

The Administration's Anti-Trust Bills

Text of the Three Measures Passed by the House of Representatives, June 5, 1914

Clayton Omnibus Anti-Trust Bill

H. R. 15657.—An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, that "anti-trust laws," as used herein, includes the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the government and for other purposes," of August twenty-seventh, eighteen hundred and ninety-four; an act entitled "An act to amend sections seventy-three and seventy-six of the act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An act to reduce taxation, to provide revenue for the government, and for other purposes,'" approved February twelfth, nineteen hundred and thirteen; and also this act.

"Commerce," as used herein, means trade or commerce among the several states and with foreign nations, or between the District of Columbia or any territory of the United States and any state, territory or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any state or territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any territory or any insular possession or other place under the jurisdiction of the United States.

The word "person" or "persons" wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the territories, the laws of any state, or the laws of any foreign country.

Sec. 2. That any person engaged in commerce who shall either directly or indirectly discriminate in price between different purchasers of commodities in the same or different sections or communities, which commodities are sold for use, consumption, or resale within the United States or any territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, with the purpose or intent thereby to destroy or wrongfully injure the business of a competitor, of either such purchaser or seller, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court: Provided, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of transportation: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers, except as provided in section three of this act.

Sec. 3. That it shall be unlawful for the owner, operator, or transporter of the product or products of any mine, oil or gas well, reduction works, refinery, or hydroelectric plant producing coal, oil, gas, or hydroelectric energy, or for any person controlling the product thereof, engaged in selling such product in commerce to refuse arbitrarily to sell such product to a responsible person, firm, or corporation who applies to purchase such product for use, consumption, or resale within the United States or any territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and any person violating this section shall be deemed guilty of a misdemeanor and shall be punished as provided in the preceding section.

Sec. 4. That any person engaged in commerce who shall lease or make a sale of goods, wares, merchandise, machinery, supplies, or other commodities for use, consumption, or re-

sale within the United States, or any territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court.

Sec. 5. That any person who shall be injured in his business or property by reason of anything forbidden in the anti-trust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover three-fold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

Sec. 6. That whenever in any suit or proceeding in equity hereafter brought by or on behalf of the United States under any of the anti-trust laws there shall have been rendered a final judgment or decree to the effect that a defendant has entered into a contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce, or has monopolized, or attempted to monopolize or combined with any person or person to monopolize, any part of commerce, in violation of any of the anti-trust laws, said judgment or decree shall, to the full extent to which such judgment or decree would constitute in any other proceeding an estoppel as between the United States and such defendant, constitute against such defendant conclusive evidence of the same facts, and be conclusive as to the same questions of law in favor of any other party in any action or proceeding brought under or involving the provisions of any of the anti-trust laws.

Whenever any suit or proceeding in equity is hereafter brought by or on behalf of the United States, under any of the anti-trust laws, the statute of limitations in respect of each and every private right of action, arising under such anti-trust laws, and based, in whole or in part, on any matter complained of in said suit or proceeding in equity, shall be suspended during the pendency of such suit or proceeding in equity.

Sec. 7. That nothing contained in the anti-trust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers, agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders or associations from carrying out the legitimate objects thereof; nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the anti-trust laws.

Nothing contained in the anti-trust laws shall be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement as to any matter which is subject to the regulating or supervisory jurisdiction of the interstate commerce commission, but all such matters shall continue to be subject to such jurisdiction of the commission, and all such agreements shall be entered and kept of record by the carriers, parties thereto, and shall at all times be open to inspection by the commission, but no such agreement shall go into effect or become operative until the same shall have first been submitted to, and approved by, the interstate commerce commission: Provided, That nothing in this act shall be construed as modifying existing laws prohibiting the pooling of earnings or traffic, or existing laws against joint

agreements by common carriers to maintain rates.

Sec. 8. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition is to eliminate or substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to create a monopoly of any line of trade in any section or community.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, is to eliminate or substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired or to create a monopoly of any line of trade in any section or community.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to eliminate or substantially lessen competition.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: Provided, That nothing in this paragraph shall make stockholding relations between corporations legal when such relations constitute violations of the anti-trust laws.

Nor shall anything herein contained be construed to prohibit any railroad corporation from aiding in the construction of branch or short line railroads so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch line, nor to prevent any railroad corporation from acquiring and owning all or any part of the stock of a branch or short line railroad constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent any railroad company from extending any of its lines through the medium of the acquisition of stock or otherwise of any other railroad company where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

A violation of any of the provisions of this section shall be deemed a misdemeanor, and shall be punishable by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court.

Sec. 9. That from and after two years from the date of the approval of this act no person who is engaged as an individual, or who is a member of a partnership, or is a director or other officer of a corporation that is engaged in the business, in whole or in part, of producing or selling equipment, materials, or supplies to, or in the construction or maintenance of, railroads or other common carriers engaged in commerce, shall act as a director or other officer or employee of any other corporation or common carrier engaged in commerce to which he, or such partnership or corporation, sells or leases, directly or indirectly, equipment, materials or supplies, or for which he or such partnership or corporation, directly or indirectly, engages in the work of construction or maintenance; and after the expiration of said period no person who is engaged as an individual or who is a member of a partnership or is a director or other officer of a corporation which is engaged in the conduct of a bank or trust company shall act as a direc-