

gular as it may be, the same fact exists today, and legislators and judges declaim against combinations, apparently in earnest, when they themselves belong to combinations and know well that the business of the country cannot be carried on without them. Call the combination a partnership, and it is all right; call it a corporation, and it is barely tolerated; call it a trust, and it is a crime; yet the difference is only in name. Even partnerships were not entirely allowed to escape unchallenged. As late as the 17th George III, statutes were enacted making it a penal offence for any number of persons above five to associate either by covenant or partnership for dealing in bricks, coals, and other commodities. The reason for such laws was always the same: that such covenants and partnerships tended to increase prices, to repress competition, and to monopolize business.

It is necessary only to refer to the frenzy into which association by means

A Nuisance. of joint-stock companies threw our English ancestors. The Act of 1719 recited that "to open books for public subscription and getting persons to subscribe was dangerous and mischievous," and enacted that "the combining of persons and capital and the issuing of transferable stock was a public nuisance." The offenders were subjected to a forfeiture of all lands and goods and to imprisonment for life. This law remained upon the statute-book until 1825. Few persons, however, were convicted under it, and none punished. In spite of the law, joint-stock associations multiplied in England. They were a necessity of business, and necessity knows no law. So far from destroying competition and raising prices, their effect was exactly the reverse. Competition increased, prices were lowered, and business and wealth were created. Today they are acknowledged by all economists to be a leading instrumentality in England's business prosperity. If these laws had been strictly enforced, England would still be in the barbarism of the fourteenth century. Business, commerce, and trade are the necessary precursors of civilization; and under such laws, rigidly enforced, business, commerce, and trade were impossible. But slightly enforced as they were, their effect may be learned from the preamble to the statutes by which finally all laws of that nature were repealed, namely, that by interfering with business they had increased prices and thus had produced the effect they were intended to prevent.

The conflict between law and freedom of association in England reached the beginning of the end with the repeal of the statute against laborers, in 1825. It approached its termination with the repeal, in 1844, of forty statutes which had been created to protect prices by preventing so-called offences against

trade, including combinations, and it ended when joint-stock association laws were passed conferring upon each and every individual the absolute right to associate for business purposes, without restriction as to number of persons, amount of capital, or the nature of the business. This battle was fought in England for five centuries; and liberty of association did not triumph until it had been demonstrated by long and bitter experience that association was essential, that its tendency was not evil, and that laws against it created the evils which they sought to prevent.

Trusts or business associations are seldom spoken of without reference to the great battle against monopolies. Kings and legislators, while creating and punishing absurd and imaginary offences against trade, were busily engaged at the same time in creating and selling monopolies to their favorites. They sold to one the privileges denied to another; nay, more, in some cases the severe laws against associations and other offences against trade were enacted to protect monopolies. It is notorious that the infamous Bubble Act, making the formation of joint stock associations a penal offence punishable with imprisonment for life, was enacted for the purpose of protecting the monopoly granted to the South Sea Company against competition by voluntary associations. The struggle against monopoly was a struggle for freedom of associations, and against laws which impeded that freedom. It was a battle not only against exclusive privileges of trade, but also against exclusive privileges of combining for the purposes of trade. The battle against monopolies was not won until the act was passed enabling any five or more persons to form joint-stock associations and to issue transferable shares—the identical thing which for a century had been a crime punishable with imprisonment for life.

The battle of trusts in England has been fought and won. The benefit and

Trusts in England. right of association for business purposes without limitation has been recognized and legalized. The law has lately been announced in a celebrated case to be that although the effect of combination is to check competition, the means it uses is competition; that parties combined to do lawful business are not unlawfully combined; that it is perfectly legitimate to combine capital for all purposes of trade for which capital may, apart from combination, be legitimately used in trade; that the statutes repealing the many acts relating to combinations and to prevent increase of prices were a confession of failure in the past and the indication of a new policy for the future; that the policy of law as at present declared by the legislature is against all fetters on combination and competition unaccompanied by violence or fraud or other like injurious acts;

that persons thus combined may carry competition to any lengths that individuals may do; that to limit combinations would be impossible, and would be another method only of trying to set boundaries to the tides.

The same battle has been fought and won also in all the commercial countries of the European continent. Joint-stock associations may be formed by any who may desire, for any business purpose. It may be said the same laws exist in this country. It is true they do exist, or rather have existed until lately, in many of the states; but ours is a federal government, and a corporation of one state has no rights which another state is bound to respect. The aim of the trust, in the proper sense of that word, was to use the corporations of different states as agencies in a joint business. If corporations could have been formed under the federal law, a trust never would have been heard of. Until corporations can be formed with rights in all states, hostility to trusts is a menace to legitimate business, and prevents that large liberty of association which the magnitude of our commerce demands.

It seems unaccountable that in this country and this age there should yet be

Prosperity. lingering doubts of the benefits of association in business. It is useless to discuss the question, because business is impossible without association. Our continent is large, the railway and telegraph have brought together the most remote points, our production is enormous, the world is our market, and combinations of capital, persons, and skill must be sufficiently great to meet the demands of our trade. The last twenty-five years have been notable for the number and magnitude of business associations. Instead of competition being destroyed, it was never so strong and effective. Prices have been decreased to a wonderful extent. Individual prosperity was never greater, the wages of labor never higher, and the condition of laborers never so good.

While contending that association decreases prices, I must necessarily

Competition. acknowledge that it makes competition by individuals difficult. If it did not, it would not benefit the public. The only way to check competition is to lower prices, and the only way to encourage competition is to raise prices. If it is the policy of this country to prevent advantages over industry as carried on by separate individuals, the railroad, the telegraph, the corporation, and all our great commercial partnerships must be destroyed, and business must be relegated to its pristine condition before these great instrumentalities were invented. But so long as association is free competition cannot be destroyed. Competitors must, however, adopt the methods and pursue the paths of prog-