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IN THE SENATE OF THE UNITED STATES.

MARCH 25, 1890.

Ordered to be reprinted as amended.

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**A BILL**

**To declare unlawful trusts and combinations in restraint of trade and production.**

1           *Be it enacted by the Senate and House of Representa-*  
2           *tives of the United States of America in Congress assembled,*  
3           That all arrangements, contracts, agreements, trusts, or com-  
4           binations between two or more citizens or corporations, or  
5           both, made with a view or which tend to prevent full and  
6           free competition in the importation, transportation, or sale of  
7           articles imported into the United States, or with a view or  
8           which tend to prevent full and free competition in articles of  
9           growth, production, or manufacture of any State or Territory  
10          of the United States with similar articles of the growth, pro-  
11          duction, or manufacture of any other State or Territory, or in  
12          the transportation or sale of like articles, the production of  
13          any State or Territory of the United States, into or within any  
14          other State or Territory of the United States, and all arrange-  
15          ments, trusts, or combinations between such citizens or cor-  
16          porations made with a view or which tend to advance the  
17          cost to the consumer of any such articles are hereby declared  
18          to be against public policy, unlawful, and void. And the  
19          circuit court of the United States shall have original jurisdic-  
20          tion of all suits of a civil nature at common law or in equity  
21          arising under this section and to issue all remedial process,  
22          orders, or writs proper and necessary to enforce its provi-  
23          sions. And the Attorney-General and the several district  
24          attorneys are hereby directed, in the name of the United  
25          States, to commence and prosecute all such cases to final judg-  
26          ment and execution: *Provided*, That this Act shall not be  
27          construed to apply to any arrangements, agreements, or com-

28 binations between laborers made with the view of lessening  
29 the number of hours of their labor or of increasing their  
30 wages, nor to any arrangements, agreements, associations,  
31 or combinations among persons engaged in horticulture or  
32 agriculture made with the view of enhancing the price of their  
33 own agricultural or horticultural products.

1 SEC. 2. That any person or corporation injured or dam-  
2 nified by such arrangement, contract, agreement, trust, or  
3 combination defined in the first section of this Act may sue  
4 for and recover, in any court of the United States or any State  
5 of competent jurisdiction, without respect to the amount in-  
6 volved, of any person or corporation a party to a combination  
7 described in the first section of this Act twice the amount of  
8 damages sustained and the costs of the suit, together with a  
9 reasonable attorney's fee.

1 SEC. 3. That all persons engaged in the creation of any  
2 trust, or as owner or part owner, agent, or manager of any trust,  
3 employed in any business carried on with any foreign country,  
4 or between the States, or between any State and the District  
5 of Columbia, or between any State and any Territory of the  
6 United States, or any owner or part owner, agent, or man-  
7 ager of any corporation, company, or person employed in any  
8 such business using its powers for either of the pur-  
9 poses specified in the fourth section of this Act, shall be deemed  
10 guilty of a high misdemeanor, and on conviction thereof  
11 shall be fined in a sum not exceeding ten thousand dollars, or  
12 imprisonment at hard labor in the penitentiary not exceeding  
13 five years, or by both of said penalties, in the discretion of the  
14 court trying the same.

1 SEC. 4. That a trust is a combination of capital, skill, or  
2 acts by two or more persons, firms, corporations, or associa-  
3 tions of persons, or of any two or more of them, for either,  
4 any, or all of the following purposes:

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

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

8 Third. To prevent competition in the manufacture, mak-  
9 ing, purchase, sale, or transportation of merchandise, produce,  
10 or commodities.

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

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

18 Sixth. To make, or enter into, or execute, or carry out  
19 any contract, obligation, or agreement of any kind or de-  
20 scription by which they shall bind, or shall have bound them-  
21 selves, not to manufacture, sell, dispose of, or transport any  
22 article or commodity, or article of trade, use, merchandise, or  
23 consumption below a common standard figure, or by which  
24 they shall agree, in any manner, to keep the price of such  
25 article, commodity, or transportation at a fixed or graduated  
26 figure, or by which they shall in any manner establish or  
27 settle the price of any article, commodity, or transportation  
28 between themselves, or between themselves and others, so as  
29 to preclude free and unrestricted competition among themselves  
30 and others in the sale and transportation of any such article  
31 or commodity, or by which they shall agree to pool, combine,  
32 or unite in any interest they may have in connection with the  
33 sale or transportation of any such article or commodity that  
34 its price may in any manner be so affected.

1 SEC. 5. That each day any of the persons, associations,  
2 or corporations aforesaid shall be engaged in violating the  
3 provisions of this act shall be held to be a separate offense.

1 SEC. 6. That for the purposes of this act the word  
2 "options" shall be understood to mean any contract or agree-  
3 ment whereby a party thereto, or any person, corporation,  
4 partnership, or association, for whom or in whose behalf such  
5 contract or agreement is made, acquires the right or privilege,  
6 but is not thereby obligated, to deliver to another at a future  
7 time or period any of the articles mentioned in section three  
8 of this Act.

1 SEC. 7. That for the purposes of this Act the word  
2 "futures" shall be understood to mean any contract or agree-  
3 ment whereby a party agrees to sell and deliver at a future  
4 time to another any of the articles mentioned in section three  
5 of this Act when at the time of making such contract or  
6 agreement the party so agreeing to make such delivery, or  
7 the party for whom he acts as agent, broker, or employee in  
8 making such contract or agreement, is not at the time of  
9 making the same the owner of the article so contracted and  
10 agreed to be delivered: *Provided*, That this Act shall not  
11 apply to contracts for the delivery at any one time of articles  
12 of not more than fifty dollars in value.

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

1        SEC. 9. That for the purpose of preventing and suppress-  
2 ing, as far as may be, the dealing in options and futures as  
3 herein defined, special taxes are imposed as follows: Dealers  
4 in "options" or "futures" shall pay annually the sum of  
5 one thousand dollars, and shall also pay the further sum of  
6 five cents per pound for each and every pound of cotton  
7 or of beef, pork, lard, or other hog and cattle products,  
8 and the sum of twenty cents per bushel for each and every  
9 bushel of any of the articles mentioned in section three of this  
10 act, the right or privilege of delivering which may be acquired  
11 under any "options" contract or agreement, as defined by sec-  
12 tion one of this act, or which may be sold to be delivered at a  
13 future time or period under any "futures" contract or agree-  
14 ment as defined in section two of this act, which said amounts  
15 shall be paid to the collector of internal revenue, as hereinafter  
16 provided, and by him accounted for, as required in respect to  
17 other special taxes collected by him. Every person, associa-  
18 tion, copartnership, or corporation who shall, in their own  
19 behalf, or as broker, agent, or employee of another, deal in  
20 "options," or make any "options" contract or agreement, as  
21 hereinbefore defined, shall be deemed a dealer in "options,"  
22 and every person, association, copartnership, or corporation  
23 who shall, in their own behalf, or as broker, agent, or  
24 employee of another, deal in "futures," or make any "futures"  
25 contract or agreement, as hereinbefore defined, shall be deemed  
26 a dealer in "futures."

1        SEC. 10. That every person, association, copartnership,  
2 or corporation engaged in, or proposing to engage in, the  
3 business of dealer in "options" or of dealer in "futures," as  
4 hereinbefore defined, shall, before commencing such business  
5 or making any such "options" or "futures" contract or  
6 agreement, make application in writing to the collector of  
7 internal revenue for the district in which he proposes to en-  
8 gage in such business or make such contract or agreement,  
9 setting forth the name of the person, association, partnership,  
10 or corporation, place of residence of the applicant, the busi-  
11 ness engaged in, and where such business is to be carried on,  
12 and in case of partnership, association, or corporation, the  
13 names and places of residence of the several persons consti-  
14 tuting the same, and shall thereupon pay to such collector  
15 the sum aforesaid of one thousand dollars, and shall also  
16 execute and deliver to such collector a bond in the penal  
17 sum of fifty thousand dollars with two or more sure-  
18 ties satisfactory to the collector, conditioned upon the full  
19 and faithful compliance by the obligor therein with all the

20 requirements of this Act. And thereupon the collector  
21 shall issue to such applicant a certificate in such form as the  
22 Commissioner of Internal Revenue shall prescribe, that such  
23 applicant is authorized for the period of one year from the  
24 date of such certificate to be a dealer in "options" or "futures"  
25 and to make "options" or "futures" contracts or agreements,  
26 as hereinbefore defined; and for the period specified in such  
27 certificate the party to whom it is issued may conduct the  
28 business of dealer as aforesaid. Such certificate may be re-  
29 newed annually upon the compliance with the provisions of  
30 this Act, and any "options" or "futures" contract or agreement  
31 as defined by this Act shall be absolutely void between the  
32 parties thereto and their respective assigns, unless the party  
33 making such contract or agreement shall have at the time of  
34 making the same a certificate as aforesaid authorizing the  
35 making thereof.

1 SEC. 11. That it shall be the duty of the collector to keep  
2 in his office a register containing a copy of each and every  
3 application made to him under the foregoing section and a  
4 statement in connection therewith as to whether a certificate  
5 had been issued thereon and for what period, which book or  
6 register shall be a public record and be subject to inspection  
7 of any and all persons desiring to examine the same.

1 SEC. 12. That every "options" or "futures" contract or  
2 agreement as hereinbefore defined shall be in writing and  
3 signed in duplicate by the parties making the same; and any  
4 such contract or agreement not so made and signed shall, as  
5 between the parties thereto and their assigns, be absolutely  
6 void.

1 SEC. 13. That it shall be the duty of every person, co-  
2 partnership, association, or corporation, on the first day of the  
3 week next succeeding the date of the certificate issued to  
4 them, and on the first day of each and every week thereafter,  
5 to make to the collector of the district in which any "op-  
6 tions" or "futures" contract or agreement has been made  
7 full and complete return and report under oath of any and all  
8 such contracts or agreements made or entered into by such  
9 person, copartnership, association, or corporation during the  
10 previous week, together with a statement of the article or  
11 articles embraced in or covered by such contracts or agree-  
12 ments, and the amounts, respectively, of each, and the name  
13 of the party or parties with whom such contracts or agree-  
14 ments have been made, and at the same time to pay to such  
15 collector the amount of the tax hereinbefore required of five  
16 cents per pound on each and every pound of cotton, and of beef,

17 pork, lard, or any other hog and cattle products, and of twenty  
18 cents per bushel on each and every bushel of any of the other  
19 articles mentioned in section three of this Act, which are the  
20 subject of or covered by such contracts or agreements, or any  
21 of them, for which sums such collector shall give his receipt  
22 to the party so paying, and the sums so collected shall be  
23 accounted for by the collector as provided by law in respect to  
24 other taxes collected by him.

1 SEC. 14. That every person who shall in his own behalf,  
2 or in behalf of any other person, association, partnership, or  
3 corporation, enter into any "options" or "futures" contract or  
4 agreement as defined by this Act, without having a certificate  
5 of authority from the collector as hereinbefore provided, and  
6 covering the time at which such contract or agreement shall  
7 be made, shall, besides being liable for the amounts prescribed  
8 in section four of this Act, be fined not less than five thousand  
9 dollars and not more than ten thousand dollars for each and  
10 every such offense. And every person who shall make to  
11 the collector a false or fraudulent return or report required by  
12 section eight of this Act shall be subject to a fine of not less  
13 than five thousand dollars nor more than ten thousand dollars,  
14 or to imprisonment for not less than six months or more than  
15 two years, or to both such fine and imprisonment.

1 SEC. 15. That neither the payment of the taxes required  
2 or the certificate issued by the collector under this Act shall  
3 be held to legalize dealing in "options" and "futures," nor  
4 to exempt any person, association, copartnership, or corpo-  
5 ration from any penalty or punishment now or hereafter  
6 provided by the laws of any State for making contracts or  
7 agreements such as are hereinbefore defined as "options" or  
8 "futures" contracts or agreements, or in any manner to au-  
9 thorize the making of such contracts or agreements within  
10 any State or locality contrary to the laws of such State or  
11 locality; nor shall the payment of the taxes imposed by this  
12 Act be held to prohibit any State or municipality from placing  
13 a tax or duty on the same trade, transaction, or business for  
14 State, municipal, or other purposes.

1 SEC. 16. That section thirty-two hundred and nine of  
2 the Revised Statutes of the United States is, so far as applica-  
3 ble, made to extend and apply to the taxes imposed by this  
4 Act and to the persons upon whom they are imposed.