Private Monopolies

EXTENSION OF REMARKS OF HON. J. W. ROBINSON OF UTAH IN THE HOUSE OF REPRESENTATIVES

Thursday, February 24, 1938

STATEMENT BY COL. CHARLES H MARCH, FORMER CHAIRMAN OF THE FEDERAL TRADE COMMISSION

Mr. ROBINSON of Utah. Mr. Speaker, under the leave to extend my remarks in the Record, I include the following statement by Col. Charles H. March, former Chairman of the Federal Trade Commission:

"In reducing competition they seemed to be on the way to greater success. Actually, however, fewer people were able to buy the products of those who had concentrated output in their own hands. Such concentration has changed the public perception of the price-mechanism and has changed the price structure. The result, though often called overproduction, might equally well be termed underconsumption, for many of those who have been consumers have found that they can no longer afford to buy the products of those who had monopolized the market."

"All this is directly contrary to the principle on which our Government was founded—that of equal opportunity for all who are fitted to improve their position by reason of their energy and initiative. If there is to be anything distinctive about our national character, we must preserve forever the right of every man and woman to use his brain and energies to the full, and to reap a fair reward from this use. I fear we have taken the sturdiness of American spirit for the dogmatism of American tradition too much for granted. It is time we examined this American characteristic again, to see whether or not we are losing it, and to decide whether or not we wish to lose it and to replace it with reliance on the Government or on others."

"Such dependence would lead us, would it not, into the totalitarian state, or socialism?"

"The totalitarian state, socialism, fascism, communism, or any other 'ism' that has ever lured man with the hope of redressing his wrongs, down through history. This problem of the concentration of wealth into the hands of a few has always been a world problem. It underlies the civil war in Spain, the Communist revolution in Russia, and the death of democracy in other countries. It has toppled one government after another, and it will drive to disaster dictators, economic or political, who thwart the masses in their efforts to achieve a better standard of living and greater economic security. It is an ancient question and, curiously, when it recurs, it has always been novel and acute. This is because self-seeking businessmen have been adept at conceiving and adopting new monopoly devices soon after society showed itself able to comprehend and control the contemporary problem. Thus the problem has always been a new one, requiring a new concept and a new analysis."

"In the present recurring wave of interest and preoccupation with monopoly I read the natural result of legislation rendered inefficient in interpretation. Back in 1873, if my Ward Beecher recollection serves me right, he contended that 'the only cure for monopoly which has developed out of the prodigious rapidity of the accumulation of enormous and consolidated wealth' is the Federal Civil Service. In 1912 the American industrial scene underwent a vast change. Great and numerous national industries passed into the hands of powerful corporations. "With this ever-growing power of monopoly the Federal Government demanded the creation of the Federal Trade Commission to cope with the arising problems. In Wilson's first term the Federal Trade Commission was created for the administration and enforcement of the antitrust laws. In 1922 the Clayton Act was passed, revising and strengthening the Sherman Act. For the first time in our national history monopoly was compelled to lay its cards on the table and justify its actions before trained experts in law and business. Office records, letters, contracts, all the practices of monopoly, were subpoenaed and brought before the Commission."

"What has happened between the Wilson and the present time and this that this was caused monopoly to get such a hold upon our business enterprises?"

"Will tell you. First, however, I would like to make two things clear. The first is that our present-day monopoly is big or little—are honest. My second contention is that there is nothing the matter with our present law; that as it stands, if it were executed in its spirit and to its letter, it would eliminate those evils it was designed to wipe out."

"Commissioner March broke off to inquire abruptly, "Have you ever heard this saying, 'He that lives by the sword, dies by the sword,' and your neighbors against private monopoly and to preserve individual business enterprise and safeguard the unorganized masses of labor, agriculture, and consumer from the unbalanced economy of organized capital? Everyone who is having anything to say about this present situation of monopoly should certainly read it. It states in direct language..."
just what it means: 'Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person to monopolize or attempt to monopolize, or engage in, or encroach upon the business of selling within the several States, or with foreign countries, shall be deemed guilty of a criminal offense."

"The Supreme Court has held that every combination in restraint of trade among the several States, or with foreign nations, is hereby declared to be illegal."

"The doctrine of good trusts, in which the Supreme Court has intervened, is declared to be illegal."

"The Supreme Court has held that every combination in restraint of trade, as the statute distinctly states, is a violation of the law."

"Out of this interpretation of the laws made by Congress has grown the modern doctrine of the unreasonableness of certain restraints of trade."

"The doctrines of good trusts and bad trusts were but a cleavage of the 'rule of reason.'"

"The Supreme Court has declared that every combination in restraint of trade is a violation of the law, but only those combinations which 'unreasonably' restrain trade are declared to be illegal."

"President Taft, in the other hand, showed his disagreement with the philosophy of his predecessor when he stated in a message to Congress: 'I tenet that this is to put the hands of the law into the pockets of the unscrupulous, whereas the Federal Constitution has provided no such principle which will recognize the absolute satisfaction of the Supreme Court."

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