out of the republican members of the committee?

Mr. Smoot. Mr. President, I have no desire to change any statement that I have ever made on the floor. I say now to the senator that there had been given by the ways and means committee of the house full and complete hearings—nine volumes of them.

Mr. Reed. I am talking about the senate.

Mr. Smoot. If the senator will wait, I will come to the senate.

Mr. Reed. I trust the senator will not take a change of venue to the house of representatives.

Mr. Smoot. If the senator does not want me to answer, I will take my seat; but if he will be a little patient, I will come to the senate.

Mr. Reed. I have infinite patience when I am being entertained and instructed by the senator from Utah.

Mr. Smoot. Mr. President, I will say that the hearings were open hearings before the ways and means committee of the house, and there were nine large volumes of them. The finance committee of the senate decided that there was no necessity of having public hearings covering the same ground, but also decided that any senator who desired to appear before the committee, or have any of his constituents appear before the committee, could do so and be heard upon any schedule in the bill. I will say that there were a great many men interested in the several schedules. I do not know that they could be called secret meetings. There were all the members of the majority party at those meetings.

I want to call the attention of the senator from Missouri to the fact that the senate finance committee, acting upon the Payne-Aldrich bill in relation to having only the majority members of the finance committee present, followed exactly the same course as was taken in the consideration of the Wilson bill and also all other democratic tariff bills.

Mr. Reed. Mr. President, if the senator will pardon me one word further—because I want a specific statement on this if I can get it—does the senator say that when the Wilson bill was being considered by the finance committee of the senate hearings were held by the majority members sitting alone and held in secret, or does he mean merely to say that, after having had their hearings, public in their nature, then the majority members met for the purpose of arriving at a conclusion, the distinction—so that there can be no misunderstanding—being between a committee holding public meetings—

Mr. Warren. I hope this ancient history may be boiled down as closely as possible as the hour is late.

The Presiding Officer (Mr. Curtis in the chair). Does the senator from Wyoming yield to the senator from Missouri?

Mr. Warren. I yield for concrete questions and answers.

Mr. Reed. I will endeavor to boil it down so as to leave sufficient time for any senator to represent his own interest on this floor.

Mr. Warren. Mr. President, I do not believe that the courtesy which I have shown to the senator deserves the discourtesy that the senator evidently intends for me.

Mr. Reed. Well, if the senator does not desire to yield, I will desist and will occupy the floor in my own right.

Mr. Warren. I had yielded to the senator, and he is taking advantage of that to be discourteous to me, and I decline to yield further at this time.

The Presiding Officer. The senator from Wyoming declines to yield.

THE LA FOLLETTE ANTI-TRUST BILL

The most important measure introduced in the special session of the Sixty-second congress, which adjourned recently, is the La Follette bill for the further protection of "trade and commerce against unlawful restraints and monopolies," presented in the senate.

Though the extra session of congress was called for the specific purpose of acting upon tariff legislation, as embodied in the Canadian reciprocity agreement, and the greater part of the session has been given over to a discussion of that subject, the measure likely in the future to become of more far-reaching importance than any tariff change is the La Follette proposal to amend the Sherman anti-trust law.

The supreme court decisions in the Standard Oil and American Tobacco company cases have left the twenty-year-old anti-trust statute indefinite and mystifying. It has taken twenty years for the supreme court to define the meaning of one of the best and clearest statutes ever drawn. And the meaning which the highest judicial tribunal in the land finally has given to the anti-trust law leaves it impotent as a criminal statute and in a state of confusion worse confounded.

It does more. For, after finding these two trusts to be unmitigated criminals, the court so ruled that they need not pay any penalty in the way of imprisonment or pecuniary restitution.

Yet this act, now construed in a manner that no one can tell with certainty what is and what is not a violation of the law, thereby making nugatory every criminal phase of the law, was the well-pondered work of one of the ablest groups of constitutional lawyers and statesmen that ever co-operated in the framing of a congressional act. It bears Sherman's name. But the senate judiciary committee who drafted the substitute for the inadequate Sherman plan in 1890 was composed of such men as Edmunds, Evarts, Ingalls, Hoar, Wilson, of Iowa; Coke, Vest, George and Pugh.

Those wise statesmen framed the statute to make what was then the common law within the states of the union applicable to interstate commerce. Inasmuch as our common law is inherited in whole from England, it was the purpose of those statesmen—as is shown by an examination of the debates at the time of its passage—that the long-established and well-defined principles of the English law, respecting the trust question, would constitute the undeviating guide for the interpretation of the Sherman anti-trust law by the American courts.

Quite the most striking feature of the supreme court's rulings in anti-trust cases during the succeeding twenty years has been the ignoring of the English common law precedents. This same high court has not been reluctant, on numerous occasions, to accept English decisions, some of them centuries old, and handed down at a time when the protection of property meant the protection of human rights endangered. And the court has used these precedents to sustain the claims of property in conflict with human rights and the public good.

But when there was enacted in this country a law, the undisputed intent of which was to make into a federal statute the English common law respecting trade monopolies, the supreme court failed continuously to take cognizance of the uniform line of decisions applicable to this very law, and extending over a period of centuries.

No nation in the world has shown such wisdom in the enactment of legislation governing commerce as has Great Britain. The small area of the little British islands has made the very existence of England depend upon the utter absence of the monopolistic restraint of trade. Hence the common law respecting trade mo-

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