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ADDRESS

BY

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I am happy today to talk over with you operations of the Department of Justice's Antitrust Division. Antitrust, you all realize, covers the entire range of American life. Thus, this Administration has brought suits against lead producers, 1/ shipping companies and airlines, 2/ shrimp dealers, 3/ trailer operators, 4/ and linen service suppliers. 5/ Treating even more directly those human frailtires to which all of us may be subject, antitrust has moved against restraints on the manufacture of eyeglasses, 6/ false teeth, 7/ and vitamin pills. 8/ Just to ensure continued need for such pills, we have attached restrictions on the sale of alcoholic beverages in the states that range from Maryland to Tennessee. And riding even higher on the wave of the future, we have more recently struck at limitations on production of sex hormones.

1/ United States v. American Smelting and Refining Co., et al. Civ. 88-249, filed Oct. 9, 1953.

2/ United States v. Pan American World Airways, Inc., et al., Civ. 90-259, filed Jan. 11, 1954.

3/ United States v. Gulf Coast Shrimpers and Oystermans Association, et al., Cr. 7192, filed April 1, 1953.

4/ United States v. Nationwide Trailer Rental System, Inc., et al., Civ. W-655, filed Aug. 28, 1953.

5/ United States v. National Linen Service Corp., et al., Cr. 20-559, Civ. 5171, both cases filed April 25, 1955.

6/ United States v. Bausch & Lomb Optical Company, Civ. 46-C-1332, filed July 23, 1946.

7/ United States v. Luxene, Inc., Civ. 66124, filed April 27, 1951.

8/ United States v. Merck & Co., Inc. Civ. 3159, filed Oct. 28, 1943.

Antitrust, I might add, is concerned not only with the material things of life. It covers the theatre and arts as well. Thus, we have proceeded against restraints by the New York City Theatre Scenery Haulers 9/ as well as the International Boxing Club. 10/ We are now investigating our Nation's commercial wrestling. As you can readily see, antitrust is no esoteric endeavor conducted by bureaucrats in far-off Washington and eternally removed from the main steam of American living.

Highlighting the pervasiveness of antitrust are the sorts of business conduct that do, or may, transgress the antitrust laws. At the outset, agreements to fix prices, to boycott, or to divide territories are traditional per se violations of Sherman Act Section 1. Section 1, however, as the Court announced in the 1911 Standard Oil 11/ decision is "an all-embracing enumeration to make sure that no form of transaction or combination by which undue restraint" is achieved may stand. As a result, permanent combination by merger or vertical integration may raise problems under Section 1 but as a practical matter, such issues arise largely under Clayton Act Section 7. Similarly, though a "tying" arrangement conditioning the sale or lease of one product on use of another, or an exclusive dealing plan may run afoul of Section 1, their legality is more generally tested under the more rigorous standard of Clayton Act Section 3.

9/ United States v. Walton Hauling & Warehouse Corp., et al., Civ. 86-286, filed July 15, 1953; Cr. 141-349, filed June 23, 1953.

10/ United States v. International Boxing Guild, et al., Cr. 21823, filed Jan. 10, 1956.

11/ Standard Oil Company of New Jersey v. United States, 221 U.S. 1, 59 (1911).

The same specific acts controlling price and restricting competitive opportunities prohibited by Section 1 may constitute essential ingredients of large offenses proscribed by Section 2. But apart from the elements which Section 2 has in common with Section 1, it establishes three separate offenses: to monopolize; to attempt to monopolize; and to combine and conspire with others to monopolize any part of the trade or commerce among the several states or with foreign nations.

This wide range of antitrust work is carried on by some 424 Antitrust Division personnel. Two hundred and fifty-one of these 427 employees are either lawyers or economists. And of these 251 professional employees, 154 are located in Washington. The remaining 97 lawyers and economists are scattered throughout the Antitrust Division's seven field offices. These field offices are located in Chicago, Cleveland, Detroit, Los Angeles, New York, Philadelphia, and San Francisco.

All offices follow essentially the same procedure in investigating complaints. The Antitrust Division receives on the average of a thousand complaints each year from businessmen who think they are the victims of illegal activities and consumers who feel the impact of restrictive practices. Each complaint is promptly acknowledged and given careful consideration to determine whether action by the Division is warranted. If the complaint is without merit or is clearly lacking the necessary jurisdictional element of interstate commerce, it is ended at this point. Complaints which appear to be meritorious are evaluated in the light of material in the Department's files concerning the industry in question.

Generally, a preliminary investigation is conducted by members of the Antitrust Division staff to determine the validity of the complaint, the amount of interstate commerce involved, and the probable effect of

the alleged restraint on industry, small businessmen, and the public. If, on the basis of the information obtained during the preliminary investigation, it appears that legal action is warranted, a major field investigation is conducted by the FBI or grand jury. The information thus obtained is analyzed by members of the Antitrust Division to determine finally the existence of specific antitrust violations, and the type of action which would be expected to provide the most effective remedy.

Following these procedures, this Administration during the past four years has neared a high-water mark for antitrust enforcement.

During 1954, the first full year this Administration ran the Antitrust Division, 35 new cases were brought; and during calendar year 1955, 54 new cases. This record represents a considerable increase in the number of cases filed over the average of preceding years.

Not only have more cases been filed, but we have focused on keeping our calendar up to date. During 1954 and 1955, some 108 cases were closed. This represents about a 25 per cent increase over the average of preceding years in cleaning up pending cases.

Once decrees are entered, moreover, we see to it they are lived up to. Thus, in the 66 years since the Sherman Act's passage, 26 contempt proceedings were brought for violation of outstanding decrees. Of this 26, one-third or nine, were brought in the past three and one-half years.

These enforcement results, let me emphasize, we press for against all groups alike if they are covered by the antitrust statutes. Congress has exempted some activities, such as certain activities of organized labor from antitrust. Nonetheless, this Administration has moved vigorously to strike down those union restraints on commercial competition which Congress

has not shielded. From January 1953 to date, we have brought 10 cases in which a labor union was a defendant and one case in which a union was a co-conspirator.

Statistics alone tell only a small part of the story. Cases are filed with an eye to practical enforcement results. In the Panagra suit, for instance, the relief sought by the Government--divestiture by Grace Lines and Pan Am of their Panagra stock--will spur a competing transport route to crucial South American markets. Similarly, in the recent RCA proceeding, striking down RCA's limitations on patent licensing may do much to encourage research in that area of electronic endeavor so vital to our national welfare and defense. Beyond these examples, this firm interest in practical enforcement results, rather than doctrinaire rules, inspired our turn-down of the proposed Youngstown-Bethlehem merger while at almost the same time we approved certain mergers by small auto makers.