

PS
663
1RE



Department of Justice

FOR RELEASE ON DELIVERY

ADDRESS OF WELCOME

by

HONORABLE WILLIAM P. ROGERS
Attorney General of the United States

Before the

NATIONAL CONFERENCE ON CONSUMER
AND INVESTOR PROTECTION

The Great Hall
Department of Justice

March 10, 1960

The best evidence of the importance we all attach to this National conference is the fact that 41 States and Puerto Rico have representatives here, including 34 State Attorneys General. Considering your other arduous and time-consuming duties and responsibilities, it is most significant that such a large group of ranking state officials is assembled to discuss during the next two days ways and means of securing greater protection to consumers and investors. Those of us entrusted with responsibilities in these fields on the federal level are fully aware of the important role the states must play in any successful program. All of us, I am sure, will profit by discussing our mutual problems and possible solutions. Our objective is a common one, and it is our sincere hope that this conference will not only be beneficial to law enforcement but more important to the consumers and investors in whose interest we meet.

The program for the conference has been divided into two parts. Today we focus on the positive forces of competition which our antitrust laws--both federal and state--are designed to protect, so that the private, free enterprise system, which has served this country so well, can survive and continue to grow. Tomorrow we shall examine the techniques by which we protect the consumer-investor, and, businessmen as well, from those few who exceed the bounds of the law. We are, in other words, meeting to discuss a subject which goes to the very heart of our country's economic well-being.

As you know, our country has transformed itself, in less than two centuries from a rural community of three million to a great industrial power of almost 180,000,000. With this growth our economic problems have grown--and our responsibilities in protecting that economy have become more impelling. As law enforcement officers and as citizens we have an obligation to play an increasingly active role in the preservation of these political and economic freedoms. For these ideals have never found a permanently safe harbour, and never have they faced a more serious challenge than today. Their preservation is most important because we know that political liberties depend in large measure upon economic freedom.

In a society such as ours, the need for public regulation of business becomes necessary only when there is a reduction in the competitive forces in important segments of our economy. When prices and production, and distribution and sales policies are determined by competitive forces in the market place, private free enterprise requires little regulation and the public enjoys the benefits of this rivalry. On the other hand, when there is no ease of entry into industry, when prices are fixed or production controlled or stifled by the action of industry for its own self-interests, or when the value of the dollar is placed above human values, the public is injured and Government is put under heavy pressure to regulate our economy for the protection of the nation. This we all want to avoid like the plague.

The philosophy of our antitrust laws, stated simply, is that they serve as a check on business practices which seek to undermine our economic liberty. They safeguard the freedom of the producer and the retailer from artificial restrictions imposed upon him either by monopolists or by group pressures. They protect the consumer who depends upon our competitive free enterprise system for the goods he buys. And they guard all of us, in the long run, from excessive Governmental regulation and control.

It is for these reasons that the federal Government has in the last few years been as active, if not more active in the antitrust field than in the entire seventy years of federal antitrust enforcement. Last year, for example, sixty-three new cases were filed, more than in any year since 1943. The increase in the number of cases brought, however, does not represent a breakdown on the part of business ethics. To some extent it results from the growth of our economy. To be sure, some few have set out deliberately to ignore these laws, occasionally against the advice of counsel. But many of the cases are the result of problems arising from changes in business organization caused by the greatest technological development the world has ever known. They reflect the great demand placed on our economy by continuing world tensions. They reflect, too, the need for judicial interpretation and signal new advances in the basic law, of which the 1950 amendments to the merger provisions of the Clayton Act are among the most important.

I do not look on the figures showing increased governmental antitrust activity as indicating either an excess of zeal or an excess of greed or disregard for the general welfare on the part of the business community as a whole. On the other hand, I am convinced there is widespread lack of knowledge as to the requirements of the antitrust laws and the reasons underlying their prohibitions. There is much that law enforcement officers, the legal profession, and industry itself can do, largely of an educational nature, to avoid unintentional violations and to reduce the substantial, and time-consuming litigation in this field.

For example, the business community is entitled to know the rules which will apply. It is our responsibility, as lawyers, to develop guideposts upon which they may rely. In my opinion, we have fallen short of the mark in this regard. To correct this deficiency it is essential that lawyers participate actively in our various bar associations, judicial conferences, law institutes, law school forums, continuing legal education programs, and conferences such as this in the field of trade regulation and protracted litigation. The legal profession should keep abreast of new antitrust thought, make significant contributions in the simplification of trials, the practical disposition of cases, and voluntary compliance with those laws by their business clients.

By the same token, industry--including both management and labor in the term--has a responsibility to become thoroughly familiar

with the antitrust laws, their objectives and approach, and to educate their personnel in the value and necessity in complying with those laws. Many of our business groups have made substantial gains in self-enforcement programs, accomplished through antitrust educational programs at sales managers' meetings, through bulletins issued to employees on antitrust developments, and through constant surveillance of the operations of all branches of the company. There have been encouraging signs of a growing awareness on the part of responsible businessmen of antitrust problems and a desire, both at the state and federal level, to achieve more effective voluntary compliance with the law.

There is, of course, the necessity for continuous and vigorous antitrust enforcement actions. To the extent possible, consistent with enforcement responsibilities, we should develop procedures to handle civil complaints and to achieve corrective action without resort to protracted litigation. Along this line, we have developed in the Department of Justice procedures for negotiating consent decrees in advance of the filing of civil suits. At the same time, prompt prosecution in the courts of willful offenders is necessary to keep our economy free. While our offices should take an active part in the education of the public about trade regulation and enforcement measures, we must bring home to industry that violations of the antitrust laws will not be tolerated.

In these efforts to improve the role of antitrust as a force in maintaining the vigor of our competitive climate, the states have a

primary role. Your jurisdiction is both complementary and supplementary to that of the federal government, and the activities of each enhance the other's efficiency and effectiveness.

The area in which state antitrust can operate to the benefit of the business community and the consumer is a broad one. Your authority in purely intrastate matters is plenary. Even where interstate commerce is effected and federal authority exists, in many instances complaints essentially local in nature can best be dealt with by local authorities. The Department stands ready to cooperate with you in these cases, just as we count on your cooperation in cases of national impact.

In your deliberations during this conference it is important to remember that both State and Nation have important responsibilities in this field. Through the exchange of ideas and information, by formulating sound antitrust policy, by informing industry of its responsibilities, by instituting actions against those who would evade these laws, we can assure the Nation a sound and durable economy. Again, I thank you for participating in this conference which I am confident will be both productive and successful.