

a nation of wealth and power these attributes of the spirit which are expressed in the arts and humanities.

Therefore, I am today introducing a bill which provides for the creation of a new National Institute for the Arts and Humanities within the Office of Education which would have as its function the stimulation and support of educational and cultural activities on a broad scale. Obviously, the programs of the Federal Government in this area must be approached with a sensitivity to national exigencies; on the one hand, and with the responsibilities of local and private agencies, on the other. My bill calls for a Federal Advisory Council on the Arts and Humanities which will provide advice on areas of Federal support and will identify critical needs to the Commissioner of Education and to the Secretary of Health, Education, and Welfare.

To summarize the principal ways in which the arts and humanities will be advanced, the legislation provides for the following:

First. Authority to conduct broad investigations of studies of national needs in the arts and humanities in order to clearly establish areas for Federal stimulation and support.

Second. The creation of a Cultural Service Center to perform functions analogous to a national clearinghouse of information on all aspects of culture, with responsibility to disseminate this information and provide leadership and assistance.

Third. Creation of a major research and demonstration program within the Federal Government to stimulate new approaches and new techniques for the creative application of the arts and humanities throughout our society.

Fourth. Establish a fellowship and training program for teachers and talented students in the arts and humanities.

Fifth. Provide matching grants for the expansion and improvement of arts and humanities projects conducted by public and nonprofit agencies.

Sixth. Cooperation with State and local agencies in the development of leadership programs for the schools, colleges, and cultural institutions.

#### QUESTIONS AND ANSWERS REGARDING THE ANTITRUST CIVIL PROCESS ACT—S. 167

(Mr. PATMAN (at the request of Mr. GONZALEZ) was granted permission to extend his remarks in the body of the RECORD at this point and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, in order that the Members may have a well rounded picture of the purposes and nature of the Antitrust Civil Process Act, S. 167—civil investigative demand—which will be reported out of conference tomorrow, I am submitting a list of questions and answers on the matter, as follows:

Question: What is the purpose of the Antitrust Civil Process Act?

Answer: This bill would authorize the Attorney General to compel the produc-

tion of documentary evidence required in civil investigations for the enforcement of antitrust laws.

Question: Does not the Attorney General already have such power?

Answer: No. The Department of Justice can request that a grand jury be impaneled for the purpose of making an investigation, and a grand jury would be given subpoena powers. However, the grand jury is supposed to be used for investigations where criminal action is contemplated, not for the purpose of securing information leading to a civil action. The civil investigative demand would thus remove the temptation to utilize the grand jury for civil investigations.

Question: How does the Antitrust Division secure information necessary for its civil cases?

Answer: The Division, if it does not utilize the grand jury procedure, must rely on information, data, and other facts supplied voluntarily, and only has subpoena power after a civil complaint has been filed.

Question: Has not the Department of Justice been able to secure all the information it needed through voluntary cooperation?

Answer: No. In instance after instance such voluntary cooperation has been refused. The Attorney General cited more than a score of such instances.

Question: What is the defect in the present procedure?

Answer: There is a danger that a civil case would be filed with only skimpy or limited evidence. Upon investigation it might be found that a case was not warranted, causing considerable hardship to defendants. This could be avoided if the Antitrust Division had the power to make a thorough investigation prior to filing a complaint. Moreover, the bill would remove the temptation to file first and investigate later.

Question: To whom does the investigative authority apply?

Answer: The authority relates only to corporations, partnerships, and business entities. It does not relate to persons as such.

Question: Does the bill have the approval of the American Bar Association?

Answer: Yes; and a number of amendments suggested by the American Bar Association have been incorporated in the bill.

Question: Did the Attorney General's National Committee To Study the Antitrust Laws recommend that the civil investigative demand be granted to the Antitrust Division?

Answer: Yes.

Question: What other support has been given to the proposal to give the Antitrust Division civil investigative demand authority?

Answer: Legislation of this type was also recommended by the New York Bar Association; Judicial Conference of the United States; economic reports by President Eisenhower and President Kennedy; Attorneys General Brownell, Rogers, and Kennedy; Cabinet Committee on Small Business; and it has consistently received bipartisan support in the Congress.

Question: Do other agencies have similar investigative authority?

Answer: Yes. Not only does the Federal Trade Commission, which has concurrent jurisdiction with the Antitrust Division in the enforcement of various antitrust statutes, have this authority, but it is possessed by such agencies as the National Labor Relations Board, the Atomic Energy Commission, the Census Bureau, and all of the regulatory bodies, including the Civil Aeronautics Board, the Federal Aviation Agency, the Securities and Exchange Commission, the Interstate Commerce Commission, the Federal Communications Commission, and the Federal Power Commission.

Question: Do State antitrust agencies have such power?

Answer: Yes. Some 17 States give this exact power to their departments of justice in their antitrust laws. These include the States of Arizona, Hawaii, Idaho, Kansas, Louisiana, Maine, Missouri, Montana, Nebraska, New York, North Dakota, Oklahoma, South Carolina, Texas, Utah, Washington, and Wisconsin.

Question: Why cannot the Antitrust Division rely upon the Federal Trade Commission to do its investigating?

Answer: This would defeat the basic purpose of concurrent jurisdiction in the enforcement of certain antitrust statutes. Moreover, it could place an undue burden upon the Commission and throw its budget planning out of gear if the demands became excessive. Ultimately the Federal Trade Commission could be forced into the position of being solely an investigative arm of the Antitrust Division.

Question: In what types of antitrust cases is the civil investigative authority most needed?

Answer: The greatest needs are for investigation of mergers and monopoly cases, where careful and thorough study must be made of markets, lines of commerce, and intricate questions of horizontal, vertical, and conglomerate integration. Such cases would require the collection of considerable documentary facts and data.

Question: Would this give the Department of Justice authority to require production of privileged information?

Answer: No. The demand cannot require the production of any privileged material or of any material which would not be disclosed if demanded by subpoena issued by a grand jury; nor can the demand contain any requirement which would be unreasonable if contained in a grand jury subpoena.

Question: Should the authority be confined to corporations under investigation?

Answer: No; this would be unwise for a number of reasons:

First. It would severely restrict the Division in the collection of vital information relating to litigation involving monopolies, anticompetitive mergers, predatory price discriminations, and exclusive dealing contracts. Such litigation requires that the business affected by the illegal activity be measured against the total business in the line or lines of commerce involved. Informa-

tion from nonviolating companies, is, of course, necessary to such a judgment.

Second. Third parties that might be adversely affected by a merger or monopoly would be reluctant to supply information without being subpoenaed, for fear of industry retaliation.

Third. Thus, small businesses who might be placed under a severe squeeze by a merger or monopoly might not be fully heard, and thus one of the crucial purposes of the antitrust laws would be thwarted, namely, to prevent the destruction of small businesses.

Fourth. Innocent parties would receive adverse publicity. In the early stages of an investigation certain parties might be considered as potential defendants, but after investigation would prove not to be. If they protested, the civil investigative demand publicity might suggest that they were guilty, whereas after supplying the information the evidence might not indicate such guilt.

Fifth. The Department of Justice might be tempted to include many parties as under investigation, whether thought to be guilty or not, and then only file a complaint against a few. Thus all the parties would be subject to being stigmatized during the period of investigation.

Sixth. In the past the Department has been accused of filing skeleton complaints. The purpose of CID to avoid this would be thwarted because the Department might again file skeleton complaints, relying upon its subpoena power after complaint to secure third-party information.

Seventh. Parties not subject to investigation but willing to cooperate would be severely handicapped as compared with those unwilling to cooperate.

Thus it may be seen that limiting the CID to corporations under investigation would do great harm rather than protect third parties. This would apply particularly to small business.

Question: Is it not necessary in virtually any kind of lawsuit to secure information from witnesses who are not defendants?

Answer: Yes. Even in simple accident cases, witness testimony is essential—and such witnesses are typically not defendants. In fact, third-party testimony is often crucial to antitrust cases, as demonstrated in the recent Brown Shoe case, just decided by the Supreme Court.

Question: Should the Federal Trade Commission be permitted to use documents secured under CID?

Answer: Yes; in the interests of efficient administration of the antitrust laws, which give concurrent jurisdiction to both the Antitrust Division and the Federal Trade Commission of certain sections and statutes, the agency with the most expertise in certain areas should in many instances be given the opportunity to carry forward the prosecution. The purpose would be defeated by restricting the use of documents secured under the CID to the Antitrust Division.

Question: Would the CID enable the Department of Justice to embark upon fishing expeditions?

Answer: No. In the first place the demand cannot be used against natural persons. It is only applied against corporations and other business firms. The proposal provides appropriate court remedies to those upon whom civil investigative demands are made. The demand cannot require the production of any privileged material or of any material which would not be disclosed if demanded by a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged violations; nor can the demand contain any requirement which would be unreasonable if contained in a subpoena duces tecum issued in a grand jury investigation.

Question: What are the key provisions of the bill as reported out of the conference committee?

Answer: The bill as reported by the conference committee would authorize the Attorney General to compel the production of documentary evidence required in civil investigations for the enforcement of the antitrust laws, and for other purposes. The use of documentary material so secured would be limited to the Antitrust Division and the Federal Trade Commission. The authority would not be limited merely to corporations under investigation.

Question: Who signed the conference report?

Answer: The report was signed by the following: EMANUEL CELLER, PETER W. RODINO, JR., BYRON G. ROGERS, managers on the part of the House; JAMES O. EASTLAND, ESTES KEFAUVER, OLIN D. JOHNSTON, managers on the part of the Senate.

#### REVIEW OF NEW GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

(Mr. FOUNTAIN (at the request of Mr. GONZALEZ) was granted permission to extend his remarks in the body of the RECORD at this point and to include extraneous matter.)

Mr. FOUNTAIN. Mr. Speaker, I have today introduced a bill, H.R. 12565, as a substitute for H.R. 7802, which I had introduced last year to provide a uniform procedure for the periodic congressional review of new grants-in-aid to State and local governments.

Bills identical to H.R. 7802 were also sponsored by Mrs. Dwyer, Mr. Smith of Iowa, Mr. Langen, Mr. Curtis of Missouri, Mr. Pelly, Mr. Seely-Brown, Mr. King of Utah, Mr. Lindsay, and former Representative Ikard of Texas.

This legislation was proposed by the Advisory Commission on Intergovernmental Relations, on which Mrs. DWYER, Mr. KEOGH, and I presently serve as representatives of the House. The membership of the Advisory Commission, which was established by the 86th Congress to give continuing attention to intergovernmental problems, includes Governors, State legislators, mayors, and county officials, in addition to Federal officials and Members of the Congress.

Hearings on this legislation were held by the Intergovernmental Relations Sub-

committee, which favorably reported H.R. 7802 with amendments to the full Committee on Government Operations, where it is presently under consideration.

Earlier this month the Governors' conference, at its annual meeting in Hershey, Pa., unanimously adopted a resolution endorsing this legislation.

The bill which I have introduced today was drafted as a substitute for H.R. 7802 in order to improve and perfect the original language. I am pleased to note that Mrs. DWYER and Mr. LANGEN, my colleagues on the Intergovernmental Relations Subcommittee, are also introducing identical bills at this time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. HARRISON of Virginia (at the request of Mr. ABBITT), for the rest of the week, on account of illness in the family.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. JONAS, for 15 minutes, today.

Mr. HALPERN (at the request of Mr. GOODELL), for 10 minutes, today.

Mr. CAHILL (at the request of Mr. GOODELL), to address the House on July 19 for 30 minutes.

#### EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks, was granted to:

Mr. LANE in five instances and to include extraneous matter.

Mr. WHARTON in four instances and to include extraneous matter.

Mrs. MAY to extend her remarks in the RECORD following Mr. FENTON in Committee.

Mr. MONAGAN and include extraneous material.

Mr. BOLAND and include extraneous material.

Mr. MADDEN and include a statement from the AFL-CIO.

Mr. DORN and include extraneous material.

(The following Members (at the request of Mr. GOODELL) and to include extraneous matter:)

Mr. LAIRD.

Mr. MORSE.

Mr. GUBSER.

Mr. BYRNES of Wisconsin.

Mr. YOUNGER in two instances.

Mr. ROUSSELOT.

Mr. CUNNINGHAM in three instances.

Mr. VAN ZANDT.

Mr. SEELY-BROWN.

Mr. CURTIS of Missouri in three instances.

Mr. NELSEN in two instances.

Mr. SCHWENDEL.

Mr. DAGUE.

Mr. KEARNS.

Mr. WIDNALL.