ADVANCE ** CAUTION

ADDRESS BY
HONORABLE CHARLES H. MARCH, MEMBER OF THE FEDERAL TRADE COMMISSION,
BEFORE THE NATIONAL ASSOCIATION OF RETAIL GROCERS,
AT BOSTON, MASSACHUSETTS, JUNE 22, 1937.

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MONOPOLY AND THE RETAIL GROCERY TRADE

I appreciate the high compliment you have paid me in asking me to address you at your annual convention. I feel it is peculiarly appropriate that I should be here in Boston today talking about the problems that are confronting us, since my ancestor, Hugh March, landed in Newburyport in 1635.

I commend you on your wonderful organization and your struggle against monopoly, and I wish to congratulate you on having as your officials men of such great ability and high standing. Governor Christianson, who is your secretary-manager, is from my home state. I have known him for a great many years and I am sure you will all learn to love him and admire him.

Not so many decades ago the prize of business success was to be one's own boss. A bright young man could set up in business, make a little money, and acknowledge no master. Today the independent proprietor is vanishing from our midst.

When the doctrine of Scoialism was spreading around this country thirty years ago, one of the most powerful arguments against it was that it would condemn a free people to be employees of the State. We were nourished by the philosophy that ability, courage and honesty reaped the glittering prize of business independence. This prospect of freedom the American people were unwilling to exchange for any alien system of Government or business that would condemn them to the bondage of a job.

But while we were keeping a wary eye on Socialism the loss of freedom came from another quarter. Today most of us in industry work not for the Government but for entities quite as impersonal and frequently as remote. The giant monopoly has snared most of us on its payroll and the old order of the independent proprietor is fast fading away.

At the turn of the last century, only 66.7% of all manufactured products were made by corporations. By 1919 this percentage had risen to 87%. Today it is in the neighborhood of 95%. And in your own field of retail distribution the incorporated chain has absorbed from 20 to 25% of the business.

I salute you Gentlemen, therefore, as some of the few survivors of our economic order who are still eating of the "bread of independence". One of the last stands of the small proprietor is the neighborhood store. But the chain has broken into this field and against this fast growing giant the little retailer everywhere is waging a desperate battle. I do not know how long you will continue to eat of the bread of independence. It may be that in an economic system which seeks to develop efficiency to its maximum limits there is no place for the independent proprietor and that within a few years most of you present will either have incorporated with your neighbor or passed through the wringer of bankruptcy and liquidation.

But I wish to warn you that mere incorporation will not save you. The small corporation in America is being as ruthlessly exterminated as its predecessor type in business, the independent proprietor. Whether incorporated or unincorporated, your problem today is the same as was faced - and unsuccessfully faced - by countless thousands of businessmen since the Civil War. Ever since the surrender of Lee at Appomatox, the economic slaughter of small business men in the United States has gone on at a terrific pace. The common assumption to the uninitiated has been that these little fellows justly fell before the superior efficiency of larger units. The sad truth is that they were frequently wiped out by unfair and often illegal trade practices. Had real efficiency been the determining factor in this struggle, much of American industry today would be in a far healthier condition and the recent depression might even have been avoided.

Recently the Federal Trade Commission completed an investigation of agricultural income. This study revealed for the first time the startling progress of monopoly in the manufacturing of agricultural products. It was found that three tobacco manufacturers in 1934 bought approximately 70% of all tobacco consumed domestically.

In live stock three packing companies bought 40.8% of the cattle and veal calves, and 25.3% of the hogs.

Today monopoly, the ancient oppressor of the little business man, is knocking at your door. You must conquer this foe, or I assure you that no matter how efficient you may be you will experience the same fate as overtook the vanished independent proprietor in manufacturing. In its final report to the Senate on its chain store investigation the Federal Trade Commission said:

> "Should the trend of the past twenty years, and particularly of the last decade, continue for a like period, we shall have a condition in some lines of chain-merchandising that few will dispute is monopolistic."

It is too early to determine, however, whether the policy of special taxation of chain stores by the various states will be effective in turning the tide in the opposite direction. In the very recent opinion of the Supreme Court on the Louisiana chain store tax, the Court upheld a State tax graduated according to the total number of stores owned, both within and without the State. The Court recognized that taxation could be made the implement of the exercise of the State's police power and that taxes might be adjusted between classes "to promote fair competitive conditions and to equalize economic advantages". Whatever the social and economic wisdom of taxing out of existence all the competitive advantages of the chain store, the way to that goal now seems open from a legal and constitutional standpoint.

I want to tell this little story. Last summer when I was back in my home state of Minnesota, a small town business man whom I had known for a great many years, came to me and said he was losing money. He had a wife and four children and the best looking and best kept store in town. There was a chain store just across the street from him, engaged in the same line of business. He said if he sold goods at cost the chain store would sell for just a little under him. I asked him why he didn't go out of business. His reply was that it was the only line he knew and that he had been in it all his life. When I returned to Washington the President of one of our large manufacturing concerns came into my office and said he had come in to talk over the Robinson-Patman Act. He said they wanted to live up to the law. I asked him what discounts he was giving to large buyers. He mentioned this same chain store and said he was giving them 32% discount over and above the discount given to small retail stores. I asked him how long a small retailer could stay in business and he replied: "Not very long". I then asked him what would happen to the manufacturers' business when the small retailers were driven out of business and he said they would be under the dictatorship of the large chain stores.

Gentlemen, what happens to the poor little fellow who has to run the race with a 32-lb. weight around his neck?

As retail grocers you know somewhat intimately the problems of that one-third of our population which President Roosevelt says does not have adequate nourishment, that first and most vital necessity.

The Brookings Institution has reported that even during our fabled prosperity of 1929, nearly six million American families, representing more than 21 per cent of the total population, each had an annual income of less than $1,000, while about twelve million families, representing more than 42 per cent of the population, each had an income of less than $1,500 a year. What do such incomes mean with regard to the ability to buy food at your stores? The average family in these income groups spends about one-third of its income for food. This amounts on the average to about $8 a week for a family of four, or $2 a week per person. Not much room for prosperity to the retail grocers in that standard of living, you will concede. The only way people can live on the food such a sum will buy is to confine their diet to such foods as flour, potatoes, bread and pork. Only families with incomes larger than those represented by 42 per cent of the population can afford such necessary foods as abundant green vegetables, fresh fruits and plenty of milk. So, when we talk about the American standard of living we should be careful to define our terms.

In the last analysis the problem of the 42 per cent whose incomes will not permit the purchase of adequate food supplies is related to the problem of the retail grocery trade with reference to monopoly. The situation of the retailer simply gives us a new phase of the old problem of monopoly, a problem that touches every individual and every family at every point of their economic and social life.

According to the Brookings Institution, in 1929 some 23 of our most thrifty families were able to save 10 billions of dollars. Since no 23 families could spend that much for groceries, they had to find other means for spending or investing that huge sum. And the very fact that so much purchasing power had been drained from millions in order to concentrate it in the hands of 23 families made it impossible for those families to find a place where they could be reasonably sure of a return on their investment. After all, the back bone of consumer demand, in groceries as well as in all other commodities, is not the luxury of the rich, but the purchases of the average family.

Supposing we were to go to some newly discovered land and found a tribe of people, a small percentage of whom had food, and clothing and shelter, (and wealth is represented by food, clothing and shelter) and who were piling up in immense granaries enough to last them for ten thousand years, while great numbers of men, women and children were starving, lacking the necessaries of life. What would we say?

Monopolistic ownership or control of the means of production connotes dictatorial power over the things produced. It determines the amount to be produced, restricts the freedom to engage in productive pursuits, and consequently the amount of labor that may be employed. By fixing prices, it limits or restricts the quantity of goods which may be consumed.

Price fixing and other monopolistic schemes have been familiar to men of all ages, from ancient China and Egypt, through the days of European mercantilism, to the present. And men of all ages have observed that the common people caught between the jaws of their own need and the power of monopoly have had their lives crushed and their children's children sold into slavery.

You retailers, as the channel through which consumers' goods flow into consumption, can appreciate the importance of maintaining purchasing power at a high level and having it widely spread among the families of your respective communities. Your economic interests as independent retailers are bound up in the outcome of the struggle with monopoly.

Experience has shown that the capacity some large businesses may have to give the public the benefit of low prices is often exercised only at great cost to themselves, a cost which even they can afford only temporarily. It is as true now as when the laws against monopolies were passed, that once success has attended efforts of large enterprises to drive from the field the small competitors who cannot meet these temporarily lowered prices without fatal loss to themselves, such enterprises usually raise prices to even higher levels than they were before.

It is my belief that the late severe economic depression can be traced in large degree to reprehensible practices of selfish interests, many of which were unsoundly and excessively capitalized. These practices were not properly controlled, because the country had become so blinded by temporary prosperity as to accept the theory that monopolies were beneficial rather than dangerous.

What happened? In their greed for profit, monopolistic enterprises charged more than the traffic could bear. They have little or no regard for ultimate consequences. By eliminating competition, they thought they were on their way to greater success and greater riches. Actually, however, as it turned out, fewer people were able to buy the products of the big business enterprises which had concentrated output in their own hands, for that very concentration deprived many of their means of livelihood and thus destroyed their purchasing power. The result, so often called over-production, would probably better be termed under-consumption.

Another aspect of monopoly is its power to oppress and exploit other groups which are unable to organize their own monopolies. Agriculture, for instance, is the means of livelihood of over a third of our population. During the twenties corporate dividends soared, but the price of the farmer's products and his profits fell continually. In the year of greatest income production in the United States (1929) the farmer was barely able to make ends meet and in many agricultural sections unrest and rebellion against low farm prices was in full swing. The adversity of the farmer was easy to explain. The farmer is a simon pure capitalist. He makes his living by raising and selling his products in a highly competitive system. Industry, however, had largely seceded from the competitive system and was squeezing the farmer with monopoly prices on what he bought. Between the nether mill stone of competition and the upper one of industrial monopoly the farmer's share of the national income grew progressively smaller until the alarming spread of tenant farming brought about by farm bankruptcies threatened to destroy the farmer's traditional independence.

In the history of the world the rise of despotic Government has frequently been foreshadowed by the destruction of the farming class. I am going to tell you a story about Egypt. What went on in Egypt went on in Greece and Rome at later periods. It is going on in America today.

Many thousands of years ago the valley of the Nile was an uninhabited wilderness. In time the remarkable fertility of this region was reported in older civilizations where the common man lived under oppressive rulers and economic opportunity had long before been monopolized by ruling classes. Soon hardy pioneers from the interior of Africa and the still older civilizations of Arabia and Mesopotamia began the long trek into the Nile valley. These colonists were like our own ancestors who fled from a caste-ridden Europe, where a few rich men owned everything, to build log cabins in the primeval forest. In earliest Egypt the people, as is the universal custom of pioneers, had democratic Government and a rudimentary free market system.

But as time went on trade developed. And then as now a few men found ways to corner trade, establish monopoly, and take toll. In a very short while the whole face of Egypt was changed. The farming classes first lost their farms. Then they failed as tenants and under pressure of debt passed gradually into a condition of peonage. They became hewers of wood and drawers of water for millionaires who lived in imperial mansions in Cairo, or Thebes or Alexandria or who built themselves colossal villas on ground once proudly owned and profitably operated by the sons and grandsons of the pioneers who colonized Egypt. As a few capitalists grew richer and richer, they became increasingly impatient with democracy and soon they put it out of business. The farmer, backbone of Egyptian democracy, had vanished. The Egyptian people were first burdened with dictators and at last under the Pharoahs - an Egyptian word meaning the "Man Who Lives in the Big House" - concentration of wealth was made complete and permanent.

In its broadest aspects, the problem of monopoly and concentration of wealth is a world problem. It underlies the civil war in Spain, the communist revolution in Russia, the death of democracy in other countries. It has toppled kings from their thrones. It will drive to disaster dictators, whether economic or political, who thwart the masses in their effort to achieve a better standard of living and greater economic security. The whole world is in revolt against that philosophy of unnecessary scarcity which has been the philosophy of private monopoly.

It is my conviction that to allow great interests a free hand and permit them to destroy competition is at war with a principle on which our government was established, that is, equal opportunity for all who may be fitted to improve their position by reason of their own energy and initiative. By this I do not mean that it was ever intended to protect the lazy or incompetent. I do mean that the right of every man to use his brain and energy and gain a fair reward therefor should be preserved and protected.

If we are to accept the process of concentration of business in a few hands as beyond control, then it is time to admit that our foremost national aim, individual opportunity, has been lost, and that what we had believed was our outstanding national trait, individual initiative, either has already failed or is no longer worth preserving.

It is curious how readily men will agree upon general principles concerning monopoly and how violently they will disagree when it is proposed to apply those principles to specific cases.

A few weeks ago the president of a large corporation attacked monopoly in a radio address. He said that monopoly, whether organized by business men or by the government, destroyed competition and therefore freedom. He defended the right of free action and free competition, implying that his industry is conducted on that basis, despite considerable evidence to the contrary. He declared that dictatorships exist in Germany and Italy because those countries have stifled freedom of competition in industry and commerce, as well as personal liberty.

He overlooked the vital and significant fact that freedom of competition in industry and commerce had passed away in those countries (especially in Germany) before the establishment of political dictatorship, and that under fascist philosophy political dictatorship becomes merely the tool of economic dictatorship. Incidentally, one will not have to go farther than Harlan County, Kentucky, to find open denials of personal, civil rights that we are prone to think can be found only in some fascist state.

In a recent article Walter Lippman, the wellknown writer, says that between 1919 and 1928 there were 1268 combinations of manufacturing and mining concerns which involved the merger of 4,135 separate concerns and the disappearance of nearly 6,000 more. In 1929 over 1,200 other independent manufacturing and mining concerns disappeared. These facts were reported by a committee sponsored by President Hoover. Mr. Lippman said:

"The unusual severity of the depression was in some considerable measure due to the fact that these gigantic combinations, with their rigid capital structures and their bureaucratic mentality, (remember that, please, when you next hear criticism of government bureaucracy) could not and would not readjust industrial prices to the lower level of agricultural and raw material prices. The exchange of goods was stopped, and it was restored only by artificial inflationary measures to bring farm prices into line with the monopolistic prices."

Few people realize that nearly every field of industry today in the United States is dominated by a few giant corporations, or how serious is the problem of concentrated economic power in our country.

How seriously economic power is concentrated in the United States may be understood graphically when we realize that according to Berle and Means, in their illuminating book "The Modern Corporation and Private Property", 200 giant corporations control nearly 50% of all corporate assets in the United States. These gentlemen show us statistically that if these corporations continue to grow at the average rate that they did from 1909 to 1929, forty more years would find these 200 large corporations owning American industry 100%. Or, if they continue to grow at the rate they increased in size from 1924 to 1929, these 200 corporations would own all American industry in thirty years.

Mr. Lippman also said that the far sighted among big business leaders "must know that private monopoly is in the long run as impossible a policy as the refusal to bargain with the freely chosen representatives of their employees".

Mr. Lippman went on to say:

"Nor ought they wish to see it again. For that kind of thing, if persistently pursued, destroys the moral foundations of private enterprise and of private property. If big business men try to practice a private socialism, inevitably they will push the country into some form of public socialism. The real propagandists of collectivism in America are not the Marxian orators but the promoters of private monopoly".

That kind of collective bargaining which precludes competition among industrialists in fixing the price of goods and insists on competition among working men in fixing the price of labor is indefensible and foredoomed to failure. Either we must get rid of collectivism in industry or we must go on to collectivism in labor and in agriculture. The ancient truth still prevails that a house divided against itself shall not stand. In the face of modern productive facilities capable of providing comfort for all, no nation can endure with nearly half its population on an inadequate income basis and one-third ill-nourished, ill-clad, and ill-housed. Somehow the transition must be made from that economy of scarcity associated with private monopoly to an economy of plenty.

You retailers have more at stake in this matter than the average citizen. If monopoly continues to grow, you and thousands of other small business men will be the immediate victims.

The Federal Trade Commission found that the ability of the chains to buy more cheaply than the independents was "a most substantial, if not the chief factor" in the lower selling prices which account so largely for the growth of chains.

It found that these lower buying prices of the chains were frequently granted unwillingly by the manufacturer who feared either that competitors would take away his large chain customers, or that the chains would discourage the sale of his goods, or make their own.

It found that frequently price advantages were passed on to the chains in the form of brokerage or commissions to intermediaries, through special allowances for advertising or display, and through various indirect forms of concession not allowed to independent retailers.

Even one who would defend these practices as the expression of normal competition must admit that their tendency is to make the chains bigger and bigger and to accentuate whatever other factors tend toward monopoly.

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Congress had all those facts before it when it passed the Robinson-Patman Act. Of course, that Act is not in terms confined to chainstore merchandising, or even to retail distribution. It applies to all commodities and to the effect of discrimination on purchasers who compete in their resale, regardless of who they may be.

The Robinson-Patman Act is one of our important anti-monopoly laws, and the most recently enacted. It prohibits certain forms of price discrimination and related practices. The Act is essentially an amendment to or revision of Section 2 of the Clayton Act, which was passed in 1914. Under the Clayton Act it has long been recognized that discrimination in price is one of the strongest weapons of monopoly. The dissolution suits against the Standard Oil and American Tobacco combinations strongly revealed this fact. There the Supreme Court specifically found that price discrimination had been an important factor in building up monopoly. Section 2 of the Clayton Act was intended to outlaw that method, and it was to strengthen such provisions of our antitrust laws that the Robinson-Patman Act was passed as an amending statute.

Under this new law price discrimination is now declared unlawful where the effect may be "to injure, destroy or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them". There is also retained in the Robinson-Patman Act the provision of original Section 2 of the Clayton Act prohibiting discriminations in price where the effect thereof "may be to substantially lessen competition or tend to create a monopoly in any line of commerce".

On the whole, this new law in substance applies the philosophy which the Supreme Court held to underlie the Clayton Act, namely, to prevent practices, which if not stopped, tend toward monopoly. Its general effect is to enlarge enormously the ability of a competitor to protect himself when he is unlawfully discriminated against.

Proof of violation of the old law involved difficulties because of a proviso that discrimination in price was not unlawful when made "on account of" differences in the quantity sold, or which made "only due allowance" for differences in cost of selling or of transportation, or when made in good faith to meet competition.

In this respect the new law provides that upon proof that there has been a discrimination in price or in services or facilities furnished, the burden of rebutting the prima facie case thus made and of showing justification shall be upon the person charged with the violation; and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination. It is also provided that the terms of the act shall not prevent the seller from rebutting the prima facie case proved against him by showing that his lower price was made or the services or facilities were furnished in good faith to meet an equally low price of a competitor or the services or facilities furnished by the competitor.

The new law also extends the principle of non-discrimination into other areas than price as such. Whether they might be regarded as forms of indirect price discrimination under Section 2 (a) or not, the Act specifically declares it unlawful: To pay or grant or to receive or accept anything in the way of commission, brokerage, or other compensation, except for services rendered, either to the other party or to an intermediary who is acting for or is subject to the control of any party to the transaction other than the one paying such compensation; Subsection (d) makes it unlawful to pay or agree to pay compensation to, or for the benefit of, a customer for services or facilities furnished by or through such customer unless the same compensation "is available on proportionally equal terms" to competing customers; Subsection (e) makes it unlawful to discriminate in favor of one purchaser against another purchaser by furnishing or agreeing to furnish any services or facilities upon terms not accorded to all purchasers on proportionally equal terms.

The act concerns itself with transactions in commerce, as defined in the Clayton Act, which, in general, means interstate or foreign commerce and commerce in the various territories of the United States.

It also is declared unlawful for any person "knowingly to induce or receive" a prohibited discrimination in price. This provision is very important to buyers, and the word "knowingly" appears to have been inserted for their protection.

In the application of the law, the Commission to date has issued twenty-one formal complaints. These cover important phases of the law. Many of the cases have advanced to trial and to other stages along the path of legal procedure which they must follow to final decision. In one case, the brokerage concern complained of was dissolved by its organizers, and, upon proper showing of discontinuance, the proceeding was closed without prejudice to reopening it if the circumstances should warrant. The proceedings in the several other cases are being expedited with the view of having decisions by the Commission rendered at as early a date as possible. These proceedings may be considered in the nature of test cases on many disputed points. One group of cases presents alleged direct discrimination in price. This practice, it will be recalled, becomes unlawful in commerce when it injuriously affects competition and cannot be justified as reflecting only due allowance for savings in cost of manufacture, sale or delivery resulting from differing methods or quantities in which the commodities are sold or delivered.

Alleged discrimination in the selling price of raw materials with the alleged effect of injuring competition between competing purchasers engaged in selling finished products, is involved in some of the cases. The question of the legality of certain functional discounts also is raised. Likewise, violation of the brokerage section of the act is alleged. One case involves the question of the buyer's responsibility under Section 2(f).

Under Section 2 (d) falls the question of the legality of discrimination in advertising or promotional allowances. Certain of the pending cases raise these issues, and decision thereon will be entered in due course. Also, in relation to Section 2 (d), several of the complaints attack the practice of paying "push money" in the cosmetic trade.

The Commission has, through formal and informal action, effected compliance with the statute throughout various industries. We know that many have radically revised their selling prices and practices, resulting in compliance with the law to the benefit of the small business man and the public.

In this brief sketch I have undertaken a description of the Robinson-Patman Act, and not an interpretation. Neither the Commission nor I can appropriately express in advance an opinion concerning application of the act to the facts of particular cases. One reason for that policy is that the Commission is required by statute to exercise the quasi-judicial function of officially and formally deciding specific cases of alleged discrimination presented to it under the procedure specified by the statute.

In devoting thought to the Robinson-Patman Act, as we have, and also to the questions of monopoly and unfair trade practices, it is well to be ever mindful of the fact that the broad general policy of our law is one of fairness and of equality of opportunity to all. That policy is of fundamental importance to the American people. It must be preserved.

Let us not forget that the prime purpose of this legislation is to protect the general public from monopoly and monopolistic practices and that it is only as a means to that end that the private interests of individual trades or of organized groups of traders can legitimately be given legislative and administrative protection. Let us not forget that the basic philosophy underlying the Act is to preserve freedom of competition and not to subsidize inefficiency or forestall the changes which a competitive economy inevitably brings to pass.

Society is an organism through which flows the life blood of commerce. When any part of society monopolizes more of that life blood than it can use, the other parts suffer. Even in the part which has the excess supply, congestion and disease appear. And just as infection in the less prominent parts of our bodies may produce decay and death, so infection in the humbler parts of our social and economic organism may destroy it.

The Socialists and Communists tell us that this situation is inherent in capitalism, and that the disease is incurable and will steadily get worse. At the other extreme the apologists for monopoly say there is nothing wrong except too much government concern over relatively unimportant parts of our population and too much government in business. Whatever the merits of these opposing viewpoints, the capitalistic system is still alive and naturally struggles to conquer the disease which some of us think is not necessarily fatal. But the germs of this disease are monopolization of wealth and purchasing power and it will be fatal if allowed to run on unchecked.

Monopoly and the impoverishment of the common people until it was a choice between the bread of charity or the blood of revolution has ever been the herald of moral decay and national death. So passed the glory of Republican Greece and the grandeur of democratic Rome and, if we may judge the future by the past, so may perish the greatest Republic that "ever gleamed like a priceless jewel on the skeleton hand of time". Self interest, humanity, patriotism, religion itself, all admonish us to weigh well the problem of the hour - a problem born of human progress, forced upon us by the mighty revolution wrought in the industrial world by steam and electricity and that problem is: "Shall the average American citizen be a Slave or a Sovereign?"

The illustrious Abraham Lincoln said, "I believe this Government cannot endure permanently half slave and half free." And by the same token neither this nor any other government can endure half monopolized and half free, because monopoly is slavery.

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[Printed for the use of the Federal Trade Commission]

Congressional Record

SEVENTY-FIFTH CONGRESS, THIRD SESSION

Monopoly and the Retail Grocery Trade

EXTENSION OF REMARKS

OF

HON. WILLIAM E. BORAH

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Saturday, January 8 (legislative day of Wednesday, January 5), 1938

ADDRESS BY CHARLES H. MARCH AT BOSTON, MASS., JUNE 22, 1937

Mr. BORAH. Mr. President, I ask unanimous consent to have printed in the Appendix of the RECORD an address delivered by Hon. Charles H. March, a member of the Federal Trade Commission, on the subject Monopoly and the Retail Grocery business.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I appreciate the high compliment you have paid me in asking me to address you at your annual convention. I feel it is peculiarly appropriate that I should be here in Boston today talking about the problems that are confronting us, since my ancestor, Hugh March, landed in Newburyport in 1635.

I commend you on your wonderful organization and your struggle against monopoly, and I wish to congratulate you on having as your officials men of such great ability and high standing. Governor Christianson, who is your secretary-manager, is from my home State. I have known him for a great many years and I am sure you will all learn to love him and admire him.

Not so many decades ago the prize of business success was to be one's own boss. A bright young man could set up in business, make a little money, and acknowledge no master. Today the independent proprietor is vanishing from our midst.

When the doctrine of socialism was spreading around this country 30 years ago, one of the most powerful arguments against it was that it would condemn a free people to be employees of the State. We were nourished by the philosophy that ability, courage, and honesty reaped the glittering prize of business independence. This prospect of freedom the American people were unwilling to exchange for any alien system of government or business that would condemn them to the bondage of a job.

But while we were keeping a wary eye on socialism the loss of freedom came from another quarter. Today most of us in industry work not for the Government, but for entities quite as impersonal and frequently as remote. The giant monopoly has snared most of us on its pay roll and the old order of the independent proprietor is fast fading away.

At the turn of the last century only 66.7 percent of all manufactured products were made by corporations. By 1919 this percentage had risen to 87 percent. Today it is in the neighborhood of 95 percent. And in your own field of retail distribution the incorporated chain has absorbed from 20 to 25 percent of the business.

I salute you, gentlemen, therefore, as some of the few survivors of our economic order who are still eating of the "bread of independence." One of the last stands of the small proprietor is the neighborhood store. But the chain has broken into this field, and against this fast-growing giant the little retailer everywhere is waging a desperate battle. I do not know how long you will continue to eat of the bread of independence. It may be that in an economic system which seeks to develop efficiency to its maximum limits there is no place for the independent proprietor and that within a few years most of you present will either have incorporated with your neighbor or passed through the wringer of bankruptcy and liquidation.

But I wish to warn you that mere incorporation will not save you. The small corporation in America is being as ruthlessly exterminated as its predecessor type in business—the independent proprietor. Whether incorporated or unincorporated, your problem today is the same as was faced—and unsuccessfully faced—by countless thousands of businessmen since the Civil War. Ever since the surrender of Lee at Appomattox the economic slaughter of small businessmen in the United States has gone on at a terrific pace. The common assumption to the uninitiated has been that these little fellows justly fell before the superior efficiency of larger units. The sad truth is that they were frequently wiped out by unfair and often illegal trade practices. Had real efficiency been the determining factor in this struggle, much of American industry today would be in a far healthier condition and the recent depression might even have been avoided.

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"Should the trend of the past 20 years, and particularly of the last decade, continue for a like period, we shall have a condition in some lines of chain merchandising that few will dispute is monopolistic."

It is too early to determine, however, whether the policy of special taxation of chain stores by the various States will be effective in turning the tide in the opposite direction. In the very recent opinion of the Supreme Court on the Louisiana chain-store tax, the Court upheld a State tax graduated according to the total number of stores owned, both within and without the State. The Court recognized that taxation could be made the implement of the exercise of the State's police power and that taxes might be adjusted between classes "to promote fair competitive conditions and to equalize economic advantages." Whatever the social and economic wisdom of taxing out of existence all the competitive advantages of the chain store, the way to that goal now seems open from a legal and constitutional standpoint.

I want to tell this little story. Last summer when I was back in my home State of Minnesota, a small-town businessman whom I had known for a great many years came to me and said he was losing money. He had a wife and four children and the best looking and best kept store in town. There was a chain store just across the street from him, engaged in the same line of business. He said if he sold goods at cost the chain store would sell for just a little under him. I asked him why he didn't go out of business. His reply was that it was the only line he knew and that he had been in it all his life. When I returned to Washington the president of one of our large manufacturing concerns came to my office and said he had come in to talk over the Robinson-Patman Act. He said they wanted to live up to the law. I asked him what discounts he was giving to large buyers. He mentioned this same chain store and said he was giving them 32-percent discount over and above the discount given to small retail stores. I asked him how long a small retailer could stay in business and he replied, "Not very long." I then asked him what would happen to the manufacturers' business when the small retailers were driven out of business and he said they would be under the dictatorship of the large chain stores.

Gentlemen, what happens to the poor little fellow who has to run the race with a 32-pound weight around his neck?

As retail grocers you know somewhat intimately the problems of that one-third of our population which President Roosevelt says does not have adequate nourishment, that first and most vital necessity.

The Brookings Institution has reported that even during our fabled prosperity of 1929 nearly six million American families, representing more than 21 percent of the total population, each had an annual income of less than $1,000, while about 12,000,000 families, representing more than 42 percent of the population, each had an income of less than $1,500 a year.

What do such incomes mean with regard to the ability to buy food at your stores? The average family in these income groups spends about one-third of its income for food. This amounts on the average to about $8 a week for a family of four, or $2 a week per person. Not much room for prosperity to the retail grocers in that standard of living, you will concede. The only way people can live on the food such a sum will buy is to confine their diet to such foods as flour, potatoes, bread, and pork. Only families with incomes larger than those represented by 42 percent of the population can afford such necessary foods as abundant green vegetables, fresh fruits, and plenty of milk. So when we talk about the American standard of living we should be careful to define our terms.

In the last analysis the problem of the 42 percent whose incomes will not permit the purchase of adequate food supplies is related to the problem of the retail grocery trade with reference to monopoly. The situation of the retailer simply gives us a new phase of the old problem of monopoly, a problem that touches every individual and every family at every point of their economic and social life.

According to the Brookings Institution, in 1929 some 23 of our most thrifty families were able to save 10 billions of dollars. Since no 23 families could spend that much for groceries, they had to find other means for spending or investing that huge sum. And the very fact that so much purchasing power had been drained from millions in order to concentrate it in the hands of 23 families made it impossible for those families to find a place where they could be reasonably sure of a return on their investment. After all, the backbone of consumer demand, in groceries as well as in all other commodities, is not the luxury of the rich, but the purchases of the average family.

Supposing we were to go to some newly discovered land and found a tribe of people, a small percentage of whom had food, and clothing and shelter, (and wealth is represented by food, clothing, and shelter) and who were piling up in immense granaries enough to last them for ten thousand years, while great numbers of men, women, and children were starving, lacking the necessaries of life What would we say?

Monopolistic ownership or control of the means of production connotes dictatorial power over the things produced. It determines the amount to be produced, restricts the freedom to engage in productive pursuits, and consequently the amount of labor that may be employed. By fixing prices, it limits or restricts the quantity of goods which may be consumed.

Price fixing and other monopolistic schemes have been familiar to men of all ages from ancient China and Egypt, through the days of European mercantilism, to the present And men of all ages have observed that the common people caught between the jaws of their own need and the power of monopoly have had their lives crushed and their children's children sold into slavery.

You retailers, as the channel through which consumers' goods flow into consumption can appreciate the importance of maintaining purchasing power at a high level and having it widely spread among the families of your respective communities Your economic interests as independent retailers are bound up in the outcome of the struggle with monopoly

Experience has shown that the capacity some large businesses may have to give the public the benefit of low prices is often exercised only at great cost to themselves, a cost which even they can afford only temporarily. It is as true now as when the laws against monopolies were passed, that once success has attended efforts of large enterprises to drive from the field the small competitors who cannot meet these temporarily lowered prices without fatal loss to themselves, such enterprises usually raise prices to even higher levels than they were before.

It is my belief that the late severe economic depression can be traced in large degree to reprehensible practices of selfish interests many of which were unsoundly and excessively capitalized. These practices were not properly controlled because the country had become so blinded by temporary prosperity as to accept the theory that monopolies were beneficial rather than dangerous

What happened? In their greed for profit, monopolistic enterprises charged more than the traffic could bear. They have little or no regard for ultimate consequences. By eliminating competition, they thought they were on their way to greater success and greater riches. Actually, however, as it turned out, fewer people were able to buy the products of the big business enterprises which had concentrated output in their own hands, for that very concentration deprived many of their means of livelihood and thus destroyed their purchasing power. The result, so often called overproduction, would probably better be termed under-consumption.

Another aspect of monopoly is its power to oppress and exploit other groups which are unable to organize their own monopolies. Agriculture, for instance, is the means of livelihood of over a third of our population. During the twenties corporate dividends soared, but the price of the farmer's products and his profits fell continually. In the year of greatest income production in the United States (1929) the farmer was barely able to make ends meet, and in many agricultural sections unrest and rebellion against low farm prices was in full swing. The adversity of the farmer was easy to explain. The farmer is a simon-pure capitalist. He makes his living by raising and selling his products in a highly competitive system. Industry, however, had largely seceded from the competitive system and was squeezing the farmer with monopoly prices on what he bought. Between the nether millstone of competition and the upper one of industrial monopoly, the farmer's share of the national income grew progressively smaller until the alarming spread of tenant farming brought about by farm bankruptcies threatened to destroy the farmer's traditional independence.

In the history of the world the rise of despotic government has frequently been foreshadowed by the destruction of the farming class. I am going to tell you a story about Egypt. What went on in Egypt went on in Greece and Rome at later periods. It is going on in America today.

Many thousands of years ago the Valley of the Nile was uninhabited wilderness. In time the remarkable fertility of t[he] region was reported in older civilizations where the common m[en] lived under oppressive rulers and economic opportunity had l[ong] before been monopolized by ruling classes Soon hardy pione[ers] from the interior of Africa and the still older civilizations [of] Arabia and Mesopotamia began the long trek into the Nile Vall[ey]. These colonists were like our own ancestors who fled from a cast[e-] ridden Europe, where a few rich men owned everything, to bu[ild] log cabins in the primeval forest. In earliest Egypt the people, [as] is the universal custom of pioneers, had democratic Governme[nt] and a rudimentary free-market system

But as time went on trade developed. And then as now a f[ew] men found ways to corner trade, establish monopoly, and ta[ke] toll. In a very short while the whole face of Egypt was change[d]. The farming classes first lost their farms. Then they failed [as] tenants and under pressure of debt passed gradually into a cond[i]tion of peonage They became hewers of wood and drawers [of] water for millionaires who lived in imperial mansions in Cairo, Thebes, or Alexandria, or who built themselves colossal villas o[n] ground once proudly owned and profitably operated by the so[ns] and grandsons of the pioneers who colonized Egypt. As a fe[w] capitalists grew richer and richer, they became increasingly im[-] patient with democracy and soon they put it out of business. Th[e] farmer, backbone of Egyptian democracy, had vanished. Th[e] Egyptian people were first burdened with dictators and at las[t] under the Pharaohs—an Egyptian word meaning the "Man who lives in the big house"—concentration of wealth was made complete and permanent

In its broadest aspects, the problem of monopoly and concentration of wealth is a world problem. It underlies the civil war in Spain, the Communist revolution in Russia, the death of democracy in other countries. It has toppled kings from their thrones. It will drive to disaster dictators, whether economic or political, who thwart the masses in their effort to achieve a better standard of living and greater economic security. The whole world is in revolt against the philosophy of unnecessary scarcity which has been the philosophy of private monopoly

It is my contention that to allow great interests a free hand and permit them to destroy competition is at war with a principle on which our Government was established, that is, equal opportunity for all who wish to be permitted to improve their position by reason of their own merit and initiative By this I do not mean that it was ever intended to protect the lazy or incompetent I do mean that the right of every man to use his brain and energy and gain a fair reward therefor should be preserved and protected.

If we are to accept the policies of concentration of business in a few hands and their control, then it is time to admit that our foremost national aim, individual opportunity, has been lost, and that what we had believed was our outstanding national trait, individual initiative, either has already failed or is no longer worth preserving

It is curious how readily men will agree upon general principles concerning monopoly and how violently they will disagree when it is proposed to apply those principles to specific cases.

A few weeks ago the president of a large corporation attacked monopoly in a radio address. He said that monopoly, whether organized by business men or by the Government, destroyed competition and therefore freedom He defended the right of free action and free competition, implying that his industry is conducted on that basis, despite considerable evidence to the contrary. He declared that dictatorships exist in Germany and Italy because those countries have stifled freedom of competition in industry and commerce as well as personal liberty.

He overlooked the vital and significant fact that freedom of competition in industry and commerce had passed away in those countries (especially in Germany) before the establishment of political dictatorship, and that under fascist philosophy political dictatorship becomes merely the tool of economic dictatorship. Incidentally, one will not have to go farther than Harlan County, Ky., to find open denials of personal, civil rights that we are prone to think can be found only in some fascist state.

In a recent article Walter Lippmann, the well-known writer, says that between 1919 and 1928 there were 1,268 combinations of manufacturing and mining concerns which involved the merger of 4,135 separate concerns and the disappearance of nearly 6,000 more. In 1929 over 1,200 other independent manufacturing and mining concerns disappeared. These facts were reported by a committee sponsored by President Hoover. Mr. Lippmann said: "The unusual severity of the depression was in some considerable measure due to the fact that these gigantic combinations, with their rigid capital structures and their bureaucratic mentality (remember that, please, when you next hear criticism of Government bureaucracy), could not and would not readjust industrial prices to the lower level of agricultural and raw material prices. The exchange of goods was stopped, and it was restored only by artificial inflationary measures to bring farm prices into line with monopolistic prices."

Few people realize that nearly every field of industry today in the United States is dominated by a few giant corporations, or how serious is the problem of concentrated economic power in our country.

How seriously economic power is concentrated in the United States may be understood graphically when we realize that according to Berle and Means, in their illuminating book The Mod-

Corporation and Private Property, 200 giant corporations con- nearly 50 percent of all corporate assets in the United States. se gentlemen show us statistically that if these corporations tinue to grow at the average rate that they did from 1909 to 9, 40 more years would find these 200 large corporations own- American industry 100 percent. Or, if they continue to grow he rate they increased in size from 1924 to 1929, these 200 cor- ations would own all American industry in 30 years.

r. Lippmann also said that the farsighted among big business ders "must know that private monopoly is in the long run as ossible a policy as the refusal to bargain with the freely chosen resentatives of their employees."

r. Lippman went on to say: "Nor ought they wish to see it in. For that kind of thing, if persistently pursued, destroys the ral foundations of private enterprise and of private property. big businessmen try to practice a private socialism, inevitably y will push the country into some form of public socialism. The l propagandists of collectivism in America are not the Marxian tors but the promoters of private monopoly."

That kind of collective bargaining which precludes competition ong industrialists in fixing the price of goods and insists on petition among workingmen in fixing the price of labor is inde- sible and foredoomed to failure. Either we must get rid of col- tivism in industry or we must go on to collectivism in labor and agriculture. The ancient truth still prevails that a house divided ainst itself shall not stand. In the face of modern productive ilities capable of providing comfort for all, no nation can endure th nearly half its population on an inadequate income basis and e-third ill-nourished, ill-clad, and ill-housed. Somehow the nsition must be made from that economy of scarcity associated th private monopoly to an economy of plenty.

You retailers have more at stake in this matter than the average tizen. If monopoly continues to grow, you and thousands of other all businessmen will be the immediate victims.

The Federal Trade Commission found that the ability of the ains to buy more cheaply than the independents was "a most bstantial, if not the chief factor" in the lower selling prices hich account so largely for the growth of chains.

It found that these lower buying prices of the chains were fre- uently granted unwillingly by the manufacturer, who feared ther that competitors would take away his large chain customers r that the chains would discourage the sale of his goods or make eir own.

It found that frequently price advantages were passed on to the hains in the form of brokerage or commissions to intermediaries hrough special allowances for advertising or display and through arious indirect forms of concession not allowed to independent etailers.

Even one who would defend these practices as the expression of ormal competition must admit that their tendency is to make he chains bigger and bigger and to accentuate whatever other actors tend toward monopoly.

Congress had all those facts before it when it passed the Robin- on-Patman Act. Of course, that act is not in terms confined to hain-store merchandising or even to retail distribution. It ap- plies to all commodities and to the effect of discrimination on purchasers who compete in their resale, regardless of who they may be.

The Robinson-Patman Act is one of our important antimonopoly laws and the most recently enacted. It prohibits certain forms of price discrimination and related practices. The act is essen- tially an amendment to or revision of section 2 of the Clayton Act, which was passed in 1914. Under the Clayton Act it has long been recognized that discrimination in price is one of the strongest weapons of monopoly. The dissolution suits against the Standard Oil and American Tobacco combinations strongly revealed this fact. There the Supreme Court specifically found that price dis- crimination had been an important factor in building up monop- oly. Section 2 of the Clayton Act was intended to outlaw that method, and it was to strengthen such provisions of our anti- trust laws that the Robinson-Patman Act was passed as an amending statute.

Under this new law price discrimination is now declared un- lawful where the effect may be "to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination or with customers of either of them." There is also retained in the Robinson-Patman Act the provision of original section 2 of the Clayton Act pro- hibiting discriminations in price where the effect thereof "may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

On the whole, this new law in substance applies the philosophy which the Supreme Court held to underlie the Clayton Act, namely, to prevent practices, which if not stopped, tend toward monopoly. Its general effect is to enlarge enormously the ability of a competitor to protect himself when he is unlawfully discrim- inated against.

Proof of violation of the old law involved difficulties because of a proviso that discrimination in price was not unlawful when made "on account of" differences in the quantity sold, or which made "only due allowance" for differences in cost of selling or of transportation, or when made in good faith to meet competi- tion.

In this respect the new law provides that upon proof that there has been a discrimination in price or in services or facilities fur- nished, the burden of rebutting the prima facie case thus made and of showing justification shall be upon the person charged with the violation; and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminat- ing the discrimination. It is also provided that the terms of the act shall not prevent the seller from rebutting the prima facie case proved against him by showing that his lower price was made or the services or facilities were furnished in good faith to meet an equally low price of a competitor or the services or facilities furnished by the competitor.

The new law also extends the principle of nondiscrimination into other areas than price as such. Whether they might be regarded as forms of indirect price discrimination under section 2 (a) or not, the act specifically declares it unlawful: To pay or grant or to receive or accept anything in the way of commis- sion, brokerage, or other compensation, except for services ren- dered, either to the other party or to an intermediary who is acting for or is subject to the control of any party to the transaction other than the one paying such compensation; subsection (d) makes it unlawful to pay or agree to pay compensation to, or for the benefit of, a customer for services or facilities furnished by or through such customer unless the same compensation "is available on proportionally equal terms" to competing customers; subsection (e) makes it unlawful to discriminate in favor of one purchaser against another purchaser by furnishing or agreeing to furnish any services or facilities upon terms not accorded to all purchasers on proportionally equal terms.

The act concerns itself with transactions in commerce, as defined in the Clayton Act, which, in general, means interstate or foreign commerce and commerce in the various territories of the United States.

It also is declared unlawful for any person "knowingly to induce or receive" a prohibited discrimination in price. This provision is very important to buyers, and the word "knowingly" appears to have been inserted for their protection.

In the application of the law, the Commission to date has issued 21 formal complaints. These cover important phases of the law. Many of the cases have advanced to trial and to other stages along the path of legal procedure which they must follow to final decision. In one case, the brokerage concern complained of was dissolved by its organizers, and, upon proper showing of discontinuance, the pro- ceeding was closed without prejudice to reopening it if the circum- stances should warrant. The proceedings in the several other cases are being expedited with the view of having decisions by the Com- mission rendered at as early a date as possible. These proceed- ings may be considered in the nature of test cases on many dis- puted points. One group of cases presents alleged direct discrimi- nation in price. This practice, it will be recalled, becomes unlawful in commerce when it injuriously affects competition and cannot be justified as reflecting only due allowance for savings in cost of manufacture, sale, or delivery resulting from differing methods or quantities in which the commodities are sold or delivered.

Alleged discrimination in the selling price of raw materials with the alleged effect of injuring competition between competing pur- chasers engaged in selling finished products, is involved in some of the cases. The question of the legality of certain functional dis- counts also is raised. Likewise, violation of the brokerage section of the act is alleged. One case involves the question of the buyer's responsibility under section 2 (f).

Under section 2 (d) falls the question of the legality of dis- crimination in advertising or promotional allowances. Certain of the pending cases raise these issues, and decision thereon will be entered in due course. Also in relation to section 2 (d) several of the complaints attack the practice of paying "push money" in the cosmetic trade.

The Commission has, through formal and informal action, effected compliance with the statute throughout various industries. We know that many have radically revised their selling prices and practices, resulting in compliance with the law, to the benefit of the small businessman and the public.

In this brief sketch I have undertaken a description of the Robinson-Patman Act, and not an interpretation. Neither the Commission nor I can appropriately express in advance an opinion concerning application of the act to the facts of particular cases. One reason for that policy is that the Commission is required by statute to exercise the quasi-judicial function of officially and for- mally deciding specific cases of alleged discrimination presented to it under the procedure specified by the statute.

In devoting thought to the Robinson-Patman Act, as we have, and also to the questions of monopoly and unfair trade practies, it is well to be ever mindful of the fact that the broad general policy of our law is one of fairness and of equality of opportunity to all. That policy is of fundamental importance to the American people. It must be preserved.

Let us not forget that the prime purpose of this legislation is to protect the general public from monopoly and monopolistic prac- tices and that it is only as a means to that end that the private interests of individual trades or of organized groups of traders can legitimately be given legislative and administrative protection. Let us not forget that the basic philosophy underlying the act is to preserve freedom of competition and not to subsidize inefficiency or forestall the changes which a competitive economy inevitably brings to pass.

Society is an organism through which flows the lifeblood of commerce. When any part of society monopolizes more of that lifeblood than it can use, the other parts suffer. Even in the part which has the excess supply, congestion and disease appear. And just as infection in the less prominent parts of our bodies may produce decay and death, so infection in the humbler parts of our social and economic organism may destroy it.

The Socialists and Communists tell us that this situation is inherent in capitalism, and that the disease is incurable and will steadily get worse. At the other extreme the apologists for monopoly say there is nothing wrong except too much Government concern over relatively unimportant parts of our population and too much Government in business. Whatever the merits of these opposing viewpoints, the capitalistic system is still alive and naturally struggles to conquer the disease which some of us think is not necessarily fatal. But the germs of this disease are monopolization of wealth and purchasing power and it will be fatal if allo
to run on unchecked.

Monopoly and the impoverishment of the common people u
it was a choice between the bread of charity or the blood of revo
tion has ever been the herald of moral decay and national de
So passed the glory of republican Greece and the grandeur
democratic Rome and, if we may judge the future by the past,
may perish the greatest republic that "ever gleamed like a pri
less jewel on the skeleton hand of time." Self interest, human
patriotism, religion itself, all admonish us to weigh well the pr
lem of the hour—a problem born of human progress, forced up
us by the mighty revolution wrought in the industrial world
steam and electricity and that problem is: "Shall the aver
American citizen be a slave or a sovereign?"

The illustrious Abraham Lincoln said, "I believe this Governm
cannot endure permanently half slave and half free." And by t
same token neither this nor any other government can end
half monopolized and half free, because monopoly is slavery.

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