S. 3388

IN THE SENATE OF THE UNITED STATES

APRIL 10 (legislative day, MARCH 29), 1950

Mr. HUMPHREY (for himself, Mr. PEPPER, and Mr. MURRAY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the existing laws against unlawful restraints and monopolies, to provide additional punishment for violations of such laws, and to permit the United States, as well as private persons, to commence treble-damage actions.

1. Be it enacted by the Senate and House of Representa-
2. tives of the United States of America in Congress assembled,
3. That
1 of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

"No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of one or more corporations engaged in commerce, where in any line of commerce in any section of the country, the effect of such acquisition, of such stocks or assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly.

"This section shall not apply to corporations purchasing same by
shall be given precedence over cases pending therein, and shall be in every way expedited. No order of the Commission, Authority, or Board or the judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust Acts.

"Complaints, orders, and other processes of the Commission, Authority, or Board under this section may be served by anyone duly authorized by the Commission, Authority, or Board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same."

Sec. 2. (a) Section 2 (a) of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", as amended (U. S. C., 1940 edition, title 15, sec. 13 (a)), is amended by inserting
immediately after the colon at the end of the first proviso the following: "Provided, however, That it shall be unlawful for any seller to sell at a price, discount, or other terms, by reason of quantities sold, or seasonal order, or for any other reason, unless he has undertaken in good faith (1) to make known to all of his customers that such price and/or discount and/or term is available to them under the same conditions to all of his customers for a reasonable period of time:"

(b) The amendment made by this section shall be applicable only with respect to sales made after sixty days after the date of the enactment of this Act.

Section 1, section 2, and section 3 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" of July 2, 1890, as amended (15 U. S. C., sec. 1, sec. 2, and sec. 3), are hereby amended so that in each such section the phrase "fine not exceeding five thousand dollars" shall read "fine not exceeding fifty thousand dollars".

(a) Any person convicted of any offense under the antitrust laws shall, as part of the punishment for such offense, be barred, for not less than two nor more than five years, from serving, directly or indirectly, in the capacity of officer, director, executive, legal counsel, adviser, and any similar capacity, with any corporation or corporations convicted in the same proceedings, and from, directly or
indirectly, receiving any compensation, remuneration, or other consideration therefor, or by way of indemnification for being so barred. If he shall have been connected with any such convicted corporation in any such capacity during the commission of the criminal acts for which he has been convicted, he shall be so barred from such corporation for not less than three years, instead of two years as provided above. If he is a second offender by reason of prior conviction under the antitrust laws, he shall be barred for not less than ten years, instead of the time provided for above; if a third offender, he shall be permanently barred, and the bar shall extend to serving with all corporations engaged in commerce.

(b) The punishment under paragraph (a) of this section may, in the discretion of the court, be made applicable not only with respect to corporations convicted in the same proceedings but also with respect to any one or more of the following: (1) Any or all corporations engaged in the same kinds of business as such convicted corporations, (2) any or all trade associations or corporations serving members or clients engaged in any such kinds of business, and (3) any or all corporations of any kind engaged in commerce.

(c) For the purposes of this section, the term "antitrust laws" has the meaning assigned to such term in 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, and includes

(d) United States district courts and United States
judges are hereby specifically vested with authority to carry
out the provisions of this section.

SEC. 4. (a) Section 7 of the Act entitled “An Act to
protect trade and commerce against unlawful restraints and
monopolies”, approved July 2, 1890 (26 Stat. 210), is
amended by adding at the end thereof the following new
sentence: “Any action pursuant to this section may be insti-
tuted within six years after the accrual of the cause of action
hereunder; or, in the case of any such cause of action based
upon an alleged conspiracy in violation of this Act, within
six years after the discovery by the plaintiff of the facts upon
which he relies for proof of the existence of such conspiracy,
if the plaintiff has exercised due diligence in seeking to dis-
cover such facts.”

(b) Section 4 of the Act entitled “An Act to supple-
ment existing laws against unlawful restraints and monopo-
lies, and for other purposes”, approved October 15, 1914
(38 Stat. 731, as amended; 15 U. S. C. 15), is amended
by adding at the end thereof the following new sentence:
“Any action pursuant to this section may be instituted
within six years after the accrual of the cause of action hereunder; or, in the case of any such cause of action based upon an alleged conspiracy in violation of the antitrust laws, within six years after the discovery by the plaintiff of the facts upon which he relies for proof of the existence of such conspiracy, if the plaintiff has exercised due diligence in seeking to discover such facts."

(c) The amendments made by this section shall be applicable to any cause of action which has accrued within six years prior to the date of enactment of this Act; or, in the case of any such cause of action based upon an alleged conspiracy in violation of the antitrust laws (as such laws are defined in section 1 of the Act of October 15, 1914), in which the plaintiff has discovered, within six years prior to the date of enactment of this Act, the facts upon which he relies for proof of the existence of such conspiracy, if the plaintiff has exercised due diligence in seeking to discover such facts and has instituted action on or before the expiration of one year after the date of enactment of this Act.

Sec. 5. Section 7 of the Act of July 2, 1890, as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", and that section 4 of the Act of October 15, 1914, as amended, entitled "An Act to supplement existing laws against unlawful
restraints and monopolies, and for other purposes" (15 U. S. C., sec. 15), are hereby amended so that in each said section the words "Any person who shall be injured in his business or property" shall read "Any person, including the United States, who shall be injured in his business or property".

(2) The amendment made by this section shall be applicable to any cause of action which is pending in any court of the United States, at any time after the enactment of the Act of October 15, 1914, if the cause of action arose or if any part of the injury complained of in such cause of action proximately resulted from acts or transactions occurring after the enactment of the Act of October 15, 1914.