

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

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

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

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

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

#### GENERAL.

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

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

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

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