In the House of Representatives, July 18, 1962

Mr. Speaker, I was speaking about the tremendous number of Government publications not printed at or procured by the Government Printing Office. Permit me to read my statement on the subject, which is as follows:

had no idea, and still have no idea, that
in this country we have plants located all over the world which
produce publications of a nature which have no bearing on the
printing of documents and which do approximately $100 million worth of printing a year. The Subcommittee on the Library and the House Subcommittee on Legislative Appropriations are charged with the responsibility of the public welfare as to the public and to the taxpayers that would be required to get this non-GPO printing to the libraries.

Mr. Speaker, I believe that the new section 10, which we have reworded it, should now be sufficiently flexible to permit a more economical and effective administration of this act. Specifically, no provision for determining what publications produced in small numbers for specialized use, thus requiring overproduction of such publications by several hundred percent in the instance of many publications such as technical and training manuals, and various types of handbooks, while perhaps of some so-called public interest, could not justify the object of the act and, therefore, maintain that books of broader interest would be practical. Clearer power of determination in such cases, and greater selectivity in those publications chosen for distribution to depository librarians, would unquestionably result in a great saving in Government funds and much more efficient administration of the depository library programs.

Mr. Speaker, permit me to cite one specific item in the bill which requires clarification as to intent. It appears in line three of section 9. The concern has been expressed as to the applicability of this legislation to publications intended to be self-sustaining such as those of the Office of Technical Services of the Department of Commerce. The language, "but shall not include so-called cooperative publications which must necessarily be sold in order to be self-sustaining," was intended to make absolutely clear that all self-sustaining or self-liquidating publications such as those of the Office of Technical Services of the Department of Commerce are among those exempted from the requirement of free distribution. This means self-sustaining or self-liquidating publications resulting from either joint private-Government efforts or wholly Government efforts.

Mr. Speaker, I have carefully read the testimony of the Public Printer, who, before April 1961, served as staff director of the Joint Committee on Printing for 10 years. Mr. Hays, Mr. Chairman, I think we ought to put in here some comment about why

The Antitrust Civil Process Act

Mr. CELLER. Mr. Speaker, I call up the conference report on the bill (S. 167).

Mr. CELLER. Mr. Speaker, this bill is entitled the Antitrust Civil Process Act, sometimes known as the Civil Investigative Demand Act. Its purpose is to give the Attorney General to compel the production of documentary evidence in criminal investigations for the enforcement of the antitrust laws, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

The bill has passed the Senate on two distinct occasions. It has also passed the House. The bill has been recommended by the Eisenhower administration, and it is recommended by the Kennedy administration.

Herefore, when the Department of Justice is faced with the necessity of obtaining documentary evidence or data, it availed itself of the impaneling of a grand jury, and in that way sought to get the necessary evidence for purposes of prosecuting a civil suit. That method has been severely criticized, and in order to do away with that criticism and not go through the cumbersome procedure of impaneling grand juries, this bill was devised to give the Department of Justice the right to issue a demand upon the corporation to furnish the necessary data.

Now, there is nothing new in this process of investigation. But shall not include so-called cooperative publications which must necessarily be sold in order to be self-sustaining, was intended to make absolutely clear that all self-sustaining or self-liquidating publications such as those of the Office of Technical Services of the Department of Commerce are among those exempted from the requirement of free distribution. This means self-sustaining or self-liquidating publications resulting from either joint private-Government efforts or wholly Government efforts.

Mr. Speaker, I have carefully read the testimony of the Public Printer, who, before April 1961, served as staff director of the Joint Committee on Printing for 10 years. Mr. Hays, Mr. Chairman, I think we ought to put in here some comment about why
Mr. Speaker, there is something sinister about a grand jury, as far as the person under investigation is concerned. The House is aware that anyone aggrieved can go into court and challenge the demand made by the Department of Justice.

Now, the conferees made certain changes. They struck out the criminal provisions of the Robinson-Patman Act. This was agreed to in conference. The House limited use of the civil investigative demand to corporations and entities under investigation. The conferees accepted the Senate version. Thus material obtained under civil investigative provisions of the Robinson-Patman Act. This was agreed to in conference. The House limited the use of the Patman Act. This was agreed to in conference.

The Senate receded from its disagreement to all of the amendments proposed by the House save two.

The first is the so-called McGregor amendment, proposed on the floor of the House and adopted on a close tally vote by a relative handful of Members.

This amendment would restrict the civil investigative demand to prospective defendants and deny its use in the case of prospective witnesses. I view the amendment would make the bill unfair, ineffective and unworkable and bring back the much criticized grand jury investigation panels. Above all, it would be unrealistic therefore to require the Department to guess in advance whether an antitrust violation has occurred or how widespread it may prove to be. The recent electrical price-fixing cases illustrate this.

The bill would be unfair if limited to persons "under investigation" because every company which receives a civil investigative demand would immediately be regarded as a probable violator of the antitrust laws. This might well hurt the company financially, even though an inspection of its documents might disprove that it was not guilty of any antitrust violation.

Finally, the McGregor amendment would render the bill, to a large degree, ineffective for several reasons:

First. Many a sophisticated antitrust violator today destroys compromising files. Often essential evidence of antitrust violations may only be found in files of innocent companies with which the guilty company has been in correspondence. Such legislation has been recommended in the Economic Reports of the President to the last four Congresses, by the Cabinet Committee on Small Business in two successive reports, and by the American Bar Association. Such legislation has been supported by both the Eisenhower and Kennedy administrations.

As a result of virtually unanimous support for such legislation, and after thorough public hearings and committee consideration, the House has approved this bill during the present Congress.

The bill was extensively amended in the Senate to incorporate a number of important safeguards proposed by the American Bar Association. Further, as approved by the House Committee on the Judiciary, this bill was perfected by 29 additional amendments.
... competitors, customers, or suppliers, but they are afraid to volunteer evidence for fear of retaliation or fear of being branded as stool pigeons in the industry. The Antitrust Subcommittee in the course of its hearings on this bill compiled a list of 29 instances of such refusals of cooperation.

If a civil investigative demand is to be a true civil alternative to grand jury proceedings, it should be equally effective. Another House amendment which was modified by the conference report involves a compromise. As approved by the Senate, the Department of Justice could make available documents obtained through a civil investigative demand to “other antitrust agencies.” Principally, because of the vagueness of this phrase, the provision was stricken by the House. The conference compromised and agreed that the Department of Justice could make documents obtained by a civil investigative demand available only to the Federal Trade Commission for use by that agency in the enforcement of the antitrust laws.

This compromise reflects the recommendations in the report of the Attorney General’s National Committee To Study the Antitrust Laws. In p. 377 it states:

2. To avoid duplicating investigations, the investigative files should, to the extent permitted by existing law, be made fully available to the other agencies.

CONCLUSION

In conclusion, I earnestly commend this bill, as agreed to in conference.

I urge the House today to take a long step forward toward the fair, effective enforcement of the antitrust laws by approving this bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. McCulloch) who asked and was given permission to revise and extend his remarks.

Mr. McCulloch. Mr. Speaker, first of all I am pleased with the compliment that the distinguished chairman of our committee has paid to me, and I hope that by reason of the conditions which have changed since the time I made that speech the chairman of our committee will follow me in the logic as I present it today.

Mr. Speaker, at the proper time I will offer a motion to recommit the conference report to the committee, with the proper instructions. It is true that this general type of legislation was recommended by President Eisenhower and by both of his Attorneys General, but as it has been by the present Attorney General. However, the recommendations of President Eisenhower and his Attorneys General were not in accordance with this conference committee report on which we are asked to vote today. For that reason I am going to offer a motion to recommit, as I have indicated.

Mr. Speaker, Members of the House will recall that this matter was before the House on March 13 or 14 of this year. There have been material changes in the economy and the climate of the economy in this country in the meantime. I need not remind a single Member of the House what happened immediately after the announcement of the steel strike. We continued through that year, and it is unlikely that that is going to happen for a while thereafter. I need not remind the House that there have been more home foreclosures in the last year than in any year since 1939. I need not remind the House that there were more bankruptcies in the last year among small business than in any year since 1939. I need not remind the House what some of the companies have been doing 6 or 8 weeks ago. Of course, all of you heard last night or read in the papers this morning, that the Dow-Jones averages of selected industrials dropped more than 10 points yesterday.

Mr. Speaker, I regret the necessity of reciting these unpleasant facts, and I regret to say to the Members of the House and through them to the people of the country that our business climate is not now of the best and every proper act should be to improve, not worsen, it. Business in this country is troubled and afraid. It is high time that we adopted a benevolent, helpful attitude, so that there be more employment, that there be more profits upon which taxes can be collected, so that we bring to an end at the earliest possible moment these staggering deficits which, if we implement the recommendations of the executive department, as I have said before, will be in the next fiscal year even more than they are in this year; and they approached $8 billion as I last saw the figures.

The conference committee report, to which I object, would strike out the MacGregor amendment which, after thorough debate on the floor of the House, was accepted as a necessary improvement to § 377. Furthermore, the conference committee report, if adopted by the House, would authorize the Attorney General to make a demand for documents from any business entity in the United States, in any antitrust investigation, and thereafter furnish those documents to other agencies of the Government for whatever purpose he may make of them, without the company or the business upon which the demand had been made knowing the reason therefor, or the use to which they were to be put.

Mr. Speaker, I am sorry there is not enough time in the 1 hour allotted to both sides on this important matter, and the brief 5 minutes allotted to me, to go into all the ramifications of this most important legislation. For that reason I am bringing my presentation to a close since my able colleagues from Michigan, New York, and Minnesota will have some brief time to present other compelling facts on the issue before the House.

Before I close I wish to say to my friends on the other side of the aisle—I need not say it to my friends on this side of the aisle—that there is no Member of the House who has been more free of partisanship in matters that have come from this committee to the judiciary, or recommendations that have been sent up to the House for Judiciary Committee action by the President under three administrations, than the representative from the Fourth District of Ohio. It is my specific judgment that in the conference committee report, the parts thereof written in it by the Senate, are not presently in the best interests of the economy of this country, if therefore hope that when a motion to recommit, which I shall make, every person interested in the present welfare of this country and in improving the business climate in this country will join with me in sending the report back to the committee, where the House will have another chance to work its will.

Mr. Celler. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. Rodino).

Mr. Rodino. Mr. Speaker, the civil investigative demand bill, S. 167, has been regarded by many, including the committee of the Antitrust Subcommittee, as one of the most important measures in the antitrust field in recent years. Members of both parties in the House, I am sure, are well aware of the importance of our antitrust laws to the preservation of our free competitive economic system. The effectiveness of those laws depends upon the effectiveness of their enforcement.

The ability to gather information to determine whether or not an antitrust complaint should be filed is, of course, essential to effective enforcement of the antitrust laws. Use of grand jury proceedings, with the consequent threat of an improper prosecution, is merely an abusable process where the necessary information is in secret files.

In 1958, the Supreme Court held in U.S. v. Procter & Gamble, 356 U.S. 677 (1958), that grand jury proceedings would be an abuse of process if no criminal action was seriously contemplated.

Yet, the Department of Justice in the past has resorted to grand jury procedures to force the Congress gave it no compulsory civil process to obtain the information needed to determine whether a civil suit should be brought. This has been in anomalous contrast to the grant of similar powers given to many Federal agencies, notably the Federal Trade Commission, and to the attorneys general of 17 States. There are few, if any, instances where such powers have been abused.

In recognition of all these factors the Attorney General’s National Committee To Study the Antitrust Laws, in its report of 1958, advanced as one of its few legislative recommendations a recommendation for a civil investigative demand bill.

Such legislation has been recommended by both the Eisenhower and the Kennedy administrations, and by the American Bar Association.
Bills to carry out that recommendation were introduced in Congress and today we stand at the threshold of bringing about a highly desirable reform in the administration of the antitrust laws. Both Houses of the Congress have recognized the importance of this bill by giving it resounding support.

But the bill as it passed the House contains one clause that would impede this needed legislation of much of its effectiveness. I refer to the so-called McGregor amendment.

Under this amendment, proposed by Congressman MacGregor on the floor of the House and adopted on a close teller vote cast by a handful of Members, this bill would be limited to examination of documents of the particular company suspected of violating the antitrust laws. The effect of the amendment would be to bar the use of the provisions of this bill to examine documents held by companies, prospective defendants and witnesses in order to determine whether or not a prospective defendant has violated the antitrust laws.

Neither in the House nor in the Senate, nor in the Judiciary Committee was any such destructive qualification to the bill proposed, although the bill was carefully considered and discussed at length both in subcommittee and before the full committees of the respective Houses. Both this and the preceding administration had recommended this measure without such a restriction. The bill was passed by the Senate without any such prohibitive restriction. Accordingly, the majority of the conferees of the House and the Senate rejected the MacGregor amendment. There is no doubt in my mind that this amendment should be rejected by the House and that the conference report should be fully supported for the following reasons:

Throughout the consideration of this bill its proponents have had two major considerations in mind. One was to grant the antitrust authorities a much needed tool, and the other was to do this in a way which would be fair to the company whose documents are sought. The bill therefore contains many safeguards carefully inserted to protect the rights of such companies. If we do not pass an effective civil investigative bill we will merely continue the unfortunate existing situation where the Department must make a difficult choice between Scylla and Carybdis: it must either file a civil complaint based upon inadequate knowledge, where great er or knowledge has been denied because of the possession of documents, or have the possession of prospective witnesses, or it may strain to find evidence of criminality and resort to grand jury proceedings where only a civil proceeding would have been contemptless if a compulsory civil investigative process were available.

Hard as such a choice may be for the Department of Justice, these alternatives offer no better choice to prospective defendants. They will be confronted either by criminal proceedings or by civil litigation which would never have been brought, or which will be more expensive than necessary, because the Department of Justice has been unable to obtain the information it needed prior to bringing suit. Yet these are the hard choices which will continue to confront the Department of Justice and prospective defendants if the MacGregor amendment is reinserted into this bill.

This bill, and the compulsory process it authorizes, would be unnecessary, of course, if prospective defendants and witnesses would cooperate with the Department of Justice in making available evidence of their conduct. Naturally enough, many companies are willing to furnish evidence of suspected violations of the antitrust laws. At the hearings on this bill, the Department of Justice furnished 29 instances of such refusals to cooperate by prospective defendants and witnesses.

Moreover, as companies have become sophisticated in antitrust matters and have had the benefit of experienced antitrust attorneys, companies are becoming particularly fearful of such reprisals by their larger competitor even though he has been badly hurt by the latter's antitrust violations.

Another untoward effect of the McGregor amendment would be to cast the finger of suspicion on any company whose documents are demanded under this bill. Since the McGregor amendment would limit the use of a civil investigative demand to companies under investigation the mere fact that process had issued under the bill would amount to a public announcement that the particular company was suspected of violating the antitrust laws. This might well cause serious financial effects for such a company even before the Department had determined whether a violation had occurred.

For all these reasons I say to the House that this bill as agreed to by the conferees will provide an essential tool for the Department of Justice in the effective enforcement of the antitrust laws, and will at the same time be eminently fair to the parties whose records are sought. Every conceivable safeguard has been written into this bill to protect prospective witnesses and defendants alike.

If the so-called McGregor amendment should be reinserted into the bill, however, its effectiveness will be jeopardized to the damage of both public interest and those whose documents are sought in antitrust investigations.

With all the vigor at my command I urge the House to approve this bill as agreed in conference.

(Mr. Rodino asked and was given permission to revise and extend his remarks.)

Mr. Celler. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. Meader).

(Mr. Meader asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. Meader. Mr. Speaker, we in the House of Representatives are the outer guards and we on the Judiciary Committee of the House of Representatives are the inner guards of the most precious treasure in the country, the rights and personal liberties of the American citizens.

Law enforcement agencies need tools, authority, power to discharge their responsibilities of protecting citizens and from predatory, illegal activities of some citizens. But when we grant power to law enforcement agencies, we take that power from the reservoir of the people from the rich and from the individual rights of American citizens.

Mr. Speaker, I am sympathetic with the problems of the prosecutor and the investigator. I have been both. I was a prosecutor of Washtenaw County, Mich.
and I was counsel to two Senate committees—the Truman-Mead committee to investigate the national defense program and the Fulbright committee to investigate the use of public funds.

I am fully aware of the tendency of the wily criminal to employ the Bill of Rights to delay and defeat the efforts of the police and the prosecutor to bring him to trial. I am aware of the impatience of dedicated, zealous law enforcement agents with the cumbersome procedures and obstacles they must overcome to investigate, to apprehend, to bring to trial, and to punish the criminal elements of our society. It sometimes seems to those who have had responsibility for enforcing the law that the scale is weighted in favor of the rascals. The presumption of innocence, proof beyond reasonable doubt, the rules of evidence, the privilege against self-incrimination, jury trial and the many other protections of the Federal rights law enforcement agencies would make more costly and difficult the task of law enforcement agencies.

But, Mr. Speaker, these rights, these privileges, these immunities, these protections are not from the behavior of the Government were the very core of the motivation of our Revolutionary War for independence from Great Britain and from the tyrannical oppression of a ruthless sovereign. He has erected a multitude of New Offices, and sent hither swarms of officers to harass our people, and eat out their substance. (Declaration of Independence.)

The civil investigative demand bill, the conference report on which is before us today, invests the Attorney General with the power of subpoena and the power to subpoena proceeding on demand of our citizens documentary evidence claimed by him to be needed in the enforcement of the antitrust laws. This power is, in effect, the key to the doors to the executive offices of the United States, admitting investigators to the company files and records of every business to rummage and snoop at will in the name of investigation of violations of the antitrust laws. This is an invasion of the right of privacy of individual citizens and a weapon to be used against our citizens to harass, abuse, and threaten them and it has not been proved to be needed for proper law enforcement.

This power would vest in a political officer of the Government the power of search and seizure without a warrant except his own, and subject the most intimate and confidential details of business operations in this country to the prying eyes of a powerful bureaucracy.

We recognize that this vast individual authority to inquire into the private activity of our citizens in the Department of Justice at a time when the executive branch of the Government is denying to the elected representatives of the people the right of access to information in possession of executive agencies regarding the exercise of authority and the expenditures of public funds. I refer now to the so-called doctrine of executive privilege which bureaucrats have employed to deny information to congressional committees inquiring into the conduct of Federal affairs.

Mr. Speaker, I am willing to grant authority needed for law enforcement even though it be at the expense of the right of our people to be let alone. But my assent is conditioned upon the establishment of a case for the grant of such authority. The burden of proof is upon those who ask for more power. Until that proof is presented, until that case is established, I will resist further encroachments by the bureaucracy on the rights and privileges of citizens.

Mr. Speaker, this Congress has been altogether too generous in acceding to requests for additional power on the part of the Department of Justice. To begin with, a minimum of 11 laws were passed during the first session of this Congress, considered as major pieces of criminal legislation. These are as follows:

- First. Public Law 87-379, amending section 35 of title 18, conveying of false information of any kind violating those chapters of title 18 dealing with aircraft, shipping, and railroads.
- Second. Public Law 87-368, amending section 1073 of title 18, flight to avoid prosecution or giving testimony.
- Third. Public Law 87-216, amending chapter 50 of title 18, transmission of bets, wagers, and related information.
- Fourth. Public Law 87-218, amending section 61 of title 18, providing means for the Federal Government to combat interstate crime and to assist the States in the enforcement of their criminal laws by prohibiting the interstate transportation of wagering paraphernalia.
- Fifth. Public Law 87-306, amending section 1362 of title 18, to further protect the internal security of the United States by providing penalties for malicious damage to communication lines, stations, or property.
- Sixth. Public Law 87-228, amending chapter 95 of title 18, prohibiting travel or transportation in interstate commerce in aid of racketeering enterprises.
- Seventh. Public Law 87-711, amending chapter 713 of title 18, prohibiting transportation of fraudulent State tax stamps in interstate and foreign commerce.
- Eighth. Public Law 87-238, amending section 5021 of title 18, the Federal Youth Corrections Act.
- Ninth. Public Law 87-353, amending chapters 25, 31 and 47 of title 18, the forging or stealing of bonds and obligations of certain lending agencies, and the making of false statements thereof.
- Eleventh. Public Law 87-221, creating chapter 51 of title 15, destruction of property and the means of commerce.

During this session of Congress, there has already been another item of criminal legislation enacted:

- First. Public Law 87-364, amending section 2385 of title 18, defining the term "organize" as used in the chapter on "advocating the overthrow of Government."

In addition, S. 1658, prohibiting the transportation of gambling devices in interstate commerce, passed this House and the other body and is now pending in conference, while the following four bills have passed the House and are awaiting action in the other body:

- First. H.R. 6691, amending sections 871 and 3035 of title 18, providing penalties for threats against the successors to the Presidency and to authorize their protection by the Secret Service.
- Second. H.R. 8140, amending various chapters of title 18, to strengthen the criminal laws relating to bribery, graft and conflicts of interest.
- Third. H.R. 7037, amending section 3238 of title 18, providing for offenses not committed in any district.
- Fourth. H.R. 8845, amending section 491 of title 18, prohibiting certain acts involving the use of tokens, slugs, disks, devices, papers, or other things which are similar in size and shape to the lawful coins or other currency of the United States.

There is now pending in the House, reported favorably from the Judiciary Committee, H.R. 8945, to elevate certain Federal investigators to the stature of courts by making it a Federal crime to impede investigations. This bill has been scheduled on the calendar for debate three times and has been removed from the calendar the same number of times. In my opinion it ought never to be brought up.

In addition there are many bills pending before House committees requested by the administration to grant still further power to the bureaucracy at the expense of citizens' rights. These bills include first, authorizing grant of immunity of witnesses in labor racketeering cases; second, authorizing wiretapping including the authority to tap wires without court approval; third, premerger notification legislation; fourth, authorizing Federal Trade Commission preliminary injunctions; fifth, functional discount legislation; and sixth, quality stabilization legislation.

Mr. Speaker, I point out that once we grant the power we have no control over its use or abuse. The possibility of the employment of powers granted for one purpose for a wholly different purpose is well demonstrated by the manner in which the administration has assembled various powers not only in the executive branch but also of committees of the Congress to fashion a weapon to bludgeon the steel companies into reselling a price increase—a matter which the Government has had no direct authority to accomplish since the repeal of OPA and OPG.

In that manner such powers granted for one purpose were used in concerted action to accomplish a wholly different purpose than that for which the grant is made is summarized in a press release of the Republican leadership of April 19, 1962, which I include at this point in my remarks:

1962 CONGRESSIONAL RECORD — HOUSE 13035
STATEMENT BY THE JOINT SENATE-HOUSE REPUBLICAN LEADERSHIP

We, the members of the Joint Senate-House Republican leadership, deplore the necessity for issuing this statement, but the issues involved are too compelling to be ignored.

Beyond the administrative operations of the Federal Government, it is a proper function of the President to help American private enterprise maintain a stable economy. In our free society he must find his way by persuasion and the prestige of his office.

Last week President Kennedy made a determination that a 1 percent increase in the price of steel would throw the American economy out of line on several fronts. In the next 24 hours, the President directed or encouraged investigations into steel industry practices.

We, the members of the Joint Senate-House Republican leadership, believe that a fundamental issue has been raised: Should a President of the United States use the enormous powers of the Federal Government to blackjack any segment of our free society into line with his personal judgment with respect to law?

Nine actions which followed President Kennedy's press conference of Wednesday, April 11, were obviously a product of White House direction or encouragement and must be considered for their individual and cumulative effect. They were:

1. The Senate Commerce Committee publicly suggested the possibility of collusion, announced an immediate investigation, and took 10,000 dollars in penalties.
2. The Justice Department spoke threateningly of antitrust violations and ordered antitrust investigations.
3. Treasury Department officials indicated they were at once reconsidering the planned increase in steel price regulations for steel.
4. The Internal Revenue Service was reported making a menacing move toward United States Steel's incentive benefits plan for its executives.
5. The Senate Antitrust and Monopoly Subcommittee began subpoenaing records from companies which had increased steel prices, and other Government agencies were directed to do likewise.
6. The House Antitrust Subcommittee announced an immediate investigation, with hearings opening May 2.
7. The Justice Department announced it was ordering a grand jury investigation.

Defense Secretary Clark, ignoring laws requiring competitive bidding, publicly announced it was shifting steel purchases to companies which had increased prices, and other Government agencies were directed to do likewise.

These men have studied this matter for 7 years. These men have reached a conclusion that the American Bar Association finds correct.

Mr. Speaker, I say that we have come to the conclusion that such powers are not needed and are not dangerously invading the personal liberties and the right to be let alone of the American people, before we grant such vast powers which can be used against the American people by a zealous bureaucrat.

Mr. CELLER. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey, Mr. MacGregor.

Mr. WHITENER. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota, Mr. MacGregor.

Mr. MACGREGOR. Mr. Speaker, why do not you comment on this amendment that has been referred to? Is it something that the gentleman from Minnesota pulled out of thin air as the chairman and the gentleman from New Jersey did? No, it is not. It is not. It is not at all.

Just it simply seeks to enact into law the recommendations of the American Bar Association and its Subcommittee on Antitrust Legislation. These men have studied this matter for 7 years.

Why is it that the Attorney General and the Assistant Attorney General in charge of antitrust proceedings are unwilling to accept reasonable safeguards surrounding a grant of broad, sweeping new powers?

Mr. Speaker, I said on March 13 that as legislators we have an obligation to consider primarily the possibilities of an abuse of new executive power rather than the probabilities of its proper exercise. How probable is such an abuse?

Just over 4 weeks later, at 3 o'clock in the morning, through the exercise of unwarranted police power, witnesses were yanked out of their beds.

Mr. Speaker, what does my amendment seek to do? It seeks to place a safeguard against the issuance of this civil investigative demand on witnesses, and in so doing it merely carries out the recommendations of the American Bar Association. Would that not be the sensible thing to do? Of course, it would.

The Washington Post, which is not known for its support of amendments, came from this side of the aisle, said as follows in an editorial about the MacGregor amendment:

In addition the House added a Republican amendment which would have the effect of limiting the reach of the bill to companies under investigation. This seems to us a wise precaution despite the vigorous opposition it brought from the bill's sponsors.

The Department can always broaden the scope of an investigation, if it finds reason to do so, but it should not be allowed to reach into the files of corporations under suspicion. Apparently this amendment would change the recommendation of the American Bar Association, it ought to be preserved by the House-Senate conference committee.
Mr. MEADER. Mr. Speaker, will the gentleman yield?

Mr. MACGREGOR. I yield.

Mr. MEADER. I ask the gentleman if he can consider, in the context in which he has brought back is not in effect giving to the Attorney General the key to the door of every business office in the United States for his representatives to go in, snapping around on a fishing expedition?

Mr. MACGREGOR. It will give him the key without having to bother to go into court or before a Judge and explain why he wants to use that key.

We have seen not only that there can be an abuse of power by the Attorney General and by the staff in the Attorney General's office, but we have also seen, indeed, a contempt of proper legislative processes in this grant of new power to the Executive. We have seen an unwillingness to accept reasonable safeguards designed by Congress, and a willingness to yield?

I urge my colleagues in this House who are concerned over the proper relationship between the Government and the individual in our society and who are concerned with the proper governmental system of checks and balances, to support the McCulloch motion to recommit.

Mr. MEADER. Mr. Speaker, will the gentleman yield?

Mr. MACGREGOR. I yield.

Mr. MEADER. I believe the gentleman will agree with me that the reason is to protect small business against the abuse of power. I urge my colleagues in this House who are concerned over the proper relationship between the Government and the individual in our society and who are concerned with the proper governmental system of checks and balances, to support the McCulloch motion to recommit.

Mr. MACGREGOR. The gentleman is dead right. As pointed out in the hearings, the gentleman from Massachusetts (Mr. DONOHUE) in questioning Witness Simon of the American Bar Association was concerned in keeping the small businessman from being unduly harassed by an abuse of bureaucratic power. This conference report would permit of such abuse—the very thing the gentleman from Massachusetts was concerned about. Here you would reach into the small businesses of this country with a key to open every lock they have.

Mr. Speaker, I include at this point a statement from the Association of the Bar of the City of New York:

REPORT ON S. 167, 87TH CONGRESS, 2D SESSION, ANTITRUST CIVIL PROCES S

The balance of all these factors, in our judgment, is against application of the civil investigative demand to persons under investigation. The conference report indicates "under investigation" in section 3(a) of the bill.

The balance of all these factors, in our judgment, is against application of the civil investigative demand to persons under investigation. The conference report indicates "under investigation" in section 3(a) of the bill.

We also note that existing law, section 8 of the Federal Trade Commission Act, provides that when any person fails to comply with a civil investigative demand, the Attorney General must go to court to obtain an order enforcing the demand. It is not true that all offices would be open to the hand of the Attorney General, and it is not true that the Attorney General could go roving all over the land without a court order. If the gentleman will look at page 13, section 8, he will see that when any person fails to comply with any civil investigative demand, the Attorney General must go to court to obtain an order enforcing the demand. It is not true that all offices would be open to the hand of the Attorney General, and it is not true that the Attorney General could go roving all over the land without a court order. If the gentleman will look at page 13, section 8, he will see that when any person fails to comply with any civil investigative demand, the Attorney General must go to court to obtain an order enforcing the demand.

It is not true that every business office would be open to the hand of the Attorney General, and it is not true that the Attorney General could go roving all over the land without a court order. If the gentleman will look at page 13, section 8, he will see that when any person fails to comply with any civil investigative demand, the Attorney General must go to court to obtain an order enforcing the demand. It is not true that all offices would be open to the hand of the Attorney General, and it is not true that the Attorney General could go roving all over the land without a court order. If the gentleman will look at page 13, section 8, he will see that when any person fails to comply with any civil investigative demand, the Attorney General must go to court to obtain an order enforcing the demand.

We therefore suggest that the words "or any person" in section 8 of the Federal Trade Commission Act "should be substituted for the words "the Attorney General." Respectfully submitted.


(Mr. MACGREGOR asked and was given permission to revise and extend his remarks.)

Mr. CELLER. Mr. Speaker, I yield myself 1 minute to reply to what I believe was an inadvertence by the gentleman from Michigan (Mr. MEADER).

It is not true that every business office would be open to the hand of the Attorney General, and it is not true that the Attorney General could go roving all over the land without a court order. If the gentleman will look at page 13, section 8, he will see that when any person fails to comply with any civil investigative demand, the Attorney General must go to court to obtain an order enforcing the demand. It is not true that all offices would be open to the hand of the Attorney General, and it is not true that the Attorney General could go roving all over the land without a court order. If the gentleman will look at page 13, section 8, he will see that when any person fails to comply with any civil investigative demand, the Attorney General must go to court to obtain an order enforcing the demand.

(Mr. ROOSEVELT asked and was given permission to revise and extend his remarks.)

Mr. ROOSEVELT. Mr. Speaker, it seems to me that instead of harming small business, this bill is really aimed at, or has as one of its major aims, the very needed help to small business which is required by small business because it does not have available to it the kind of legal setup which enables it to protect itself in monopoly or antitrust matters.

It seems to me that if this bill is going to be passed, it means that corporations, from overpowering those would crush simply because they will not make or produce the evidence which would prove the case were that evidence available to them.

I speak with a great deal of knowledge of this because, thanks to the chairman of the House Small Business Committee, I have been in the particular field of the small businessman in the petroleum industry.
Mr. McCULLOCH. Mr. Speaker, may I say to the Members of the House I have not had a single request from small business, the Department of Justice, the Federal Trade Commission, or the Department of Commerce, that requested me to support the conference report.

Mr. Celler. Mr. Speaker, I yield 2 minutes to the gentleman from California.

Mr. ROOSEVELT. Mr. Speaker, may I say to the gentleman from Ohio that he has misinterpreted what I said. I did not say that small business was not protected by the antitrust laws. I criticize the Justice Department. It is the inability of small business to get from the large corporatons, the information upon which they can go forward and be protected by the antitrust laws.

Therefore, he must appeal to the Department of Justice or to the Federal Trade Commission, which he does by writing to the Attorney General, under the mechanism of this bill, could get every bit of information about which the gentleman is speaking.

Mr. Celler. Mr. Speaker, I yield 3 minutes to the gentleman from New York.

Mr. Lindsay. Of course. Gladly.

Mr. Celler. Mr. Speaker, will the gentleman yield?

Mr. ROOSEVELT. Of course. Mr. Speaker, in my remarks, from the cartels, the information which he has requested, from the large corporatons, the information upon which he wants to be given voluntarily or after court test as confidential nature be protected. They are not to be given to the FBI or the Antitrust Division of the Department of Justice, that their confidential nature be protected. They are not to be given to the Internal Revenue Service, the Commerce Department, the CAB or the other myriad organizations in the Federal Government; nor are they to be made available to the competitors, or to the Congress. Do not forget that there is no case begun or pending. This is to determine whether there is a case, and therefore it is extremely important, we think, that the House version be adopted to protect individual liberties. This is a new power. Therefore it must be carefully drawn.

Mr. Celler. Mr. Speaker, under leave of the House, I should like to include at this point an excellent report prepared by the Committee on Trade Regulations of the Association of the Bar of the City of New York, with regard to adhering to the House version of this legislation and points to the dangers of the two amendments in question:

COMMITTEE ON TRADE REGULATION REPORT ON S. 167, 87TH CONGRESS, 2D SESSION "ANTITRUST CIVIL PROCESS ACT"

We understand that S. 167 has been passed by the Senate and, with some amendments, by the House, and that at a joint conference on May 28, 1962, the following two changes were made in the House bill by a vote of 6 to 4:

Section 3(a) of the bill, as passed by the House, defined the authority of the Department of Justice in making a civil investigatory demand as extending only to persons "under investigation." The conference report struck out the words "under investigation."

Section 4(c) of the bill, as passed by the House, limited to duly authorized representatives of the Department of Justice examination of documents obtained by the Department pursuant to a civil investigatory demand. The conference report added the words "or the Federal Trade Commission" to Section 4(c). The changed section 4(c) provided that documents available for examination by duly aut

Mr. Celler. Mr. Speaker, will the gentleman yield?

Mr. Lindsay. I will if he will give me more time.

Mr. Celler. Is it not a fact that the Federal Trade Commission already has this power?

Mr. Lindsay. I am going to touch on that point. It has the power in its field of jurisdiction.

Mr. Celler. So what difference does it make?

Lindsay hold on here. The Federal Trade Commission has a different area of operation and enforcement of laws than does the Antitrust Division. This bill before us in this conference report provides that in any demand the Antitrust Division shall "state the nature of the evidence constituting the alleged antitrust violation which is under investigation." Now, what the Senate has done is to put in the Federal Trade Commission as another governmental agency that can have access to documents which are produced, which means that whoever subpoenaed the documents, particularly if the MacGregor amendment is not included, will have no idea of the possible charges against him. The bar, which initiated this proposal, insisted that if papers are going to be given to the FBI or the Antitrust Division of the Department of Justice, that their confidential nature be protected. They are not to be given to the Internal Revenue Service, the Commerce Department, the CAB or the other myriad organizations in the Federal Government; nor are they to be made available to the competitors, or to the Congress. Do not forget that there is no case begun or pending. This is to determine whether there is a case, and therefore it is extremely important, we think, that the House version be adopted to protect individual liberties. This is a new power. Therefore it must be carefully drawn.

Mr. Celler. Mr. Speaker, under leave of the House, I should like to include at this point an excellent report prepared by the Committee on Trade Regulations of the Association of the Bar of the City of New York, with regard to adhering to the House version of this legislation and points to the dangers of the two amendments in question:

COMMITTEE ON TRADE REGULATION REPORT ON S. 167, 87TH CONGRESS, 2D SESSION "ANTITRUST CIVIL PROCESS ACT"

We understand that S. 167 has been passed by the Senate and, with some amendments, by the House, and that at a joint conference on May 28, 1962, the following two changes were made in the House bill by a vote of 6 to 4:

Section 3(a) of the bill, as passed by the House, defined the authority of the Department of Justice in making a civil investigatory demand as extending only to persons "under investigation." The conference report struck out the words "under investigation."

Section 4(c) of the bill, as passed by the House, limited to duly authorized representatives of the Department of Justice examination of documents obtained by the Department pursuant to a civil investigatory demand. The conference report added the words "or the Federal Trade Commission" to Section 4(c). The changed section 4(c) provided that documents available for examination by duly aut

Mr. Celler. Mr. Speaker, will the gentleman yield?
authorized representatives of the Federal Trade Commission.

The use of the words "under investigation" by the conference report indicates that a bill not including these words is intended to authorize the Department of Justice to call for the production of documents by companies not "under investigation" for an alleged civil antitrust violation or indeed not even suspected of violation. This highlights a substantive point which was not commented on by Senator Keating in his House floor statement on S. 167 to the Antitrust Subcommittee (Subcommittee No. 5) of the House Committee on the Judiciary. Upon consideration of the bill, we start with the basic premise that, under our system of government, private files should not be subject to the call of the Executive unless there is an overriding public necessity, and then only with appropriate safeguards. While the civil investigative demand is a considerable extension of the power of the Executive, the need for such a process under suspected violators to assist in the effective enforcement of the antitrust laws has been well documented. However, need has not been demonstrated to require companies to be subjected to a search for and produce from their files "a class or classes of documentary material in the possession of the Company which may bear upon the question of the possible violation of law applicable thereto." The balance of all these factors, in our judgment, is against application of the civil investigative demand to those not actually suspected of violation, while at the same time permitting it to utilize the effective enforcement of the antitrust laws.

Mr. CELLER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Speaker, this will be the only important vote that we will be able to cast at this session of Congress that can affect the very life and health of small business. This is a real, genuine small business proposal.

Mr. Speaker, small business, the life-blood of our medium size and small communities throughout the Nation, has a vital stake in the passage of the Antitrust Civil Process Act—S. 167—the so-called civil investigative demand bill.

Anyone who has critically examined the ways in which economic concentration and the expansion of giant monopolies knows that such concentration and monopolies were achieved in virtually all cases not by greater efficiency but by various noneconomic means involving predatory action. Small and medium size business can often match the giant corporations in efficiency. But it has little chance when the giant corporations exert raw economic power to crush small business.

This is the basic reason why our antitrust laws are so often referred to as the American charity for economic freedom. Sincere supporters of small business know that if the antitrust laws are not properly enforced it is the small businessman who suffers.

Antitrust Agencies Cannot Perform Assigned Duties Without Proper Tools

It is the height of hypocrisy to speak in favor of vigorous antitrust enforcement but at the same time thwart such enforcement by provisions to render our antitrust agencies with sufficient funds to carry out a sincere antitrust program.

Lack of Funds, Loopholes, and Inadequate Powers Responsible for Growth of Monopoly

It was only under the leadership of such forthright antitrust chiefs as Judge Thurman Arnold that the country was finally awakened to the need for a strong and effective program of antitrust enforcement. Congress supplied sufficient funds to build up a good antitrust staff.

It was a full 60 years after the passage of the Sherman Act, and 36 years after the passage of the Clayton Antitrust Act, that the loophole in the anti-merger statute was closed by Congress, so that monopolistic mergers could be questions and answers regarding the Antitrust Civil Process Act, S. 167. These questions and answers go to the very heart and merit of the bill and demonstrate how important it is to small business.

Concentration is Increasing

Mr. Speaker, the Senate Antitrust Subcommittee, under the chairmanship of Senator Kefauver, who with our colleague Senator Patman authored the Celler-Kefauver Antimerger Act, has just issued a new report on concentration. This report shows that between 1947 and 1958 there has been a sharp increase in concentration in manufacturing. According to this study:

The share held by the 200 largest companies of total industrial output, as measured by value added by manufacture, rose 37 percent. In 1947 the 200 largest companies accounted for 30 percent of the value added by manufacture, by 1958 their proportion had risen to 38 percent.

Mergers Large Contributory Factor to Increase in Concentration

A report which the House Small Business Committee will issue in the near future indicates that mergers and acquisitions of the top industrial corporations are largely responsible for this increase in concentration.

Year after year, the number of independent firms disappearing because of mergers and acquisitions mounts and mounts.
GROWTH IN BUSINESS POPULATION LAGS SERI­
ously behind gross national product.

One key index of the welfare of small business is the trend in the business population. It is not widely enough
realized that the growth of the number of
businesses is lagging seriously behind the
growth in general economic activity.

During the early years after World War
II, the business population increased at a
rate of about 4 ½ percent a year, while the
gross national product—in constant
dollars—increased at a rate of about 1½
percent per year. However, in the decade
since 1952 the growth rate in the busi­
ness population dropped to 1½ percent
while that in gross national product rose to 3½ percent.

The situation is much more grave in
manufacturing than it is in the case of all
business combined. As a matter of fact, the
number of manufacturing concerns has actually declined sharply since 1959,
to reach the lowest level since 1948.

Couple this with the fact that many non­
business enterprises in manufacturing with
the increase in concentration shown by the
Kefauver report, and you can see how
serious are the inroads being made in
concentration of economic power has affected a wide spectrum of industries, but it is perhaps most significant in
the manufacturing area, and it is there that we
have the greatest concentration of facility
and underemployment of workers.

SMALL BUSINESS HAS VITAL STAKE IN ENFORCE­
MENT OF THE ANTITRUST LAWS

In my discussion of the questions and
answers relating to the Antitrust Civil
Process Act, I have attempted to make
clear why small business has such an im­
portant concern with the provision of adequate investigatory authority for the
Antitrust Division. I have also at­
temcted to show that any restriction on
this authority, confining it merely to
prospective defendants, would do great
decompression to small businesses.

As a matter of fact, those who wish to
so limit this authority must be mis­
guided, for to do so would severely in­
jure small business.

Let me illustrate by a few examples in
recent cases involving the Antitrust

SMALL WIRE ROPE PRODUCERS FACED “SQUEEZE”
IF BETHLEHEM-YOUNGSTOWN MERGER WERE
CONSUMMATED

In the much-noted Bethlehem-Youngs­
town steel merger case, successfully
prosecuted by the Antitrust Division, a
group of small businessmen producing wire
rope faced an economic squeeze. Youngstown, represented one of the few
remaining noncompeting sources of supply
for rope wire, the raw material out of which
wire rope was fabricated. Moreover, Youngstown, an important factor in the oil well and
drilling fields, was also an important customer for small fabricators of wire rope. Bethlehem, on
the other hand, did not sell rope wire to the small independent wire rope fabri­
cators. It was in the business of produc­
ing and selling wire rope itself.

Thus, the small business independent
wire rope fabricators faced the prospect of
an important independent, non­
competing source of supply for
raw material, rope wire, and at the same
time an important customer for their
wire rope. This was a serious squeeze
that the merger would have placed on the
independent wire rope producers.

But because these independent wire rope producers had a deli­
crate sales relationship with
Youngstown, they did not reveal the ex­
tent of their jeopardy to the Antitrust
Division voluntarily, and only fully dis­
closed it under the compulsion of testi­
mony at trial.

BROWN SHOE CASE ALSO ILLUSTRATES NEED FOR
CID AUTHORITY TO SECURE INFORMATION FROM
THIRD PARTIES

A somewhat analogous picture devel­
oped in the famous Brown Shoe-Kinney
merger case, just decided by the Supreme
Court. Here, independent small busi­
ness suppliers of Brown Shoe Co., were
businesses so reluctant to "stick their
noses out" for fear they would be chipped
off by their big business sources, cus­
tomers, or rivals.

NONDEFENDANTS IN GROCERY CHAIN MERGER CASES
ARE WITNESSES AT THEIR OWN DESTRUCTION

In the pending Von-Shopping Bag
merger case, involving two of the largest
grocery chains in the Los Angeles area,
nondefendant grocery chains refused to
supply data needed to round out the
market picture except under a court order.

These are only a few typical illustra­
tions of the many cases faced by anti­
trust partners where the long-run interest of small business is to support the
antitrust action and to provide the antitrust
agencies with much-needed information,
data, and testimony. But these small
businesses are reluctant to "stick their
noses out" for fear they will be chipped
off by their big business sources, cus­
tomers, or rivals.

COMMON MARKET ANTITRUST PROGRAM PROVIDES
SHOES TO CASHERS WITHOUT COURT ORDER

Mr. Speaker, many of us are looking with great interest at the antitrust ac­
tivities being developed in the Common
Market. There is underway an attempt
to rid the Common Market of cartels.

Whether it will be successful we do not
know.

In any case, however, it is interesting
to note that the commission set up to
investigate restrictive trade practices is
not limited the way our own Antitrust
Division is. It has full power to investi­
gate and get documentary evidence
whether from competitive parties to a
hearing or third parties.

In other words, CID would do more
than provide our own Antitrust Division with the kinds of investigative
powers that are possessed in the Common
Market Authority.

CID IS A MUST BILL FOR SMALL BUSINESS

In conclusion, I cannot overemphasize
the point that small business and those
who believe in small business and its
survival, must support the CID author­
ity for the Antitrust Division, with no
crippling amendments which would
nullify its basic purpose.

Mr. TOLL. Mr. Speaker, will the gen­
tleman yield?

Mr. PATMAN. I yield to the gentle­
man from Pennsylvania.

Mr. TOLL. Would the gentleman say
that the purpose here is to prevent
monopolies? Would that be a fair state­
mantion to prevent the creation of
monopolies?

Mr. PATMAN. Certainly; the gentle­man is exactly right.

Mr. CELLER. Mr. Speaker, I yield 1
minute to the gentleman from Ohio
[Mr. McCulloch].

Mr. McCULLOCH. Mr. Speaker, I
wish my good friend, the gentleman
from Pennsylvania [Mr. Patman], were
to the gentleman from Ohio carefully to listen in order to say to
because if I speak incorrectly I want to be
corrected. I understood the distin­
guished gentleman from Texas, the
chairman of the Select Committee on
Small Business, to say that my motion
to recommit would kill the bill. If the
gentleman said that, I respectfully sub­
mit that the statement is not correct.

The motion to recommit to which the bill is
to mean that we are standing by the
version of this bill by the House on
March 14, 1962. Furthermore—this is
important, because I shall let the
statement stand on the record—my dis­
tinguished chairman said that a vote for
my motion would be against small busi­
ness. I submit to the Members of the House that the record will justify
that statement. I am sure the Members
of the House know my regard and con­
cern and constructive action for and on
behalf of small business.

Mr. CELLER. Mr. Speaker, I yield 1
minute to the gentleman from Texas
[Mr. Patman].

Mr. PATMAN. Mr. Speaker, if this
bill is recommitted it will pull its teeth.
It may do a lot of barking, but will not
be able to do any effective biting. The
motion to recommit, if adopted, will
destroy the usefulness of this bill.
It will be ineffective: it will be no good.

Mr. McCULLOCH. As a matter of
fact, Mr. Speaker, does not this bill as
it passed the House give every remedy
to our consumers against the big fellow, as the gentleman
calls him, that the Attorney General asked for: that the large corporations
must submit their records whenever
demanded?

Mr. PATMAN. Only if the conferees
report is adopted will it be sufficiently
and adequately effective. So let us keep
it as it is, as the conferees have recom­
mended, and vote against the motion to
recommit, which will destroy the bill.

Mr. CELLER. Mr. Speaker, I yield 5
minutes to the gentleman from Virginia
[Mr. Sprott].

Mr. SMITH of Virginia. Mr. Speaker,
I have followed the course of this legisla­
tion in both Congresses and in previous Congresses when, under another admin­
istration, it was attempted to be brought
up. I have favored it all the time. I
favor it and I favor this in order to give
the CID authority which it has been
brought here. Of course, we can do a lot
of criticizing about anything that comes
up. We can pick a lot of holes in al­
most anything that comes up. But I
regard this as a rather practical question.
Everybody here, I believe, is opposed to monopoly. That is what the antitrust law is about, to prevent monopolies. How are you going to do that if you do not give the Department of Justice the power and the tools that are necessary to bring about those things you seek to do in the antitrust laws? All this does, as I understand it, is to give to the Department of Justice the necessary tools to accomplish the purpose you have already given to the Federal Trade Commission, that you have already given to various other departments, such as the Federal Power Commission, to investigate problems; to make use of the books of the corporation's, to examine the books of that corporation, to get the evidence, and they are the corporations who are under investigation, and under the antitrust law it is not thought proper that with books where people may be suspected of violating the law. It was with that in mind that the Attorney General determines that there has been a violation where the action is being taken and issue subpoenas. The Eisenhower administration recommends that something had to be done in that regard said, therefore, that the orderly procedure would require that the Department of Justice should not necessarily impanel a grand jury to investigate every suspected violation of the antitrust law and, hence, the Attorney General has in the same way as 12 other agencies of the United States. That grand jury sat there and forced people to come there from all over the United States for a period of a year—or a year—and they finally indicted them all, and after they got through indicting them they moved the case out to Oklahoma and tried it, and then it all went up in smoke. There was a waste of time, they were all acquitted, and when the Department of Justice had the opportunity to go to these companies and look at the books and see if the evidence was there before starting the grand jury, they would have saved a lot of time and money, and it would have been good for everybody, the corporations as well as the Government.

Mr. MEADER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Virginia. I yield to the gentleman from Michigan.

Mr. MEADER. Those oil companies were under investigation, and under the MacGregor amendment this power would have been available against them.

Mr. SMITH of Virginia. Yes; they were under investigation, and they wasted a whole lot of time and everybody's money.

Mr. GROSS. Speaker, will the gentleman yield?

Mr. SMITH of Virginia. I yield to the gentleman from Colorado.

Mr. GROSS. I was intrigued to note the gentleman from Texas [Mr. FATTMAN] bleating at every pore and valve today for small business. I hear a lot these days about companies going in foreign countries. If I am not incorrect, the gentleman from Texas voted for the free trade bill the other day, that will ram all kinds of foreign products, the products of cartels and monopolies overseas, down the throats of small business in this country.

Mr. SMITH of Virginia. Well, we all make our mistakes, but I make all my mistakes at home.

Mr. CELLER. Speaker, I yield 5 minutes to the gentleman from Colorado [Mr. ROGERS].

Mr. ROGERS of Colorado. Mr. Speaker, it is my thought that the gentleman from Virginia adequately pinpointed the situation you are dealing with here. Remember that a U.S. attorney under the direction of the Attorney General can at any time he believes that a law has been violated from the criminal angle ask a district judge to impanel a grand jury and issue subpoenas.

Mr. LINDSAY. I think it is important to point out that this whole thing originally came from a recommendation made by the Attorney General's Committee To Study the Antitrust Laws, which Committee was put together consisting of leading members of the bar—of the antitrust bar—of the country during the Eisenhower administration and I am recommending this civil investigative demand approach.

I want to assure the gentleman that the Committee was very specific in saying that any documentary material that is given to the Department of Justice should be for the eyes only of the Department of Justice, and specifically recommended that it not go beyond.

Mr. ROGERS of Colorado. May I ask the gentleman if he has any objection if a matter comes under the jurisdiction of the Federal Trade Commission and the Attorney General determines that there has been a violation where the action could proceed from the Federal Trade Commission that you should again compel the Federal Trade Commission to subpoena the same documents? Why cannot the Attorney General turn it over to them and let them proceed if a man is violating the law?

Mr. LINDSAY. Does not the gentleman recognize the importance of this provision that we put in to give the organization some idea of the nature of the conduct that is under examination?
That is wiped out by the provision placed in the bill by the other body.

Mr. ROGERS of Colorado. The answer is just like saying to a man: “Suspect you of murder, or, if I do not suspect you of murder, I suspect you of burglary.” That is just an analogy of what you are talking about here. If on the other hand this is limited to corporations it does not affect individuals and it cannot violate any right an individual may have. We go all the way in protecting the individual.

Mr. MACGREGOR. Mr. Speaker, will the gentleman yield?

Mr. ROGERS of Colorado. I yield.

Mr. MACGREGOR. In view of the fact the gentleman has castigated the MacGregor amendment, let me ask the gentleman one simple question: Is it not correct to say that the MacGregor amendment has been included in all of the American Bar Association recommendations for legislation in this area? Was it not specifically recommended by Mr. Simon, a witness for the American Bar Association? All it does is carry out the recommendation of the American Bar Association.

Mr. ROGERS of Colorado. Mr. Simon appeared before the committee and testified.

Mr. MACGREGOR. But the gentleman will admit that my statement is correct, will he not?

Mr. ROGERS of Colorado. I would agree that that far.

Mr. MACGREGOR. But the language is in the draft bill of the American Bar Association.

Mr. ROGERS of Colorado. In fact the gentleman from Minnesota said, regardless of the recommendation made by the bar association, I am sure that you do not intend to tie the hands of the Department of Justice in finding out who is violating the antitrust law, do you?

Mr. MACGREGOR. I intend to place reasonable safeguards that the gentleman will not be compelled to go for days if the gentleman has castigated the MacGregor amendment, the position of the American Bar Association?

Mr. ROGERS of Colorado. Is it not unreasonable that you must confine yourself to suspect companies alone in an investigation?

Mr. MACGREGOR. We are talking about new powers. Was there anything unreasonable about the FBI getting reporters out of bed at 3 o'clock in the morning?

Mr. ROGERS of Colorado. There is another instance of dragging in something that has nothing to do with the case in order to try to inflame the situation. The FBI has its authority to proceed in this command. This is an effort to do it in an orderly fashion so that he will not be compelled to go forward, as you say, in violation of somebody’s rights.

The SPEAKER. The gentleman from New York has 2 minutes remaining.

Mr. CELLER. Mr. Speaker, mention has been made of the views of the American Bar Association. On page 72 of the hearings we find the following interesting colloglogy. It concerns the so-called MacGregor amendment, although at that time it was not known as such:

Mr. MALETZ. If you provided such a limitation you would be leaving unsolved certain of the problems that are presently existent.

Mr. Simon. Yes.

So that you would leave unsolved a great many programs and forces the Attorney General to go back to the old practice, noxious as it is, ofimpaneling a grand jury. If you include in this bill the so-called MacGregor amendment, you would simply give to the Attorney General a paper sword. You would stymie him.

With reference to the case in Alexandria, the gentleman from Virginia [Mr. Belcher] spoke of, where a number of corporations were brought before the grand jury, if you pass this bill with the MacGregor amendment, the Department of Justice would have to proceed seriatim against each of a dozen of such corporations as their conspiracy unfolded—as one set of files implicated another company. Have you not comprehended all the facts and putting them together in an orderly fashion so that the Department could have a full view of the matter and then determine which companies should be made defendants in a civil antitrust suit. In such a case, the Department of Justice might have to proceed against all of those corporations before a grand jury, as was the case in Alexandria.

The SPEAKER. All time has expired.

Mr. CELLER. Mr. Speaker, I move the previous question on the conference report.

Mr. McCULLOCH. Mr. Speaker, I offer a motion.

The SPEAKER. The motion is on the conference report.

Mr. McCULLOCH. Mr. Speaker, if I am opposed to the conference report?

Mr. McCULLOCH. Yes, Mr. Speaker, I am opposed to the conference report.

The SPEAKER. The Clerk will report the minutes.

The Clerk reads as follows:

Mr. McCULLOCH moves to reconsider the conference report on the bill S. 167 to the committee on conference with instructions to the managers on the part of the House to insist on the amendments of the House numbered 2, 4, 7, 14, and 18 through 23, inclusive.

Mr. CELLER. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

Mr. McCULLOCH. Mr. Speaker, I offer a motion.

The SPEAKER. The question is on the conference report.

Mr. McCULLOCH. Mr. Speaker, I offer a motion.

The SPEAKER. The motion is on the conference report.

Mr. McCULLOCH. Mr. Speaker, I am opposed to the conference report.

The SPEAKER. The motion is on the conference report.

Mr. McCULLOCH moves to reconsider the conference report on the bill S. 167 to the committee on conference with instructions to the managers on the part of the House to insist on the amendments of the House numbered 2, 4, 7, 14, and 18 through 23, inclusive.

Mr. CELLER. Mr. Speaker, I move the previous question on the motion to reconsider.

The previous question was ordered.

Mr. McCULLOCH. Mr. Speaker, on the motion to recommit.

Mr. McCULLOCH. Yes, Mr. Speaker, I am opposed to the conference report.

The SPEAKER. The motion is on the conference report.

Mr. McCULLOCH moves to reconsider the conference report on the bill S. 167 to the committee on conference with instructions to the managers on the part of the House to insist on the amendments of the House numbered 2, 4, 7, 14, and 18 through 23, inclusive.

Mr. CELLER. Mr. Speaker, I move the previous question on the motion to reconsider.

The previous question was ordered.

Mr. McCULLOCH. Mr. Speaker, I offer a motion.

The SPEAKER. The question is on the motion to reconsider.

Mr. McCULLOCH. Mr. Speaker, the question was taken; and there were—yeas 202, nays 200, not voting 33, as follows:
Mr. GROSS. Was the vote by which the motion to reconsider carried reconsidered and that motion laid on the table?

The SPEAKER. It has not been yet. Mr. GROSS. I so move, Mr. Speaker. The SPEAKER. Without objection, the motion to reconsider will be laid on the table.

There was no objection.

**BILL RESTORED TO PRIVATE CALENDAR**

Mr. ANDERSON of Illinois. Mr. Speaker, I ask unanimous consent that the Subcommittee on the Committee on House Administration be permitted to sit during general debate tomorrow afternoon.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

**COMMITTEE ON HOUSE ADMINISTRATION**

Mr. JONES of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be permitted to sit during general debate tomorrow afternoon.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

**FEDERAL-AID HIGHWAY ACT OF 1962**

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 723 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12135) to authorize appropriations for the fiscal years 1964 and 1965 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes. After general debate, which shall be confined to the bill, and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to reconsider.

Mr. MADDEN. Mr. Speaker, I yield myself such time as I may consume. (Mr. MADDEN asked and was given permission to revise and extend his remarks.)

Mr. MADDEN. Mr. Speaker, House Resolution 723 provides for the consideration of H.R. 12135, a bill to authorize appropriations for the fiscal years 1964 and 1965 for the construction of highways in accordance with title 23 of the United States Code, and for other purposes. The resolution provides for an open rule with 2 hours of general debate.

H.R. 12135 provides for the usual biennial authorizations for fiscal years 1964 and 1965 for the Federal-aid highway program, as well as authorizations for these fiscal years for the several classes of Federal domain roads. It is essential that funds be authorized for these fiscal years for primary and secondary highways systems and their extensions into urban areas in order that the States may have sufficient time for planning their individual road construction programs, including any financing procedures necessary to provide the required State matching funds under the Federal-aid highway program.

It is essential that these authorizations be made at this time so that in 1964 and 1965, work can continue on the national highway construction program. Plans, construction, and road specifications are various in the various States and the preliminary work on mammoth highway construction projects of this type takes considerable time; hence, the enactment of this legislation is necessary in order to keep our national highway construction program for future years up to schedule.

The Federal-aid highways which would be aided by this bill extend into every county of the United States. The present extent of the Federal-aid primary system is 224,860 miles, exclusive of Interstate System mileage, of which 905,000 miles are in rural areas and 1,940 miles are in urban areas. The Federal-aid secondary system at this time consists of 601,364 miles, including 387,683 rural miles and 13,705 urban miles. At the present time, therefore, the total mileage of highways covered under the A B C program is over 826,000 miles, carrying almost half of the total of all highway traffic in the Nation.

These funds would be apportioned among the States in the manner now provided by law, and would be available for expenditure in the same manner as funds for these highways are made available under present law, that is, for 2 years after the close of the fiscal year for which such funds are authorized.

The continuance of this Federal highway program without interruption will mean a great deal to our national economy. Construction of highways calls for tons of steel, cement, brick, lumber, and dozens of other materials which keep factories running and salaries expanded so that prosperity can continue in all sections of our Nation. First-class highways connecting all producing areas of our country will aid greatly in increasing the output of our agriculture, to accommodate the increased population and provide transportation for defense in cases of national emergency.

Mr. Speaker, I urge the adoption of House Resolution 723.