

State, to make the U.S. Public Health Service responsible for safeguarding our people against the hazards of all types of radiation.

Mr. President, I desire to read into the RECORD an editorial from the St. Louis (Mo.) Post-Dispatch, reprinted in the Austin (Tex.) American for July 24, 1959, entitled "AEC Hails in Health Guard on Radiation." The editorial, which was published in both the St. Louis Post-Dispatch and the Austin American reads as follows:

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. YARBOROUGH. Mr. President, I ask the Senator to yield me 2 more minutes.

Mr. LAUSCHE. I yield 2 more minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 more minutes.

Mr. YARBOROUGH. The editorial reads:

The best argument for making the U.S. Public Health Service responsible for protecting the public health against radiation hazards come from the Atomic Energy Commission's own unfolding record of the way it has responded to this responsibility. We believe the AEC has now demonstrated its inadequacy sufficiently to make the case for the Public Health Service clear and unmistakable.

That the work must urgently be done, whatever the agency that does it, is beyond question. By its own account the AEC is obviously not doing it. The Commission lacks adequate jurisdiction and enforcement powers. It has no one directly in charge of its program for measuring the extent and hazards of radioactive fallout from weapons tests. Only two persons in the AEC organization are working fulltime on the fallout research program, Project Sunshine, now in its sixth year. A key official of AEC frankly described Project Sunshine as "makeshift." Even the makeshift is rendered further ineffective by what still another AEC official calls its predominant problem of administrative confusion. There is no head.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that I may proceed for an additional half minute.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? The Chair hears none, and it is so ordered.

Mr. YARBOROUGH. Mr. President, the editorial concludes:

To implement the recommendations of the National Advisory Committee on Radiation, Senator LISTER HILL, of Alabama, has introduced a bill which would authorize the Surgeon General, in consultation with State and local health authorities, to develop uniform standards of radiation protection and to submit to Congress a program covering all manmade sources. Acceptable levels would be set for radioactivity in milk, in other foods, and in the atmosphere.

ORDER OF BUSINESS

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. Is time being allocated from the time of the bill?

The PRESIDING OFFICER. That is correct.

Mr. DIRKSEN. How much time has been used?

The PRESIDING OFFICER. Seventeen minutes remain for the proponents, and 28 minutes remain for the opponents.

Mr. LAUSCHE. Mr. President, how many minutes remain for the proponents?

The PRESIDING OFFICER. Seventeen minutes.

Mr. SPARKMAN. Mr. President, will the Senator yield to me?

Mr. DIRKSEN. Mr. President, I yield 1 minute to the distinguished Senator from Alabama.

PRODUCTION OF DOCUMENTARY EVIDENCE IN CIVIL INVESTIGATIONS

The Senate resumed the consideration of the bill (S. 716) 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.

Mr. LAUSCHE. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time consumed be not charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEFAUVER. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. The proponents have 17 minutes remaining.

Mr. KEFAUVER. Mr. President, the proposed legislation in Senate bill 716 as favorably reported by the Judiciary Committee would enable the Attorney General or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice to obtain documentary evidence needed in civil investigations for the enforcement of the antitrust laws in civil cases.

The bill gives authority to the Attorney General or the Assistant Attorney General in charge of the Antitrust Division to issue a civil investigative demand requiring any person other than a natural person to produce documentary material for examination whenever there is reason to believe that such a person has in custody material pertinent to any civil antitrust investigation. The demand so issued is required to be in writing and to set forth the nature of the conduct constituting the alleged antitrust violation which is under investigation and to cite the provision of the antitrust laws believed to be violated. The civil demand is required to describe the documentary material to be produced with such definiteness and certainty as to permit such material to be fairly iden-

tified and to name the date by which compliance must be made, provided that such time limit shall give a reasonable period of time for the assembling and production of the material demanded. The civil demand must also identify the custodian designated in the Department of Justice to whom such material is to be delivered and the place for such delivery.

Under the provisions of the bill, the sufficiency of the civil demand issued may be tested by a petition filed in the district court in which the office of the custodian designated is located, seeking an order of the court to modify or to set aside the demand. The sufficiency of a civil demand is to be determined by the court upon the same test as is applied by the courts to a subpoena duces tecum issued by a court of the United States in aid of a grand jury investigation of an antitrust violation. The bill expressly provides that a civil demand may not require the production of any material which would be privileged from disclosure if the same material were demanded in such a subpoena duces tecum in aid of a grand jury investigation.

Service of a civil demand on a person who is believed to have such documentary material is provided for in the same general manner as the service of complaints in civil cases in Federal district courts.

In order to make certain the material received by the Department of Justice under a civil demand is properly preserved and the rights of the owner of such material are protected, the legislation would require the Assistant Attorney General in the Antitrust Division to designate a custodian of such records. Such a custodian would be responsible for the preservation of the documents and the bill provides a penalty which can be enforced by the owner of the documents in the district court if such custodian should not conform to the requirements of the bill with respect to the custody and handling of such documents.

Such material obtained under a civil demand may be used before any court, grand jury, or antitrust agency in any case or proceeding involving any alleged antitrust violation. The bill also provides that nothing in the bill 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. This provision in the bill does not require the Attorney General to make the documentary material available to the Judiciary Committees of the Congress but prevents the bill from barring the Attorney General's making such material subject to examination by the Judiciary Committees of the Congress.

It is not required, of course, that the Attorney General make it available. Many of us felt that it should be required, but the situation is left as it is at the present time. It is within his discretion. In a proper case he might wish to make some material available to the Judiciary Committee of the Senate or the House. He is not precluded in this bill from doing so.

The Attorney General and the custodian are barred from subjecting the material to examination by any person other than an employee of the Department of Justice or any other antitrust agency and the person from whom the documents were obtained.

Upon the conclusion of any such antitrust case or proceeding, the documents produced, not including copies made by the Department of Justice, which has not passed into the hands of a court, grand jury, or other antitrust agency, shall be returned by the custodian to the person producing the documents under the civil demand.

The bill provides for the enforcement of civil investigative demands by a petition filed by the Attorney General in the district court for an order of the court requiring compliance with the demand. Disobedience to any final order issued by the court may be punished as a contempt of the order. Also, any willful obstruction of the antitrust civil process as provided in the bill would be punishable by a fine of not more than \$5,000, or by imprisonment for not more than 5 years, or both. Such an obstruction must be done with "intent to avoid, evade, prevent, or obstruct compliance" with any civil investigative demand made pursuant to the bill. Mr. President, I believe that S. 716 will meet a long-existing need for such legislation. Under existing law, when the Department of Justice believes that the antitrust laws are being violated and that a civil case is more appropriate than criminal prosecution, and the Department does not have sufficient facts with respect to the nature of the violation, it can proceed only in one of four ways, neither of which appears to be satisfactory. It may seek voluntary cooperation from those who are believed to be in violation of the law, but this is not a satisfactory method upon which to depend for the enforcement of the law. The subcommittee was advised by the Assistant Attorney General in the Antitrust Division during hearings on the bill that in many cases such voluntary cooperation is not received.

The Department may hold a grand jury investigation and use subpoenas duces tecum in order to obtain the needed documentary material, as it is doing in some grand jury cases now pending. It appears to be a harsh method of obtaining evidence for use in civil cases to subject people to grand jury investigations when a civil case only is anticipated. Furthermore, such procedure is expensive to the Government and tends to delay the prosecution of civil cases. Also, the courts generally look with disfavor on the use of grand jury investigations for the sole purpose of developing civil cases.

The third method of obtaining the information under existing law would be the Attorney General to request the Federal Trade Commission to conduct an investigation to obtain evidence upon which the Department of Justice would proceed in a civil case. The regular use of this method would entail delay in action by the Department of Justice, subjecting the action by the Department to the ability of the Federal Trade Com-

mission to make an early investigation. It would also disrupt the work of the Federal Trade Commission and divert its personnel and funds from the work of the Commission.

The fourth method which might be used by the Department under existing law would be to file a civil complaint based upon whatever information the Department had at the time and then undertake to obtain under the Federal Rules of Civil Procedure the information or documents which the Department should have had access to before a complaint is filed. This procedure is at best haphazard since the complaint originally filed may have been based upon facts which are not supported by the evidence when finally received, requiring amendments to the complaint and perhaps a dismissal of the complaint. In the latter instance, litigants would have been put to expense and trouble which should not have been caused by the filing of a complaint without sufficient knowledge of the facts.

The insufficiency of the methods of procedure under the present laws, heretofore mentioned, was clearly recognized by the Attorney General's National Committee To Study the Antitrust Laws as reported by it on March 31, 1955. This report recommended the authorization of the Attorney General by the Congress to proceed through civil demands, as provided in S. 716, in order that the Department of Justice could proceed in an orderly way to enforce the antitrust laws in civil cases. The wording of the Attorney General's report is set forth in the report of the committee now before the Senate.

In his Economic Reports to the Congress in 1956, 1957, 1958, and 1959, the President recommended that such authority be given to the Attorney General for the enforcement of civil antitrust cases. The Attorney General and the Assistant Attorney General in charge of the Antitrust Division believe that this authority would greatly strengthen the enforcement of the antitrust laws. They have testified vigorously, as has the Federal Trade Commission, in support of the legislation now proposed.

The Judicial Conference of the United States expressed its disfavor to any plaintiffs' pretending to bring charges in order to discover whether actual charges should be brought, and indicated its belief that this situation could be met without detriment to the enforcement of the antitrust laws in civil cases.

It appears evident that this bill meets this objection of the Judicial Conference by providing a method through which the Department of Justice can obtain proper documentary evidence before filing a complaint in civil cases. It provides effective investigative machinery which would be adequate for effective antitrust enforcement in cases where civil proceedings should be brought rather than criminal indictments.

Mr. President, I believe that the bill gives ample power to the Attorney General and at the same time gives adequate protection to those upon whom civil investigative demands are served.

Such persons are given their day in court if there is any question in their mind as to the reasonableness or sufficiency of the demand made by the Department of Justice and the courts have authority to go so far as to dismiss such demands when the court is convinced that compliance with the demand should not be enforced.

Mr. President, I had intended in the beginning to ask that the committee amendments be agreed to en bloc. I do so now.

The PRESIDING OFFICER. Is there objection to agreeing to the committee amendments en bloc? The Chair hears none, and the amendments are agreed to en bloc.

The amendments agreed to en bloc are as follows:

On page 35 line 17, after the word "entity", to insert "not a natural person"; on page 5, after line 14, to strike out:

"(e) Service of any such demand or of any petition filed under section 5 of this Act may be made—

"(1) upon an individual by (A) delivering a duly executed copy thereof to such individual personally, or (B) delivering such copy to his office or residence by leaving such copy with any individual of suitable age and discretion in his employment at such office or residing at his residence, or (C) depositing such copy in the United States mails, by registered or certified mail, duly addressed to his office or residence; and

"(2) upon a partnership, corporation, association, or other legal entity by delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any other agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity, by any of the means prescribed in paragraph (1)."

And, in lieu thereof, to insert:

"(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; or

"(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."

On page 8, line 19, after the word "agency", to insert "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", and on page 9, line 23, after the word "subsection", to strike out "(e)" and insert "(c)", 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. As used in 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 pertinent to any antitrust investigation, he may 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 produced;

"(4) identify the custodian to whom such evidence is to be delivered; and

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

"(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; or

"(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 deliver such material to the custodian designated therein at the place specified therein (or at such place as such custodian thereafter may prescribe in writing) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). 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.

"(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 by any individual who is entitled, under regulations which shall be promulgated by the Attorney Gen-

eral, 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, 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. 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 and 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 (e)) 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, 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 such demand, 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 the office of the custodian designated therein is situated, and serve upon such custodian a petition for an order of such court modifying or setting aside such demand. 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 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.

"CRIMINAL PENALTY"

"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 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."

"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. DIRKSEN. Mr. President—

The PRESIDING OFFICER. How much time does the Senator from Illinois yield himself?

Mr. DIRKSEN. I yield myself 10 minutes.

Mr. President, there is no substantial difference of opinion between the opponents and proponents with respect to the bill now pending. I joined my distinguished compatriot, the Senator from North Carolina [Mr. ERVIN], an eminent jurist, as well as a very distinguished Senator, in filing minority views on the bill, and pointed out that while we favor the objectives, while we do not like to see the employment of criminal sanctions in order to enable the Attorney General to secure information, we do believe that in granting the power it is proposed to vest in him it ought to be safeguarded in the interest of those against whom it might be exercised.

I think everybody knows what a drastic weapon a subpoena duces tecum is. Very often there have been abuses, and it has been necessary for those who have been the objects and the targets of subpoenas of that kind to go to court and to insist that the demand has been entirely unreasonable.

There are safeguards along that line in the pending bill, in that the Attorney General, instead of resorting to criminal action, can file a civil action and amplify the investigative demand in the antitrust field.

What disturbed me, and disturbed other members of the committee, was a provision which was submitted and incorporated in the bill with respect to the making of copies and submitting such copies to antitrust agencies and to committees of Congress. There is a provision in the bill that if the Attorney General is unreasonable in his demand, the person toward whom the subpoena is directed can go into court within 20 days and there file a petition in order to safeguard his rights against any unreasonable demand, and ask for a modification of the order. But what we are concerned about is that after the data, the documents, the information, the records, have been procured, they might, in the first instance, under the original language proposed in the bill, be made available in copy form to committees of Congress.

Two things could happen. If such copies are in the possession and under the jurisdiction of a committee of Congress, and the Attorney General, after going through the documents which were subpoenaed, discovers that there actually was no violation, the documents could go back to the person from whom they were procured, but the copies would still be in the possession of a congress-

sional committee or in the possession of an antitrust agency. That is one situation that might arise.

Secondly, the Attorney General, after an investigation of the case, might conclude that there was a good predicate upon which to proceed with antimonopoly action. Therefore the difficulty would then arise that, with copies outside the Department of Justice, as to how the Department would negotiate with an individual or an industry in order to procure a consent decree so that the violation complained of might be brought to an end.

All those difficulties arise, and in the course of the committee sessions I suggested a proposal under which a person who had received a demand, and who thought it unreasonable, who thought there were business data, business secrets, trade secrets, and that sort of thing, which rightly should not be submitted, might go into court and ask for a modification of the order, particularly lest the documents should find their way into the hands of a congressional committee.

The interesting thing is that in the course of the committee's session, that amendment was adopted by a vote, as I recall, of 5 to 4. But on the following Monday, when the committee met again, there was a further discussion and a slight change in the voting lineup, and the amendment was deleted from the bill by a vote of 5 to 4. That indicates how close the sentiment in the Committee on the Judiciary really was.

The distinguished Senator from Tennessee [Mr. KEFAUVER] thereupon offered alternative language. While it has improved the bill very materially, I still believe the additional safeguard which I shall propose ought to be written into the bill. The language now contained in the bill reads:

While in the possession of the custodian—

Provided for under the terms of the bill—

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.

Then comes the proviso:

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.

To be sure, that leaves it within the discretion of the Attorney General. But I am not unmindful of the fact that it is Congress which appropriates for the Attorney General's office. If we ever want to exercise any pressure on any agency of the Government, we simply shake a stick and say, "We will see how much money you get out of the public till to run your agency."

Second, the nominations to the positions of Attorney General and Deputy Attorneys General are subject to confirmation by the Senate. I do not mean to imply for a moment that that within itself constitutes a pressure; I simply say that those who come into the Gov-

ernment under those circumstances are quite mindful of any request which may come from the legislative branch. So inhibitions against moving some of the documents into the hands of committees, when perhaps they should not be released at all, begin to wear down, and soon the documents are made available. If they contain data of any kind which any particular industry or business feels, if they got into the hands of competitors, would be particularly damaging, I believe that that situation ought to be carefully safeguarded.

I think our difficulty ensues not from any divergence of opinion upon the objectives set forth in the bill; but rather as to the means and how it shall be translated into action and how it shall be safeguarded. With that in mind, I propose to offer an amendment at the appropriate time, the same amendment I offered in committee, the same amendment which was adopted by a 5 to 4 vote on one day and excised or deleted by a 5 to 4 vote a week later.

Before offering the amendment, however, and before the time on the bill runs out, I think I shall want to defer to the distinguished senior Senator from North Carolina [Mr. ERVIN], who joined with me in filing minority views. I yield 5 minutes to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I agree with the observations made by the distinguished Senator from Illinois that the bill is laudable so far as its objectives are concerned. I also agree with the observations of the distinguished Senator from Tennessee that the bill provides sufficient protection insofar as it regulates the right of the Attorney General to obtain possession of documents for antitrust investigations in the Department of Justice.

But the bill contains no protection whatever for the owner of the documents in respect to the provision which permits the Attorney General, in the exercise of his discretion, to turn over to the Committees of the Judiciary, for some supposed legislative purpose, material which he has collected for an entirely different purpose, namely, for the purpose of investigating whether there should be a civil action brought to enforce the antitrust laws. It seems to me that an amendment such as that which will be proposed by the distinguished junior Senator from Illinois, is absolutely necessary for the protection of the owner of the documents which are taken into the possession of the Attorney General for an executive purpose, namely, to investigate whether an antitrust action of a civil nature should be brought. Such owner ought to have an opportunity to be heard before the Attorney General turns the information over to the Committees on the Judiciary for an entirely different purpose, namely, a legislative purpose.

The amendment will provide opportunities for the owner of the documents to be heard whenever the Attorney General determines that he will exercise his discretion and turn over the documents to the legislative branch of the Government for an entirely different purpose from that under which the documents

came into the possession of the Attorney General.

I have some misgivings by reason of the constitutional doctrine of the separation of governmental powers concerning the advisability of even allowing the Attorney General to turn over to the legislative branch of the Government material of a documentary nature which he has taken for an executive purpose. But I would be willing to overlook that reluctance if the bill were amended so as to provide the owner of the documents taken by the Attorney General for an executive purpose a day in court, if he desires a day in court, before the Attorney General delivers such documents to the Judiciary Committees.

I do not think Congress ought to authorize documents which are taken from a person by the Attorney General for an executive purpose to be turned over to the legislative branch of the Government for an entirely different purpose unless the owner of the documents is given a day in court and an opportunity to be heard.

The bill in the form in which it came from the committee affords the owner of the documents no right to be heard. In my judgment, the defect of the bill in this respect constitutes a denial of due process of law, which declares that every man is entitled to notice and an opportunity to be heard.

I submit that the amendment which will be offered should be adopted in order to secure to the owner of documents a very basic, fundamental right, namely, the right to be heard before action is taken which might be prejudicial to his rights as an American citizen.

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

Mr. ERVIN. I am delighted to yield.

Mr. LAUSCHE. Am I correct in my understanding that the provisions of the bill are in the nature of what at one time was an equitable action in discovery; that is, the Attorney General, when he believes the antitrust laws have been violated, can file a precomplaint action to discover the actual facts relating to an alleged violation of the antitrust laws?

Mr. ERVIN. The Senator from Ohio is correct. The bill establishes a procedure which is tantamount to a discovery action on the part of the Attorney General. It contains provisions well designed to protect the owner of documents by giving him a day in court when the Attorney General undertakes to obtain possession of the documents for the purpose of determining whether he should prosecute an antitrust suit of a civil nature. But the bill proceeds to authorize the Attorney General to turn these documents which he has obtained for the purpose of making an investigation with a view to determining whether an antitrust suit should be brought over to the Committee on the Judiciary of Congress without giving the person who owns the documents any opportunity whatever to contest the right of the legislative committees to the possession of the documents.

Mr. LAUSCHE. Then the Attorney General, when he would bring an action which I have described as being one in the nature of a discovery, would allege that he wants to make an inquiry into those documents to ascertain whether the antitrust laws have been violated.

Mr. ERVIN. The Senator is absolutely correct.

Mr. LAUSCHE. The complaint of the Senator from North Carolina is that the Attorney General, after he had obtained the evidence for the purpose of ascertaining whether an antitrust law had been violated, might abuse that discovery and undertake to transfer the documents to other agencies of the Government.

Mr. ERVIN. Unless the owner of the document has the fundamental American right of a day in court.

Mr. LAUSCHE. So the Senator from North Carolina recommends that that right to transfer may be given, but that the person who has suffered through the investigation be given the right to go to court and have a court decide whether the information contains material which ought not to be revealed.

Mr. ERVIN. The Senator is exactly correct. The Senator from Illinois [Mr. DIRKSEN] will offer an amendment to take care of the objection which I make to the bill.

Mr. LAUSCHE. Am I correct in understanding that the Senator's complaint is that if the Attorney General obtains the data for one purpose, he should pursue that purpose, and should not undertake to transfer the information he obtains either to the legislative branch or to any other administrative agency, without giving the injured person a chance to go into court and protect his rights?

Mr. ERVIN. That is correct.

Mr. LAUSCHE. Mr. President, I wish to join in the argument made by the distinguished Senator from North Carolina.

Mr. KEFAUVER. Mr. President, will the Senator from North Carolina yield to me?

Mr. ERVIN. I am delighted to yield.

Mr. KEFAUVER. I hope the Senator from Ohio will wait to hear the other side of the case, which will soon be presented, before he makes up his mind on this issue.

Mr. LAUSCHE. I am familiar with what an action in discovery is. Based upon my knowledge of that action in equity, which in this case would be transposed into law, I feel that when one goes into court to obtain information for one purpose, he should not abuse the privilege which has been accorded him, by undertaking to transfer the information to other agencies.

Mr. KEFAUVER. I shall have a full explanation to make, and I hope it will convince the Senator from Ohio.

Mr. President, how much time remains to this side?

The PRESIDING OFFICER. The Senator from Tennessee has 7 minutes remaining under his control.

Mr. DIRKSEN. Mr. President, I submit the amendment which I send to the desk and ask to have stated.

The **PRESIDING OFFICER.** The amendment will be stated.

The **LEGISLATIVE CLERK.**—On page 12, in line 24, it is proposed to insert the following new subsections:

(e) Within 20 days after any person receives notice pursuant to section 4(c) that material produced by such person shall be made available for examination by any antitrust agency or committee of the Congress, such person may file in the district court of the United States for the judicial district within which the office of the custodian is situated, and serve upon such custodian, a petition for an order of such court that secret processes, developments, research, or any privileged material not be made available for examination, or be made available for examination on such terms and conditions as the court finds that justice requires to protect such person.

(f) 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 nothing herein shall be deemed to be inconsistent with 30(b) of such rules.

Mr. DIRKSEN. Mr. President, I yield 10 minutes on the amendment to the distinguished junior Senator from New York [Mr. KEATING], who is a distinguished member of the Senate Judiciary Committee, and also is an outstanding lawyer in his own right.

The **PRESIDING OFFICER.** The Senator from New York is recognized for 10 minutes.

Mr. KEATING. I thank the distinguished minority leader for his kind words.

Mr. President, I rise in support of the amendment.

First, I should like to make some observation about the bill itself. I believe that all members of the committee favor legislation along these general lines, to fill an important gap in the antitrust tools of the Department of Justice, by authorizing the use of this civil investigative demand in antitrust cases.

Legislation of this nature has been recommended by almost every group which has studied this subject—including the Attorney General's National Committee To Study the Antitrust Laws; the Cabinet Committee on Small Business; and the Judicial Conference of the United States. That is certainly impressive backing for any measure; and I am persuaded that the main purpose of this bill is sound.

The bill itself will protect business firms, as a matter of fact, in a number of important respects:

First, by vesting the Department of Justice with more adequate precomplaint investigatory processes, the bill should forestall the filing of suits which a complete investigation would demonstrate to be unwarranted. In such cases, the time and money of prospective defendants will be spared.

A second way in which I feel the bill actually will be helpful to business firms which might be charged with violations of the antitrust laws is that the bill should, and would, I believe, remove a temptation—which otherwise might exist—to invoke criminal grand-jury proceedings in what should be civil cases.

Overzealousness can sometimes cloud the judgment of even the most honorable enforcement officials. The availability of adequate civil process should keep them from going astray in that regard.

Third—and, of course, this is the most important basis for any change in our antitrust laws—this bill will help the Department of Justice obtain relief in situations in which relief is justified by the facts.

At this stage of our experience with the antitrust laws, I need not dwell on the importance to the business community and to the public of action to curb monopolists and others who would interfere with our system of free and fair competition.

I do not believe that any member of our committee was opposed to the basic purpose of this bill.

I believe that the amendments which were adopted during the consideration of the bill by the full committee greatly improved the measure reported by the subcommittee. But I am sympathetic to the additional amendment discussed by the distinguished Senator from Illinois [Mr. DIRKSEN] and the distinguished Senator from North Carolina [Mr. ERVIN] in their minority views on the bill. What they suggest does not seem to me to be open to any valid objection.

Complaint has been voiced by the American Bar Association and the Association of the Bar of the City of New York to the provisions of this bill as it came from the subcommittee, and I believe, even in its present form, which allow the Department of Justice to turn over subpoenaed documents to congressional committees or any other agencies.

The amendment which is suggested by the distinguished Senator from Illinois could well be called a day-in-court amendment. There is no justification, it seems to me, for jeopardizing secret processes, developments, research, or privileged matters which might be contained in the material subpoenaed by the Attorney General in the process of investigating antitrust cases.

Notice to the business involved, whose documents these are, and an opportunity for a court review of any request for the withholding of such information would serve as an important safeguard against abuses.

This day-in-court amendment ought to go a very long way in meeting the objections to the bill which have been voiced by important and respected members of the community. I hope that the amendment will be accepted.

In committee, as the Senator from Illinois has pointed out, it was accepted once and, upon reconsideration, the vote went the other way. I think the amendment could in no way harm or prejudice proper requests under the bill. It would in no way interfere with proceedings by the Attorney General; it would give much needed protection to the other side, and would make this a more balanced measure, and certainly more acceptable.

I would like briefly to comment on the committee amendment which ap-

pears at page 8 of the bill, and which reads:

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.

I think that is a very definite improvement over the language which originally came to the committee which would have required the Attorney General to make all these documents available without the consent or even notice to the business concern involved. I am not at all sure that the present language adds to or subtracts very much from the bill itself or the way in which the bill would be interpreted by a court. It may only add confusion to the measure.

The **PRESIDING OFFICER.** The time of the Senator from New York has expired.

Mr. KEATING. Under the authority of the minority leader, I yield myself another 3 minutes.

The **PRESIDING OFFICER.** The Senator from New York is recognized for an additional 3 minutes.

Mr. KEATING. Under the present law, the Attorney General has the power to allow a congressional committee to examine the material in his hands. The provision in the bill certainly does not require him to do so; it still leaves it permissive. The provision that the documents could be turned over to the Committees on the Judiciary may just confuse matters. Another committee might want to take a look at the documents. It may have a right to do so despite the special provision for the Committee on the Judiciary. But there is some doubt about the wisdom of singling out this distinguished committee, of which I am proud to be a member, for special attention.

I favor the general provisions of the bill, and I shall support the bill. But I feel strongly that the amendment suggested by the two distinguished members of our committee, whose views I know are shared by other Senators on the committee, will improve the bill. I certainly hope it will be accepted.

Mr. KEFAUVER. Mr. President, I yield myself 10 minutes.

The **PRESIDING OFFICER.** The Senator from Tennessee is recognized for 10 minutes.

Mr. KEFAUVER. Mr. President, over a period of years the position of the Congress has been somewhat lessened in comparison with the growing strength of the executive agencies. I am rather surprised that Members of Congress should want to shut themselves off from possible information necessary in order to enable the Congress to legislate, but that is what the amendment of the Senator from Illinois would do. Congress has been losing its powers right along from time to time by the enlargement of the powers of the executive agencies; and now, for the first time in the history of Congress, an amendment is presented which will make it impossible for duly constituted committees of the Congress to get necessary information through cooperation of the Attorney General and, would prohibit

the Attorney General from freely giving the Congress necessary information, even though the information might be 100 years old, and even though it might have no particular importance except for historical reasons. The Judiciary Committees of the Congress have jurisdiction of matters relating to the Department of Justice and the antitrust laws.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. KEFAUVER. I will yield later. Very well, I yield for a question.

Mr. ERVIN. The information which, under the bill, the Attorney General—

Mr. KEFAUVER. I cannot yield further.

Mr. ERVIN. I am merely asking a question. The Senator from Tennessee is talking about information 100 years old. The Attorney General is not authorized to institute antitrust actions against persons who have been in the grave that long.

Mr. KEFAUVER. The Senator is wrong. The Attorney General has authority now to get information by subpoena, duces tecum and grand jury investigation. That is what we are trying to get away from. The Attorney General has the right to get information from the Federal Trade Commission under section 6. There is a program of exchange of information in the antitrust field between the Federal Trade Commission and the Department of Justice. The chairman of the Federal Trade Commission said that the Federal Trade Commission should be included as an agency that can have access to such information. There is no provision in the law whatsoever that prevents the Attorney General now from giving the Judiciary Committee or any other properly constituted committees information which may be in his possession if, in his discretion, he wants to do so.

The amendment would prohibit him from doing so. It would badly hamper the work of the Committee on the Judiciary in the study of the antitrust laws and the other matters over which the Committee on the Judiciary has jurisdiction with regard to the passing of laws.

Mr. LAUSCHE. Mr. President, may we have order in the Chamber, please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Tennessee may proceed.

Mr. KEFAUVER. How are we going to pass legislation which is effective unless we can get the facts?

The Senator from North Dakota knows how hard it was when he was chairman of the Committee on the Judiciary to dig out the facts against the claim of executive privilege of the various departments. Now even when the departments are willing to furnish us information which they do not think will reveal any trade secret or will be derogatory in any way, but think will be helpful to the Congress, some Members of the Senate would prohibit the Attorney General from doing so.

Mr. Hansen had no objection to requiring even that the Attorney General

furnish the Congress information. Certainly he would have no objection to the provision to which I refer.

Let me point out to the Members of the Senate that in 1914 the Federal Trade Commission Act was passed, and that act contains sections 6 and 9, which provide the same investigatory powers we now propose to give to the Department of Justice. Those powers have been used for 45 years. For 45 years information which the Federal Trade Commission has obtained has been given to the Department of Justice or has been made available to the Department of Justice, so that the Department of Justice could join in the prosecution of antitrust cases. On occasion, the Federal Trade Commission has made available to the Congress information which was obtained under sections 6 and 9. In 45 years I have never heard a complaint against the Federal Trade Commission, or that Congress asked for and received any information which gave away trade secrets or which gave away information on confidential material such as some work papers. That has been the experience.

The bill itself provides, on page 5, that it is not necessary to furnish any information which is of a privileged nature. The courts have held that companies do not have to furnish their work papers and certain trade secrets which they regard as confidential and as privileged.

Mr. President, the Dirksen amendment would not only prohibit the Department of Justice from giving information to Congress, but it would also prohibit the Department from giving the Federal Trade Commission information. It would end 45 years of a working arrangement between the Department of Justice and the Federal Trade Commission. It would not strengthen the position of the Congress in regard to investigations and it would not strengthen the position of the Federal Trade Commission, but instead the amendment would substantially hurt their positions.

I should like to invite attention to the fact that very frequently in the hearings on antitrust bills we call before us officials of the Department of Justice, including the Assistant Attorney General in charge of the Antitrust Division. It may be that the testimony in support of proposed legislation under consideration is backed up by documents which are in the possession of the witness for the Department, but they may be quite old and of no current value for prosecution purposes. However, the witness can prove the point he is trying to make, for the improvement of the antitrust laws, by reference to these documents. They may be documents of historical significance only.

The language of the amendment would prohibit the spokesman for the Department from using those documents when he wanted to prove his case to the Committee on the Judiciary.

It is almost unthinkable to me that an amendment should be seriously considered by the Senate which would hurt the ability of the Department of Justice in its cooperation with the Federal Trade Commission and which would change,

for the first time in the history of our Nation, a procedure which has been followed, by prohibiting the head of an agency from giving a document to a duly constituted committee of the Congress when he is willing to do so and when he thinks it proper to do so.

If we follow such a procedure, then we will be cutting ourselves off from information from the Department of Agriculture, the Department of the Interior, and every other department. Soon we will be legislating in a vacuum.

As the law now reads, the Department of Justice can furnish information under circumstances which are felt to be reasonable. After all, we are dealing with intelligent people, in the first place; and, in the second place, the committees of the Congress are not going to ask for anything which is improper. If a committee asks for a document and if it is explained that the document might represent a trade secret, no committee of Congress of which I know will push the matter.

The wording of the bill under consideration simply leaves the law as it is at the present time. Senators will notice, on page 8, the language provides that nothing shall prevent the Attorney General from making available the material so produced for examination by the Committees on the Judiciary of each House of Congress. That is the law now.

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired.

Mr. KEFAUVER. The Dirksen amendment represents a step backwards. It would for the first time prohibit us from getting papers and documents which now are made available to us.

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

Mr. KEATING. Mr. President, will the Senator yield a couple of minutes more, so that I may ask some questions?

Mr. KEFAUVER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining on the amendment and 6 minutes remaining on the bill.

Mr. KEFAUVER. I yield to the Senator from Colorado.

Mr. CARROLL. Mr. President, I should like to propound some inquiries of the Senator from Tennessee.

Mr. KEFAUVER. Mr. President, I yield myself 3 additional minutes.

Mr. CARROLL. This is a very involved bill. It was discussed for hours in the Senate Committee on the Judiciary.

What is the real purpose of the proposed legislation? Who asked for it?

Mr. KEFAUVER. Is the Senator asking me?

Mr. CARROLL. Yes, I am asking the Senator from Tennessee.

Mr. KEFAUVER. The President of the United States has asked for such legislation in his economic message to the Congress on three or four different occasions. The Department of Justice has asked for such legislation for a long time. The Attorney General's Commit-

tee on the Antitrust Laws has recommended such legislation. This proposal has the unanimous backing of everyone interested in the enforcement of the antitrust laws.

Mr. CARROLL. Is it not true that the Attorney General wants such legislation to avoid cumbersome judicial machinery regarding grand juries?

Mr. KEFAUVER. That is correct. It is a right he should have. In the second place, it is not fair to subject people to grand jury investigations when the real purposes relate to civil actions.

Mr. CARROLL. Is not adequate protection afforded those whose records are to be subpoenaed by a subpoena duces tecum in that they can go to the courts?

Mr. KEFAUVER. There is adequate protection. Every protection there is now will continue to be available.

Mr. CARROLL. May I ask if my understanding is correct regarding the real purpose of the Dirksen amendment? If this is the same amendment which we discussed in the committee, and if I correctly understand it, the Dirksen amendment in effect would establish a doctrine of executive privilege. I have not had an opportunity, I am sorry to say, to thoroughly study it. I really did not know the bill was going to be considered today. We should have had more time to discuss it, because this is a very important piece of proposed legislation.

As I understand the Dirksen amendment, in effect it would invoke the doctrine of executive privilege against the Congress itself. What the Senate Committee on the Judiciary wanted to do, when the Attorney General got the records he desired, was to permit him to let the Congress have access to those records. As I understand the Dirksen amendment, it would take away from the Congress some of its powers to investigate and some of its powers to know the facts.

Does the Senator from Tennessee care to comment upon that?

Mr. KEFAUVER. That is correct. The Dirksen amendment would change existing law so as to make it impossible for the Attorney General to turn over to Congress information which he can now turn over to it.

Mr. CARROLL. We now have the curious anomaly of the Congress itself seeking to curb its own investigating powers. All we seek to do is to implement or supplement or augment what the Attorney General of the United States, the chief enforcement officer in this field, wants to do.

Mr. KEFAUVER. The Senator is exactly correct. If we curtail our powers in this instance, we shall be curtailing them to a greater extent later.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KEFAUVER. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 additional minutes.

Mr. CARROLL. Mr. President, will the Senator further yield?

Mr. KEFAUVER. I yield.

Mr. CARROLL. We worked long and hard on this proposed legislation. The

Dirksen amendment was offered and rejected in the Senate Judiciary Committee. It seems to me that in the bill we tried to provide every safeguard. We would have the subpoenaed documents referred to the chairman of the Senate Judiciary Committee or the chairman of the House Judiciary Committee. No one wants records and copies of records floating indiscriminately around the Senate. It seems to me that when we have a real job of investigation to do, such as the Judiciary Committee has done for the past 2 years, the investigative powers of Congress should not be curtailed. The Senate Judiciary Committee established the economic concept of administered prices to a greater extent than any other group in the country. We have investigated the gas and oil industry, the automotive industry, and the steel industry.

If the steel industry had paid more attention to the very fine subcommittee headed by the Senator from Tennessee, it would not now be in the condition it is in. As we look at the great tragedy which has happened to the Nation, and as we read in the morning newspapers of the tremendous profits made by the steel industry in the first and second quarters of the year, we must be aware that had the industry paid some attention to the chairman of the Antimonopoly Subcommittee, the Nation would not be in the situation it is in today.

After the work which the Judiciary Committee has done on the bill, I think it would be a tragedy to accept the Dirksen amendment and whittle away some of the investigative powers of the Congress.

Mr. KEFAUVER. Mr. President, has my time on the amendment expired?

The PRESIDING OFFICER. The time of the Senator on the amendment has expired.

Mr. DIRKSEN. Mr. President, I yield myself 1 minute.

Let us scotch a few things. In the first place, the President did not ask for this provision. The provision for the disclosure of certain things to Congress was not in the bill when it was introduced. Let us be fair.

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

Mr. DIRKSEN. I yield.

Mr. KEFAUVER. It is not in the bill now. The pending bill is the present law. There is no requirement in the bill that the Attorney General turn any papers over to Congress.

Mr. DIRKSEN. It could be done.

Mr. KEFAUVER. It could be done.

Mr. DIRKSEN. Mr. President, I do not yield further.

The President has not asked for such a provision at any time. It is said that the Attorney General does not want this amendment. He says, "I have no particular reason to say that Congress should not see the documents, but each time someone else has an opportunity to see the private records of a corporation, the more difficult it is to get such records in the future."

We are trying to help the Attorney General. The Attorney General's office drew this amendment, if the truth must be known.

I now yield 3 minutes to the Senator from North Carolina [Mr. ERVIN].

The PRESIDING OFFICER. The Senator has 2 minutes on the amendment and 9 minutes on the bill.

Mr. ERVIN. Mr. President, the able and distinguished Senator from Tennessee, said I was mistaken when I said that this bill does not authorize a search for 100-year-old documents. I will let the Senate decide whether I was wrong in my statement on that point.

The bill provides that the Attorney General may not obtain possession of any documents unless he has reason to believe that some person may be in possession, custody, or control of documentary material pertinent to an antitrust investigation.

There are two kinds of actions which can be brought under the antitrust laws. One is an action for an injunction. The Attorney General could not bring a suit for an injunction to restrain acts violative of the antitrust laws unless the acts were being committed at the time he brought the suit. So it is ridiculous to say that the bill refers to documents 100 years old. It refers to documents which are current.

The other kind of suit that can be brought under the antitrust laws is a suit for damages by the injured party, or a suit for damages by the United States. Title 15, subsection 15(b) of the United States Code provides that the statute of limitations runs on such suit in 4 years. So the documents which are being sought cannot possibly be documents more than 4 years old. So the bill does not involve a search for historical documents.

The argument that this amendment would interfere with any arrangement between the Attorney General and the Federal Trade Commission is not valid, because it refers only to antitrust suits by the Attorney General, and does not refer to the Federal Trade Commission.

The reason I am fighting for this amendment is that I do not believe this body should try to get information in violation of either the letter or the spirit of the Constitution. The Attorney General must show cause to obtain a document for investigative purposes; but under the bill as it is now worded, the Attorney General would not have to show cause, and the Judiciary Committees would not have to show cause before the Attorney General turned the documents over to the committees.

Neither the Judiciary Committee nor any other congressional committee is entitled to the possession of any American citizen's documents except for legislative purposes. The Supreme Court of the United States held in the Kilbourn case that congressional committees cannot obtain possession of a citizen's documents, unless they can show a legislative purpose entitling them to their possession.

The bill in its present form would permit the Attorney General to turn over to the congressional committees documents which he seizes, for investigative purposes, without the congressional committee's showing that it had any legislative purpose for having possession of such documents.

Mr. DIRKSEN. Mr. President, how does the time stand?

The PRESIDING OFFICER. All time on the amendment has expired. The Senator has 8 minutes remaining on the bill.

Mr. DIRKSEN. Mr. President, I conclude with this thought: There is nothing in my amendment which would in any way impair the subpoena powers of the Congress, or any of its committees. They can subpoena to their heart's content. The amendment provides only that if a committee is to obtain documents through the Attorney General, to be handed over to an antitrust agency or to a committee of Congress, the person whose documents are being taken may go before a court, file a petition, and say, "They are trying to obtain trade secrets. They are trying to injure our interests in the field of research, which we regard as of value."

Such information ought not be permitted to flow, by means of copies, into the files of committees or antitrust agencies. I prefer to leave it to the sound discretion of a judge to determine whether, willy-nilly, helter-skelter, all documents shall be obtained, and that copies may be made and circularized. It would be impossible to get the copies back from the committee or the agency.

That is what is involved in the amendment. As I said before, it was drafted in the office of the Attorney General.

Mr. KEFAUVER. Mr. President, have I any time remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining on the bill.

Mr. KEFAUVER. I yield myself 3 minutes on the bill.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 3 minutes on the bill.

Mr. KEFAUVER. Those of us who have served on the Judiciary Committee, and those who serve on other committees know that very often legislation is either supported or testified against through records of what has happened, records which have come into the possession of the various departments.

What would the pending amendment do? If the Attorney General had a memorandum which he had subpoenaed a number of years ago—looking ahead 20 years from now, for example—and which proved his point as to why the antitrust laws should be changed, even though there might be nothing confidential or important about the memorandum, and even though the statute of limitations had run against anything the record might show, he would be unable to produce the record in support of his proposal to the Judiciary Committee for a change in the antitrust laws.

This would be the first time in the history of Congress that the Congress itself would have tried to cut itself off from information it was entitled to have under certain circumstances.

The present law is that the Attorney General and the Federal Trade Commission may, if they are willing to do so—and they are not often willing to do so—give the Judiciary Committee access to

some documents which might have a bearing upon proposed legislation which the committee is considering.

If the pending amendment is adopted, the present law will be changed. So we would be denying ourselves the right even to see some document which is not important, except as a matter of information to the Congress, even though the Attorney General is willing for us to see it.

Congress has been downgraded enough by these agencies. It is hard enough, in the face of executive privilege, to get information we ought to have, and why anyone should want Congress to tie its own hands I do not know. I would rather see this bill not passed at all than to see Congress take a step backward.

Let me point out also that it is stated in the report that former Representative Gwynne, a former Chairman of the Federal Trade Commission, protested bitterly the idea that the Federal Trade Commission would not be able to see the documents secured by the Department of Justice. He pointed out that for 45 years—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KEFAUVER. How many minutes do I have?

The PRESIDING OFFICER. The Senator has 3 minutes remaining on the bill.

Mr. KEFAUVER. I yield myself the 3 minutes remaining.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 3 minutes.

Mr. KEFAUVER. Mr. Gwynne pointed out that for 45 years, under sections 6 and 9 of the Federal Trade Commission Act, the Commission has had the power to get documents, just as the Attorney General will have here under the pending bill, and that upon the request of the Department of Justice some of these have been turned over to them, and they have had the power, under certain circumstances, to let Congress see the documents. But under the proposal this will all be changed, so far as the Department of Justice is concerned. The Department of Justice would have power to get papers from the Federal Trade Commission, but under the Dirksen amendment the Federal Trade Commission could not get anything from the Department of Justice.

I call attention to the fact that under the Clayton Act there is a dual responsibility between the Federal Trade Commission and the Department of Justice for the enforcement of the law. Practically everything that violates the Sherman Act violates the Clayton Act or the Federal Trade Commission Act, and yet the Federal Trade Commission is to be denied documents secured by the Department of Justice, even though the Department of Justice may see documents secured by the Federal Trade Commission.

Mr. President, if the Senator from Illinois could point his finger at one case in which there had been an abuse of any confidence on the part of the Federal Trade Commission in furnishing a paper to Congress over a period of 45 years, he

might have some argument, but during these 45 years the Federal Trade Commission have made hundreds of investigations, and secured documents from all kinds of corporations without complaint on that score. They have considered themselves an arm of Congress. They have on rare occasions let the Judiciary Committee see some of the papers in their possession when we are conducting a proper investigation. The Senator from Illinois cannot point to one time when, under circumstances like that, any harm or undue advantage has been taken by virtue of some member of the Judiciary Committee seeing a paper from the Federal Trade Commission.

No, Mr. President, the effort is to cut down on a proposal made by the President, by the Department of Justice in the Attorney General's report, and by the Federal Trade Commission. It would cut down the power of Congress substantially.

The PRESIDING OFFICER. All time for debate on the amendment has expired.

Mr. DIRKSEN. I yield to the Senator from New York.

Mr. KEATING. In the light of the statements of the distinguished Senator from Tennessee it is important to put this amendment in proper perspective.

There is nothing in this amendment which prevents the turning over of any documents to the Committee on the Judiciary. There is nothing referring to executive privilege, as suggested by the distinguished Senator from Colorado. It says only that within 20 days after the Attorney General says he is going to turn these documents over, the party affected may go into court for review. In his court proceeding the party can say, "This contains secret processes, developments, research, and so forth, that should not be turned over to Congress," and if there are such things in the document it should not be turned over to be made public property.

I have faith in the court, and if the court says such things are not involved and that there is not any reason for the material not to be turned over, then they can be turned over.

There is nothing in this amendment that interferes with or prevents a committee of Congress from getting full information on its own authority.

Mr. KEFAUVER. Mr. President, on the amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DIRKSEN. Is there any time for debate remaining?

The PRESIDING OFFICER. There are 5 minutes remaining on the bill.

Mr. DIRKSEN. I yield 2 minutes to the distinguished Senator from Ohio.

Mr. LAUSCHE. I have listened to the arguments made, Mr. President, and I have examined the bill, and to me it seems that the issue here is related directly to the liberties of citizens of the United States.

The bill contemplates giving the Attorney General the right to bring an action to discover papers which are needed in connection with a violation of the antitrust law. The bill requires that the

Attorney General state the nature of the conduct constituting the alleged violation of the antitrust law which is under investigation, and the provision of the law applicable thereto.

To me it seems that if we give the Attorney General the right to bring this unique action for a certain purpose and to take from a citizen papers belonging to him, it would not be right to allow the Attorney General to take those papers and to deliver them to other agencies of government.

I shall vote for the amendment on the basis of insuring that neither the Attorney General nor the Congress shall have the right to invade an individual's home or office by taking papers for one purpose authorized by law, and then circumventing the law and using them for other purposes.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DIRKSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment offered by the Senator from Illinois [Mr. DIRKSEN] for himself and the Senator from North Carolina [Mr. ERVIN]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from Montana [Mr. MURRAY], the Senator from Florida [Mr. SMATHERS], and the Senator from Missouri [Mr. SYMINGTON] are absent on official business.

The Senator from Connecticut [Mr. DODD] and the Senator from Wyoming [Mr. O'MAHONEY] are absent because of illness.

I announce that on this vote the Senator from Alaska [Mr. BARTLETT] is paired with the Senator from Mississippi [Mr. EASTLAND]. If present and voting, the Senator from Alaska would vote "nay," and the Senator from Mississippi would vote "yea."

I further announce that, if present and voting, the Senator from Montana [Mr. MURRAY] and the Senator from Florida [Mr. SMATHERS] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Arizona [Mr. GOLDWATER] is necessarily absent, and, if present and voting, would vote "yea."

The result was announced—yeas 61, nays 27, as follows:

YEAS—61

Alken	Bridges	Carlson
Allott	Bush	Case, N.J.
Anderson	Butler	Case, S. Dak.
Beall	Byrd, Va.	Cooper
Bennett	Cannon	Cotton
Bible	Capehart	Curtis

Dirksen	Jordan
Dworshak	Keating
Ellender	Kerr
Ervin	Kuchel
Frear	Lausche
Green	Long
Hartke	McClellan
Hayden	Mansfield
Hickenlooper	Martin
Hill	Morton
Holland	Mundt
Hruska	Pastore
Javits	Prouty
Johnson, Tex.	Randolph
Johnston, S.C.	Robertson

NAYS—27

Byrd, W. Va.	Hennings	Magnuson
Carroll	Humphrey	Monroney
Chavez	Jackson	Morse
Church	Kefauver	Moss
Clark	Kennedy	Muskie
Douglas	Langer	Neuberger
Engle	McCarthy	Proxmire
Gruening	McGee	Williams, N.J.
Hart	McNamara	Yarborough

NOT VOTING—10

Bartlett	Goldwater	O'Mahoney
Dodd	Gore	Smathers
Eastland	Murray	Symington
Fulbright		

So the amendment offered by Mr. DIRKSEN, for himself and Mr. ERVIN, was agreed to.

The PRESIDING OFFICER (Mr. McGEE in the chair). If there is no further amendment to be submitted, the question is on the third reading of the bill.

Mr. DIRKSEN. Mr. President, I am prepared to yield back the remainder of the time available to me on the bill, and I do so.

The PRESIDING OFFICER. All time on the bill has either been used or has been yielded back.

The question is on the engrossment and third reading of the bill.

The bill (S. 716) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

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. As used in 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 pertinent to any antitrust investigation, he may 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 produced;

(4) identify the custodian to whom such evidence is to be delivered; and

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

(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; or

(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 deliver such material to the custodian designated therein at the place specified therein (or at such other place as such custodian thereafter may prescribe in writing) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). 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.

(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 by any individual who is entitled, 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, 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. 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 (e)) 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, 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 such demand, 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 the office of the custodian designated therein is situated, and serve upon such custodian a petition for an order

of such court modifying or setting aside such demand. 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 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.

CRIMINAL PENALTY

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 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."

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. DIRKSEN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. KUCHEL. Mr. President, I move to lay on the table the motion to reconsider.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.