section if car-

ried into section 7 will cover the whole thing, that is to say, "the seller is not hereby obligated to deliver to another (that is the purchaser) at a future time or period any of the articles mentioned in the contract."

Mr. MITCHELL. A man may have a thousand acres of land sown in wheat; it may be growing, and if at any time before that wheat ripens or is harvested he makes a contract, based on the expectation that he is going to have a crop, to deliver a thousand bushels of wheat on the 1st day of October to A, that is declared an unlawful contract by this section plainly. Now, I want that amended.

Mr. SHERMAN. I do not care what words are used, but it is one of those cases certainly where words ought to be found to define exactly the difference between a gambling contract and a contract made by a broker.

Mr. BLAIR. The dictionary is right over in the corner. [Laughter.]

Mr. ALLISON. I had made a note of an amendment to the section covering the suggestions made by the Senator from Oregon [Mr. MITCHELL], and that is, to add after the word "owner," in line 9, the words "or producer."

Mr. GORMAN. Where is that?

Mr. ALLISON. On page 5, section 7, line 9; so as to read:

Is not at the time of making the same the owner or producer of the article so contracted and agreed to be delivered.

There is a very common practice in every agricultural State of the Union to contract for farm products in advance of their actual existence. That is the case referred to by the Senator from Oregon [Mr. MITCHELL] and as indicated by the Senator from Louisiana [Mr. EUSTIS], I take it, in respect to cotton. A cotton producer in one of the States makes some arrangements with what is called a factor in New Orleans to secure advances on his crop and agrees to sell him that crop, I suppose, at the market price at the time of the delivery. Certainly, there should be no law to prevent a transaction of that character.

Mr. BLAIR. That factor is the same that the New England corporation or manufacturer contracts with and they make their contracts as early as, or earlier than, the factor contracts with the producer. Now, unless this language enables the manufacturers of New England to contract seasonably with this factor, not the producer, but the factor, the man who gathers in from the producer and who relies upon his contract with the producer as the basis for his contract with the manufacturer, unless the language reaches the New Englander, you see my difficulty. [Laughter.]

Mr. ALLISON. I see the difficulty under which the Senator from New Hampshire labors, and I think that if under the conditions I have named a New England manufacturer, under the provisions of this bill with the words which I suggest added, were to contract with a factor or agent in New Orleans, if that agent at the time was an agent of the producer, and not otherwise, for the future delivery of cotton, it would be entirely proper.

Mr. BLAIR. But the factor is not necessarily the agent of the producer, and he often is not so. He makes his contract with the New Englander a long time before he has begun to gather in from the producer.

Mr. ALLISON. I ask if there is any amendment now pending?

The VICE-PRESIDENT. There is not.

Mr. ALLISON. Then I move—because whatever else should be added to this section, I am clear that the words I suggest should be added—

Mr. MITCHELL. The word "producer" would cover the case I stated.

Mr. ALLISON. That is exactly what I want to do. In line 9 of section 7, on page 5, after the word "owner," I move to insert the words "or producer."

Mr. GRAY. I ask the Senator from Iowa, understanding as I think I do the object he has in view in his amendment, whether he thinks that the two words "or producer" will effectuate that object, for this reason: The language employed in the section is "is not at the time of making the same the owner or producer of the article"—that is, at the time of making the contract. The corn or cotton is to grow hereafter and is not in existence, and he can not be said in any proper sense to be the producer of that which is not yet produced; and so I suggest that the Senator had better add, in addition to the words "or producer," the words "at the time of making the same the owner, or, unless he expects to be in good faith, the producer," or some equivalent language.

Mr. ALLISON. I see the difficulty in using precise phraseology that will cover the condition of a growing field of corn or wheat; but I can conceive of no better word to use than the word "producer." In the State in which I live it is the practice for farmers in some portions of our State to contract for what would be called seed wheat or seed flax, if you please, or the seed they put into the ground, and they agree with the person who furnishes them the seed to sell the product of that seed to him at the market price within a given time. I have no doubt that is substantially what is done in the matter of cotton. The cotton producer—and he is the producer in the language of this section as I propose to amend it—agrees to sell to the agent or factor or purchaser

the product of his crop at the end of the season, or at a time which may be agreed upon, or which may be indefinite.

So I think the language I have employed here will cover that situation. It will not cover, however, the situation where a broker in New Orleans steps out upon 'change and sells 10,000 bales of cotton, to be delivered at a future time, without having a bale of cotton or the expectation or hope of having a bale, but is selling that cotton with a view of purchasing it, if necessary, to make the delivery on the 1st of May, or whatever the time may be, as the Senator from Louisiana said. This bill, I agree, does not cover that situation. Not only does it not cover it, but I think the language employed here is intended to prohibit it, and it does seem to me that it will be difficult to frame language here that will cover the entire situation and will break up this gambling in futures without breaking up the power of any man to sell that which he does not have or to buy that which he does not expect to receive.

Mr. HOAR. Will the Senator from Iowa allow me to make a suggestion?

Mr. ALLISON. Certainly.

Mr. HOAR. Why would it not do to insert after the word "deliver," in line 10, the words "or does not at the time of such contract intend in good faith to deliver?"

Mr. MITCHELL. That is substantially what I suggested a few moments ago.

Mr. HOAR. It is a little different in phraseology, but it is in substance the Senator's idea. That, of course, puts upon the Government, if you are undertaking to indict, the *onus* of proving the intent; but that runs through all the great class of crimes. You know you have to prove the illegal intent and the surroundings and circumstances in general.

Mr. ALLISON. Mr. President, I do not object to the language suggested by the Senator from Massachusetts, but I submit that after this measure becomes a law with that language inserted every man who makes a contract to deliver an article in the future will have it inserted in the contract that the sale is made for the purpose of delivery, because these provisions require that these contracts shall be in writing.

Now, then, the intent is an intent at the time that the contract is made. The man who makes that sale will have the intent to make the delivery at the time the sale is made, but it may happen that at the time of the delivery, which is a future time, it will not be possible for him to deliver the actual thing which he intended to deliver under that condition of selling, because occasions have arisen in Chicago and New York when it was physically impossible to deliver upon a given day the amount sold to be delivered on that day. So the man's intent will be, as the Senator from Massachusetts suggests it will be, an intent to deliver, but when the time comes it is impracticable to deliver, and then the two parties who make the contract will be compelled to make a new one or adjust their differences as they do now.

Mr. President, I want to say, as respects the modifications of this seventh section, that the complaint in the region of country in which I live is that this gambling in futures, this selling what people do not have to sell in quantities fifty times that which is in existence at the time, has a tendency to greatly depress the price of agricultural products. What our people want to do is to break up that habit, and that is the reason why they are in favor of some legislation such as is proposed by the Senator from Kansas; and I submit to the Senator from Louisiana that any serious modification of this provision which will enable the cotton brokers in New Orleans or in Chicago to do what he suggests they ought to be permitted to do, will have the effect of absolutely rendering nugatory the provisions of this bill as proposed by its author. Therefore it is that, if we are undertaking to deal with this question in the sense that the people who are opposed to these trusts want us to deal with it, we must, in essence at least, prohibit what the Senator from Louisiana says we ought not to prohibit.

I am not at this moment arguing whether or not the seventh section will do what the people who are opposed to these transactions think ought to be done; but I am very clear that the suggestions made by the Senator from Louisiana, if they are carried out, will make this seventh section absolutely a nugatory section.

Mr. BUTLER. May I suggest a practical question to the Senator from Iowa on the line of what he has just been saying? He states that it is a practice in Iowa and in the Western States, the agricultural States—and it certainly is the practice in my part of the country, where large crops of cotton are made—that the farmer or producer, whom it is intended by this bill to protect against gambling combinations, makes a contract with the factor, with the broker, the merchant, "If you will lend me \$1,000, \$2,000, or \$5,000, I will agree to deliver in the fall, after the product is made, 1,000 bales of cotton, or 100 bales of cotton, or 5,000 bushels of wheat, or 2,000 bushels of corn," as the case may be. These articles are not then *in esse*. They are not in existence. They are necessarily intended for future delivery. The question I want to get at is, and it is a practical one, whether or not that factor or broker or merchant, or whatever you may please to call him, would not be compelled under this bill in making a contract of that kind to take out a license and pay the tax imposed.

Mr. ALLISON. Under this bill as I propose to amend it I do not understand that such a broker would be obliged to take out a license.

Mr. BUTLER. It seems to me, unless some such modification as that suggested by the Senator from Iowa is adopted, that a factor or merchant would be compelled to take out a license under the provisions of the bill before he could take an option or contract for the delivery of any farmer's crop in the West or South.

Mr. MORRILL. I desire to suggest an amendment to the Senator from Iowa. A person making a sale of iron, of cotton, of cotton goods, or of woolen goods may not own a single dollar's worth, and may not be a producer thereof, and I suggest to the Senator to add, after the word "producer," the words "or the agent of such owner or producer."

The VICE-PRESIDENT. The Chair desires to call the attention of the Senator from Iowa to the fact that the amendment which he proposes is an amendment to the amendment offered by the Senator from Kansas [Mr. INGALLS], which was agreed to in Committee of the Whole, and an amendment to that amendment is therefore not now in order except by unanimous consent. The amendment will be in order when the bill is reported to the Senate.

Mr. BUTLER. One word further. I want to say to the Senator from Kansas and the Senator from Iowa that I am strongly in sympathy with the general line of this legislation if it can be properly enacted, but there is always a danger of going a little too far and interfering with matters which Congress, and nobody else, has any right to interfere with, unless it be the parties themselves. If the language of the bill can be so framed as to come within what I believe to be the constitutional powers of Congress, I shall be very glad to vote for it; but this practical difficulty suggests itself and it may lead to inextricable confusion and great injustice and wrong unless we are careful with the language of the bill. Let me read the section:

That for the purpose of preventing and suppressing, as far as may be, the dealing in options and futures as herein defined, special taxes are imposed as follows: Dealers in "options" or "futures"—

Merchants and factors are dealers in options or futures under the view that I have just presented—

shall pay annually the sum of \$1,000, and shall also pay the further sum of 5 cents per pound for each and every pound of cotton or of beef, pork, lard, or other hog and cattle products, and the sum of 20 cents per bushel for each and every bushel of any of the articles mentioned in section 3—

Now section 8—

of this act, the right or privilege of delivering which may be acquired under any "options" contract or agreement, as defined by section 1 of this act, or which may be sold to be delivered at a future time or period under any "futures" contract or agreement as defined in section 2 of this act, which said amounts shall be paid to the collector of internal revenue.

I submit that under a fair construction of that language the merchant in New York, or in Baltimore, or in any of the commercial centers of Iowa, or in Illinois, or the South will be compelled, before he can enter into a contract with a farmer, to take out this license and pay that \$1,000 and so much per pound for every pound of cotton, pork, lard, etc., that he deals in. Well, what will be the practical effect of it?

It will be that that merchant will charge the license-tax to the farmer. The merchant is not going to pay it. He will say, "Congress has passed an act which requires me to take out a license and pay a tax of 5 cents on every pound of cotton. Now, I shall compel you to hold me harmless against that tax before I will make any agreement with you for advances on account of the delivery of your cotton;" and at last the very class of people whom this legislation is intended to protect become the victims of the factor, the merchant, the broker, or whatever you may choose to call him. It seems to me that is a fair construction of the clause. If it is not, I should be very glad to have it explained.

Mr. HISCOCK. I desire to have the attention of the Senator from Kansas a moment. All over the State of New York there are located depots for the collection of milk, extending 300 miles from the city of New York, in regard to which the collector from the farmer or the middleman makes his contract with the dealer in New York City to furnish him with so much milk per day, amounting, say, to not more than \$50 a year in value. He makes the contract with the farmers in the neighborhood where his depot is located for them to furnish him with milk from day to day. Now, is there any doubt that such a middle-man would be compelled to take out a license?

Mr. INGALLS. Mr. President, I will answer the suggestion of the Senator from New York by reading the amendment that I shall propose to this section, in order to exclude any such possible definition. I propose, in line 9 of section 7, after the word "owner," to insert "or producer, or the lawful agent of such owner or producer." At the end of the proviso, after the word "value," I propose to strike out the period and insert a comma, and add, "nor to bona fide contracts for the actual delivery of the property contracted for."

Mr. HOAR. That should come after the word "establishment."

Mr. INGALLS. After the amendment as amended on the suggestion of the Senator from Massachusetts, whatever that may be.

The VICE-PRESIDENT. Will the Senator restate the last amendment?

Mr. INGALLS—

Nor to bona fide contracts for the actual delivery of the property contracted for.

Mr. BUTLER. Where does that come in?

Mr. INGALLS. At the end of section 7, after the last word in the present proviso, and I should like to have the Clerk read the section then as it will stand when amended as proposed.

The VICE-PRESIDENT. The amendment will be read.

The CHIEF CLERK. Section 7, line 9, after the word "owner," it is proposed to insert the words "or producer or the lawful agent of such owner or producer;" and after the amendment already agreed to at the end of the proviso, it is proposed to add the words "nor to bona fide contracts for the actual delivery of the property contracted for;" so as to read:

SEC. 7. That for the purposes of this act the word "futures" shall be understood to mean any contract or agreement whereby a party agrees to sell and deliver at a future time to another any of the articles mentioned in section 3 of this act when at the time of making such contract or agreement the party so agreeing to make such delivery, or the party for whom he acts as agent, broker, or employé in making such contract or agreement, is not at the time of making the same the owner or producer or the lawful agent of such owner or producer of the article so contracted and agreed to be delivered: *Provided*, That this act shall not apply to contracts for the delivery at any one time of articles of not more than \$50 in value, or of articles to be consumed by the person to whom they are to be delivered or in his establishment, nor to bona fide contracts for the actual delivery of the property contracted for.

Mr. DOLPH. It appears to me that there might be an easier way of getting rid of the section than by the amendment proposed to the proviso by the Senator from Kansas.

The sixth section provides—

That for the purposes of this act the word "options" shall be understood to mean any contract or agreement whereby a party thereto, or any person, corporation, partnership, or association for whom or in whose behalf such contract or agreement is made acquires the right or privilege, but is not thereby obligated, to deliver to another at a future time or period any of the articles mentioned in section 3 of this act.

A man who makes a contract with regard to personal property is obligated to deliver the property. If he fails to deliver it he pays damages. There is no law to enforce the specific performance of a contract to deliver farm produce, so that there is no real practical difference between options and futures. The provision of this bill which is to be effective is contained in the seventh section, which prevents dealing in futures. Now, to say that it shall not apply to any one who makes a bona fide contract for the delivery of these articles, in the first place complicates the matter by bringing in the question of bona fides. The contract may be bona fide; it may be the intention of the party to make the delivery; he may expect to do it, and he may prove that he did make such a contract; but if he does not make the delivery all that can be done is to get damages against him and make him pay the difference between the price at the time of delivery, if it is greater than at the time of sale. That is all there is of it. Therefore, these words will make both sections entirely inoperative.

I suppose that the real intention of the amendment of the Senator from Kansas was to prevent dealing in options. That is what we are striking at. How are you going to distinguish between a gambling contract and a contract made in good faith? There is the same facility in gambling, in speculating in futures, in a contract which is made in good faith, as in a contract made without any intention of actual delivery of the article.

Now, in regard to the purchase of articles from the producer, if there is no prohibition against this, there is nothing to prevent forestalling the market by securing control of the farm products of the West. A purchaser may buy the entire wheat crop, and so determine and fix the price for the consumer; and I say that nothing would be gained by providing that a farmer may sell, if everybody has the right to buy, and to forestall the market.

Then, again, if you prevent the purchaser of the crop, at least where it is intended for exportation, from making a contract for the sale of the article before he has purchased it, unless he buys it for speculation in advance of the time of delivery, he will not buy it at all.

It appears to me that the bill, while it deals with the producer and with articles that are imported, omits to deal with articles which are purchased and combinations formed to advance the price of articles which are purchased for export.

The VICE-PRESIDENT. The amendment now proposed being an amendment to the part of the bill inserted in Committee of the Whole, it may be received and reported by unanimous consent. The Chair hears no objection.

The CHIEF CLERK. In section 7, line 9, after the word "owner," it is proposed to insert:

Or producer or the lawful agent of such owner or producer.

And after the proviso in section 7 it is proposed to add:

Nor to bona fide contracts for the actual delivery of the property contracted for.

The amendment was agreed to.

Mr. SHERMAN. Now I hope the bill may be reported to the Senate. Mr. ALDRICH. I offer an amendment, which I think there will be no objection to, in section 1, after line 23.

The VICE-PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add to section 1 an additional proviso, as follows:

*Provided further*, That this act shall not be construed to apply to or to declare

unlawful combinations or associations made with a view or which tend, by means other than by a reduction of the wages of labor, to lessen the cost of production or reduce the price of any of the necessities of life, nor to the combinations or associations made with a view or which tend to increase the earnings of persons engaged in any useful employment.

The amendment was agreed to.

Mr. BUTLER. I move to add, after the word "products," in line 4, at the end of section 8, the words "and also stocks and bonds."

The VICE-PRESIDENT. If there be no objection to receiving the amendment offered by the Senator from South Carolina, it will be stated.

The CHIEF CLERK. At the end of section 8 it is proposed to add "and also stocks and bonds;" so as to read:

SEC. 8. That the articles to which the foregoing sections relate are wheat, corn, oats, rye, barley, cotton, and all other farm products; also beef, pork, lard, and all other hog and cattle products; and also stocks and bonds.

Mr. REAGAN. Why, Mr. President, more harm is done by dealing in stocks and bonds than in nearly all other things put together. If we are going to adopt that amendment, we had better say the bill shall not apply to anything.

Mr. BUTLER. I was in hopes my friend would favor my amendment. If harm results from gambling in stocks and bonds, it is exactly what I want to get at. I want to suppress that evil as well as others. It is perfectly germane to the bill, and I think there is more gambling in stocks and bonds than in oats, rye, barley, cotton, and other things.

Mr. REAGAN. I must have misunderstood the portion of the bill to which the Senator proposed his amendment.

Mr. BUTLER. It is to be added to the articles named in section 8.

The VICE-PRESIDENT. The question is on agreeing to the amendment offered by the Senator from South Carolina [Mr. BUTLER].

The amendment was agreed to.

Mr. EUSTIS. I move to add "cotton prints, steel rails, salt, boots and shoes, lumber, and lead," and anything else I can think of. [Laughter.]

The VICE-PRESIDENT. The amendment offered by the Senator from Louisiana will be read.

The CHIEF CLERK. At the end of section 8 it is proposed to add:

Also cotton prints, steel rails, salt, boots and shoes, lumber, and lead.

Mr. FRYE. I hope the Senator will not put in "lumber." I understood him to say "rubber." I would rather it would go in "rubber."

Mr. BLAIR. You did not hear right.

Mr. INGALLS. I forgot to ask the Senator from South Carolina when his amendment was pending whether stocks and bonds were to be taxed by the pound or by the bushel. [Laughter.]

Mr. BUTLER. I think by the bushel, Mr. President, or the ton, if the Senator would prefer it. [Laughter.]

The VICE-PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Louisiana [Mr. EUSTIS].

The amendment was agreed to.

Mr. BLAIR. I move to add "whisky and all manner of intoxicating drinks."

Mr. SHERMAN. This would be very funny if the hour was not so late, but I hope we may be able to pass this bill in half an hour or so; and as all these amendments have to be reported to the Senate, I ask Senators to let the bill be reported with the pending amendments, and then, of course, we can have a vote on these various propositions.

Mr. GORMAN. Mr. President—

Mr. EDMUNDS. Let the amendment of the Senator from New Hampshire be reported.

Mr. BLAIR. I wish the amendment to read in this way:

Woolen goods, also whisky and all kinds of intoxicating liquors.

I mention whisky because I know that some of the Senators would understand what the rest of the amendment meant. [Laughter.]

The VICE-PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add to section 8:

Also woolen goods, whisky, and all manner of intoxicating drinks.

The VICE-PRESIDENT. The question is on the amendment offered by the Senator from New Hampshire [Mr. BLAIR].

The amendment was agreed to.

Mr. GORMAN. Mr. President, I have not taken any part in the consideration of this measure except to give my votes very cheerfully in favor of the bill, which I think the entire country has been looking forward to the passage of in some shape that would correct the great evil which has been complained of, and properly complained of.

When the motion was made yesterday to refer this bill to the Committee on the Judiciary I voted against that proposition, hoping and believing that the bill would be so phrased and shaped that some practical good would come of the effort of the Senator from Ohio and those in charge of the bill. It is very evident, however, from what occurred late yesterday and from what has occurred to-day that we have so amended the present proposition as to make it inoperative and ineffectual. It will be worse than a sham and a delusion.

Being heartily in favor of the general proposition and with a desire to accomplish something for the people of this country, who have com-

plained long of the evil which we are seeking to deal with, I now move that this measure be committed to the Committee on the Judiciary, with the suggestion of the Senator from Alabama [Mr. MORGAN] that that committee be requested to report the measure within twenty days; and on that motion I ask for the yeas and nays.

Mr. SHERMAN. About that I have something to say. I give notice to the Senate that there are features of this bill that I do not intend shall be defeated by indirection and by the mode which has been adopted here within the last hour. I give fair notice, so far as I am concerned, that this bill shall have fair play, I do not care who opposes it.

Mr. President, the amendments which have been put upon this bill in the last few minutes are such as simply bring it into contempt, and the manner in which this has been done tends to bring the whole bill into contempt. But the bill is worth preserving. There are three propositions in the bill, one the original bill amended, and I think very much strengthened and a better bill than it was at first, because it is a better bill than probably the committee would report. The first two or three or four sections of the bill there can be now no reasonable objection to. Most of the difficulties have been overcome. The proposition made by the Senator from Texas [Mr. REAGAN] is also in the right direction, and, after careful consideration of that proposition, there can be no objection to it so far as any one who is in favor of the principle of the bill is concerned. It adds a criminal clause and defines somewhat the meaning of words in the original bill. So far so good.

The attempt now to belittle the proposition of the Senator from Kansas seems to me an attempt to destroy and defeat this bill. I am to old a stager here not to understand the meaning of these various amendments. I know it perfectly well. But I say now that, for one, I do not care how long it takes, I do not propose that this bill shall be defeated in that way without at least a pretty fair chance to vote upon it.

There is some question as to the amendment proposed by the Senator from Kansas. Although it is wise in its purpose and in the main its provisions are wise, yet, as it has not been considered by a committee, it may very well possibly be postponed and be treated of in another and separate measure.

The fact that gambling contracts, made under the names given by brokers as "options" and "futures," are illegal contracts which tend to depreciate the value of agricultural products and tend to do a great deal of injury to the country is admitted on all hands. The men engaged in them know that they are unlawful. They are conducted in immense amounts.

I do not think that the sixth and seventh sections of the bill are framed with sufficient caution to prevent interference with ordinary legal and proper contracts between parties. It seems to me it would be very wise to mark out the line between a regular business transaction and a gambling contract where neither party contemplates the delivery of the article, where it is a mere bet on the value of the article. These bets tend to depreciate the value of agricultural products of the country at the time when they are offered for sale and tend to advance the price of articles at the time when men want to realize on their bets, their puts, and futures, and options.

I hope the Senator from Kansas will allow us to take a vote. This bill must be reported to the Senate. There are two propositions in it of great importance. The amendment of the Senator from Texas [Mr. REAGAN], which is now a distinct and separate amendment, and the vote upon that amendment will carry with it the amendments which have been made, and so with the proposition offered by the Senator from Kansas. As a matter of course, if that amendment is agreed to, it should be stripped of the various amendments which have been proposed here in humor and joke, or if it should be disagreed to—because it is not now in a fit condition to be made a part of this bill—it might be disagreed to by a single vote.

But I appeal to the Senate, now that we have this question of trusts and combinations before us, now that we have got a reasonable definition of trusts so as to meet the opinion of all Senators, when we have the machinery of law to carry the bill into effect and we have the additional sanction of a criminal provision to it, that we ought not to allow this bill to be defeated under these circumstances. If we do, the people of the United States will feel that the Senate of the United States is playing with a question which affects nearly and dearly the vital interests of our country.

That is all I have to say. I intend, so far as I can, to try to strip this bill of anything that is objectionable to a majority of the Senate and then to pass what there is of virtual good in it.

Mr. INGALLS. Mr. President, so far as the suggestion of the Senator from Ohio about the abandonment of my amendment is concerned, I beg leave to say to him, with great deference and profound respect, that my amendment is the best thing there is about his bill. It is the only substantial proposition that offers definite, palpable, and tangible relief against what is acknowledged to be one of the gigantic evils of this century. This criticism and censure is idle and frivolous. There is not a man in this country who will read these proceedings tomorrow morning, if this provision is defeated, who will not know what it means. There is no farmer so remote or so obscure that he will not understand what these various amendments that have been offered

mean. Nobody will be deluded by them. This is not the first time, Mr. President, that Nero has fiddled while Rome has burned.

The nefarious operations that this amendment is aimed at have done more to paralyze industry, to reduce prices, to bring about the condition of affairs that exists to-day than all other influences combined. The penalties against them are not half severe enough in this bill. Instead of being fined and imprisoned their perpetrators ought to be hanged. It was the nefarious corners that were operated in Chicago and elsewhere up to the year 1882 that broke the price of wheat in the market, by gambling operations in products which did not exist and were known not to exist, that have destroyed the supremacy of the American wheat-grower on the Continent. It was those operations that forced foreign consumers to fill the demand for the deficit on account of their falling crops at those enormous prices which induced Great Britain in the last year or two to make enormous appropriations for extending her railroad system into the great wheat-growing regions of India, at the base of the Himalaya Mountains, where labor is 10 cents a day, with which American labor can never compete.

If the price of wheat and other agricultural products had been left to the natural laws of demand and supply, if artificial scarcity had not been produced, if inordinate prices had not been brought about by the operations against which this amendment has been aimed, we should not hear of the desolation and blight that to-day has fallen upon the agriculture of America.

Sir, although the farmers of this country have been sneered at to-day, although we have heard disparaging allusions to the Farmers' Alliances and associations, and suggestions that this legislation was being brought about at their dictation, they are intelligent, they know what the purpose of this amendment is, they know the cause of the evils under which they labor and of which they complain. There is no one thing which they have more imperatively and more unanimously demanded than the enactment of some law which will put a stop to the gambling in the products of their labor.

Mr. President, I have discharged my duty. I have, according to the light that was in me, with the limited time at my disposal, with the short period for examination that I could command, offered this amendment for the purpose of curing those evils which all admit, which all deplore, and of which all complain.

I ask that the bill may be reported to the Senate, and I shall demand a yea-and-nay vote in the Senate upon agreeing to these amendments that have been humorously inserted while the bill has been in Committee of the Whole. I know that sometimes the Senate has to unbend itself; the bow can not be always stretched. These amendments, I am confident, have been put on in a spirit of jocularly and recreation and refreshment. There has been a little time of recreation from labor. I feel confident that when the bill is reported to the Senate and such amendments are reserved they will, upon a yea-and-nay vote, be voted down.

Although I am a member of the Committee on the Judiciary and ought to have risen and protested against the exquisite humor and badinage of the speech of the Senator from North Carolina [Mr. VANCE] yesterday, and although a similar matter has been referred to that committee, I venture to express the hope that after having had four days of debate, four days deliberated and matured, with the light at last dawning, some progress made, something done, we are not to be told that all this is to go for naught, and that the bill is to be committed for further incubation to the Committee on the Judiciary. I ask that that motion may not prevail, and give notice that when the bill is reported to the Senate I shall ask for a yea-and-nay vote upon concurring in the amendments that were made, beginning with that of the Senator from South Carolina and proceeding to those subsequently offered by other Senators.

Mr. EDMUNDS. Mr. President—

Mr. VEST. Will the Senator from Vermont permit me to say just one word?

Mr. EDMUNDS. I hope the Senator will let me say a word for a single moment.

Mr. VEST. With the greatest pleasure.

Mr. EDMUNDS. The Chair has recognized me. I merely wish to mention confidentially here, as it is perhaps out of order, that the chairman of the subcommittee on the bill introduced upon this subject by the Senator from Texas [Mr. COKE] on the 4th of December is my honorable friend from Kansas [Mr. INGALLS], who has had the matter in charge.

Mr. INGALLS. Will the Senator from Vermont vouchsafe the information what that has to do with this subject?

Mr. EDMUNDS. No, I have not any information to give, only my friend from Kansas stated that the matter had been referred to the Committee on the Judiciary, the bill of the Senator from Texas, and it having been so referred, the chairman of that committee, according to its course (if I may speak a little out of order), put it into the hands of three gentlemen of the highest experience and capacity, of whom the chief was my honorable friend from Kansas; and the reason why the Committee on the Judiciary have not before reported is simply owing to the fact I stated the other day, that executive matters had apparently taken up all our time.

Mr. INGALLS. Very well. The Senator from Vermont made that remark yesterday afternoon, that the reason why the committee had not reported was because duties in connection with executive business had prevented it. He now rises and remarks in violation of order, as he himself admits, that it was referred to a subcommittee of which I am chairman. If that observation is intended to be offensive or inculpatory, I resent it. If it is not, I pass it by.

Mr. VEST. Mr. President, I want to adopt that language in regard to the remark of the Senator from Kansas. I alluded here this afternoon in a pleasant way, and in replying to the Senator from North Carolina, who had taunted the committee of which I was a member with dilatory action and indifference towards the great agricultural interests of this country, that the Farmers' Alliance was prescribing to certain gentlemen here, and they were unwilling to make any discrimination, and now the Senator from Kansas makes me the point—

Mr. INGALLS. I beg the Senator's pardon.

Mr. VEST. To his declaration here by saying—

Mr. INGALLS. I have not referred to the Senator, directly or indirectly.

Mr. VEST. I was the Senator, and the only one, who alluded to the Farmers' Alliance, and he says now that the Farmers' Alliance has been alluded to in disparaging terms upon this floor and in a sneering allusion. I resent it.

Mr. President, I have no objection to the Senator's declamatory eloquence. I have no objection to listening here to his rounded periods. We all know that he would sacrifice anything, from the Constitution down, to round a period or to point an epigram; but I most distinctly protest against his using me as an object upon which to electrify the country, and especially the farmers.

Mr. EDMUNDS. Mr. President, I should not have alluded to this matter at all except that the Senator from North Carolina [Mr. VANCE] yesterday, when I was not able to be present, as I saw from the RECORD to-day, had spoken of the Committee on the Judiciary as the tomb to which all things Senators wished to dodge were sent. If that be so, it is because the Senate wished to dodge something. But I desire to tell the Senator from North Carolina and the Senate and the country, if that is what we are for (and I rather suppose from what has taken place here for a few days that it is what we are for), that the Committee on the Judiciary has never failed, so far as I know, since I have been a member of it, to report any measure that any Senator had sent to it that that Senator desired to have reported; and the only instance I know of when we were complained of was some years ago when a Senator complained that a measure of his had not been reported upon either way, and he was told on the floor of the Senate by the chairman of the committee that it should be reported within six days or five days or a very short time if he wanted it; and all the members of his party immediately afterwards, in the committee, and himself, asked that the committee should not report it, notwithstanding the complaint that the committee had not reported it, and so it was not reported.

I should not have referred to this matter at all if the Senator from Kansas, to whom I meant no offense of course, had not alluded to the fact that the substance of this measure, the best arrangement that had been proposed, in the first instance, that I know of, the bill of the Senator from Texas, was referred to that committee and had not been reported. That seemed to imply a reproach upon the committee, a neglect of public interests. Therefore I did take my life in my hand and did state, out of order, that if there was any fault, as there was not, if there was any fault in the committee, as there was not, because matters that were immediately pressing had to be attended to, it was not the fault of the whole body of the committee, but of the gentlemen to whom that committee had committed the consideration of this special thing, of whom my honorable and distinguished friend from Kansas was the chairman. I did not certainly mean to give any offense and had not the slightest thought of doing so; but it is right to fairness here to understand just how the thing is.

Mr. BUTLER. Mr. President, I do not think it is altogether fair to those of us who have not been within the charmed circle of the Judiciary Committee or the Committee on Finance to be told, as we have been by one Senator on one hand and another on another, that this bill must go through *volens volens*, and that there will be no trifling with it, when they themselves admit, the Senator from Ohio himself admits, that there is some doubt about the constitutionality or form of the amendment of the Senator from Kansas, and therefore there ought to be some modifications in that; whereupon the Senator from Kansas rises with great indignation and assures the Senator from Ohio that his amendment is all there is in the bill that is worth anything.

Now, I want to say for one that my sympathies are with this bill. I should be very glad indeed to vote for it. But I have a little more respect for the Constitution than the Senator from Kansas appears to have, and I must be allowed to consult my own conscience and my own judgment as to what I think is constitutional and what is unconstitutional. If this bill can be put in such shape as to relieve it from the difficulties which have been suggested, I shall be most happy to vote for it. The Senator from Ohio says that he scarcely recognizes his own bill as it came from the Committee on Finance.

Mr. President, I think that this question will stand a little further

delay. It is a very important one, involving very complicated questions, so admitted by all parties, by the most distinguished lawyers of this body and by the laymen of the body. It has been discussed for four days, and the more we discuss it the more those complications and difficulties appear to increase. I want to vote for the bill. I want to vote for the amendment of the Senator from Kansas if I can. The amendments I offered were not offered for the purpose of depreciating the measure or in any spirit of humor or jocularity, as he says; but I was in earnest, and it so happened that the last amendment I suggested was adopted by his motion.

So there can be no proper charge of an attempt to ridicule or bring contempt upon the bill so far as I am concerned. I know the evils are very great which the bill is designed to correct. I know the Farmers' Alliance is a very large, a very distinguished, a very influential body in this country, and I think furthermore that a good deal of the dissatisfaction that has arisen has been the result of demagogism—that is my judgment—deliberate demagogism, in pandering to all sorts of suggestions from everywhere, and the Senate is supposed to yield to outside clamor before we can arrive at a sensible conclusion upon any subject.

So far as I am concerned I propose to be governed by what I believe is proper, right, legal, and constitutional, and I shall vote for nothing else. I believe that we can get a bill under that provision of the Constitution which gives Congress the power to regulate commerce; and perhaps under that power which the Senator from Kansas invokes to sustain his amendment, the taxing power, we might do it.

But this measure as it now stands is in such a crude condition that I do not think anybody here, not even the authors of the bill or the amendments, can vote for it intelligently, and yet they object to its going to a committee where it can be formulated, improved, and corrected. I have no preference about its going to the Committee on the Judiciary, but it seems to me that out of respect to the differences of opinion which exist here it ought to be recommitted to the Committee on Finance, who can improve and perfect it in accordance with the suggestions that have been made here.

Mr. SHERMAN. We can finish it in half an hour by reporting it to the Senate and taking a vote by yeas and nays upon every proposition.

Mr. BUTLER. The Senator says we can finish it in half an hour. Possibly it might not be finished in such a way that everybody could vote for it who would like to vote for it.

Mr. GORMAN. Mr. President, from the discussion which has occurred since my motion to commit the bill to the Committee on the Judiciary was made, and the motion was only made for the purpose of perfecting the bill, as the Senator from Ohio who has charge of it insists upon going on with it in its present shape and letting it be reported to the Senate, I withdraw the motion.

Mr. SHERMAN, Mr. INGALLS, and others. Let the bill be reported to the Senate.

The VICE-PRESIDENT. Are there further amendments to the bill as in Committee of the Whole? If not, the bill will be reported to the Senate.

Mr. GRAY. Mr. President, I can not vote for the bill in its present shape. Notwithstanding the lecture which the Senator from Kansas gave us upon our duty in regard to questions of constitutional law, I still conceive it to have been the intention of those who sent us here that we should exercise the powers conferred by the Constitution on the legislative department of the Government, and not attempt to exercise those which were not conferred.

It is not necessary for me at this time, after the exhaustive arguments which have been made by the Senator from Mississippi, and the Senator from Texas, and others upon the bill, and which have demonstrated the features in which it is obnoxious to the Constitution and where it is without constitutional warrant, to detain the Senate by any remarks of my own upon that head.

I should be very glad if there were some way by which the evils aimed at, which all acknowledge, could be met and could be effectually remedied. I should be glad to see that done in regard to many of those contrivances which have resulted in the advance of our civilization and the increase of our wealth, by which combinations of capital have been enabled to secure to themselves undue advantages over those who were not the possessors of capital in the same degree. But, sir, I am compelled to recognize the fact that there are many things desirable to be accomplished in the abstract or in the concrete which the Government of the United States as a Government of limited and special powers is not competent to accomplish. I do not think it wise statesmanship that we should burn the house in order to get rid of the rats, nor that we should overthrow our constitutional form of government in order to get rid of some of the evils of society.

We are not altogether without remedy. The States have the power to deal with many phases of this subject, in fact with all phases of it.

The only way in which they can fall short of a complete remedy is the territorial limit of their powers, but so far as they go the States which compose this Union can in a large measure apply a remedy that will meet the evil complained of.

I should be quite willing just so far as I can find constitutional war-

rant for such legislation, to aid the States in suppressing these combinations and trusts which have undoubtedly produced many of the evils complained of. I would so reform the tariff as to take out of these combines the most important factor in them, eliminate from them the most important member, and that is the Government of the United States. By the provisions of our monstrous war tariff the Government of the United States has become a partner in these combines. It stands guard while the individual members of the partnership work their designs and carry out their purposes in regard to the objects of these combinations. I should be glad to unite in legislation that would reform this altogether.

But, sir, I have been very much struck in the course of this argument at the present session and also at the last Congress, more than a year ago, by the amendment introduced by the Senator from Mississippi [Mr. GEORGE] to the bill of the Senator from Ohio when it was first presented to this body and referred to a committee, and which seemed to me to present for our consideration a proposition for Congressional action entirely within the powers conferred by the Constitution upon Congress, and which would go a long way, much further in my opinion even than the bill now before the Senate, towards correcting these evils. That was the amendment which the Senator from Mississippi has declined to offer to the bill at the present time, and which I have his permission to make my own. I therefore offer as an amendment to the bill the amendment which I send to the desk, and ask that it may be considered as in the nature of a substitute for the bill now before the Senate.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Chief Clerk will read the amendment proposed by the Senator from Delaware.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause of the bill and to insert:

That all contracts, arrangements, agreements, trusts, or combinations between two or more persons or corporations, or between a corporation and a natural person engaged in selling, importing, manufacturing, or transporting articles of merchandise, made with a view of preventing or which tend to prevent, and all acts done by any person with a view of preventing or which tend to prevent, full and free competition in the importation, transportation, manufacturing, or sale of any article of merchandise, or which shall have the effect of advancing the cost of any such article to the consumer, are hereby declared to be unlawful to the extent herein provided, and subject to the provisions of the following section of this act: *Provided*, That this act shall not be construed to apply to any arrangements, agreements, or combinations between laborers made with the view of lessening the number of hours of labor or of increasing their wages; nor to any arrangements, agreements, or combinations among persons engaged in horticulture or agriculture made with the view of enhancing the price of agricultural or horticultural products.

SEC. 2. That when any action or suit in law or equity shall be commenced or shall be pending in any court of the United States, it shall be lawful for any defendant therein to except to the jurisdiction of such court upon the ground that the cause of action or suit is for the enforcement of a right of a person or corporation violating any of the provisions of the first section of this act based on a contract for the sale, exchange, or transportation, or based on any damage arising from any wrong committed in respect to any article of merchandise manufactured, transported, imported, bought, or sold in violation of the provisions of said first section; and if such ground of exception shall be proven to the satisfaction of the court, judgment of dismissal shall be entered, with double costs to the defendant and with such reasonable sum for the attorney's fees for the defense thereof as may be allowed by the court.

SEC. 3. That when the President of the United States shall be satisfied that any arrangement, trust, contract, agreement, or combination, as described in the first section of this act, has been formed, and that in consequence thereof there has been an enhancement of the price of any article of merchandise, he shall have power, and it is hereby made his duty, to issue his proclamation suspending the collection of all customs duties or import taxes on similar articles when imported into the United States from any foreign country. Such suspension shall continue for ninety days after the President, upon being satisfied that such enhancement in price no longer exists, shall issue his proclamation withdrawing his former proclamation of suspension. And the President of the United States may, from time to time, as may in his judgment be proper, reissue, modify, or withdraw any proclamation he may have issued.

Mr. GRAY. Mr. President—  
Mr. WILSON, of Iowa. Before the question is taken on that amendment I wish to offer an amendment to perfect the text of the original bill. The proposition of the Senator from Delaware is to strike out all after the enacting clause and insert a substitute. I desire to offer an amendment to the original bill.

The PRESIDING OFFICER. Such amendment will be in order, but the Senator from Delaware is entitled to the floor at this time.

Mr. WILSON, of Iowa. I understand that.

Mr. GRAY. Mr. President, I desire to say only a few words in regard to this amendment which I have offered. It seems to me to have very carefully considered the question of what legislative power conferred by the Constitution upon Congress is appropriately applicable to this subject. It attempts in its second section, by invoking the judicial power of the Government, to provide, as it may do, that whenever the judicial power of the United States is appealed to by a citizen of any State, if it shall appear that the subject-matter of the suit between the parties is a contract which is based upon an arrangement, combination, or trust that is declared unlawful by the bill which is now before the Senate, or when either of the parties to the suit or proposed suit shall have violated any of the provisions in regard to unlawful combinations, trusts, and arrangements, then that fact may be pleaded by the party sought to be affected by the suit, and the United States court in which the suit is brought shall dismiss for want of jurisdiction any such cause of action before it, thus withholding from all

who attempt to use the courts of the United States as a means of enforcing any matter or right claimed or growing out of such unlawful combinations, refusing the aid of the court to enforce such right or allowing that department of the Federal Government to be in any way ancillary to the cause of such arrangement or combination.

That goes a great way. The courts of the United States are the favorite resort for litigation between parties who are residents of different States, and where these large interests are concerned, stretching over the whole country, the parties generally being powerful corporations, the United States courts in ninety-nine cases out of a hundred would be the resort of litigants in matters growing out of such combinations or trusts. Then by this proposed legislation we absolutely forbid this class of suits being entertained, and thus disarm in a most important matter the power for evil of these combinations and illegal trusts.

That is one point of this proposed amendment. Another is that we shall attempt to do what I alluded to awhile ago, and that is measurably to sever this great Government of the United States from its unworthy association with these combines and trusts which are now formed under the operation of our high protective tariff, and to allow the President of the United States whenever he is satisfied that the price of any article is raised to the consumer by means of these combinations or trusts, and such articles are imported into the United States under the provisions of the protective tariff, to suspend the operation of that law imposing customs duties for a period not exceeding ninety days, and to exercise that power in such a manner and with such discretion as will enable him to accomplish the result sought.

Here is a practicable, constitutional, and effective remedy that, if applied, will be sustained by the courts; will strike a deadly blow at the existence of this complaint of combinations, associations, and trusts; will not be mere *brutum fulmen*, if passed; will not be an act merely of show. We shall not be merely prancing like a hobby-horse and making no advancement on the enemy, but we shall have directly, constitutionally, and effectually disabled and disarmed these impolitic organizations of the power for evil that they now possess.

Mr. President, if we are in earnest, as I profess to be about this matter, let us adopt a measure of legislation which is within the admitted powers of Congress, and not merely content ourselves by declarations as to the immorality and impolicy of these trusts, declaring, as this bill does in its first section, that these impolitic and illegal combinations may be attacked in some unprovided-for way by the Attorney-General of the United States; not contenting ourselves merely with providing that the circuit court of the United States shall have original jurisdiction of all suits of a civil nature at law or in equity arising under this section, and to issue by remedial process the orders or writs proper and necessary to enforce its provisions, when there is not from beginning to end of that section any provision or any clause that makes it possible for a circuit court of the United States to obtain jurisdiction over any of the matters arising out of these trusts or combinations. It is all well enough to provide that the Attorney-General shall appear for the United States, but no process, no form of suit, no means by which a *lis mota* can be created on behalf of the United States is found from beginning to end in that section.

I am opposed to what has been already called here a sham battle. I am opposed to merely parading before the country and denouncing in eloquent and declamatory terms these trusts and at the same time committing ourselves to measures which are so absolutely futile, so absolutely powerless to effect any result; but I shall be glad to unite, in the absence of any other suggestion that I have heard which seems to be feasible or constitutional, in making this substitute which I offer the law of the land, by which I believe that most if not all the evils that are complained of in regard to these combinations and trusts will be effectually dealt with.

Mr. WILSON, of Iowa. I desire to offer an amendment to come in at the end of section 1 of the bill, and as an addition to the proviso contained in that section.

The PRESIDING OFFICER. The Secretary will state the amendment proposed by the Senator from Iowa.

The CHIEF CLERK. It is proposed to add at the end of the second proviso to section 1:

Nor to any arrangements, agreements, associations, or combinations among persons for the enforcement and execution of the laws of any State enacted in pursuance of its police powers; nor shall this act be held to control or abridge such powers of the States.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Iowa.

Mr. WILSON, of Iowa. Mr. President, I do not care to occupy the attention of the Senate at any length.

Mr. EUSTIS. Where does the Senator propose his amendment to come in?

Mr. WILSON, of Iowa. I propose it as an addition to the proviso of section 1, and it is simply for the purpose of avoiding an effect which is likely to flow from the earlier provisions of that section. That section provides as follows:

That all arrangements, contracts, agreements, trusts, or combinations between two or more persons or corporations, or both, made with a view or which tend to prevent full and free competition in the importation, transportation, or sale of articles imported into the United States, or with a view or which tend to pre-

vent full and free competition in articles of growth, production, or manufacture of any State or Territory of the United States with similar articles of the growth, production, or manufacture of any other State or Territory, or in the transportation or sale of like articles, the production of any State or Territory of the United States, into or within any other State or Territory of the United States; and all arrangements, trusts, or combinations between such persons or corporations made with a view or which tend to advance the cost to the consumer of any such articles are hereby declared to be against public policy, unlawful, and void.

I will state frankly my purpose in offering the amendment. Under the provisions of this section, should it become a law, every organization in such a State as Iowa, for instance, of the character of the Woman's Christian Temperance Union, the Temperance Alliance, and other organizations intended to promote the execution of the laws of that State in respect of the manufacture and sale of intoxicating liquors would become illegal bodies and their movements subject to the terms and provisions of this bill. I know that was not intended, and yet the language, without being stripped of its power by the amendment I propose, would include all organizations of that kind. All I ask is that the subjects within the police power of the States as embraced within that legislation, of Iowa and any other State which may desire similar legislation, shall not be embraced within this provision, but that the States shall be left free in the execution of their police powers.

Mr. SHERMAN. I ask for the reading of the amendment again.

The PRESIDING OFFICER. The amendment will be again stated.

The CHIEF CLERK. It is proposed to add to the second proviso already agreed to at the end of section 1:

Nor to any arrangements, agreements, associations, or combinations among persons for the enforcement and execution of the laws of any State enacted in pursuance of its police powers; nor shall this act be held to control or abridge such powers of the States.

Mr. WILSON, of Iowa. I will just add to what I have said that the proviso to which I offered this as an amendment excepts from the operations of this section of the bill arrangements, agreements, or combinations between laborers, made with a view of lessening the number of hours of their labor or of increasing their wages, and it also excepts arrangements, agreements, associations, or combinations among persons engaged in horticulture or agriculture, made with a view of enhancing the price of their own agricultural or horticultural products. I think that the exception which I ask to have made by this amendment is quite as worthy of the support of the Senate as either of these.

Mr. HOAR. Allow me to ask the Senator if his amendment accomplishes his object. I understand his object is to protect combinations of persons intended to discourage the use and manufacture of intoxicating liquors.

Mr. WILSON, of Iowa. My object is to exclude them from the operation of the bill.

Mr. HOAR. I understand, to protect them from being affected by it. But the only description in his amendment is of such associations as are in aid of the execution of the laws of a State in pursuance of its police power. Now, if this bill without his amendment would render the class of persons he has described subject to the penal provision, all temperance societies whose object is to persuade mankind not to use intoxicating liquors would still remain in spite of his amendment within the purview of the bill. It seems to me he should extend his amendment a little further, because, as far as my State goes, this class of associations which he has described do not confine their efforts to the execution of the law, but their efforts are a great deal more extensive and extend to discouraging the use or manufacture of intoxicating liquors altogether. This is what he means, and we would all vote for it.

Mr. WILSON, of Iowa. I am satisfied that my amendment will cover the purpose I have in view concerning my State. If other Senators desire something further in regard to their States, they can move it.

Mr. HOAR. I move to amend the Senator's amendment by adding to it:

Or to discourage the use or manufacture of intoxicating liquors.

And we will take a vote on that.

The PRESIDING OFFICER. The Chief Clerk will read the amendment proposed by the Senator from Massachusetts to the amendment of the Senator from Iowa.

The CHIEF CLERK. It is proposed to add to the amendment of the Senator from Iowa:

Or to discourage the use or manufacture of intoxicating liquors.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

Mr. SHERMAN. The Senator from Iowa showed me his amendment. As these organizations in Iowa are associated and organized something in the nature of a corporation, there might be some reason for believing that they possibly might fall within the meaning of the clauses of the bill. Therefore, I have no objection to his amendment, but I do not see any reason for putting in temperance societies any more than churches or school-houses or any other kind of moral or educational associations that may be organized. Such an association is not in any sense a combination or arrangement made to interfere with interstate commerce; but under the peculiar circumstances, upon the facts stated by the Senator from Iowa, I think it is very proper to make an exception of those organizations in Iowa which are really in aid of the

execution of State law. I would apply it to all organizations which are using either moral or any other kind of means for the enforcement of local laws; but I do not think it is worth while to adopt the amendment of the Senator from Massachusetts, because that would include temperance societies. You might as well include churches and Sunday schools.

Mr. CULLOM. Mr. President, I have been quietly sitting here listening to this debate and voting on numerous amendments now for three or four days, and have said nothing. I am very anxious to vote for some proper bill that will abolish and uproot the trusts that are interfering with the legitimate business of the country, and I had hoped when we commenced this discussion that we should confine our work to that subject alone. But we have been proceeding now for several days, numerous amendments have been offered, and almost every conceivable subject has been dragged in and attached to the bill that was for the purpose of uprooting and prohibiting trusts. I do not think there has been a single amendment offered to which there have not been very serious objections made on the ground of its unconstitutionality. It is utterly useless for us to pass a bill just for the fun of it, or to pass a bill that is unconstitutional, or to undertake to pass a bill that covers every subject in which the people are interested.

While I am very anxious to pass a proper bill that will prohibit trusts and break them up and protect the people of this country I should much prefer having a bill carefully considered by a committee in order that we may intelligently vote upon it.

While I do not know whether the honorable Senator from Ohio will consent to it or not, yet I very much hope he will consent to a recommitment of the bill, with all the amendments, to the Committee on Finance.

Mr. SHERMAN. It would take two weeks longer.

Mr. CULLOM. I do not care if it does. I want to get something out of this measure that will do some good and not do any harm. In my judgment we are liable to pass something here that will destroy business instead of protecting the legitimate business of the country. Everybody who knows me, in the Senate and elsewhere, I think, knows me well enough to be assured that I am for the interest of the people, if I can find out what that is and if we can do it constitutionally and legitimately. But I am not willing to vote for a bill about which there is very serious doubt as to whether we will not injure the interests of the people, instead of protecting and benefiting them.

I hope, as there has seemed to be an indisposition to refer this bill to the Committee on the Judiciary, that the Committee on Finance will consent that the bill shall be recommitted to them, and I believe, in the light of the discussion which has been had of the original bill and of the several amendments that have been offered to it, that committee in a very few days' time will be able to perfect a bill for which we all can vote, and which we can pass without three or four days' discussion, as we have had on this bill as it is.

Sir, I do not want to delay this subject, neither do I desire that the business of the Senate shall be interfered with, but this is as important a question as can come before us, and it is important that we should get the bill in proper shape before we pass it. I know that the Senator from Ohio is anxious to pass a proper bill on this subject, and I trust he will consent that the Senate shall recommit the bill to the Committee on Finance in order that they may report it to the Senate again after they have maturely considered the different amendments before them.

I hope the Senate will vote upon a motion and vote in favor of a motion, whether the Senator from Ohio desires the bill to go back to that committee or not, to send it back to the Finance Committee, with all of the amendments that have been offered, the most of which have been adopted, and let them consider the various propositions in their committee-room carefully, and then bring in here a measure which they think ought to be passed, and I have no doubt the Senate will pass it. I make that motion, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois moves that the bill be recommitted to the Committee on Finance. Is the Senate ready for the question?

Mr. SHERMAN. After four days' debate, all that is required is for us to have a vote upon these amendments. The Senate have now got all the information that can be communicated by the committee. There is no use in a reference of the bill; and if we go on in that way transacting the business of the country we shall never close this session.

Mr. CULLOM. The Senator knows better than anybody else in the Senate that it is a difficult matter for a body of eighty men to consider a bill maturely and carefully and be as nearly right in its consideration as a committee of eight or ten men in their room, where they can read it section by section and line by line and determine upon its constitutionality and upon its effect on the business of the country.

Mr. SHERMAN. I know that every sentence and every line of the bill has been read to the Senate over and over again. It has been printed three times and the only point of difference now (and but for that point I believe the bill would have passed before this time) is whether the seventh section sufficiently defines what are called "futures." That doubt has arrested the passage of the bill, and but for that it would have passed before this time. Now that doubt has practically been removed by the amendment proposed by the Senator from Kansas.

Mr. CULLOM. The amendment of the Senator from Kansas has been criticised here, and has been amended hurriedly. The Senate does not know now, in my opinion, what the amendment to that amendment is which has been adopted by the Senate.

Mr. SHERMAN. Upon my word, it has been read many times.

Mr. EUSTIS. I appeal to the Senator from Ohio. I do not think that he is fairly treating the friends of the trust bill proper by insisting upon a vote in regard to these amendments. For instance, take my case. I am in favor of the bill reported by the Senator from Ohio and of the amendment of the Senator from Texas. I will vote for that bill. I think it is a proper bill, and I think it is a bill that ought to be passed by Congress; but by refusing to have this bill recommitted to the committee I am forced into the position of voting against the bill, because I can not vote for the amendment offered by the Senator from Kansas.

Mr. SHERMAN. Let me ask the Senator from Louisiana how much better off he would be. Suppose we take the bill back to the committee, go over it again, and bring it in here. It will have lost its place on the Calendar or anywhere else, we shall have lost time, and it may be a long while before it can be taken up, and then we shall have the same questions presented. If a majority of the Senate are in favor of attaching the amendment of the Senator from Kansas to the bill, let them say so now. Now is the time. If a majority of the Senate reject the bill on any account whatever, let it be so. I do not see what help it will be to send it to the Committee on Finance.

Mr. EUSTIS. I think the Senator from Ohio probably may discover that there may be a change of views in this body.

Mr. SHERMAN. I do not much conceive it.

Mr. EUSTIS. The bill can be reported in a few days.

Mr. INGALLS. If the Committee on Finance should see fit to report the bill without the amendment that has been offered by me, I pledge myself distinctly to offer it again when the bill comes to the Senate.

Mr. DOLPH. I wish to say that I believe the amendment of the Senator from Kansas to be the important part of this bill. If any portion of the bill will accomplish the purpose designed this will, and if any part of the bill, in my judgment, is within the constitutional power of Congress the amendment offered by the Senator from Kansas is. But I think the Senator from Kansas has inadvertently, not having given the matter his usual careful consideration, taken the life out of his entire amendment. He has destroyed by the amendment to the proviso sections 6 and 7, and if those sections are destroyed there is nothing left of his proposition, because it now provides that the whole act shall not apply to bona fide contracts for the actual delivery of the property contracted for.

If there is such a contract it is not necessary for the party to deliver the article. If the contract is made in good faith and the seller does not choose to deliver the article he simply pays the damages, he pays the difference in the price; but if you were to go further and had the power, which you have not, to provide that it shall be delivered, it would not stop gambling in futures at all, because if there were half a million bushels of corn in the elevators in Chicago the warehouse receipts of that grain would be floating around the city; they would pass from hand to hand like checks upon money deposited in a bank, and you could every day in the year deliver, because the delivery of the receipt for the corn in the warehouse would be a delivery of the corn, and you could actually deliver and contract every day in the year for ten or twenty million bushels of corn.

Mr. HAWLEY. Mr. President, every Senator who speaks discloses to me the hopelessness of this situation. It is quite impossible to specify what propositions will receive the approval of a majority of the Senate, and yet the combinations of all the propositions may be such that nobody will vote for the bill, and that is just about where we stand now. I think the bill as it stands now literally has not a friend in the Senate. The Senator from Ohio indicates practically that it is an impossibility for anybody to vote for it as it stands.

Mr. SHERMAN. Oh, no.

Mr. HAWLEY. I understood the Senator to say that the bill as it is just now ought not to pass.

Mr. SHERMAN. Oh, no.

Mr. HAWLEY. Very well; I think that nine-tenths of the Senate would say so. That is my opinion of it.

Mr. INGALLS. A majority of the amendments have been offered subsequently to the last amendment adopted to section 7.

Mr. HAWLEY. Yet that was adopted by the Senate. There are half a dozen amendments there bunched together that received the approval of the Senate apparently.

Mr. President, I have a few words more to say. Nobody from the Committee on Finance has advocated this bill except its distinguished reporter and perhaps author. I do not remember that any one else has spoken for it from that committee. But we have a committee in the Senate chosen for the express purpose of considering great general laws, statutes that are intended to remain and do great work. A bill like this is not intended for the Military or Naval Committee or the Appropriations Committee, or in my judgment for the Finance Committee or the Committee on the Library or any one of the forty committees. There is just one committee that ought to take a subject of this magnitude under consideration and give us legal advice.

Most of us are lawyers, but few of us can give this question the study and consideration we feel it ought to have. However, we have chosen a body of veteran teachers and practitioners of law for the express purpose of getting the best advice possible, and we have not used our own machinery.

I can not vote for the bill as it stands now. You may shear off any one of half a dozen things that remain and yet I could not vote for it. But there is a broad, general purpose of the bill as originally reported that I approve.

Now, I move sincerely, and with a desire to get at the truth, to amend the motion of the Senator from Illinois by inserting the Judiciary Committee, so as to refer the bill to the Judiciary Committee.

Mr. SHERMAN. The vote must be taken separately on that question.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Massachusetts [Mr. HOAR] to the amendment of the Senator from Iowa [Mr. WILSON].

Mr. INGALLS. What was the motion of the Senator from Connecticut?

Mr. HAWLEY. The question is on the motion for reference.

The PRESIDING OFFICER. The Chair did not hear the motion of the Senator from Connecticut.

Mr. HAWLEY. The Senator from Illinois had moved to recommit.

The PRESIDING OFFICER. The motion of the Senator from Illinois to recommit takes precedence of the amendment.

Mr. HAWLEY. I move to amend so as to refer the bill to the Committee on the Judiciary.

Mr. INGALLS. A motion to commit can only be amended by adding instructions, not by moving to refer to another committee.

The PRESIDING OFFICER. The Senator from Kansas is clearly right.

Mr. HAWLEY. I move to refer, with instructions to report within a fortnight.

Mr. EDMUNDS. The motion to recommit to the Committee on Finance can not be amended, I think, under the rules, by a change to another committee.

The PRESIDING OFFICER. The Chair has so decided, but instructions to the committee it is competent for the Senate to give, if it chooses.

Mr. CULLOM. I desire to say one word further. I wish to distinctly state that I am earnestly in favor of a proper and well matured anti-trust bill, and I want one passed just as soon as it can be done. The only reason why I desired that the bill should go back to the Finance Committee was because there seemed to be an objection to its going to the Judiciary Committee. The impression seemed to prevail in some minds that that was in the interest of killing the bill.

Now, I have made the motion to recommit, in the interest of passing the bill just as quickly as possible.

Mr. HAWLEY. I think the Senator's intimation is not quite courteous to any committee of this body. When a proposition is made to refer a bill to a committee, I do not know of any committee that has ever said, "We do not care to consider it; it is none of our business; somebody else ought to have it;" or, "We do not want to be vexed about it." We have no such condition here.

Mr. CULLOM. I am making no suggestion of that kind myself. I am simply stating that expressions have been made that referring the bill to the Judiciary Committee was in the interest of strangling the bill entirely. The reason why I make the motion to refer it to the Finance Committee is because I do not want it strangled. I want to refer it to its friends. I want to refer it to the committee that brought it here. So far as their ability is concerned, everybody knows that many if not all the members of that committee are as eminent lawyers as are the members of the Judiciary Committee. In my judgment if it can go back to that committee, that committee can bring it here inside of three days perfected, and by unanimous consent, in my opinion, the Senate would allow it to be taken up and acted upon without delay.

Mr. EDMUNDS. I only wish to say, without referring to the merits of this case, that the Senator from Illinois is entirely mistaken, so far as I know, in supposing that any single member of the Committee on the Judiciary wishes to strangle this bill, the great purposes of which I believe every member of the committee is in favor of. I am not in favor of referring it to the Committee on the Judiciary. I wish the committee which chose to take possession of the subject shall work it out; but I think it due to the members of the Committee on the Judiciary to say that, so far as I know, there is not a single member of that committee who does not agree with the Senator from Illinois in desiring to suppress these evils.

Mr. CULLOM. I am still misunderstood. I do not intimate that in my opinion the Judiciary Committee is against this bill at all, but there seemed to be a disinclination to refer it there, and I want the bill referred to its friends, who can bring it back here as quickly as possible.

Mr. BUTLER. Every time the proposition is made to refer the bill to the Committee on the Judiciary I am reminded of shaking a red flag at a bull; the members of that committee appear to get in a very high state of indignation. I was going to suggest, in view of what the Senator from Vermont said some time ago, that he had taken his

life in his hand when he made some proposition to his colleague on that committee, that each member of that committee be disarmed before we go any further with this discussion, if there is any danger of that sort.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Connecticut [Mr. HAWLEY] to the motion of the Senator from Illinois [Mr. CULLOM].

Mr. PLATT. The motion of the Senator from Illinois can not be amended in that way.

Mr. CULLOM. I think the amendment was declared out of order.

Mr. BLAIR. I should like before this matter goes any further to inquire of the Senator from Ohio if he will be so good as to inform the Senate when we are to have a vote upon this proposition?

Mr. SHERMAN. In the course of an hour.

Mr. BLAIR. In the course of an hour? Very well; I am satisfied with that.

The PRESIDING OFFICER. Is the Senate ready for the question on the amendment of the Senator from Connecticut to the motion of the Senator from Illinois?

Mr. EDMUNDS. What is that amendment?

The PRESIDING OFFICER. It is that the committee shall be instructed to report within two weeks.

Mr. INGALLS. The Committee on Finance?

The PRESIDING OFFICER. The Committee on Finance.

Mr. HAWLEY. No, I beg pardon; I made no such motion.

The PRESIDING OFFICER. The Chair did not hear the amendment, but was so informed at the Clerk's desk.

Mr. HAWLEY. In what way I can parliamentary, I wish to get this bill to the Committee on the Judiciary. That is my motion.

The PRESIDING OFFICER. The Chair ruled that motion out of order, and understood the Senator to propose to amend by adding instructions.

Mr. HAWLEY. No. Of course I submit to the ruling of the Chair. I shall vote against the motion to refer to the Committee on Finance, and I shall make a motion to refer to the Committee on the Judiciary if I can get an opportunity.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois to recommit the bill to the Committee on Finance. The motion was not agreed to, there being on a division—ayes 17, noes 31.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts [Mr. HOAR] to the amendment of the Senator from Iowa [Mr. WILSON].

Mr. HAWLEY. I move to refer the bill and all amendments to the Committee on the Judiciary, and if it be proper I would add, with instructions to report within a fortnight.

The PRESIDING OFFICER. The Chair holds that that motion is in order. The Senator from Connecticut moves that the bill and amendments be referred to the Committee on the Judiciary, with instructions that that committee shall report back to the Senate within two weeks. The question is on agreeing to the motion of the Senator from Connecticut.

The motion was not agreed to, there being on a division—ayes 24, noes 29.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts to the amendment of the Senator from Iowa.

Mr. VANCE (at 6 o'clock and 15 minutes p. m.). I move that the Senate do now adjourn.

Mr. SHERMAN and others. Oh, no.

Mr. COCKRELL. I hope that motion will not be made until an order is made to reprint the bill.

Mr. SHERMAN. On that motion to adjourn I call for the yeas and nays.

Mr. EDMUNDS (to Mr. SHERMAN). You do not need them, I think. Do not call for them until it becomes necessary.

Mr. SHERMAN. Very well; I withdraw the demand.

The PRESIDING OFFICER. The question is on the motion of the Senator from North Carolina that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts to the amendment of the Senator from Iowa.

Mr. HOAR. I will withdraw my amendment, solely in the interest of saving time.

The PRESIDING OFFICER. The question then recurs on the amendment of the Senator from Iowa [Mr. WILSON].

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment in the nature of a substitute proposed by the Senator from Delaware [Mr. GRAY]. Is the Senate ready for the question?

Mr. BUTLER. Let us have the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. BUTLER (when his name was called). I am paired generally with the Senator from Pennsylvania [Mr. CAMERON]. As I do not

know how he would vote on this question, I withhold my vote. If he were present, I should vote "yea."

Mr. COKE (when his name was called). I am paired with the Senator from Colorado [Mr. TELLER], who is absent. I do not know how he would vote, and I therefore withhold my vote.

Mr. DAVIS (when his name was called). I am paired upon this question with the Senator from Nevada [Mr. STEWART]. If he were present, I should vote "nay."

Mr. DOLPH (when his name was called). I am paired with the senior Senator from Georgia [Mr. BROWN]. If he were here, I should vote "nay."

Mr. FAULKNER (when his name was called). I transfer the pair I have with the junior Senator from Pennsylvania [Mr. QUAY] to the senior Senator from Florida [Mr. CALL], and vote "yea."

Mr. HAMPTON (when his name was called). I have a pair with the junior Senator from Rhode Island [Mr. DIXON]. Not knowing how he would vote, I shall withhold my vote, though I should vote "yea" if he were present.

Mr. HEARST (when his name was called). I am paired with my colleague [Mr. STANFORD].

Mr. HISCOCK (when his name was called). I am paired with the Senator from Arkansas [Mr. JONES].

Mr. FAULKNER (when Mr. KENNA's name was called). My colleague [Mr. KENNA] requested me to say that he is necessarily detained from the Senate. He is paired with the Senator from North Dakota [Mr. CASEY].

Mr. PLATT (when his name was called). I am paired with the junior Senator from Virginia [Mr. BARBOUR].

Mr. SQUIRE (when his name was called). I am paired with the Senator from Virginia [Mr. DANIEL] on political questions. If he were present, I should vote "nay."

The roll-call was concluded.

Mr. BLACKBURN. My colleague [Mr. BECK] is absent necessarily on account of the condition of his health. If he were here he would vote "yea," unless his pair should prevent it.

I am paired with the Senator from Nebraska [Mr. MANDERSON], who is absent. If he were here I should vote "yea."

Mr. SAWYER. I am paired with the Senator from Georgia [Mr. COLQUITT].

Mr. PUGH. I desire to announce the pair of my colleague [Mr. MORGAN] with the Senator from New York [Mr. EVARTS].

Mr. HALE (after having voted in the negative). I withdraw my vote.

The PRESIDING OFFICER. The Senator from Maine withdraws his vote.

Mr. RANSOM. I am paired with the Senator from Michigan [Mr. STOCKBRIDGE]. If he were here I should vote "yea."

The result was announced—yeas 18, nays 26; as follows:

YEAS—18.

Bate,	Gibson,	Pasco,	Voorhees,
Berry,	Gorman,	Pugh,	Walthall,
Eustis,	Gray,	Turpie,	Wilson of Md.
Faulkner,	Harris,	Vance,	
George,	McPherson,	Vest,	

NAYS—26.

Aldrich,	Dawes,	McMillan,	Reagan,
Allen,	Farwell,	Mitchell,	Sherman,
Allison,	Hawley,	Moody,	Spooner,
Blair,	Higgins,	Morrill,	Washburn,
Chandler,	Hoar,	Paddock,	Wilson of Iowa.
Cookrell,	Ingalls,	Pierce,	
Cullom,	Jones of Nevada,	Plumb,	

ABSENT—38.

Barbour,	Colquitt,	Hearst,	Ransom,
Beck,	Daniel,	Hiscock,	Sawyer,
Blackburn,	Davis,	Jones of Arkansas,	Squire,
Blodgett,	Dixon,	Kenna,	Stanford,
Brown,	Dolph,	Manderson,	Stewart,
Butler,	Edmunds,	Morgan,	Stockbridge,
Call,	Evarts,	Payne,	Teller,
Cameron,	Frye,	Pettigrew,	Wolcott.
Casey,	Hale,	Platt,	
Coke,	Hampton,	Quay,	

So the amendment was rejected.

Mr. GRAY. I offer the amendment which I send to the desk, to the bill, and ask that it be read. Is the bill in the Senate or in Committee of the Whole?

The PRESIDING OFFICER. The bill is in Committee of the Whole and open to amendment.

Mr. GRAY. I move to add after section 5 the section which I have sent to the desk.

The PRESIDING OFFICER. The Secretary will report the amendment proposed.

The CHIEF CLERK. After section 5 it is proposed to insert the following new section:

Sec.—. That when the President of the United States shall be satisfied that any arrangement, trust, contract, agreement, or combination, as described in the first section of this act, has been formed, and that in consequence thereof there has been an enhancement of the price of any article of merchandise, he shall have power, and it is hereby made his duty, to issue his proclamation suspending the collection of all customs duties or import taxes on similar articles

when imported into the United States from any foreign country. Such suspension shall continue for ninety days after the President, upon being satisfied that such enhancement in price no longer exists, shall issue his proclamation withdrawing his former proclamation of suspension. And the President of the United States may, from time to time, as may in his judgment be proper, reissue, modify, or withdraw any proclamation he may have issued.

The PRESIDING OFFICER. The question is, Will the Senate agree to the amendment?

Mr. VEST. I call for the yeas and nays on that amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BLACKBURN (when his name was called). I repeat the announcement of my pair with the Senator from Nebraska [Mr. MANDERSON] and the necessary absence of my colleague [Mr. BECK]. He would vote "yea" if present, and so would I.

Mr. BUTLER (when his name was called). I am paired with the Senator from Pennsylvania [Mr. CAMERON].

Mr. COKE (when his name was called). I am paired with the Senator from Colorado [Mr. TELLER]. If he were here, I should vote "yea."

Mr. DAVIS (when his name was called). I am paired with the Senator from Nevada [Mr. STEWART] on this bill. I do not know how he would vote on this amendment and therefore withhold my vote.

Mr. DOLPH (when his name was called). I am paired with the Senator from Georgia [Mr. BROWN].

Mr. HAMPTON (when his name was called). I am paired with the Senator from Rhode Island [Mr. DIXON].

Mr. HISCOCK (when his name was called). I am paired with the Senator from Arkansas [Mr. JONES]; otherwise I should vote "nay."

Mr. BERRY (when the name of Mr. JONES, of Arkansas, was called). My colleague [Mr. JONES], if present, would vote "yea."

Mr. PLATT (when his name was called). I am paired with the Senator from Virginia [Mr. BARBOUR] and I make this announcement once for all this evening, unless the bill should come to a final vote.

Mr. RANSOM (when his name was called). I am paired with the Senator from Michigan [Mr. STOCKBRIDGE]. If he were present I should vote "yea."

Mr. SAWYER (when his name was called). I am paired with the Senator from Georgia [Mr. COLQUITT].

Mr. SQUIRE (when his name was called). I am paired with the Senator from Virginia [Mr. DANIEL]. If he were present, I should vote "nay."

The roll-call was concluded.

Mr. HALE. I am paired with the Senator from Kentucky [Mr. BECK].

Mr. BLACKBURN. Mr. President, after conference with the Senator from Maine [Mr. HALE] and with the Senator from Nebraska [Mr. PADDOCK], I will on this vote transfer my pair from the Senator from Nebraska [Mr. MANDERSON], who is detained by illness from the Chamber, to my colleague [Mr. BECK]. I will ask to vote. I vote "yea."

Mr. HALE. I vote "nay."

The result was announced—yeas 21, nays 25; as follows:

YEAS—21.

Bate,	Faulkner,	McPherson,	Vest,
Berry,	George,	Pasco,	Voorhees,
Blackburn,	Gibson,	Pugh,	Walthall.
Cockrell,	Gorman,	Reagan,	
Edmunds,	Gray,	Turpie,	
Eustis,	Harris,	Vance,	

NAYS—25.

Aldrich,	Farwell,	McMillan,	Sherman,
Allen,	Hale,	Moody,	Spooner,
Allison,	Hawley,	Morrill,	Washburn,
Blair,	Higgins,	Paddock,	Wilson of Iowa.
Chandler,	Hoar,	Payne,	
Cullom,	Ingalls,	Pierce,	
Dawes,	Jones of Nevada,	Plumb,	

ABSENT—36.

Barbour,	Colquitt,	Hiscock,	Ransom,
Beck,	Daniel,	Jones of Arkansas,	Sawyer,
Blodgett,	Davis,	Kenna,	Squire,
Brown,	Dixon,	Manderson,	Stanford,
Butler,	Dolph,	Mitchell,	Stewart,
Call,	Evarts,	Morgan,	Stockbridge,
Cameron,	Frye,	Pettigrew,	Teller,
Casey,	Hampton,	Platt,	Wilson of Md.
Coke,	Hearst,	Quay,	Wolcott.

So the amendment was rejected.

Mr. VEST. I move to amend the bill, in section 9, line 5, by striking out the word "one," before the word "thousand," and inserting "ten."

The PRESIDING OFFICER. The amendment will be stated. The CHIEF CLERK. In section 9, line 5, before the word "thousand," it is proposed to strike out "one" and insert "ten," so as to read:

Dealers in "options" or "futures" shall pay annually the sum of \$10,000.

The amendment was agreed to—ayes 28, noes not counted.

Mr. COKE. I voted on the division inadvertently. I forgot for the moment that I was paired with the Senator from Colorado [Mr. TELLER].

Mr. TURPIE. I move that the Senate do now adjourn.

The question being put, there were on a division—ayes 22, noes 30.

Mr. VANCE. I ask for the yeas and nays.  
The yeas and nays were ordered.

Mr. INGALLS. Mr. President, I ask unanimous consent to submit a request that some hour may be designated to-morrow when the vote shall be taken on this bill.

The PRESIDING OFFICER. Is there objection to the Senator submitting a request, a motion to adjourn being pending?

Mr. EDMUNDS. I object.

The PRESIDING OFFICER. The Senator from Vermont objects.

Mr. VANCE. I withdraw the call for the yeas and nays on the motion to adjourn at the request of Senators around me.

The PRESIDING OFFICER. Is there objection to the Senator withdrawing the call for the yeas and nays. The Chair hears none, and the call is withdrawn. The motion to adjourn has been disagreed to.

Mr. VEST. In line 15 of section 10, before the word "thousand," I move to strike out "one" and insert "ten;" so as to conform to the former amendment made on my motion.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. In section 10, line 15, before the word "thousand," it is proposed to strike out "one" and insert "ten;" so as to read:

And shall thereupon pay to such collector the sum aforesaid of \$10,000.

Mr. SHERMAN. I raise the point of order on the amendment.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. SHERMAN. These amounts have been inserted by an amendment made as in Committee of the Whole, and consequently they are not now amendable. Most of these amendments have been out of order. I feel bound to raise the point.

The PRESIDING OFFICER. The amendment, being an amendment already agreed to as in Committee of the Whole, is not now amendable by the change proposed by the Senator from Missouri, and his amendment is not in order.

Mr. VEST. I suppose I can offer the amendment in the Senate.

The PRESIDING OFFICER. It will be in order in the Senate. The bill is still in Committee of the Whole and open to amendment. If there are no further amendments, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The Senate has made sundry amendments to the bill.

Mr. VEST. Now I submit my amendment.

Mr. INGALLS. The first question is on the amendments made as in Committee of the Whole.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole; and then the Chair asks whether the question shall be put in gross or whether certain amendments shall be reserved.

Mr. INGALLS. I wish to reserve all the amendments made to section 7, I think it is, beginning with that offered by the Senator from South Carolina [Mr. BUTLER].

Mr. EDMUNDS. Reserve all the amendments; take them all one by one.

The PRESIDING OFFICER. All the amendments are reserved. The question will be put on each amendment separately, and the Secretary will report for information the first amendment made as in Committee of the Whole.

Mr. VANCE. Mr. President, it is very evident now that we can not vote intelligently to-night upon the bill with all these amendments unprinted unless we extend this session very late indeed. It is a most important bill and we have done a long day's work. I hope now that some proposition will be entertained to fix an hour when we shall vote to-morrow, and that we shall adjourn and have the bill printed in the mean time for the information of the Senate.

Mr. INGALLS. I ask unanimous consent that the vote be taken on the bill and amendments without further discussion at 4 o'clock in the afternoon to-morrow.

Mr. EDMUNDS. To that I object, for the reason that I have some observations to make when the bill shall have been perfected, and so I object to any arrangement of that kind. We had better finish the bill to-night. We understand what the propositions are.

The PRESIDING OFFICER. The Secretary will report the first amendment made as in Committee of the Whole.

Mr. BUTLER (at 6 o'clock and 36 minutes p. m.). I move that the Senate do now adjourn.

The question being put, there were, on a division—ayes 25, noes 26.

Mr. BUTLER. Let us have the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. BUTLER (when his name was called). I am paired generally with the Senator from Pennsylvania [Mr. CAMERON], but, believing that he would vote "yea" on this proposition if present, I vote "yea."

Mr. COKE (when his name was called). I am paired with the Senator from Colorado [Mr. TELLER], and therefore withhold my vote.

Mr. RANSOM (when his name was called). I am paired with the Senator from Michigan [Mr. STOCKBRIDGE]. If he were present, I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 23, nays 26; as follows:

## YEAS—23.

Bate,  
Berry,  
Blackburn,  
Butler,  
Cockrell,  
Eustis,

Faulkner,  
George,  
Gibson,  
Gorman,  
Gray,  
Hampton,

Harris,  
McPherson,  
Pasco,  
Payne,  
Pugh,  
Reagan,

Turpie,  
Vance,  
Vest,  
Voorhees,  
Walthall.

## NAYS—26.

Aldrich,  
Allen,  
Allison,  
Chandler,  
Cullom,  
Davis,  
Dawes,

Dolph,  
Edmunds,  
Farwell,  
Hale,  
Hawley,  
Higgins,  
Hoar,

Ingalls,  
McMillan,  
Mitchell,  
Moody,  
Morrill,  
Paddock,  
Pierce,

Plumb,  
Sherman,  
Spooner,  
Washburn,  
Wilson of Iowa,

## ABSENT—33.

Barbour,  
Beck,  
Blair,  
Blodgett,  
Brown,  
Call,  
Cameron,  
Casey,  
Coke,

Colquitt,  
Daniel,  
Dixon,  
Evarts,  
Frye,  
Hearst,  
Hiscock,  
Jones of Arkansas,  
Jones of Nevada,

Kenna,  
Manderson,  
Morgan,  
Pettigrew,  
Platt,  
Quay,  
Ransom,  
Sawyer,  
Squire,

Stanford,  
Stewart,  
Stockbridge,  
Teller,  
Wilson of Md.  
Wolcott.

So the Senate refused to adjourn.

Mr. BUTLER. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The Senator from South Carolina moves that the Senate proceed to the consideration of executive business.

The motion was agreed to, there being on a division—ayes 24, noes 22.

The PRESIDING OFFICER. The Sergeant-at-Arms will clear the galleries and close the doors.

Mr. SHERMAN. Before that is done I ask for an order to reprint the bill with the amendments which have been made to it.

The PRESIDING OFFICER. That order will be made, in the absence of objection.

## HOUSE BILL REFERRED.

The bill (H. R. 8393) to provide for celebrating the four hundredth anniversary of the discovery of America by Christopher Columbus by holding an international exhibition of arts, industries, manufactures, and the product of the soil, mine, and sea in the city of Chicago, in the State of Illinois, was read twice by its title, and referred to the Select Committee on the Quadro Centennial.

## EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 6 o'clock and 47 minutes p. m.) the Senate adjourned until to-morrow, Thursday, March 27, 1890, at 12 o'clock m.

## NOMINATIONS.

*Executive nominations received by the Senate the 26th day of March, 1890.*

## POSTMASTER.

Thomas W. Thurman, to be postmaster at Griffin, in the county of Spalding and State of Georgia, in the place of M. O. Bowdoin, whose commission expired March 12, 1890.

## PROMOTION IN THE NAVY.

Paymaster Thomas H. Looker, to be chief of the Bureau of Provisions and Clothing and Paymaster-General in the Department of the Navy, with the relative rank of commodore, to fill a vacancy.

Medical Inspector Walker K. Scofield, to be a medical director in the Navy, from the 8th of February, 1890, *vice* Medical Director Adrian Hudson, deceased.

Surg. Daniel McMurtrie, to be a medical inspector in the Navy, from the 8th of February, 1890, *vice* Medical Inspector W. K. Scofield, promoted.

Passed Assistant Engineer Henry Schuyler Ross, to be a chief engineer in the Navy, from January 28, 1890, *vice* Chief Engineer John P. Kelly, deceased.

Assistant Engineer George W. McElroy, to be a passed assistant engineer in the Navy, from January 23, 1890, *vice* Passed Assistant Engineer Arthur Price, resigned, and H. S. Ross, promoted, subject to the examination required by law.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate March 24, 1890.*

## UNITED STATES CONSULS.

William S. Preston, of New York, to be consul of the United States at Cognac.

Alfred W. Street, of New York, to be consul of the United States at Coaticook.

## SURVEYOR OF CUSTOMS.

Armor Smith, jr., of Ohio, to be surveyor of customs for the port of Cincinnati, in the State of Ohio.

## POSTMASTERS.

J. Knox Corbett, to be postmaster at Tucson, in the county of Pima and Territory of Arizona.

John W. Archibald, to be postmaster at Prescott, in the county of Yavapai and Territory of Arizona.

Hallam G. Williamson, to be postmaster at Albuquerque, in the county of Bernalillo and Territory of New Mexico.

Jacob Weltmer, to be postmaster at Santa Fé, in the county of Santa Fé and Territory of New Mexico.

John A. Place, to be postmaster at Oswego, in the county of Oswego and State of New York.

Henry C. Hammond, to be postmaster at Brockport, in the county of Monroe and State of New York.

Justin M. Moody, to be postmaster at Waterbury, in the county of Washington and State of Vermont.

Charles W. L. Hayward, to be postmaster at East Weymouth, in the county of Norfolk and State of Massachusetts.

John Lovejoy, to be postmaster at Rockland, in the county of Knox and State of Maine.

Frank E. Helvey, to be postmaster at Nebraska City, in the county of Otoe and State of Nebraska.

James B. Hartwell, to be postmaster at Hastings, in the county of Adams and State of Nebraska.

Samuel L. Andrews, to be postmaster at Crete, in the county of Saline and State of Nebraska.

William Cochran, jr., to be postmaster at Milan, in the county of Sullivan and State of Missouri.

Sumner A. Whitehead, to be postmaster at Eaton Rapids, in the county of Eaton and State of Michigan.

William P. Moulton, to be postmaster at Stuart, in the county of Guthrie and State of Iowa.

Noyce B. Smith, to be postmaster at Kilbourn City, in the county of Columbia and State of Wisconsin.

Newman C. Nash, to be postmaster at Canton, in the county of Lincoln and State of South Dakota.

Joshua E. Wilson, to be postmaster at Florence, in the county of Florence and State of South Carolina.

John C. Reid, to be postmaster at Cuyahoga Falls, in the county of Summit and State of Ohio.

Milton B. De Shong, to be postmaster at Ashland, in the county of Ashland and State of Ohio.

John H. Fellows, to be postmaster at Richmond, in the county of Sagadahoc and State of Maine.

Jonas Myers, to be postmaster at Rochester, in the county of Fulton and State of Indiana.

Mark L. De Motte, to be postmaster at Valparaiso, in the county of Porter and State of Indiana.

William H. Breeding, to be postmaster at Edinburgh, in the county of Johnson and State of Indiana.

Frederick G. Diefenbach, to be postmaster at Blue Island, in the county of Cook and State of Illinois.

Mark L. Doughty, to be postmaster at Farmington, in the county of St. Francois and State of Missouri.

William C. Adams, to be postmaster at Petersburg, in the county of Pike and State of Indiana.

George Woodruff, to be postmaster at Farmington, in the county of Fulton and State of Illinois.

Joseph H. Weeks, to be postmaster at Upper Alton, in the county of Madison and State of Illinois.

*Executive nomination confirmed by the Senate March 26, 1890.*

## PROMOTION IN THE NAVY.

*Bureau of Provisions and Clothing.*

Pay Director Thomas H. Looker, to be Chief of the Bureau of Provisions and Clothing, and Paymaster-General in the Department of the Navy.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 26, 1890.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The Journal of the proceedings of yesterday was read.

## CORRECTIONS.

Mr. RICHARDSON. Mr. Speaker, on page 2673 of the RECORD, under reports filed, it appears that as a member of the Committee on Printing I reported a concurrent resolution of the Senate to print 2,500 extra copies of the report of the health officer of the District of Columbia, which was referred to the Committee of the Whole House on the state of the Union. As a fact the concurrent resolution was passed by the House of Representatives and was not referred to the Committee of the Whole House on the state of the Union.

The SPEAKER. The Journal so shows.

Mr. CARLISLE. Mr. Speaker, I desire to call the attention of the

House to a clerical error in an amendment offered by myself on yesterday and agreed to by the House when the world's fair bill was under consideration. In the preparation of the amendment the word "said" is written instead of the word "such." I ask unanimous consent that the Clerk be directed, in engrossing the bill, to substitute the word "such" for the word "said." The meaning is plain in the amendment, and it is a mere clerical error.

The SPEAKER. Without objection, the correction will be made as requested.

There was no objection.

## ENROLLED BILL SIGNED.

The SPEAKER. An enrolled bill was submitted to the House on yesterday evening in such condition that the Chair thinks it should be again submitted.

The Clerk read as follows:

Mr. KENNEDY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (H. R. 325) to establish two additional land offices in the State of Montana.

## SPECIAL ORDER.

Mr. CANNON. As a privileged report from the Committee on Rules, I report back the following resolution with a substitute, the adoption of which is recommended by the committee.

The Clerk read as follows:

*Resolved*, That Wednesday, March 26, immediately after the approval of the Journal, be set apart for the consideration in the House of the bill for the admission of Wyoming, and that, unless previously ordered by the House, the previous question shall be deemed ordered on the engrossment, third reading, and final passage of the bill at 4 o'clock p. m. of that day.

The committee offer the following as a substitute:

*Resolved*, That to-day, immediately after the passage of this resolution, the House enter upon the consideration of the bill for the admission of Wyoming, and at 6 o'clock and 30 minutes take a recess until 11 o'clock Thursday next; and at 1 o'clock of that day the previous question be considered as ordered on the three amendments proposed by the minority and on the bill to its passage.

The substitute was agreed to; and the resolution as amended was agreed to.

Mr. CANNON moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## REMONSTRANCES AGAINST EXPENDITURES FOR WAR-LIKE PURPOSES.

Mr. MARTIN, of Indiana, obtained unanimous consent to have printed in the RECORD the following memorial; which was referred to the Committee on Naval Affairs:

Remonstrance of Back Creek, Fairmount, Deer Creek, and Marlon Monthly Meetings of Friends of Grant County, Indiana, against proposed large expenditures of public money for naval, coast defense, and other warlike measures.

*To the Senate and House of Representatives of the United States in Congress assembled:*

We, your petitioners of Deer Creek Monthly Meeting of Friends, Grant County, State of Indiana, numbering 225 adult persons, respectfully, but earnestly, entreat your honorable bodies to reject the recommendations of the Senate Naval Committee, and other measures which propose a large expenditure for the Navy and so-called coast defences and other warlike preparations, all of which we believe are a menace to the peace and security of the nation.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McCOOK, its Secretary, announced the passage of bills and a joint resolution of the following titles; in which concurrence was requested:

A bill (S. 3025) to enable the Secretary of the Treasury to gather full and authentic information as to the present condition and preservation of the fur-seal interests of the Government in the region of Alaska, as compared with its condition in 1870; also full information as to the impending extinction of the sea-otter industry, and kindred lines of inquiry, etc.;

A bill (S. 2860) to authorize the construction of an addition to the public building in Houston, Tex., and to provide a cistern, heating apparatus, etc., for said building; and

Joint resolution (S. R. 46) authorizing the Secretary of the Navy to remove the naval magazine from Ellis Island, in New York Harbor, and to purchase a site and erect a naval magazine at some other point, and for other purposes.

## ADMISSION OF WYOMING.

Mr. BAKER. I call up the bill for the admission of Wyoming. The bill has been read in Committee of the Whole, and I do not suppose it is necessary to read it again.

The SPEAKER. The gentleman from New York asks unanimous consent to dispense with the reading of the bill. Is there objection?

Mr. ROGERS. Mr. Speaker, I have not heard that bill read, and I think it should be read.

The bill was read, as follows:

Whereas the people of the Territory of Wyoming did, on the 30th day of September, 1889, by a convention of delegates called and assembled for that purpose, form for themselves a constitution, which constitution was ratified and adopted by the people of said Territory at the election held therefor on the first Tuesday in November, 1889, which constitution is republican in form and is in conformity with the Constitution of the United States; and

Whereas said convention and the people of the said Territory have asked the