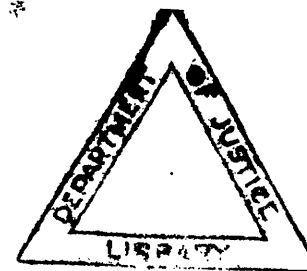


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PROBLEMS IN PROTECTING OUR FREEDOMS

ADDRESS

BY

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PROBLEMS IN PROTECTING OUR HERITAGE OF FREEDOM

It is an honor to be your guest tonight to discuss with you problems inherent in protecting our freedoms.

Man being man, I suppose that, for time eternal, he will have problems -- some large, some small.

But the history of America shows that, with our great devotion to our country and with our intellectual and spiritual strength, these problems -- one by one -- are solved in time.

Let us think back to what happened just 15 years ago today. The great New York World's Fair was about to open. It was designed as a symbol of the ability of all men to live and work together, and to exchange the fruits of their labors anywhere in the world.

However, on that same day, April 28, 1939, Hitler began his final preparations for a maniacal bid to rule the world; to turn its millions and millions of inhabitants into slaves. It was on that April 28th that Hitler scrapped the war renunciation treaty with Poland, that he tore up the naval limitation pact with England, that he demanded Danzig and that he sneeringly rebuffed our government's plea for peace.

It was a big day's work for Adolf Hitler. It led, within a few months, to the bitter fighting and hardships of World War II. In the end, of course, peace was restored, and once more our freedoms had been preserved.

Our nation turned again to the paths of peace. However, it soon became evident that Red Fascism, learning no lesson in the victory of true freedom-loving peoples over the Axis, was flexing its muscles. When the Red dictators reached out to add the people of Korea to their godless empire, freedom-loving peoples rose together once more to halt aggression on the weak.

Now, this threat of Communism is twofold. Its dark shadow threatens from without and from within. Knowing this, the Eisenhower Administration has been building the nation's defenses.

In the fight against the Communist threat from without, our President inflicted on the world-wide Red conspiracy its greatest psychological defeat. The Kremlin's propaganda machine long bragged that free men, given free choice, would renounce what they call the decadent governments of the free world. But with the whole world watching, only 21 Americans, one British and 325 South Korean soldiers chose to remain under Communism after the Korean fighting ended. And, 21,809 Red Chinese and North Korean fighting men, who had lived under Communism, refused to return to it -- even knowing what their decision could mean to wives and children back home.

Meantime, under the President's leadership, military and non-military measures for continental defense are being strengthened. The entire program is directed toward forces, weapons and strategy which will provide the greatest combat effectiveness at the lowest cost in manpower and resources.

Strengthening our defenses has not deterred the President's drive for world peace. He is still working whole-heartedly toward the time when atomic power may be used for peace -- its great energy turned to the task of developing the wastelands of the world for the good of all men. As the President says, we seek "to find the way by which the miraculous inventiveness of man shall not be dedicated to his death but consecrated to his life."

Then there is the threat of Communist infiltration here at home. Within the framework of the Constitution and our laws, this Administration is dedicated to striking the Communists at every opportunity.

We believe that the most successful attack against a conspiracy is to destroy its leadership. This we are doing. The success of our prosecutions has been a serious blow to the Communist Party. The Communist Party is off balance. Like any common gang of criminals, its members are haunted by the fear of not knowing where our legal and constitutional weapons will be used next. This fear, we know, has dampened their effectiveness. But we cannot relax. We must ever be vigilant to meet any move they make. To this, your FBI and Department of Justice are dedicated.

Now, I desire to devote my talk tonight to one of the basic freedoms of this great nation of ours - one in which the Department of Justice has an opportunity to play a significant part. It is a freedom which must be protected fully if this nation is to prosper as it has since it was founded. It is the freedom of enterprise.

We all know that the principal factor underlying the American revolution was economic. The colonists were not, in the beginning of their revolt, anxious to cast off their ties with England. They sought instead freedom to produce what they desired, to sell it where they pleased. In government, they sought only home rule to handle their local affairs.

But, the oppression on free trade became so severe that colonists began to question the authority of Parliament. They finally turned their venom on King George the Third. The real demand for a complete break with England came then, only when their demand for equality had been rejected.

The feelings of the people on the question of economic freedom is probably best expressed by letters to the Boston Gazette in 1765 asking: "Can anyone tell me why trade, commerce, arts, science, and manufactures, should not be as free for an American as for an European?" And another colonist asked "is there anything in the nature of our allegiance that forbids a colonist to push the manufacture of iron much beyond the making of a horse shoe or a hob-nail?"

Fortunately since the Revolution, our industry and trade, in the main, has been free. But unfortunately, from time to time, men in private enterprise and in Government, through lack of understanding of what made this nation great, have attempted to hamstring our economy with restraints. The situation became so serious in the latter part of the nineteenth century that Congress acted to halt the growth of monopoly power so great that it threatened to stunt America's progress. The Sherman Antitrust Act came into being in 1890. This and subsequent laws have served to keep alive our so-necessary free enterprise system.

We saw ~~politicians~~ seek to destroy free enterprise early in the depression with the ill-conceived National Recovery Act. We should thank God that a Supreme Court declared that Act unconstitutional.

Restraints, some of which were necessary in order to channel critical materials to the right places, were imposed during World War II. Unfortunately, the Administration of the immediate postwar years saw fit to try to keep alive virtually all restraints on enterprise. They believed that only in a controlled economy could the nation survive.

With the new Administration's drive to eliminate direct economic controls there came a new upsurge in enterprise. In 1953, this nation enjoyed its most prosperous year in history. Tax reductions have been possible even in the face of the necessary continuation of high defense expenditures.

I am certain that most of you agree, that, if economic progress is to continue and our prosperity is to be maintained, the business world and your Government must ever be vigilant to seek out and halt those who, due to personal greed, falsely believe progress can be attained only through elimination of competition.

Now, I would be the first to agree with you that there have been inconsistencies in the laws and administrative policies in the anti-trust field. It was an awareness of this problem which led to the creation of the Attorney General's committee to Study the Antitrust Laws. I expect some time this fall, this able group will come forth with a report which will be the basis for a clarification of standards and commonsense enforcement.

The Eisenhower Administration is pledged to equal enforcement of the antitrust laws. It is ~~pledged~~ to the simplifying of their administration to assist businessmen who, in good faith, seek to remain in compliance. But, at the same time, we will relentlessly protect our free enterprise system against monopolistic and unfair trade practices.

There was so much wishful thinking among the predatory types of businessmen that we would go soft on violations that I found it necessary last year to enunciate again our principles. At that time I pledged -- and I now reaffirm -- that there will be no slackening of effort to protect free enterprise and, most certainly, no winking at violations of the law.

Antitrust enforcement is of real concern to all of our people. They want free enterprise and its fruits.

It should be remembered that business generally profits more than any other segment of our economy from a proper administration of antitrust law enforcement. Business markets are thereby expanded. Profit possibilities are directly increased. A premium is placed on efficiency and initiative. Under such conditions, the avenues of opportunity for American industry are limitless. Whenever competitive principles have operated effectively and efficiently, the industrial capacity of our country has grown more rapidly. Therefore, one of our primary objectives always will be ~~to preserve those conditions which~~ permit initiative.

An interesting example of the application of these principles occurred last week when Chief Judge Knox here in New York entered an order in the long pending litigation against Aluminum Company of America. Indeed, the entire course of the litigation in this case demonstrates how the problem of monopoly may be dealt with, avoiding harsh remedies, through the unified efforts of Government agencies.

When the Government's case was brought against Alcoa in 1937, the company was then a sole producer of primary aluminum in the United States.

The Court found that its only competition was from imports of primary aluminum and that Alcoa had 90 percent of the market. In adjudging that the company had violated the Sherman Act, a special statutory Court composed of Judges Learned Hand, Augustus Hand and Swann in 1945 directed the District Court to consider the matter of dissolution of Alcoa at the end of the war, and after the Government disposed of its war-built aluminum plants.

Under guiding legislation, the Government's plants were leased, and later sold, on favorable terms to create two new, strong integrated producers of aluminum, Reynolds and Kaiser. This program served to cut down Alcoa's power and position to the point where Judge Knox, when called upon to determine what further relief was needed in 1950, found that Alcoa's market position did not show prima facie monopoly.

However, the Court held that further relief was needed to bring about competitive conditions which had an assurance of surviving in the future. To that end, the Court directed the divestiture of stock which tied together Alcoa and the great Canadian company, Aluminum Limited. The

Court retained jurisdiction over Alcoa for five years to enable the Government to secure further and more complete relief if that should later appear to be necessary.

Meantime, the Government stimulated and aided the expansion of the aluminum industry to meet national defense requirements. As a result of the expansion program, all three primary producers were helped to increase their production facilities to an extent which doubled the national productive capacity, and a new producer with prospects of growth, Anaconda Copper Company was introduced into the industry. Further expansion is still under study.

The need for an antitrust remedy has guided expansion policies. In consequence, according to Progress Report No. 24 of the Joint Congressional Committee on Defense, the annual domestic capacity to smelt primary aluminum will have increased, when plants now under construction are completed, from about 150 thousand tons when this case was started to more than 1-million-500-thousand tons -- a ten-fold expansion. When the suit was brought, the United States produced less than 25 percent of the estimated world's production of primary aluminum. In 1950 we produced more than 53 percent of the free world's production.

To this gain must be added the fact that imports of primary aluminum into the United States have increased at the same time. Shipments from Canada to the United States in 1953 reached 237 thousand tons, a figure far in excess of the total United States production when the case was brought.

Not only the primary industry but the fabricating industry has benefited from this litigation. From a few thousand non-integrated producers in 1937 we have a flourishing independent industry today of more than 21 thousand manufacturers. This is a great defense bulwark as well as a source of competition. Both in the primary industry and in the fabricating industry the broadening of the industrial base has greatly increased the research and development and the total of competitive forces at work.

In addition to all of this, the price pattern in the aluminum industry, since the litigation was begun, appears to be unequalled by any other industry and not even approximated by most. The price of pig aluminum was 20 cents a pound when the suit was brought. Commencing with the introduction of the first new primary producer and throughout the war and the immediate post-war period the price was 15 cents a pound. The saving to the public and to the Government in price benefits alone was a very substantial accomplishment of the litigation.

Last year we found it necessary to take steps to protect the Court's moderate relief program for achieving competitive conditions without harsh divestiture of plants and properties.

Alcoa had entered into a long-term contract with the Canadian company for the purchase by Alcoa of 1-billion-200 million pounds of aluminum over a period of six years.

While it was desirable that this aluminum should come to our market, it was clearly undesirable that Alcoa and the Canadian company should be unified through a long-term contract as a substitute for unification

through stock ownership. It was equally undesirable that Alcoa should serve as the main channel through which independent manufacturers could secure Canadian aluminum. So we petitioned the Court for relief against this contract.

As we approached trial of this petition the problem became further complicated by the need of the Government to review its entire program of military requirements for aluminum, its expansion program, and its stockpile objectives. This brought us into close working contact with other executive agencies which have primary responsibilities for those matters. They made known to us also their purpose to take advantage of an offer from Olin Industries to become a large-scale fabricator of aluminum as a further support of the defense program, without assistance from the Government in the form of loan guarantees such as had previously been given to Reynolds and Kaiser.

The aims of the interested executive agencies and the new policy of the Department of Justice to sit down and reason with companies involved in antitrust litigation were smoothly mortised together. An order was worked out in cooperation with Alcoa which promotes the public interest in many ways.

The Canadian company submitted to the jurisdiction of the Court and was ordered to sell to non-integrated independent United States users of aluminum at least 220-million pounds of primary aluminum a year through the year 1959, an obligation which extends beyond the duration of the Alcoa long-term contract. The obligation to supply independent users in the United States is to have priority over Alcoa's contract in deliveries of metal into this country from Canada.

Alcoa is ordered to make to Olin a written offer to sell to Olin up to 80-million pounds of primary aluminum a year from 1954 through 1959 and up to 40-million pounds in 1958. The contract between Alcoa and Olin would provide that Olin may cancel it upon a stipulated notice if Olin should undertake to construct its own aluminum smelting plant. Alcoa is under injunction restricting its rights to enter into new contracts with the Canadian company while the present one is in force. We still have our reserved jurisdiction for further relief if that should become necessary by the failure of this program to achieve our objectives, or if changing conditions bring a need for further relief.

Here, then, is a case history of progress in the enforcement of the antitrust laws. It demonstrates that, side by side with antitrust remedial measures, there has marched industrial growth, increased competition, price benefits to consumers, and a great strengthening of the industry. It would be not quite accurate to say of the latest action in this case that it illustrates, on the part of the Department, the attitude reflected in the scriptural verse, "Come let us reason together, for though your sins be as scarlet, they shall be as white as snow." I think it does show that we are trying to deal with the problem of monopoly constructively, with the combined powers and harmonized objectives of the entire executive establishment.

It is against the immediate background of these latest measures taken in the aluminum litigation that I would like to refer to the Department's pending examination into the automobile industry.

We know well that increasing concentration in an important industry contains dangerous potentialities. It was in the Aluminum case that Judge Learned Hand pointed out that concentration of producing power, even when it has not been used extortionately, is not necessarily desirable.

"Many people believe," Judge Hand said, "that possession of unchallenged economic power deadens initiative, discourages thrift and depresses energy; that immunity from competition is a narcotic, and rivalry is a stimulant, to industrial progress; that the spur of constant stress is necessary to counteract an inevitable disposition to let well enough alone. Such people believe that competitors, versed in the craft as no consumer can be, will be quick to detect opportunities for saving and new shifts in production, and be eager to profit by them."

For himself and his colleagues Judge Hand concluded in that case that the defendant had unlawfully monopolized by the pursuit of business practices which had the intent and effect of excluding competition, even though it might not be chargeable with moral derelictions or maneuvers not honestly industrial.

Now, we do not know what is the explanation of the developing pattern of concentration in the automobile industry. We want to find out whether this pattern is nothing more than the consequence of competitive forces freely at work, or whether any one or more of the facts which amount to collusion or the suppression of competition has been at work.

The Department of Justice does not assume that any given number of competitors in an industry is the proper number, or that any question of concentration can be considered without regard to the forces of the market place. Where it appears, however, that there may be danger of a serious shrinkage in the number of competitors engaged in a basic industry, the Department believes that the causes are worth examination. For it is the American philosophy that freedom and progress are best served by multiple centers of activity rather than by undue concentrations of power. When we find the facts, you can be sure that we will appraise them and follow a course which will reflect the principles and teamwork we have just applied in the Aluminum case.

We stand today before the whole world as the guardian of the world's precious heritage of freedom. We must be a responsible, careful guardian. We must demonstrate, in everything that we do, that our way of life is just as good as we know it is and say it is.

Our trusteeship of freedom provides inspiration for free men everywhere -- and for men who are free only in their hearts and their dreams. They must be able to look at us, at this great nation of ours, and say:

"Here freedom works. Here liberty has real meaning."

Free men everywhere must be able to see that for every man with a will to carve his own destiny, there is a way here. And, they must be able to see that within our system there is the strength to destroy those who would impose any other system upon us.

The United States today is on trial as perhaps it never has been on trial before. Its every action is observed, and studied, and weighed against its words. It must not be found wanting.