

## ORDER OF BUSINESS

Mr. DOUGLAS. Mr. President, a parliamentary inquiry.

Mr. MANSFIELD. I yield for a parliamentary inquiry.

Mr. DOUGLAS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. MANSFIELD. Mr. President, I wish to state that there will be no further voting tonight on a yea-and-nay basis—in other words, no rollcall votes. I understand discussion of the conference report which is pending will be continued. I would like to bring up a few bills on the Calendar to which there is no objection, in an effort to clear up as much business as possible. Then I shall be willing to take my seat.

Mr. JORDAN. Mr. President, I ask the majority leader if it is correct that there will be no yea-and-nay votes on the Mexican farm labor conference tonight.

Mr. MANSFIELD. The Senator is correct, but I hope as much discussion as possible will be gotten out of the way tonight.

Mr. JORDAN. But there will be no votes?

Mr. MANSFIELD. That is correct.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. DOUGLAS. I think the Senator from Montana is optimistic.

Mr. MANSFIELD. We live in hopes and die in despair, but no one can object to being hopeful.

## ORGANIZATION OF THE BUREAU OF PUBLIC ROADS—MOTION TO RECONSIDER

Mr. McNAMARA. Mr. President, I enter a motion that the Senate reconsider the vote by which H.R. 8558, relating to the organization of the Bureau of Public Roads, was passed yesterday, and I ask that the papers be returned to the Senate.

The PRESIDING OFFICER. The motion to reconsider will be entered.

Without objection, the return of the papers will be requested.

## PRINTING OF ADDITIONAL COPIES OF REPORT, "FREEDOM OF COMMUNICATIONS"

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1072, Senate Concurrent Resolution 47.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The LEGISLATIVE CLERK. A concurrent resolution—Senate Concurrent Resolution 47—to print additional copies of report entitled "Freedom of Communications."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the Senate proceeded to consider the concurrent resolution, which had been re-

ported from the Committee on Rules and Administration, with an amendment, to strike out all after the resolving clause and insert:

That there be printed ten thousand additional copies each of parts I, II, and III of Senate Report Numbered 994, Eighty-seventh Congress, entitled "Freedom of Communications", prepared pursuant to S. Res. 305, Eighty-sixth Congress, of which two thousand five hundred copies shall be for the use of the Senate, two thousand five hundred copies shall be for the use of the House of Representatives, and five thousand copies shall be for the use of the Senate Committee on Commerce.

Sec. 2. There shall be printed five thousand additional copies of each of parts IV, V, and VI of said report for the use of the Senate Committee on Commerce.

The amendment was agreed to. The concurrent resolution, as amended, was agreed to.

## PRINTING OF ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "THE PUGWASH CONFERENCES"

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1073, Senate Resolution 208.

The PRESIDING OFFICER. The resolution will be stated by title.

The LEGISLATIVE CLERK. A resolution (S. Res. 208) to print additional copies of a committee print by the Judiciary Subcommittee on Internal Security entitled "The Pugwash Conferences."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the resolution was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Senate Committee on the Judiciary six thousand additional copies of its committee print, entitled "The Pugwash Conferences", issued by its Internal Security Subcommittee during the Eighty-seventh Congress.

## ADDITIONAL EXPENDITURES BY COMMITTEE ON APPROPRIATIONS

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1074, Senate Resolution 241.

The PRESIDING OFFICER. The resolution will be stated by title.

The LEGISLATIVE CLERK. A resolution (S. Res. 211) authorizing additional expenditures by the Committee on Appropriations.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the resolution was considered and agreed to, as follows:

Resolved, That the Committee on Appropriations hereby is authorized to expend from the contingent fund of the Senate, during the Eighty-seventh Congress, \$10,000, in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act, approved August 2, 1946, and S. Res. 180, agreed to July 27, 1961.

## ADDITIONAL EXPENDITURES FOR INVESTIGATION OF JUVENILE DELINQUENCY

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1075, Senate Resolution 212.

The PRESIDING OFFICER. The resolution will be stated by title.

The LEGISLATIVE CLERK. A resolution (S. Res. 212) authorizing additional expenditures for the investigation of juvenile delinquency in the United States.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the resolution was considered and agreed to, as follows:

Resolved, That section 4 of S. Res. 48, Eighty-seventh Congress, first session, authorizing an investigation of juvenile delinquency in the United States, agreed to January 31, 1961, is amended by striking out "\$178,000" and inserting in lieu thereof "\$198,000".

## PRINTING OF ADDITIONAL COPIES OF SENATE DOCUMENT

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1076, Senate Resolution 217.

The PRESIDING OFFICER. The resolution will be stated by title.

The LEGISLATIVE CLERK. A resolution (S. Res. 217) authorizing the printing of additional copies of Senate Document No. 41, 87th Congress, entitled "Proposed Federal Aid for Education."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the resolution was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on Labor and Public Welfare five thousand additional copies of Senate Document, Numbered 41, Eighty-seventh Congress, entitled "Proposed Federal Aid for Education" (prepared by the Legislative Reference Service of the Library of Congress).

## PRODUCTION OF DOCUMENTARY EVIDENCE IN CIVIL INVESTIGATIONS

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1071, Senate bill 167.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 167) to 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 PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments, on page 1, line 6, after "Sec. 2.",

to strike out "As used in" and insert "For the purpose of"; on page 4, line 12, after the word "material", to strike out "pertinent" and insert "relevant to an antitrust investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon"; on page 5, line 2, after the word "and", to strike out "produced" and insert "made available for inspection and copying or reproduction; and"; in line 4, after the word "such", to strike out "evidence is to be delivered; and" and insert "material shall be made available"; after line 5, to strike out:

(5) specify a place at which such delivery is to be made.

On page 7, line 2, after the word "shall", to strike out "deliver" and insert "make"; in line 3, after the word "material", to insert "available for inspection and copying or reproduction"; in line 4, after the word "the", where it appears the second time, to insert "principal"; at the beginning of line 5, to strike out "specified therein" and insert "of business of such person"; in line 7, after the word "may", to insert "agree and"; in line 9, after the word "writing", to strike out "No such demand or custodian may require delivery of any documentary material to be made—

"(1) at any place outside the territorial jurisdiction of the United States without the consent of the person upon whom such demand was served; or (2) at any place other than the place at which such documentary material is situated at the time of service of such demand until the custodian has tendered to such person (A) a sum sufficient to defray the cost of transporting such material to the place prescribed for delivery or (B) the transportation thereof to such place at Government expense." and insert "Such person may upon written agreement between such person and the custodian substitute for copies of all or any part of such material originals thereof."; on page 8, line 5, after the word "use", to strike out "by any individual who is entitled,"; in line 13, after the word "agency", to strike out the comma and "provided nothing herein shall prevent the Attorney General from making available the material so produced for examination by the Committee on the Judiciary of each House of the Congress"; on page 9, line 15, after the word "of", to strike out "Justice," and insert "Justice or"; in line 16, after the word "agency", to strike out "or any committee of the Congress,"; on page 11, line 4, after "section 3", to strike out the comma and insert "or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material"; in line 11, after the word "of", to strike out "such demand" and insert "this Act"; in line 21, after the word "which", to strike out "the office of the custodian designated therein is situated" and insert "such person resides, is found, or transacts business,"; on page 12, line 1, after the word "demand", to strike out "The time allowed for compliance with the demand

in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court."; in line 7, after the word "constitutional", to insert "or other legal"; on page 13, after line 2, to insert:

(e) To the extent that such rules may have application and are not inconsistent with the provisions of this Act, the Federal Rules of Civil Procedure shall apply to any petition under this Act.

And, after line 7, to strike out:

Sec. 6. (a) Chapter 73 of title 18 of the United States Code (relating to obstruction of justice) is amended by adding at the end thereof the following new section:

"§ 1509. Obstruction of antitrust civil process

"Whoever, with the intent to avoid, evade, prevent, or obstruct compliance in whole or in part, by any person with any civil investigative demand made under the Antitrust Civil Process Act, willfully removes from any place, conceals, withholds, destroys, mutilates, alters, or by any other means falsifies any documentary material in the possession, custody or control of any person which is the subject of any such demand duly served upon any person shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

(b) The analysis to such chapter is amended by inserting at the end thereof the following new item:

"1509. Obstruction of antitrust civil process."

And, in lieu thereof, to insert:

Sec. 6. (a) Section 1505, title 18, United States Code, is amended to read as follows:

"§ 1505. Obstruction of proceedings before departments, agencies, and committees

"Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any witness in any proceeding pending before any department or agency of the United States, or in connection with any inquiry or investigation being had by either House, or any committee of either House, or any joint committee of the Congress; or "Whoever injures any party or witness in his person or property on account of his attending or having attended such proceeding, inquiry, or investigation, or on account of his testifying or having testified to any matter pending therein; or

"Whoever, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part with any civil investigative demand duly and properly made under the Antitrust Civil Process Act willfully removes from any place, conceals, destroys, mutilates, alters, or by other means falsifies any documentary material which is the subject of such demand; or

"Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which such proceeding is being had before such department or agency of the United States, or the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—

"Shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

(b) The analysis of chapter 73 of title 18 of United States Code is amended so that the title of section 1505 shall read therein as follows:

"1505. Obstruction of proceedings before departments, agencies, and committees."

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Civil Process Act".

#### DEFINITIONS

Sec. 2. For the purposes of this Act—

(a) The term "antitrust law" includes:

(1) Each provision of law defined as one of the antitrust laws by section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730, as amended; 15 U.S.C. 12), commonly known as the Clayton Act;

(2) The Federal Trade Commission Act (15 U.S.C. 41 and the following);

(3) Section 3 of the Act entitled "An Act to amend section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (49 Stat. 1528; 15 U.S.C. 13a), commonly known as the Robinson-Patman Act; and

(4) Any statute hereafter enacted by the Congress which prohibits, or makes available to the United States in any court or antitrust agency of the United States any civil remedy with respect to (A) any restraint upon or monopolization of interstate or foreign trade or commerce, or (B) any unfair trade practice in or affecting such commerce;

(b) The term "antitrust agency" means any board, commission, or agency of the United States (other than the Department of Justice) charged by law with the administration or enforcement of any antitrust law or the adjudication of proceedings arising under any such law;

(c) The term "antitrust order" means any final order of any antitrust agency, or any final order, decree, or judgment of any court of the United States, duly entered in any case or proceeding arising under any antitrust law;

(d) The term "antitrust investigation" means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation;

(e) The term "antitrust violation" means any act or omission in violation of any antitrust law or any antitrust order;

(f) The term "antitrust investigator" means any attorney or investigator employed by the Department of Justice who is charged with the duty of enforcing or carrying into effect any antitrust law;

(g) The term "person" means any corporation, association, partnership, or other legal entity not a natural person;

(h) The term "documentary material" includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document; and

(i) The term "custodian" means the antitrust document custodian or any deputy custodian designated under section 4(a) of this Act.

#### CIVIL INVESTIGATIVE DEMAND

Sec. 3. (a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material relevant to an antitrust investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

(b) Each such demand shall—

(1) state the nature of the conduct constituting the alleged antitrust violation

which is under investigation and the provision of law applicable thereto;

(2) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(3) prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(4) identify the custodian to whom such material shall be made available.

(c) No such demand shall—

(1) contain any requirement which would be held to be unreasonable if contained in a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged antitrust violation; or

(2) require the production of any documentary evidence which would be privileged from disclosure 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 antitrust violation.

(d) Any such demand may be served by any antitrust investigator, or by any United States marshal or deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

(e) Service of any such demand or of any petition filed under section 5 of this Act may be made upon a partnership, corporation, association, or other legal entity by—

(1) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(2) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

(3) depositing such copy in the United States mails, by registered or certified mail, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

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

#### ANTITRUST DOCUMENT CUSTODIAN

SEC. 4. (a) The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice shall designate an antitrust investigator to serve as antitrust document custodian, and such additional antitrust investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

(b) Any person upon whom any demand issued under section 3 has been duly served shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). Such person may upon written agreement between such person and the custodian substitute for copies of all or any part of such material originals thereof.

(c) The custodian to whom any documentary material is so delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return thereof pursuant to this Act. The custodian may cause the preparation of

such copies of such documentary material as may be required for official use under regulations which shall be promulgated by the Attorney General, to have access to such material for examination. While in the possession of the custodian, no material so produced shall be available for examination, without the consent of the person who produced such material, by any individual other than a duly authorized officer, member, or employee of the Department of Justice or any antitrust agency. Under such reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in the possession of the custodian shall be available for examination by the person who produced such material or any duly authorized representative of such person.

(d) Whenever any attorney has been designated to appear on behalf of the United States before any court, grand jury, or antitrust agency in any case or proceeding involving any alleged antitrust violation, the custodian may deliver to such attorney such documentary material in the possession of the custodian as such attorney determines to be required for use in the presentation of such case or proceeding on behalf of the United States. Upon the conclusion of any such case or proceeding, such attorney shall return to the custodian any documentary material so withdrawn which has not passed into the control of such court, grand jury, or antitrust agency through the introduction thereof into the record of such case or proceeding.

(e) Upon the completion of (1) the antitrust investigation for which any documentary material was produced under this Act, and (2) any case or proceeding arising from such investigation, the custodian shall return to the person who produced such material all such material (other than copies thereof made by the Department of Justice or any antitrust agency pursuant to subsection (c)) which has not passed into the control of any court, grand jury, or antitrust agency through the introduction thereof into the record of such case or proceeding.

(f) When any documentary material has been produced by any person under this Act for use in any antitrust investigation, and no such case or proceeding arising therefrom has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General or upon the Assistant Attorney General in charge of the Antitrust Division, to the return of all documentary material (other than copies thereof made by the Department of Justice or any antitrust agency pursuant to subsection (c)) so produced by such person.

(g) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material produced under any demand issued under this Act, or the official relief of such custodian from responsibility for the custody and control of such material, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian thereof, and (2) transmit notice in writing to the person who produced such material as to the identity and address of the successor so designated. Any successor so designated shall have with regard to such materials all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation as custodian.

#### JUDICIAL PROCEEDINGS

SEC. 5. (a) Whenever any person fails to comply with any civil investigative demand

duly served upon him under section 3, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General, through such officers or attorneys as he may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this Act, except that if such person transacts business in more than one such district such petition shall be filed in the district in which such person maintains his principal place of business, or in such other district in which such person transacts business as may be agreed upon by the parties to such petition.

(b) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such custodian a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of such person.

(c) At any time during which any custodian is in custody or control of any documentary material delivered by any person in compliance with any such demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this Act.

(d) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this Act. Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28 of the United States Code. Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof.

(e) To the extent that such rules may have application and are not inconsistent with the provisions of this Act, the Federal Rules of Civil Procedure shall apply to any petition under this Act.

#### CRIMINAL PENALTY

SEC. 6. (a) Section 1505, title 18, United States Code, is amended to read as follows:

"§ 1505. Obstruction of proceedings before departments, agencies, and committees

"Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any witness in any proceeding pending before any department or agency of the United States, or in connection with any inquiry or investigation being had by either House, or any committee of either House, or any joint committee of the Congress; or

"Whoever injures any party or witness in his person or property on account of his attending or having attended such proceeding, inquiry, or investigation; or on account of his testifying or having testified to any matter pending therein; or

"Whoever, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part with any civil investigative demand duly and properly made under the Antitrust Civil Process Act willfully removes from any place, conceals, destroys, mutilates, alters, or by other means of falsifies any documentary material which is the subject of such demand; or

"Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which such proceeding is being had before such department or agency of the United States, or the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—

"Shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

(b) The analysis of chapter 73 of title 18 of United States Code is amended so that the title of section 1505 shall read therein as follows:

"1505. Obstruction of proceedings before departments, agencies, and committees."

#### SAVING PROVISION

Sec. 7. Nothing contained in this Act shall impair the authority of the Attorney General, the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, or any antitrust investigator to (a) lay before any grand jury impaneled before any district court of the United States any evidence concerning any alleged antitrust violation, (b) invoke the power of any such court to compel the production of any evidence before any such grand jury, or (c) institute any proceeding for the enforcement of any order or process issued in execution of such power, or to punish disobedience of any such order or process by any person.

Mr. KEFAUVER. Mr. President, the legislation before us is of utmost importance to the Department of Justice in its enforcement of the antitrust laws. In brief, it would give to the Department approximately the same authority which the Federal Trade Commission has had for many years to obtain documentary evidence needed in civil antitrust cases.

The Federal Trade Commission has exercised its authority to demand documents for a long period of time, and to the best of my knowledge, has had no criticisms of its use of its power.

As to the Department of Justice, as matters now stand, there are four possible courses of action which may be taken to secure information when it is believed that the antitrust laws are being violated.

First. The Department may try to obtain the cooperation of prospective violators in agreeing to supply evidence against themselves. This is obviously an unsatisfactory course in many cases.

Second. The Department may convene a grand jury and obtain evidence through use of the subpoena power. This is not only a harsh method of obtaining evidence for a civil case, but also it amounts to an abuse of process of the grand jury proceedings. On this point I would cite *United States v. Procter and Gamble* (356 U.S. 677 (1958)).

Third. The Department of Justice could request an investigation to be

made by the Federal Trade Commission. This not only entails delay, but also disrupts the orderly work of the Federal Trade Commission.

Fourth. The Department of Justice may file a civil complaint without sufficient prior information as to the extent or exact nature of the violations. This can easily result in the filing of complaints where no real case exists.

What is really needed by the Department of Justice for civil antitrust cases is a precomplaint civil discovery process where voluntary cooperation is not forthcoming. This is precisely what is provided in S. 167.

This legislation has been recommended to the Congress in the economic reports by the President for the last four Congresses. Therefore, it has wide bipartisan support.

Two bills were introduced in the 86th Congress, one by myself and one by the Senator from Wisconsin [Mr. WILEY], and the Senate adopted S. 716, with an amendment proposed by the Senator from Illinois [Mr. DIRKSEN]. Unfortunately, S. 716 was not acted upon by the House.

The legislation before us today would give to the Justice Department the authority to issue a civil investigative demand requiring any person, other than a natural person, to produce documentary material for examination whenever the Department has reason to believe that such person may have material pertinent to a civil antitrust investigation. The civil demand must be in writing and must set forth the nature of the conduct constituting the alleged antitrust violations under investigation, as well as the applicable provision of the law. The material shall be made available for inspection and reproduction at the principal place of business of the person from which it is demanded.

The bill provides that the demand may be tested in a district court for the district in which the person designated in the demand is situated by the filing in such court of a petition for an order of such court modifying or setting aside such demand. The tests of reasonableness and privilege of civil demands is the same as the test for subpoenas duces tecum.

A number of amendments to the original bill were made in both the Subcommittee on Antitrust and Monopoly and the Committee on the Judiciary. A number of these were suggested by the Senator from Nebraska [Mr. HRUSKA], and have resulted in substantial improvements in the bill.

I do not think that there is any reason to outline all of the amendments, but at least one, as originally suggested by the Senator from Illinois [Mr. DIRKSEN], should be noted: The original bill provided that the Attorney General, after demanding material under this act, might turn it over to the Committees on the Judiciary of both Houses under certain limited conditions. This provision has been stricken from the bill, because it was felt that congressional committees could obtain the same material under their subpoena power where investigation warranted the obtaining of such material.

In conclusion, it is my opinion that this bill is vitally needed by the Attorney General to carry out the enforcement of the antitrust laws in an orderly fashion. If adopted, it would make it unnecessary for him to resort to either voluntary cooperation or to the use of back-door methods of obtaining evidence in civil antitrust cases.

The PRESIDING OFFICER. Without objection, the committee amendments will be considered en bloc and, without objection, they are agreed to en bloc.

Mr. DIRKSEN. Mr. President, this bill engaged the attention of the Judiciary Committee for at least 3 years, and possibly 4, to my certain knowledge. We have drafted a series of amendments to the bill which we think are acceptable and which make it at once advisable and workable, and give adequate protection to persons who might be under subpoena. I think the amendments are in order. We are quite satisfied with the bill. I believe I should bestow a compliment on the distinguished Senator from Nebraska [Mr. HRUSKA] for the time and effort he has devoted to the bill. This is actually a very important bill. It has had long consideration, and it came out of the Judiciary Committee without a dissenting vote.

Mr. HRUSKA. Mr. President, this authority constitutes and will constitute an important tool in the hands of the Attorney General for the purposes for which it was designed. The Senator from Tennessee has been very tolerant and considerate in having a full consideration of the amendments which were adopted. It is the intention of Senators who considered the bill that the remedies afforded by the bill shall make it unnecessary to consider conferring additional authority on the Attorney General, as has been requested from time to time, until such time as the bill, when enacted into law, shall have been thoroughly tested and tried.

Mr. KEFAUVER. Mr. President, the Senator from Nebraska proposed a number of helpful amendments, and we appreciate his efforts in the consideration of the bill.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 167) was ordered to be engrossed for a third reading, was read the third time, and passed.

#### AUTHORIZATION OF PROFESSIONAL SPORTS LEAGUES TO ENTER INTO TELEVISION CONTRACTS

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1068, H.R. 9096.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 9096) to amend the antitrust laws to authorize leagues of professional football, baseball, basketball, and hockey teams to enter into certain television contracts, and for other purposes.