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I am pleased to have this opportunity to speak at the First Annual Meeting of the Section on Antitrust Law of the New York State Bar Association. Two things that I have already said in that opening sentence are, I believe, highly significant. One is that this is the first meeting and the other is that, finally, the Bar is having such a meeting. It is noteworthy that the lawyers of the Bar of the State of New York realize that the antitrust laws play so important a part in our economy that it is worth while for them to set aside some of their valuable time to discuss and consider those laws.

I have frequently wondered why more bar associations have not had similar seminars. As Attorney General and as Assistant Attorney General in charge of the Antitrust Division, I have become increasingly aware of the necessity for the antitrust laws and their vigorous enforcement as a bulwark of our system of free enterprise and as safeguards for our fundamental freedoms.

There has been considerable controversy concerning the adequacy of the Sherman Act to cope with the problems of monopoly. By and large, it is my belief that the Act because of its flexibility is admirably suited to meet this problem.

The antitrust laws are a moral and economic force designed to enhance the social welfare. Judge Learned Hand aptly expressed this concept when he said in the opinion in the Aluminum case "[In passing the Sherman Act], Congress ...was not necessarily actuated by economic motives alone. It is possible, because of its indirect social or

moral effect, to prefer a system of small producers, each dependent for his success upon his own skill and character, to one in which the great mass of those engaged must accept the direction of a few. These considerations, which we have suggested only as possible purposes of the Act, we think the decisions prove to have been in fact its purposes."

Our great American society rests upon the idea of limited power. This philosophy is best expressed in our Constitution, the principal source of our cherished freedom. These moral concepts and this ideology of limited power apply to industry and every other segment of American society. Liberty is endangered when either economic or political power is concentrated in the hands of the few.

Most people in this country agree that they want free economic enterprise, full employment and equal economic opportunity. Unfortunately, many only pay lip service to the principle. If we believe in economic freedom, we must do what is absolutely necessary to make it possible - that is, preserve, restore and continually create competition.

We can accomplish this in two ways. First, through the continued vigorous enforcement of the antitrust laws, to which I have pledged myself. Second, indirectly through you, the American lawyers, with your great traditions of public service. As leaders of society, you have a social responsibility to capitalism and democracy. The antitrust law is no stranger to American businessmen, and certainly it is no stranger to their lawyers. Within the spirit of the law, rather than within the limit of the law, there must be preserved complete freedom and independence.

The Department of Justice cannot do the job alone. The problems of enforcement are not simple. The preservation of business freedom, so fundamental in our American heritage, necessitates a complicated and costly method of enforcement of the antitrust laws. In many instances we can proceed only after the monopoly has been formed. A striking example of that is the recent antitrust suit against American Telephone & Telegraph Company and the Western Electric Company. The result is that the average antitrust suit costs upward of \$200,000 and requires from three to four years of litigation. The remedy is not to change the system at the sacrifice of business freedom but to prevent monopolies from being formed. And it is here that business and the bar can make its greatest contribution to the solution of the problem.

Of course, I realize that the economic purpose of business is profit. It is this motive plus imagination, initiative and ingenuity that has made this country the world's leading producer. However, the desire to accomplish this economic purpose at times becomes so intense that some consider public policy good or bad, vigorous or ineffectual, practical or visionary by *its* effects on profits.

Self interest is a human trait. And, it is not new. In 1758 an anonymous writer expressed this thought: "It is found by sad experience that in trading countries the attention which individuals show to their private interest, becomes destructive of the superior regard due to the public. Hence at such times as the honor, the welfare, and the very being of a nation is at stake, the influencing question too often is What shall I now get or lose?"

That was a serious indictment then and it would be now. However, I do not think it can be leveled at industry, as a whole, in this country. The war has amply demonstrated the desire and capabilities of American business to come to the aid of its country in times of strife.

Yet, does industry realize the implications of this monopoly problem? That self interest which seeks profits must be tempered by self interest which impels the preservation of our economic freedom. This is the long range problem for business. It is a problem which each of you in your capacity of legal advisor to business can and must present to your client.

There is too much recent and tragic world history not to impress upon us the dangers in failing to meet this problem. In Italy, in Germany, in Japan the same disastrous cycle of events transpired. The forces of monopoly became so entangled in their own web of greed that they were forced to turn to a Mussolini, and a Hitler, and a Tojo to extricate them.

Surely history would record this as our blindest hour if we failed to learn those lessons which have been shown to us in the blood and suffering of all the world.

We as a nation need not fear strength from without so long as we avoid weakness from within. That is our greatest foe. That was the hope of the fifth columns; it is again the hope of the proletarian dictatorship. We are expected to succumb suddenly to our

own capitalistic system. And we cannot afford to close our eyes to the dangerous symptoms now apparent. Weakness from within is the real economic cancer which attacks and destroys great nations. As President Truman said in his Inaugural Address, "If we are to be successful . . . we must keep ourselves strong".

The Bureau of Internal Revenue reported the following business statistics for the year 1935:

One-tenth of 1 percent of all reporting corporations owned 52 percent of the assets of all of them; five percent owned 87 percent of the assets of all; one-tenth of 1 percent earned 50 percent of the net income of all; and of all the manufacturing corporations reporting, less than 4 percent of them earned 84 percent of the net profits of all.

And in case it should be said that these statistics are meaningless because the stock in these corporations is widely held by the public, let us consider one additional fact: In 1929 78% of the dividends reported by individuals went to three-tenths of one percent of our population.

What has been the trend in this past decade? Let us see.

I am informed that as of 1945, ten years later, about one-tenth of 1% of the reporting corporations still owned about 52% of the assets of all, and that 8% owned 91% of the assets of all.

There is the picture of concentration in this country. I have been trying to get comparable figures for Italy and Germany during the

rise of the Fascist and Nazi dictatorships but they do not seem to be available. I doubt if they could be much more startling.

How many times do we have to witness this spectacle in other countries before we see the possibility of the pattern forming within our own gate? The first symptom is unhealthy economic concentration. Then comes a seething restlessness, a fertile field for Communist doctrine.

A most effective way to fight Communism is by removing the injustices upon which Communism feeds.

Revolution can not be manufactured alone by a Politburo in Moscow. Revolution springs from an ever present sense of economic and social injustice--an absence of hope--of faith--of christian living.

When these conditions of unrest are present, the philosophy of the alternative makes little difference. Infectious insecurity will find expression in whatever demagogic doctrine is handiest - be it Communism or something else.

A people's aspirations toward justice cannot be curbed either by denying the existence of injustices nor by denouncing those who offer an alternative.

A report of the World Council of Churches, meeting recently in Amsterdam, pointed out the two chief factors which contribute to the crisis of our age.

One of these is the vast concentration of power - which under capitalism is mainly economic, and under Communism is both economic and political.

"For such conditions", said the Report, "social evil is manifest on the largest possible scale."

Justice is immobilized by the inertia of men. It then lacks the ability to act as it should. Under communism there is no opportunity for the people --they are but chattels of the State. Under the American system our strength rests largely in the fact that our government is established for the benefit of the people --the individual. We believe in human dignity. Monopoly handcuffs the individual and enchains democracy. It is a tool of totalitarianism.

We must have vision--hindsight combined with foresight!

Are the lessons of history always to be learned only by the third and fourth generation? Can't we, within our own generation, interpret some facts of yesterday in shaping the policies of today?

Some people can. Some saw the inevitable approach of World War II, and as we read certain books today and see there the clear warning they gave us we cannot refrain from wondering at the world's blindness. We also have similar warning concerning our domestic situation.

The members of the National Temporary Economic Committee, in making their final report in March 1941, said: "It is quite conceivable that the democracies might attain a military victory over the aggressors only to find themselves under the domination of economic authority far more concentrated and influential than that which existed prior to the war."

And again that Committee warned us that there was "no hope of preventing the increase of evils directly attributable to monopoly ...unless our efforts are redoubled to cope with the gigantic

aggregations of capital which have become so dominant in our economic life." Surely no warning could be more clear.

This is an internal danger more ominous than another nation's strength. President Truman pointed it out in his message to Congress on January 6, 1947. He said:

During the war, this long-standing tendency toward economic concentration was accelerated. As a consequence, we now find that to a greater extent than ever before, whole industries are dominated by one or a few large organizations which can restrict production in the interest of higher profits and thus reduce employment and purchasing power.

This constant trend toward concentration is the most dangerous enemy we have to fear. It is the greatest threat to our system of free enterprise. In the Antitrust Division we have been making every effort to combat this threat through our Merger Unit, which prospectively reviews proposed mergers. Members of the Bar may come down and talk with us when they have merger problems which they feel might result in violations of the antitrust laws. I am proud to say that through the cooperation we have received from the Bar, our Merger Unit has met with some success. Continued cooperation and understanding of the merger problem by the Bar will be of considerable aid in the greater success of our merger program.

The statistics show that small businesses, one after another, have been gobbled up by the big corporations faster than ever during the past few years. That is exactly what happened in Germany, in Italy and in Japan. When economic power becomes too centralized there

are a few roads ahead except those which lead to loss of liberties.

The people of this country have a right to expect that a sincere and vigorous effort will be made to reverse the trend toward concentration of economic power in favor of a trend toward free and unrestricted economic opportunity.

Unless that can be done, I feel it my duty to warn all who will listen that our way of life is in grave and increasing danger. Just 20 years ago we stood by helplessly and watched what Hatton Sumners called "These voluntary guides who professed to know the way" as they led us into the most disastrous depression the world has ever known. It was serious then, but a repetition now might be calamitous.

The strength of the world today depends to a major extent on the strength of the United States.

And the strength of the United States depends on the maintenance of a vigorous economy free from the domination either of private greed or political dictatorship, but resting firmly on equality of opportunity in a competitive market.

This is our goal.

In the achievement of this goal lies the challenge to business!

In the enforcement of this goal lies the obligation of Government!

And in the successful fulfillment of this task lies the need for the efficient cooperation of the lawyers of America.

With the encouragement and the assistance of American businessmen and American lawyers that struggle for a free economy will be won.