



Department of Justice

ADDRESS

OF

THE HONORABLE EDWIN MEESE III
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE MID-AMERICA COMMITTEE

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GENERAL MEESE IN CHICAGO.

ATTORNEY GENERAL MEESE: It's good to be with you here tonight, and I want to tell you that I've thoroughly enjoyed the great Chicago welcome that I've received today during my visit to your city and particularly appreciate this invitation to be with you tonight.

I'd also like to congratulate the city of Chicago and particularly this organization for making a great contribution recently in sending one of your members, Clayton Yeutter, to our administration where he's doing such an outstanding job as the United States Trade Representative.

(Applause.)

And I also want you to know it's good to see here among the friends that I've had the privilege of greeting a couple of our administration alumni: Paul Robinson, who did such a fine job as Ambassador to Canada, and Rich Williamson, who has just returned from able duty as Ambassador to the United Nations in Geneva. They're both with us tonight.

(Applause.)

It's a great honor for me to have the privilege of addressing this organization, the Mid-America Committee for International Business and Government Cooperation.

As I look out over this distinguished gathering, I see some of the best business and legal talent that our nation has to offer, senior executives of some of the largest multinational corporations in the Midwest and senior partners from Chicago's

top law firms. I'm very honored that you would come out to this gathering this evening.

It's also good to know that through the Mid-America Committee, you're exchanging views on international trade, investment, and economic policy on a continuing basis with top government officials at home and abroad. Tonight Tom Miner and I had the opportunity to talk about some of the people you've had here as your guests and who you've heard in previous settings here.

Your President, Tom Miner, is to be commended for taking an important idea, the idea of international business and government cooperation, and putting that idea into practice as you do here in this organization. I would suggest that today it's an idea that's even more timely, or certainly as timely as it was when the committee was founded nearly 20 years ago.

One of the purposes of exchanging views is to enable business and government to understand each other better. This is no small task, as I know from having been on both sides of that divide. As a matter of fact, people who want to bring government and business together today are probably the type of people who would have been brave enough to have invited the Hatfields and the McCoys to the same family picnic.

But, fortunately, there are organizations such as this Mid-America Committee which bring together corporate leaders and government officials so we can all better understand each other's perspective, and hopefully, by working together, resolve some of the problems that face our country.

It's been noted in the news media recently that several of us in the Reagan administration are frequently seen wearing neckties showing the symbol of Adam Smith. Now Adam Smith, as I'm sure most of you know, was a Scottish philosopher and an economist who set out the principles of free markets and freedom in international trade in his famous book The Wealth of Nations.

Well, like Adam Smith, this administration is dedicated to something that I think is also very much in line with your thinking, and that is free market economics. Unfortunately, it has become necessary during the recent protectionist tempest that has come to Washington, D.C. to restate publicly our commitment as an administration and as a nation to the principles of free trade. This commitment should come naturally, almost instinctively, to a commercial republic like our own. Ours is a republic that's dedicated to private enterprise, to free markets, and to robust competition that keeps prices low and innovation high.

We're a proud nation of capitalists, and commerce has been our life blood. So it's a matter of grave national concern when some, both inside and outside of government, now feel the temptation to tinker with the free flow of commerce. All the more grave, too, is this threat because free markets and free economies are inseparable from, and certainly indispensable to, the political freedom which we have cherished for well over 200 years.

In the course of our growth as a nation, domestic industries have lobbied Congress on a variety of occasions to ease the pressure of foreign competition. Sometimes Congress has given in

to their wishes. When this has happened, American consumers have invariably suffered. Prices have risen, and high quality goods have been kept from our markets.

We now find ourselves in another one of those periods of temptation, unfortunately, not far from a congressional election when the representatives of the people are again feeling protectionist pressures. Some 300 bills are now pending in Congress that would shield certain industries against competition from abroad.

I would suggest to you this evening that if we put this into perspective, such legislation is short-sighted and in the long run dangerous. The President, indeed, has called it a "mindless stampede" toward economic disaster.

He remembers the Smoot-Hawley tariffs which contributed to the Great Depression. And he's warned us that if we repeat the same mistake, we'll pay that price again. The net result of these counter-productive proposals, the President has said, would not be to protect consumers or workers or farms or businesses. In fact, just the reverse would happen. We would lose markets, we would lose jobs, and we would lose our prosperity.

Well, in response to the protectionist spirit and the sentiments that have been running so high on Capitol Hill, the President has proposed and has enunciated what he's called a trade policy action plan. All of us on the Cabinet, including Clayton Yeutter, Mac Baldrige, and others, have contributed to this plan.

It recognizes that free trade and fair trade are in the best interests of Americans. Free trade creates more jobs and raises our standard of living. The discipline of competition which it brings encourages innovation and better use of our resources. If we are to have a free trading system and all of its benefits, then the United States must stand up for it as we face our trading partners around the world.

We are the lynchpin of the system. If we don't support free trade, it will collapse and we will be among the big losers. However, I think it's also important in the same breath to note that our emphasis upon free trade does not excuse our trading partners from the responsibility to do their part in support of that system.

If they are to enjoy its benefits, as indeed they have, they also have a responsibility to lower trade barriers, to eliminate subsidies and unfair trade practices, and to join in negotiations under the General Agreement on Tariffs and Trade. Their cooperation is essential, and their responsibility is just as great as ours. We hope for the benefit of all that that cooperation will be forthcoming.

I can tell you tonight that just as the President is a free trader, he also is very definitely a fair trader. He will both stand up against protectionism and stick up for the United States against unfair competition. The President has already taken specific actions through various agencies and departments of our government to ensure that American businessmen are allowed to compete in the world under fair and open trading conditions.

Under those circumstances, Americans should feel no hesitation about competing with the industries of other countries. When our trading partners play by the rules and all nations have an equal opportunity to compete, we Americans can stay in the race with the best of them.

As we examine tonight the conditions under which American businesses compete with other countries, we should take a more careful look at things here at home. There are many steps other than protectionism that Congress can take which will improve our commercial environment. Lowering dollar exchange rates through the reduction of excessive government spending is one good step, as is enacting the President's fair share tax proposal.

But there is another step that is of particular interest to me as Attorney General, and I think it will interest you also as the executive officers and the lawyers representing major corporations. And this is the revision of our antitrust laws. The world has certainly changed considerably since our major antitrust laws were enacted: the Sherman Act in 1890, the Clayton Act in 1914, and its subsequent amendment by the Celler-Kefauver Act as recently as 1950.

In those days, American industries were pre-eminent in almost every area of manufacture, and it was manufacturing that dominated business in this country. The service industries really counted for very little in comparison with our tremendous capability for the manufacture of goods.

American manufacturers, being far larger than their foreign competitors, enjoyed economies of scale which made us low cost

producers in virtually every field. Our companies dominated the American market as well as most foreign markets. As a matter of fact, we dominated markets so much in the world that for antitrust purposes the only relevant market was the domestic market within our country, and it was virtually pristine.

Exports and imports were but a trickle as a portion of our gross national product during the period when these antitrust laws were created.

But over the past three decades things have changed. With our help, Europe and Japan have experienced tremendous economic growth. Unfettered by antitrust laws in their own countries and often backed by their own governments, the corporations of our world neighbors have reached sizes which afford them tremendous economic efficiencies. Consequently, they have been able to move into the world's market, including our own, as the low cost producers.

Consumers in the United States and in many other countries have shared in the cost savings of these low cost producers. But some of our domestic industries in this country, laboring under cost disadvantages, have been hard pressed to keep up the pace. What types of cost advantages do American firms face? Well, first of all, we know our labor costs are relatively higher and capital costs are rarely subsidized as they often are abroad. But there are other, less visible costs that are hidden in regulation.

Some of these regulations, such as those that affect health and safety, are necessary. But there are many other burdensome

regulations which stifle American competitiveness. President Reagan came to Washington in 1980 determined to do something about excessive regulations, and I think most of us would agree that he has kept his word.

In fact, from 1981 to 1984 the Federal Register, that volume that is published on a regular basis to set forth new regulations and changes in regulations, has been decreased in size some 41 percent. Deregulation has become a byword of our administration. But we have to recognize that antitrust law is also a form of regulation. These laws also have their cost. They also have definite benefits if properly applied.

These laws are an important element of American competitiveness; indeed, they are inextricably intertwined with competitiveness. The costs attributable to antitrust regulation are both tangible and intangible. The tangible costs, of course, include the risk of private treble damage awards and the expense of litigation.

The intangible costs, no less real, come in the form of lost business opportunities, most of which will never be known outside of the companies themselves, and of the weakened ability to compete. It is, therefore, a real balancing act between necessary antitrust laws which will preserve competitiveness within our economy and being careful to make sure that in a global economy those laws are properly implemented.

In weighing the cost of antitrust regulations, we must consider their utility. The original intent of the antitrust laws, particularly the Sherman Act, our original federal

antitrust statute, was to protect consumers against either monopolization or price fixing. The question that we have to ask ourselves today is whether the Sherman Act has been applied as it was originally intended to be, to protect the consumer, or whether, as Judge Robert Bork of the Court of Appeals has suggested, its interpreters have strayed from its original purpose.

We must also consider whether the antitrust regulations which have been added since 1890 are still serving the American consumer. Secretary of Commerce Malcolm Baldrige has outlined very well the task which we face. He has said, "It is our responsibility in government to identify and get rid of needless regulatory and legal obstacles that hamper our industry's ability to remain competitive and workable. These obstacles impose costs upon U.S. firms which these companies no longer can afford to bear." Well, President Reagan looks at it the same way.

Now, I should emphasize that I am speaking in the context of regulation and the consideration of what regulations are in the best interests of American consumers. Let me emphasize, on the other hand, that we at the Department of Justice take very seriously our responsibility for the enforcement of the antitrust laws against those companies which would abuse the consumer either through monopolization or attempted monopolization, through price fixing, or through other anticompetitive practices.

We think that we have a strong record in that regard; a strong record, for example, in prosecuting bid rigging. As Doug Ginsburg, our new Assistant Attorney General for Antitrust has

recently stated, we will extend that expertise against price-fixing and bid rigging to competitive federal procurement contracts, particularly in the defense area. Those who abuse the public will be made to bear the full brunt of the law.

But what I'm suggesting here tonight is that it is time to reexamine our antitrust laws in the regulatory context. It is the responsibility, of course, of the Justice Department to enforce the law. But it's time that we took a look again at first principles and decide what that law should be. And here I'm following the lead of President Reagan.

The President has directed his Cabinet, if warranted, to recommend amendment to those antitrust laws which impede our international competitiveness. Acting in accord with his directive, the Economic Policy Council and the Domestic Policy Council, of which I'm Chairman, have established a joint working group on antitrust review. Its purpose is, for the first time in many years, on behalf of the executive branch of government, to conduct a comprehensive analysis of our antitrust laws and policies and to prepare as soon as possible specific proposals for reform. And these proposals have a wide scope.

As a matter of fact, I'm sure you've heard of Mac Baldrige's own recommendation that we scrap Section 7 of the Clayton Act entirely. Well, I can't promise that such drastic surgery will come out of this review, but I can say that because of the pressure of competition and the protectionist reaction, and our desire to prevent protectionism from being carried into reality,

this is urgent business, and the working group is already hard at work.

It's chaired by representatives of the Departments of Treasury and Justice, and other participants are coming from such Departments as State, Commerce, and Labor, as well as from the Office of Management and Budget, the Office of the United States Trade Representative, the Council of Economic Advisors, and the White House. We've deliberately tried to have the group broadly based within the executive branch, representing a variety of perspectives and a variety of attitudes.

In this way we'll be able to examine our antitrust laws from a number of vantage points. We feel that antitrust is no longer an issue only for lawyers, but is a matter of vital interest to everyone who has a stake in our economy. It's certainly our intention at the Department of Justice -- and I believe I can safely say for all the other participants -- that we plan to take a hard look at the existing antitrust laws without any preconceived notions about what ought to be or what should not be. We're bringing no sacred cows to this important discussion, and everything is on the table for consideration.

There are many changes in the antitrust laws which this working group is going to consider. Unfortunately, time -- and I might add, prudence -- do not permit me to discuss them publicly right now. But let me say that our antitrust laws should be constructed in such a way -- and amended if necessary -- to allow United States firms which are engaged in vigorous competition in global markets to effect every possible efficiency.

Under such conditions, industries must be permitted to restructure themselves without unnecessary government interference, and they must be allowed to do so free from the vagueness of changing administrations. There has to be a stability in our antitrust laws and in their enforcement so that there can be some predictability in terms of business planning.

In the 95 years since our antitrust laws were first enacted, we've learned a great deal about industries and about markets, and about the interrelationship between these markets and industries and the economy.

We've learned that big is not necessarily bad and that small and many are not of themselves necessarily good. We've also learned that market share is more important than concentration in determining profitability and that the success of large firms most often depends on economies of scale, not on collusion.

There are other things which this commercial republic has understood since its earliest days, the days not only of Madison and Jefferson, but of Adam Smith and The Wealth of Nations; in particular, we understand that free markets are the best and the fairest markets for all. The answers to the current problems of certain distressed American businesses do not lie in an industrial policy administered by bureaucrats who are far removed from the marketplace.

Nor do they lie in locking out the rest of the world from America's markets. Rather, the key to renewed American competitiveness lies in giving Americans and American business a fighting chance at global markets, and that means free and fair

trade. It means freeing our industries of excessive regulations, and it means allowing corporations to decide in their own boardrooms how best to carry the fight for market share to the Sumo-sized corporations of Japan.

It also means, of course, as I mentioned earlier, that we urge upon our trading partners, upon our friends, and upon the other nations of the world the requirements of fair competition. In short, I would suggest tonight that the greatest service which we in the Department of Justice as well as in the rest of this Administration can do for the American consumer and for American business is to work to establish fair, free markets on a global basis. That is an objective which is certainly deserving of the highest level of cooperation between business and government and a goal to which I am sure we are all mutually committed.

Thank you.