ANTITRUST TECHNICAL CORRECTIONS ACT OF 2001

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 809) to make technical corrections to various antitrust laws and to references to such laws.

The Clerk read as follows:

H.R. 809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Antitrust Technical Corrections Act of 2001''.

SEC. 2. AMENDMENTS.

(a) ACT OF MARCH 3, 1913.—The Act of March 3, 1913 (chapter 114, 37 Stat. 731; 15 U.S.C. 30) is repealed.

(b) PANAMA CANAL ACT.—Section 11 of the Panama Canal Act (37 Stat. 566; 15 U.S.C. 31) is amended by striking the undesignated paragraph that begins ''No vessel permitted''.

(c) SHERMAN ACT.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended—

(1) by inserting ''(a)'' after ''SEC. 3.'', and

(2) by adding at the end the following:

''(b) Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce in any Territory of the United States or of the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia, and any State or States or foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.''.

(d) WILSON TARIFF ACT.—

(1) TECHNICAL AMENDMENT.—The Wilson Tariff Act (28 Stat. 509; 15 U.S.C. 8 et seq.) is amended—

(A) by striking section 77, and

(B) in section 78—

(i) by striking ''76, and 77'' and inserting ''and 76''; and

(ii) by redesignating such section as section 77.

(2) CONFORMING AMENDMENTS TO OTHER LAWS.—

(A) CLAYTON ACT.—Subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)) is amended by striking ''seventy-seven'' and inserting ''seventy-six''.

(B) FEDERAL TRADE COMMISSION ACT.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by striking ''77'' and inserting ''76''.

(C) PACKERS AND STOCKYARDS ACT, 1921.—Section 405(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 225(a)) is amended by striking ''77'' and inserting ''76''.

(D) ATOMIC ENERGY ACT OF 1954.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by striking ''seventy-seven'' and inserting ''seventy-six''.

(E) DEEP SEABED HARD MINERAL RESOURCES ACT.—Section 103(d)(7) of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1413(d)(7)) is amended by striking ''77'' and inserting ''76''.

(e) CLAYTON ACT.—The first section 27 of the Clayton Act (15 U.S.C. 27) is redesignated as section 28 and is transferred so as to appear at the end of such Act.

(f) YEAR 2000 INFORMATION AND READINESS DISCLOSURE ACT.—Section 5(a)(2) of the Year 2000 Information and Readiness Disclosure Act (Public Law 105–271) is amended by inserting a period after ''failure''.

SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION TO CASES.—(1) Section 2(a) shall apply to cases pending on or after the date of the enactment of this Act.

(2) The amendments made by subsections (b), (c), and (d) of section 2 shall apply only with respect to cases commenced on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 809, the Antitrust Technical Corrections Act of 2001, which I have introduced along with the committee's ranking member, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Illinois (Mr. HYDE).

This bill makes six separate technical corrections to our antitrust laws. Three of these corrections repeal outdated provisions of the law. One clarifies a long existing ambiguity relating to the application of the law to the District of Columbia and the territories, and two correct typographical errors in recently passed laws.

This bill is identical to a bill which the House passed by a voice vote last year, except that two typographical corrections have been added. The committee has informally consulted with the antitrust enforcement agencies, the Antitrust Division of the Department of Justice and the Bureau of Competition of the Federal Trade Commission, and the agencies indicate that they do not object to any of these changes.

In response to written questions following the committee's November 5, 1997 oversight hearing on the antitrust enforcement agencies, the Department of Justice recommended two of the repeals and the clarification contained in this bill.

First, H.R. 809 repeals the Act of March 3, 1913. That act requires all depositions taken in Sherman Act cases brought by the government be conducted in public. In the early days, the courts conducted such cases by deposition without any formal trial proceeding. Thus, Congress required that the depositions be open as a trial would be. Under the modern practice of broad discovery, depositions are generally taken in private and then made public if they are used at trial.

Under our system, section 30 causes three problems: First, it maintains a special rule for a narrow class of cases when the justification for that rule has disappeared.

Second, it makes it hard for a court to protect proprietary information that may be at issue in an antitrust case.

And, third, it can create a circus atmosphere in the deposition of a high profile figure. In an appeal in the Microsoft case, the U.S. Court of Appeals for the District of Columbia Circuit invited Congress to repeal this law.

Second, H.R. 809 repeals the antitrust provision in the Panama Canal Act. Section 11 of the Panama Canal Act provides no vessel owned by someone who is violating the antitrust laws may pass through the Panama canal.

The committee has not been able to determine why this provision was added to the act or whether it has ever been used. However, with the return of the canal to Panamanian sovereignty at the end of 1999, it is appropriate to repeal this outdated provision.

The House Committee on Armed Services has jurisdiction over the Panama Canal Act, and I appreciate the willingness of that committee's chairman, the gentleman from Arizona (Mr. STUMP), to expedite this noncontroversial bill.

Third, H.R. 809 clarifies that section 2 of the Sherman Act applies to the District of Columbia and its territories. Two of the primary provisions of antitrust law are section 1 and section 2 of the Sherman Act. Section 1 prohibits conspiracies in restraint of trade, and section 2 prohibits monopolization.

Section 3 of the Sherman Act was intended to apply these provisions to the District and the various territories of the United States. Unfortunately, however, the ambiguous drafting in section 3 leaves it unclear whether section 2 applies to these areas. The committee is aware of at least one instance in which the Department of Justice declined to bring an otherwise meritorious section 2 claim in a Virgin Islands case because of this ambiguity.

This bill clarifies both section 1 and section 2 apply to the District and the Territories. All of the congressional representatives of the District and the Territories are cosponsors of this bill.

Finally, H.R. 809 repeals a redundant antitrust jurisdiction provision in section 77 of the Wilson Tariff Act. In 1955, Congress modernized the jurisdictional and venue provisions relating to antitrust suits by amending section 4 of the Clayton Act. At that time it repealed the redundant jurisdictional provision in section 7 of the Sherman Act but not the one in section 77 of the Wilson Tariff Act. It appears this was an oversight, because section 77 was never codified and has been rarely used.

Repealing section 77 will not diminish any jurisdiction or venue rights because section 4 of the Clayton Act provides any potential plaintiff with broader jurisdiction and venue rights in section 77. Rather, the repeal simply rids the law of a confusing, redundant, and little-used provision.

Finally, the bill corrects an erroneous section number designation in

the Curt Flood Act passed in 1998, and it inserts an inadvertently omitted period in the Year 2000 Information and Readiness Disclosure Act. Neither of these corrections makes any substantive change.

I believe that all of these provisions are noncontroversial and they will help clean up some underbrush in the antitrust laws and recommend that the House suspend the rules and pass the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

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

Mr. CONYERS. Mr. Speaker, I am pleased to join the chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER) in support of these technical corrections to antitrust law.

The gentleman has described them adequately. There are six noncontroversial changes. We are in total support. And I might add that we have had a very bipartisan experience in the Committee on the Judiciary during the period of time that we have been working on bills together, so I am happy to join with the chairman in support of the measure.

I am pleased to join the gentleman from Wisconsin (Mr. SENSENBRENNER) in support of H.R. 809, the ''Antitrust Technical Corrections Act of 2001.'' The Chairman and I have worked together on this bill, and we have consulted with the Department of Justice Antitrust Division and the Federal Trade Commission Bureau of Competition to ensure that the technical changes made in the bill will improve the efficiency of our antitrust laws.

When the gentleman from Wisconsin and I met at the beginning of this Congress, he spoke about creating a more bi-partisan approach on the Judiciary Committee. I am gratified that his conciliatory words were followed up by deeds, and I hope that this is the kind of cooperative relationship we can look forward to throughout the 107th Congress.

To briefly summarize, H.R. 809 makes six non-controversial changes in our antitrust laws to repeal some out-dated provisions of the law, to clarify that our antitrust laws apply to the District of Columbia and to the Territories, and to make some needed grammatical and organizational changes.

The bill will permit depositions taken in Sherman Act equity cases brought by the government to be conducted in private—just as they are in all other types of cases. It also repeals a little-known and little-used provision that prohibits vessels from passing through the Panama Canal if the vessel's owner is violating the antitrust laws. With the return of the Canal to Panama in 1999, it is appropriate to repeal this outdated provision.

H.R. 809 also clarifies that Sherman Act's prohibitions on restraint of trade and monopolization apply to conduct occurring in the District of Columbia and the various territories of the United States. It also repeals a redundant jurisdiction and venue provision in Section 77 of the Wilson Tariff Act. Finally, the bill makes two minor grammatical and organizational changes to the antitrust laws.

Again, I want to thank the chairman for his bi-partisan approach on this legislation, and I urge its passage.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to thank Chairman SENSENBRENNER, and Ranking Member CONYERS for their work in bringing H.R. 809, the ''Antitrust Technical Corrections Act of 2001,'' before the House for consideration.

This bill seeks to make six technical corrections to United States antitrust laws. Three of these technical corrections repeal outdated provisions of the law, one clarifies a long existing ambiguity regarding the application of the law to the District of Columbia and the territories, one is organizational in nature, and one is grammatical. The Committee has informally consulted the antitrust enforcement agencies, the Antitrust Division of the Department of Justice and the Bureau of Competition of the Federal Trade Commission, and the agencies have indicated that they do not object to any of these changes. In response to written questions following the Committee's November 5, 1997 oversight hearing on the antitrust enforcement agencies, the Department of Justice recommended two of the repeals and the clarification contained in this bill.

Those provisions of the Sherman Antitrust Act, which deal with conspiracies regarding the establishment of monopolies have not been clearly defined as they relate to the District of Columbia. The changes being made by this legislation will make it clear that the District of Columbia and other U.S. territories are included under the preview of the Justice Department as it relates to Antitrust Law enforcement in the United States.

Finally, this legislation will repeal the redundant Antitrust Jurisdictional Provision in Section 77 of the Wilson Tarrif Act. This repeal will not diminish any substantive rights because Section 4 of the Clayton Act provides any potential plaintiff with broader rights of jurisdiction and venue than does Section 77. This repeal will only rid the existing law of a confusing, redundant, and little used provision.

I am in support of these minor changes to our Nation's antitrust laws, and urge my colleagues on both sides of the aisle to vote in favor of this legislation.

Ms. NORTON. Mr. Speaker, I rise in strong support of H.R. 809, the Antitrust Technical Corrections Act of 2001. I want to thank Chairman SENSENBRENNER and Ranking Member CONYERS for their leadership in bringing this important corrective measure to the floor so early in the session. Because of the bill's beneficial impact on the District of Columbia and the territories, I am pleased to be an original cosponsor.

Section 2(c) of the Antitrust Technical Corrections Act would close a potentially dangerous loophole in the nation's antitrust laws with respect to the District of Columbia and the territories. Two of the most important provisions of the Sherman Act are 15 U.S.C. sections 1 and 2. Section 1 prevents conspiracy in restraint of trade and section 2 prevents monopoly, attempts to create a monopoly and conspiracy to create a monopoly. These provisions form the bedrock of our antitrust laws. However, section 3 of the Sherman Act, which was intended to apply these vital provisions to the District of Columbia and the territories, is ambiguous with respect to whether section 2, prohibiting monopolies, applies to these jurisdictions. Despite the ambiguous language in section 3 of the Sherman Act, we believe that Congress clearly intended the nation's antitrust laws to apply not only to the states, but to the territories and the District of Columbia as well. This bill would clarify that intent.

The committee has found at least one instance in which the Department of Justice decided not to bring a potentially meritorious monopoly claim under section 2 of the Sherman Act because of the ambiguous language in section 3. Although this case occurred in the Virgin Islands and not the District, the Antitrust Technical Corrections Act is necessary to safeguard against a similar occurrence in the District and to ensure the seamless application of our antitrust laws not only throughout the nation but also in the territories and the nation's capital.

I thank the chairman and ranking member once again for their attention to this important matter and urge my colleagues to support this bill.

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 809.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

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MADRID PROTOCOL IMPLEMENTATION ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 741) to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes.

The Clerk read as follows:

H.R. 741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Madrid Protocol Implementation Act''.

SEC. 2. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the ''Trademark Act of 1946'') is amended by adding after section 51 the following new title:

''TITLE XII—THE MADRID PROTOCOL

''SEC. 60. DEFINITIONS.

''For purposes of this title:

''(1) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the