

1 U.S.C. 12), as amended, commonly known as the Clayton
2 Act.

3 (b) The term "antitrust investigator" means any at-
4 torney employed by the Department of Justice who is
5 charged with the duty of enforcing any of the antitrust laws.

6 (c) The term "organization" means any corporation,
7 partnership, firm, association, trust, foundation, company or
8 other legal entity not a natural person.

9 (d) The term "documentary material" includes the
10 original or any copy of any book, record, report, memo-
11 randum, paper communication, tabulation, chart, or other
12 document in the possession, custody, or control of any
13 organization.

14 CIVIL INVESTIGATIVE DEMAND

15 SEC. 3. (a) Whenever the Attorney General has reason
16 to believe that any organization may be in possession, cus-
17 tody, or control of any documentary material relevant to
18 the subject matter of an investigation of a possible antitrust
19 violation he may, prior to the institution of a civil or crim-
20 inal proceeding thereon, execute and issue in writing, and
21 cause to be served upon such organization, a civil investi-
22 gative demand requiring such organization to produce such
23 documentary material and permit inspection and copying.

24 (b) Each such demand shall—

25 (1) state the statute and section or sections thereof

1 alleged violation of which is under investigation, and
2 the general subject matter of the investigations;

3 (2) describe the class or classes of documentary
4 material to be produced thereunder with reasonable
5 specificity so as fairly to identify the material demanded;

6 (3) prescribe a return date which will provide a
7 reasonable period of time within which the documentary
8 material is to be produced;

9 (4) identify the antitrust investigator to whom
10 such documentary material is to be made available
11 for inspection and copying.

12 (c) No such demand shall—

13 (1) contain any requirement which would be un-
14 reasonable or improper if contained in a subpoena duces
15 tecum issued by a court of the United States in aid of a
16 grand jury investigation of such alleged violation; or

17 (2) require the production of any documentary
18 material which would be privileged from disclosure, or
19 which for any other reason would not be required to be
20 disclosed if demanded by a subpoena duces tecum issued
21 by a court of the United States in aid of a grand jury
22 investigation of such alleged violation.

23 (d) Any such demand may be served by any antitrust
24 investigator or United States marshal or deputy marshal at

1 any place within the territorial jurisdiction of any court of
2 United States.

3 (e) Service of any such demand may be made by—

4 (1) delivering a duly executed copy thereof to
5 any executive officer of the organization to be served; or

6 (2) delivering a duly executed copy thereof to the
7 principal office or place of business of the organization
8 to be served; or

9 (3) mailing by registered or certified mail a copy
10 thereof addressed to such organization to be served at
11 its principal office or place of business.

12 (f) A verified return by the individual serving such
13 demand, setting forth the manner of such service, shall be
14 proof of such service. In the case of service by registered
15 or certified mail, such return shall be accompanied by the
16 return post office receipt of delivery of such demand.

17 (g) An organization upon whom a demand is served
18 pursuant to the provisions of this section shall comply with
19 the terms thereof unless otherwise provided by an order of
20 court issued under section 5 hereof.

21 (h) Documentary material demanded pursuant to the
22 provisions of this section shall be produced for inspection
23 and copying during normal business hours at the principal
24 office or place of business of the organization served, or at
25 such other times and places as may be agreed upon by the

1 organization served and any authorized employee of the
2 Department of Justice.

3 SEC. 4. (a) No documentary material produced pur-
4 suant to a demand, or copies thereof, shall, unless otherwise
5 ordered by a district court for good cause shown, be pro-
6 duced for inspection or copying by, nor shall the contents
7 thereof be disclosed to, other than an authorized employee
8 of the Department of Justice, without the consent of the
9 organization who produced such material: *Provided, That,*
10 under such reasonable terms and conditions as the Attorney
11 General shall prescribe, the copies of such documentary ma-
12 terial shall be available for inspection and copying by the
13 organization who produced such material or any duly au-
14 thorized representative of such organization. The Attorney
15 General or any authorized employee of the Department of
16 Justice may use such copies of documentary material as he
17 determines necessary in the performance of his official duties,
18 including presentation of any case or proceeding before any
19 court or grand jury.

20 (b) When documentary material produced pursuant to
21 a demand is no longer required for use in connection with
22 the investigation for which it was demanded, or in any case
23 or proceeding resulting therefrom, or at the end of eighteen
24 months following the date when such material was produced,

whichever is the sooner, such organization shall be relieved of the duty to hold such documentary material available for inspection and copying as required by section 3 (a): *Provided, however,* That any district court in which a petition may be filed as set forth in section 5 hereof may, upon good cause shown, extend said period of eighteen months.

JURISDICTION OF DISTRICT COURT

SEC. 5. (a) The United States district courts are vested with jurisdiction to hear and determine any petition filed under this Act and to issue upon good cause shown any order which justice may require, including, without limiting the generality of the foregoing, the following:

(1) an order modifying or setting aside any such demand;

(2) an order requiring the Attorney General or any organization or individual to perform any duty imposed upon him by the provisions of this Act;

(3) an order extending the time within which any act allowed or required by this Act must be done, pursuant to a demand issued hereunder, or previous court orders.

(b) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to modify or set aside a demand issued pursuant to section 3 may be

1 filed in the United States district court for the district in
2 which the principal office or place of business of the organi-
3 zation upon whom such demand was served is located, or in
4 such other district as the parties may agree.

5 (c) A petition to require the Attorney General or any
6 organization or individual to perform any duty imposed by
7 the provisions of this Act, and all other petitions in connec-
8 tion with a demand, may be filed in the United States dis-
9 trict court for the district in which the principal office or
10 place of business of the organization involved is located, or
11 in such other district as the parties may agree.

12 (d) To the extent that such rules may have applica-
13 tion and are not inconsistent with the provisions of this Act,
14 the Federal Rules of Civil Procedure shall apply to any
15 petition under this Act.

16 PENALTY

17 SEC. 6. Any organization or individual who, with intent
18 to avoid, evade, prevent, or obstruct compliance in whole
19 or in part, by any organization with any civil investigative
20 demand made under this Act, willfully removes from any
21 place, conceals, withholds, destroys, mutilates, alters or by
22 any other means falsifies any documentary material in the
23 possession, custody or control of any organization or indi-
24 vidual which is the subject of any demand duly served upon
25 any organization shall be deemed guilty of an offense against

1 the United States, and shall be subject, upon conviction
2 in any court of the United States of competent jurisdiction,
3 to a fine of \$5,000 or to imprisonment for a term of not
4 more than five years, or both.

5 SAVING PROVISION

6 SEC. 7. Nothing contained in this Act shall impair the
7 authority of the Attorney General or any authorized anti-
8 trust investigator to (a) lay before any grand jury im-
9 paneled before any district court of the United States any
10 evidence concerning any alleged antitrust violation, (b)
11 invoke the power of any such court to compel the produc-
12 tion of any evidence before any such grand jury, (c) file
13 a civil complaint or criminal information alleging an anti-
14 trust violation which is not described in the demand, or
15 (d) institute any proceeding for the enforcement of any
16 order or process issued in execution of such power, or for
17 the punishment of any organization or individual for dis-
18 obedience of any such order or process.

86TH CONGRESS
1ST SESSION

S. 1003

A BILL

To authorize the Attorney General to compel the production of documentary material required in civil investigations for the enforcement of the antitrust laws, and for other purposes.

By Mr. WILEY

FEBRUARY 9, 1959

Read twice and referred to the Committee on the
Judiciary