

ANTITRUST LEGISLATION.

SEPTEMBER 25, 1914.—Ordered to be printed.

Mr. WEBB, from the committee of conference, submitted the following CONFERENCE REPORT.

[To accompany H. R. 15657.]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 25, 35, 38, 42, 45, 46, 47, 53, 56, 59, 63, 80, 93, and 94.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 8, 9, 10, 11, 12, 13, 14, 15, 17, 19, 20, 21, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 40, 44, 48, 65, 66, 67, 68, 69, 70, 75, 79, 81, 82, 83, 85, 87, and 88; and agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows:

In lieu of the matter stricken out by said amendment, insert the following:

Sec. 2. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: Provided, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of selling or transportation, or discrimination in price in the same or different communities made in good faith to

meet competition: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

And the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

Sec. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

And the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows:

In lieu of the figure "3" inserted by said amendment insert the figure 4; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

Sec. 5. That a final judgment or decree hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, This section shall not apply to consent judgments or decrees entered before any testimony has been taken: Provided further, This section shall not apply to consent judgments or decrees rendered in criminal proceedings or suits in equity, now pending, in which the taking of testimony has been commenced but has not been concluded, provided such judgments or decrees are rendered before any further testimony is taken.

Whenever any suit or proceeding in equity or criminal prosecution is instituted by the United States to prevent, restrain or punish violations of any of the antitrust laws, the running of the statute of limitations in respect of each and every private right of action arising under said laws and based in whole or in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof.

And the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows:

In lieu of the figure "5" inserted by said amendment insert the figure 6; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows:

In lieu of the figure "6" inserted by said amendment insert the figure 7; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows:

In lieu of the words stricken out by said amendment insert the word *substantially*; after the word "acquisition" and the comma thereafter, in line 16, page 7, insert *or to restrain such commerce in any section or community*, and after the word "or," in line 16, page 7, insert the word *tend*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows:

In lieu of the words stricken out by said amendment insert the word *substantially*; after the word "acquired" and the comma thereafter, in line 24, page 7, insert *or to restrain such commerce in any section or community*; and after the word "or," in line 1, page 8, insert the word *tend*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows:

In lieu of the words stricken out by said amendment insert the word *substantially*; and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows:

After the word "thereof" at the end of said amendment add the words *or the civil remedies therein provided*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows:

In lieu of the matter stricken out by said amendment strike out only the matter contained in lines 16 to 24, inclusive, page 9, and lines 1 to 17, inclusive, page 10; at the beginning of line 18, page 10, insert *Sec. 8*; after the word "association," in line 21, page 10, strike out the comma, and after the word "company," in the same line, insert a comma; after the words "United States," in line 22, page 10, insert a comma; strike out the figures "\$2,500,000," in line 24, page 10, and in line 3, page 11, and insert in lieu thereof in each instance the figures \$5,000,000; in line 16, page 11, after the word "association," strike out the comma, and in the same line, after the word "company," insert a comma; in line 17, page 11, after the words "United States," insert a comma; strike out the word "one," in line 18, page 11, and insert in lieu thereof the word *two*; and after the word "association," in line 23, page 11, strike out the comma; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment as follows:

In line 16, page 12, after the word "than," insert the following: *banks, banking associations, trust companies and*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment as follows:

Change "Sec. 8" to *Sec. 9*; and after the words "accruing from" in said amendment insert the following: *, or used in,*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert the following:

Sec. 11. That authority to enforce compliance with sections two, three, seven and eight of this Act by the persons respectively subject thereto is hereby vested: in the Interstate Commerce Commission where applicable to common carriers, in the Federal Reserve Board where applicable to banks, banking associations and trust companies, and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the commission or board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections two, three, seven and eight of this Act, it shall issue and serve upon such person a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service

of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission or board requiring such person to cease and desist from the violation of the law so charged in said complaint. Any person may make application, and upon good cause shown may be allowed by the commission or board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission or board. If upon such hearing the commission or board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock held or rid itself of the directors chosen contrary to the provisions of sections seven and eight of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission or board may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person fails or neglects to obey such order of the commission or board while the same is in effect, the commission or board may apply to the circuit court of appeals of the United States, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission or board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission or board. The findings of the commission or board as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission or board, the court may order such additional evidence to be taken before the commission or board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission or board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari

as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission or board to cease and desist from a violation charged may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission or board be set aside. A copy of such petition shall be forthwith served upon the commission or board, and thereupon the commission or board forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission or board as in the case of an application by the commission or board for the enforcement of its order, and the findings of the commission or board as to the facts, if supported by testimony, shall in like manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission or board shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or board or the judgment of the court to enforce the same shall in any wise relieve or absolve any person from any liability under the antitrust Acts.

Complaints, orders, and other processes of the commission or board under this section may be served by anyone duly authorized by the commission or board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

And transpose the same to follow amendment 51.

And the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

Sec. 10. That after two years from the approval of this Act no common carrier engaged in commerce shall have any dealings in securities, supplies or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than \$50,000, in the aggregate, in any one year, with another corporation, firm, partnership or association when the said common carrier shall have upon its board of directors or as its

president, manager or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding \$25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding \$5,000, or confined in jail not exceeding one year, or both, in the discretion of the court.

And transpose the same to follow line 23, page 13.

And the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52; and agree to the same with an amendment as follows:

In lieu of the figure "11" inserted by said amendment insert the figure 12; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following: *transacts business; and all process in such cases may be served in the district of which it is an inhabitant, or wherever it may be found; and the Senate agree to the same.*

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment as follows:

In lieu of the figure "12" inserted by said amendment insert the figure 15; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows:

In lieu of the figure "13" inserted by said amendment insert the figure 14; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows:

Reinsert the matter stricken out by said amendment and insert the word *penal* after the words "any of the" and before the word "provisions," in line 15, page 14, and omit the matter inserted by said amendment; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows:

In lieu of the figure "14" inserted by said amendment insert the figure 15; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows:

In lieu of the figure "15" inserted by said amendment insert the figure 16; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment as follows:

In lieu of "six, and seven," in said amendment insert *three, seven and eight*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows:

In lieu of the figure "16" inserted by said amendment insert the figure 17; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment as follows:

In lieu of the figure "17" inserted by said amendment insert the figure 18; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment as follows:

Reinsert the matter stricken out by said amendment, inserting the word *sixteen* in lieu of the word "fourteen," in line 5, page 18; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows:

In lieu of the figure "18" inserted by said amendment insert the figure 19; and the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows:

Strike out the comma after the word "employees," in line 18, page 18; and the Senate agree to the same.

Amendment numbered 76:

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment as follows:

In lieu of the figure "19" inserted by said amendment insert the figure 20; and the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment as follows:

Reinsert the words stricken out by said amendment, and in lieu of the matter inserted by said amendment insert the following: , *whether singly or in concert*, and strike out the comma after the word "advising," in line 12, page 19; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment as follows:

Add a comma after the word "information," at the end of said amendment; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows:

In lieu of the figure "20" inserted by said amendment insert the figure 21; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment as follows:

In lieu of the figure "21" inserted by said amendment insert the figure 22; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment as follows:

In lieu of the figure "22" inserted by said amendment insert the figure 23; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment as follows:

In lieu of the figure "23" inserted by said amendment insert the figure 24; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows:

In lieu of the word "twenty" inserted by said amendment insert the word *twenty-one*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment as follows:

In lieu of the figure "24" inserted by said amendment insert the figure 25; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment as follows:

Change "Sec. 27" to *Sec. 26*; and the Senate agree to the same.

E. Y. WEBB,
C. C. CARLIN,
J. C. FLOYD,

Managers on the part of the House.

C. A. CULBERSON,
LEE S. OVERMAN,
W. E. CHILTON,

Managers on the part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, submit the following detailed statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the amendments of the Senate, namely:

Amendment No. 1: This amendment provides that nothing in this act shall apply to the Philippine Islands.

Amendment No. 2: This amendment is a substitute agreed upon in conference as section 2, to take the place of section 2 in the bill as passed by the House. It eliminates the penalty of the original House bill, but declares the acts therein forbidden to be unlawful. It is as follows:

Sec. 2. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of selling or transportation, or discrimination in price in the same or different commodities made in good faith to meet competition: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

Amendment No. 3: This amendment strikes out the original House section 3, providing against the arbitrary refusal to sell certain commodities and the penalty therefor.

Amendment No. 4: This amendment strikes out section 4 of the original House bill, providing against lease or sale upon condition, of goods, wares, etc., with condition, agreement, or understanding that the lessee or purchaser shall not use or deal in the goods, etc., of a competitor and the penalty prescribed therein. It also strikes out section 2 as proposed by the Senate, dealing with the same subject, and the following is agreed to in conference as a substitute therefor:

Sec. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies, or other commodities, whether patented or unpatented, for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale, or such condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

Amendment No. 5: This amendment changes the number of this section from section 5 to section 4 to conform to other changes.

Amendment No. 6: This amendment strikes out section 6 of the original House bill, granting the benefit of the issues found in favor of the Government to individual suitors in actions or proceedings brought under or involving the provisions of any of the antitrust laws.

Also strikes out the amendment proposed by the Senate as section 4 of the Senate bill, relating to the same subject, and inserts in lieu therefor the following:

Sec. 5. That a final judgment or decree hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf

of the United States under the antitrust laws, to the effect that a defendant has violated said laws, shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws, as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: *Provided*, This section shall not apply to consent judgments or decrees entered before any testimony has been taken: *Provided further*, This section shall not apply to consent judgments or decrees rendered in criminal proceedings or suits in equity now pending in which the taking of testimony has been commenced but has not been concluded, provided such judgments or decrees are rendered before any further testimony is taken.

Whenever any suit or proceeding in equity or criminal prosecution is instituted by the United States to prevent, restrain, or punish violations of any of the antitrust laws, the running of the statute of limitations in respect of each and every private right of action arising under said laws and based in whole or in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof.

Amendment No. 7: This amendment changes the number of this section from section 7 to section 6 to make it conform to other changes.

Amendment No. 8: This amendment transposes the word "nothing" in the original House bill, section 7, and adopts the Senate amendment therefor by adding that "the labor of a human being is not a commodity or article of commerce."

Amendment No. 9: Strikes out the word "fraternal" in section 7 of House bill.

Amendment No. 10: Strikes out the word "consumers" in House bill, section 7.

Amendment No. 11: Strikes out of section 7 of House bill the words "orders or associations."

Amendment No. 12: Strike out of section 7 of the House bill the words "orders, or associations."

Amendment No. 13: This amendment adopts the Senate amendment by adding in section 7 of the House bill the word "lawfully," making this part of the sentence read: "from lawfully carrying out the legitimate objects thereof."

Amendment No. 14: This amendment strikes out the words "orders, or associations," agreeable to the Senate amendment to section 7 of the House bill.

Amendment No. 15: The House here recedes and agrees to the Senate amendment to strike out all of the second paragraph of section 7 of the House bill, which part exempts from the antitrust laws associations in traffic and operating officers of common carriers in making agreements, etc., subject to the jurisdiction of the Interstate Commerce Commission.

Amendment No. 16: This amendment changes the number of this section from section 8 to section 7 to make it conform to other changes.

Amendment No. 17: This amendment strikes out the word "is" in the House bill, and inserts in lieu thereof the words "may be."

Amendment No. 18: This amendment strikes out the words "eliminate or," and inserts after the word "acquisition," the words "or to restrain such commerce in any section or community," and after the word "or" the further word "tend."

Amendment No. 19: This amendment strikes out the word "trade" and inserts in lieu thereof the word "commerce."

Amendment No. 20: This amendment strikes out the words "in any section or community." Amendments Nos. 17, 18, 19, and 20 make this portion of section 8 of House bill read as follows:

where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

Amendment No. 21: This amendment strikes out the word "is" and inserts in lieu thereof the words "may be."

Amendment No. 22: This amendment strikes out the words "eliminate or" and inserts, after the word "acquired," the words "or to restrain such commerce in any section or community," and, after the word "or," the word "tend."

Amendment No. 23: This amendment strikes out the word "trade" and inserts in lieu thereof the word "commerce."

Amendment No. 24: This amendment strikes out the words "in any section or community." These last words stricken out were inserted earlier in this section.

Amendments Nos. 21, 22, 23, and 24 make the part of this paragraph of section 8 of the House bill read as follows:

may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

Amendment No. 25: This amendment restores the word "substantial," as originally contained in House bill.

Amendment No. 26: This amendment strikes out the words "eliminate or."

Amendment No. 27: This amendment strikes out the following:

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this paragraph shall make stockholding relations between corporations legal when such relations constitute violations of the antitrust laws.

Amendment No. 28: This amendment strikes out the words "railroad corporation" and inserts in lieu thereof the words "common carriers subject to the laws to regulate commerce."

Amendment No. 29: This amendment strikes out the word "branch" and inserts in lieu thereof the word "branches."

Amendment No. 30: This amendment strikes out the word "line" and inserts in lieu thereof the word "lines."

Amendment No. 31: This amendment strikes out the word "railroads."

Amendment No. 32: This amendment strikes out the word "line" and inserts in lieu thereof the word "lines."

Amendment No. 33: This amendment strikes out the words "railroad corporation" and inserts in lieu thereof the words "such common carrier."

Amendment No. 34: This amendment strikes out the word "railroad."

Amendment No. 35: This amendment restores the word "substantial."

Amendment No. 36: This amendment strikes out the words "any railroad company," and inserts in lieu thereof the words "such common carrier."

Amendment No. 37: This amendment strikes out the words "rail-road company," and inserts in lieu thereof "such common carrier."

Amendment No. 38: This amendment restores the word "substantial," which had been stricken out by the Senate.

Amendment No. 39: This amendment adds a new paragraph to section 8 of the House bill as follows:

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Amendment No. 40: This amendment strikes out the following paragraph of section 8 of the House bill:

A violation of any of the provisions of this section shall be deemed a misdemeanor, and shall be punishable by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court.

Amendment No. 41: The Senate amendment to the House bill struck out all of section 9, and in the conference all of this section was restored with the exception of the first paragraph thereof, which prohibited interlocking directorates between supply companies, etc., and common carriers. The restored part of this section was numbered section 8 and was further amended as follows: By inserting in lieu of "\$2,500,000," wherever it appears therein, the figures "\$5,000,000." The effect of this amendment is to permit interlocking directors and other officers or employees of banks, banking associations, and trust companies where the aggregate deposits, capital, surplus, and undivided profits do not amount to more than \$5,000,000.

And further amended said section by striking out the word "one" and inserting in lieu thereof the word "two," making said section read in part as follows:

No bank, banking association, or trust company, organized or operating under the laws of the United States, in any city or incorporated town or village of more than two hundred thousand inhabitants, as shown, etc.

Amendment No. 42: This amendment strikes out the number "section 7" and makes section 7 of the House bill a part of section 8, as agreed to.

Amendment No. 43: This amendment strikes out the word "either" and inserts in lieu thereof the words "any one," and adds the words "banks, banking associations, trust companies, and" after the word "than" and before the words "common carriers."

Amendment No. 44. This amendment strikes out the word "an" and inserts in lieu thereof the word "the."

Amendments Nos. 45, 46, and 47. These amendments restore the words "bank or other," in relation to corporations, which had been stricken out by the Senate.

Amendment No. 48. This amendment strikes out all of the following paragraph, originally contained in the House bill:

That any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding \$100 a day for each day of the continuance of such violation, or by imprisonment for such period as the court may designate, not exceeding one year, or by both, in the discretion of the court,

Amendment No. 49. This amendment inserts a new section, numbered 9, as follows:

Sec. 9. Every president, director, officer or manager of any firm, association or corporation engaged in commerce as a common carrier, who embezzles, steals, abstracts or willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property or assets of such firm, association or corporation, arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or to the use of another, shall be deemed guilty of a felony, and upon conviction shall be fined not less than \$500 or confined in the penitentiary not less than one year nor more than ten years, or both, in the discretion of the court.

Prosecutions hereunder may be in the district court of the United States for the district wherein the offense may have been committed.

That nothing in this section shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof; and a judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

Amendment No. 50. This amendment was a new section inserted by the Senate as section 9, which was redrafted in conference and renumbered section 11 to conform to other changes, and vests jurisdiction in the Interstate Commerce Commission, the Federal Reserve Board, and the Federal Trade Commission to enforce the provisions of sections 2, 3, 7, and 8 of this act. This section also contains other provisions for the enforcement of this law.

Amendment No. 51. This amendment was a new section inserted by the Senate as section 11, which was redrafted in conference and relates to a common carrier dealing with a company engaged in selling securities or supplies where they have common directors, and renumbered as section 10.

Amendment No. 52. This amendment renumbers section 10 to be section 12.

Amendment No. 53. This amendment strikes out the following words which had been inserted by the Senate: or against officers of a corporation by stockholders thereof."

Amendment No. 54. This amendment strikes out the words "has an agent," and inserts in lieu thereof the following: "transacts business; and all process in such cases may be served in the district of which it is an inhabitant, or wherever it may be found."

Amendment No. 55. This amendment changes the number of this section from section 11 to section 13.

Amendment No. 56. This amendment restores the proviso which had been stricken out by the Senate providing against the issuance of writs of subpoena for witnesses living out of the district in which the court is held and more than 100 miles from the place of holding court without the permission of the trial court.

Amendment No. 57. This amendment changes the number of this section from section 12 to section 14.

Amendment No. 58. The first part of section 12 of the House bill, down to and including the word "violation," was stricken out by the Senate, but in conference was restored with the addition of the word "penal" before the word "provisions" in the second line of the section.

This relates to the penal liability of individual directors, officers, or agents of corporations violating antitrust laws.

Amendment No. 59: This amendment strikes out the words "guilty of," which were inserted by the Senate.

Amendment No. 60: This amendment changes the number of this section from section 13 to section 15.

Amendment No. 61: This amendment changes the number of this section from section 14 to section 16.

Amendment No. 62: This amendment adds, after the word "laws," the following: "including sections two, three, seven, and eight of this act."

Amendment No. 63: The Senate struck out the proviso contained in section 14 of the House bill. This was receded from in conference by the Senate.

Amendment No. 64: This amendment changes the number of this section from section 15 to section 17.

Amendment No. 65: This amendment strikes out the following words: "property or a property right of."

Amendment No. 66: This amendment strikes out the word "could" and inserts in lieu thereof the word "can."

Amendment No. 67: This amendment strikes out the word "or" and inserts in lieu thereof the words "and a."

Amendment No. 68: This amendment adds, after the word "fix," the following:

unless within the time so fixed the order is extended for a like period for good cause shown, and the reasons for such extension shall be entered of record.

Amendments Nos. 69 and 70: These amendments strike out the word "his" and insert in lieu thereof the word "the."

Amendment No. 71: This amendment changes the number of this section from section 16 to section 18.

Amendment No. 72: The following language, which was stricken out in the Senate, was restored in conference, with the word "sixteen" inserted in place of the word "fourteen": "except as otherwise provided in section sixteen of this act."

Amendment No. 73: This amendment changes the number of this section from section 17 to section 19.

Amendment No. 74: This amendment adds the word "officers," making it read "their officers, agents, servants, employees and attorneys."

Amendment No. 75: This amendment adds the words "or participating," making it read "or those in active concert or participating with them."

Amendment No. 76: This amendment changes the number of this section from section 18 to section 20.

Amendment No. 77: This amendment restores the words "person or persons" which had been stricken out by the Senate, and adds the words "whether singly or in concert."

Amendment No. 78: This amendment strikes out the following:

or from attending at or near a house or place where any person resides or works, or carries on business or happens to be, for the purpose of peacefully obtaining or communicating information—

And inserts in lieu thereof the following:

or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information.

Amendment No. 79: This amendment strikes out the word "of" and inserts in lieu thereof the word "from," making it read "or from peacefully persuading," etc.

Amendment No. 80: This amendment restores the original House language which was stricken out in the Senate, as follows: "ceasing to patronize or to employ."

Amendment No. 81: This amendment adds, after the word "peaceful," the words "and lawful."

Amendment No. 82: This amendment strikes out, after the word "assembling," the words "at any place."

Amendment No. 83: This amendment strikes out the word "unlawful," and inserts in lieu thereof the words "to be violations of any law of the United States."

Amendment No. 84: This amendment changes the number of this section from section 19 to section 21.

Amendment No. 85: This amendment strikes out these words "at common law" and inserts in lieu therefor "under the laws of any State in which the act was committed."

Amendment No. 86: This amendment changes the number of this section from section 20 to section 22.

Amendment No. 87: This amendment strikes out the word "person," making the sentence read "where the accused is a body corporate," etc.

Amendment No. 88: This amendment adds the following proviso to section 20 of the House bill:

Provided, That in any case the court or a judge thereof may, for good cause shown, by affidavit or proof taken in open court or before such judge and filed with the papers in the case, dispense with the rule to show cause, and may issue an attachment for the arrest of the person charged with contempt; in which event such person, when arrested, shall be brought before such court or a judge thereof without unnecessary delay and shall be admitted to bail in a reasonable penalty for his appearance to answer to the charge or for trial for the contempt; and thereafter the proceedings shall be the same as provided herein in case the rule had issued in the first instance.

Amendment No. 89: This amendment changes the number of this section from section 21 to section 23.

Amendment No. 90: This amendment changes the number of this section from section 22 to section 24.

Amendment No. 91: This amendment strikes out the word "nineteen" and inserts in lieu thereof the words "twenty-one," in order to make it conform to the renumbered section.

Amendment No. 92: This amendment changes the number of this section from section 23 to section 25.

Amendment No. 93: The Senate added an amendment designated as section 25 directing the court in certain cases to decree the dissolution of the monopoly in restraint of trade and to appoint receivers and cause its assets to be sold. The Senate receded from this amendment in conference.

Amendment No. 94: The Senate added an amendment designated as Sec. 26 as follows:

It shall be unlawful for any corporation engaged in commerce to do any business in any State contrary to the laws of the State under which said corporation was created or contrary to the laws of the State in which it may be doing business. The District of Columbia shall be deemed a State within the meaning of this section.

The Senate receded from this amendment in conference.

Amendment No. 95: This amendment adds the following additional section to the bill:

Sec. 20. If any clause, sentence, paragraph, or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

E. Y. WEBB,
C. C. CARLIN,
J. C. FLOYD,

Managers on the part of the House.

