

that the changes were designed to minimize the hardships upon the business community of the notification and waiting requirements. Excluded from the bill's scope are a large number of business transactions engaged in by small and medium size corporations which have no significant impact upon competition.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 166) to amend the Clayton Act, as amended, by requiring prior notification of corporate mergers and acquisitions, and for other purposes, introduced by Mr. KEFAUVER, was received, read twice by its title, and referred to the Committee on the Judiciary.

PRODUCTION OF DOCUMENTARY EVIDENCE

Mr. KEFAUVER. Mr. President, I send to the desk for appropriate reference a bill 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.

In the first session of the 86th Congress I introduced S. 716 which was very similar to the bill I am now introducing. S. 716 was reported by the Judiciary Committee with some amendments. The committee recommended that the bill as amended pass. The bill I am introducing today is identical with the bill reported by the Judiciary Committee to the floor of the Senate.

The purpose of the proposed legislation is to 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. As the law now stands, the civil investigations in which the involved parties refuse to cooperate in furnishing necessary documentary evidence, the Attorney General must either authorize the holding of a grand jury and use the subpoena power of the grand jury to obtain the withheld evidence or he must risk filing a civil complaint without having complete information and undertake to obtain necessary evidence after the filing of the complaint through the use of the Federal Rules of Civil Procedure such as interrogatories, motions to produce documents, depositions, et cetera.

It seems to me that the holding of a grand jury investigation and the use of criminal subpoena power for the development of a civil case is a harsh method for the procurement of civil evidence, resulting in delay and inconvenience for the Government and probable embarrassment to businessmen against whom there does not appear to be any just cause for criminal proceedings. Under the alternative of filing a civil complaint and then proceeding under the Rules of Civil Procedure to obtain necessary information and evidence, the Department of Justice must proceed at a considerable risk of having to dismiss a complaint because their belief of a civil

violation is not supported when all of the evidence has been obtained. Since the Department in such a case is proceeding without full information, it may become necessary to further delay the prosecution of the civil case by substantial amendments to the complaint in order to make it conform to the evidence which the Department should have had prior to the filing of the complaint.

This bill which I am introducing, and which was recommended by the Judiciary Committee in the 86th Congress, in my opinion, would remedy this weakness in the enforcement of the antitrust laws by the Department of Justice and make its civil enforcement of those laws much more effective.

It has been my observation in my work in the antitrust field in the Senate, and persons of long experience in antitrust enforcement also have told me, that obtaining evidence for the enforcement of the antitrust laws has become much more difficult than in the early years of the antitrust enforcement program. One of the reasons for this situation is the inadequacy of the power of the Attorney General to obtain access to documentary evidence expeditiously and at the most appropriate time—that is, before a decision must be made on whether a complaint should be filed and before the filing of the complaint.

I believe that this bill should be passed and would be in the public interest. Mr. President, I request that the bill lie on the table for 5 days in order that any other Senators who wish to cosponsor it may have the opportunity of doing so.

The PRESIDING OFFICER. The bill will be received, appropriately referred; and, without objection, the bill will lie on the desk, as requested by the Senator from Tennessee.

The bill (S. 167) to authorize the Attorney General to compel the production of documentary evidence required in civil investigations for the enforcement of the antitrust laws, and for other purposes, introduced by Mr. KEFAUVER, was received, read twice by its title, and referred to the Committee on the Judiciary.

SHERMAN ACT AND FEDERAL TRADE COMMISSION ACT APPLICABLE TO BASEBALL

Mr. KEFAUVER. Mr. President, I am introducing a bill to make the Sherman Act and the Federal Trade Commission Act applicable to the organized team sport of baseball and to limit the applicability of such laws so as to exempt certain aspects of the organized professional team sports of baseball, football, basketball, and hockey, and for other purposes. This bill is the same as S. 3483 which I introduced in the 86th Congress. It has two principal purposes; namely, the correction of the discriminations and inequities which were created by the conflicting decisions of the Supreme Court in applying the antitrust laws to the different sports and the granting to each of the four professional team sports exemptions from the antitrust laws and the Federal Trade Com-

mission Act which are believed necessary to allow those sports to exist without undue legal harassment.

The bill is divided into two titles. Title I grants exemptions from the Sherman Act and the Federal Trade Commission Act to the professional sports of football, basketball, and hockey. Title II places professional baseball under the Sherman Act and the Federal Trade Commission Act since the Supreme Court held that professional baseball was not a business within the application of those acts, and in later decisions indicated its belief that the reversal of the Supreme Court's old decision by placing baseball under the antitrust laws should be left to the Congress since the Congress was in better position to do so. Title II then exempts from the Sherman Act and the Federal Trade Commission Act certain agreements and actions by professional baseball which are needed for the continued success and growth of the professional sport.

The exemptions as to all of the sports include actions and agreements necessary to permit the organized sports to provide for, first, the equalization of competitive playing strengths; second, the employment, selection, or eligibility of players, or the reservation, selection, or assignment of player contracts; third, the right to operate within specific geographic areas with certain limitations on that right; and, fourth, the preservation of public confidence in the honesty in sports contests.

The exemption for the sport of baseball with respect to the reservation, selection or assignment of player contracts has certain limitations which are not applied to the other sports due to circumstances with respect to players which are peculiar to organized baseball and do not exist in the other sports.

The bill also provides with respect to all of the sports named in it an exemption from the antitrust laws to which I have referred with respect to telecasting of professional games. This exemption is so qualified as to prevent the destruction of college football by telecasting professional games into the home territory of a college game when the college game is being played without the consent of the colleges holding the game. Since the sports other than baseball do not have minor league clubs, the destruction of college games is the only problem involved in telecasting by the professional clubs in those sports. However, in baseball there is a minor league system which appears to be necessary to the success and growth of the major leagues. It, therefore, is necessary to give protection to the minor leagues in the telecasting of major league games. This protection is afforded in title II of the bill. A major league club may not telecast in the home territory of a minor league game during the time when that game is being played without written consent of the minor league club. In order that a minor league club which may desire to permit telecasting provided they are compensated for the losses incurred through such telecasting by the major league, the bill provides that organized baseball can work out agree-