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ADDRESS

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By

Hon. Charles H. March,  
Member of the  
Federal Trade Commission

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## INTRODUCTION

As you know, in exercising the privilege of addressing you today, I am, so to speak, in my own backyard. I am amid familiar surroundings, I am confronting familiar faces. In a word, I am home again. Let us, therefore, designate this as an across-the-fence discussion, rather than as a formal dissertation, and it is in this spirit, if I may, that I propose to discuss with you in a neighborly and most informal manner, matters in which we of the Federal Trade Commission are primarily concerned. In no other way do I feel that I could express my genuine appreciation for the opportunity of being with you this morning.

Gentlemen, we are living in an age of change. We are living at a time when it is, perhaps, more important than ever to re-examine and rededicate ourselves to the fundamentals upon which this nation is founded and under which it has risen to greatness. The history of thousands of years records the long struggle of mankind upward toward the light of liberty and self-government. It shall be my purpose to draw your attention to this idea of freedom and democracy, which is fundamental and of deep significance; and in the discussion of this subject it shall also be my purpose to allude to some of the things we must be alert to guard against, lest our heritage of self-government, individual liberty and opportunity be curtailed, if not entirely lost.

Self-government has ever been the goal of mankind. Its struggle began with the dawn of civilization. All peoples of the world have striven for self-government. It is democracy's objective and purpose. In 1776 our ancestors had the fortitude, the courage and the conviction of purpose to establish the first great democratic nation of the world. The principles of democracy, of self-government, of liberty, are basic to us, to our institutions and our whole life. We justly cherish these principles and rightfully we are quick to defend them from alien ideologies.

A fair and reasonable profit is vital to healthy business but the picking of the public's pockets, by means of monopoly and its attendant exorbitant prices, by the sale of inferior goods, by false advertising, and by use of numerous other methods of that character is little less than criminal larceny, on whatever scale it may be practiced.

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.

One day not very long ago, a small town business man came to me and said he was losing money. He had a family of four children and one of the best kept stores in town. A chain store just across the street from him was 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. Not long afterwards, the President of a large manufacturing concern came into my office and said he had come to discuss the Robinson-Patman Act. He said they wanted to abide by 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 a 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.

What happens, my friends, to the little fellow who has to run the race with a 32-pound weight around his neck?

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 one-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.

#### HISTORICAL SKETCH OF MONOPOLY

Is this cancer of monopoly new to the world? The answer, gentlemen, is emphatically, no. In the history of nations, the alternate rise and fall of despotic government has at once been foreshadowed and caused by the atrofying forces of monopoly. What went on in Egypt, went on in succession in Greece and Rome. It, moreover, 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 became known to older civilizations where the common man lived under

oppressive rulers and economic opportunity had long before been monopolized by the ruling classes. Soon hardy pioneers from the interior of Africa and Arabia and Mesopotamia began the long trek into the Nile valley. In earliest Egypt, the people, as is the universal custom of pioneers, had democratic government and a rudimentary free market system.

However, by the time of the imperialistic reign of the great Ptolemy, oppressive taxes removed the land from the ownership of the farmers, and placed it in the king. Prohibitive duties snuffed out all foreign competition. Except for what land was set aside for military purposes and for the temples was owned by Ptolemy. He rightly called all Egypt his "private estate". The land was farmed by "royal peasants"; the seed was furnished by the king; the crops were planted under the king's direction; the king received the full benefit of the crop at prices fixed by the king. The "royal peasants", meanwhile were fortunate if they could eke out a bare subsistence. All farm activities were for the benefit, not of the farmers, but of the king. This was the most unashamed monopoly of farm labor the world has ever known.

The unhappy and short lived results must already be obvious. Independent trade was unheard of. Retailers of farm and all other products were mere puppets of the State in the system of distribution, with all profits fixed. The program required so many officials at every turn that, like all bureaucracies, it became uncontrollably ponderous. It was destined to topple beneath its own weight. Corruption and personal greed soon permeated the administration. Monies that were indispensable for irrigation stuck in the collectors' pockets. The land itself became sterile and baked. With the temples as their only sanctuaries, the so-called "royal peasants" commenced to deliberately strike; then followed in rapid order wide-spread riots, and next, infestuous civil strife, throwing the entire country wide open to the conquests of neighboring empires. The cancer of monopoly had eaten out the very soul of Egypt.

Then Rome, conqueror of Egypt, assumed the major role on the world's stage. Against a back-drop of military victory and commercial prosperity gained by individual effort, the Empire of Rome attained economic heights undreamed of. But the lavishness of the State and the magnitude of its armies required taxes, then taxes upon taxes. What had formerly been an efficient tax collection system willingly participated in by the people, soon became a State monopoly. The increasing pressure exerted by the need for State funds gave birth to the practice of farming out taxes to officials. The amount to be collected from a particular district having been determined by the State, it was the responsibility of one man to collect that sum within his own locality. What he could extort from the people above that amount, belonged to him. A monopoly within a monopoly was inevitable. The familiar effects became so pernicious that the people in sheer desperation appealed to the Senate for relief, not only from this particular monopoly but from all monopoly in any form. Timely action resulted in the year 483 A. D., in the great Code of Zeno, wherein was inculcated a provision denouncing monopoly in these terse words:

"And if anyone shall presume to practice a monopoly, let his property be forfeited and himself be condemned to a perpetual exile. And in regard to principals . . . if they shall venture . . . to fix a price upon their merchandise, and to bind themselves by agreements not to sell at a lower price, let them be condemned to pay 40 pounds of gold."

And to more firmly assure the enforcement of these terms, the act further provided that should the courts through avarice or negligence fail to observe the prohibitions, they themselves "shall be condemned to pay 50 pounds of gold." Well might this law be called the Sherman Anti-trust Act of 483 A. D.!

### MONOPOLY IN AMERICA

Turning to America, when our forefathers came to this continent they fled from oppression, exploitation and monopoly. They voyaged west to this land to found a civilization and government wherein true self-government, freedom and individual initiative were to have opportunity to come to fruition. And that fundamental ideal of self-government, liberty, individual effort, produced a Constitution and a government of law that have made ours the greatest nation on earth.

Today we see springing up in various parts of the world a departure from the idea of self-government and freedom for the masses. We see peoples in other parts of the world apparently clamoring for dictatorships. Little do they realize the price they are paying. What they are really seeking is tyranny and regimentation. Liberty and the right of self-government are being trampled upon. This trend in certain other countries is carrying the world back thousands of years. Human progress since the birth of the Christian religion is greater than that of all the centuries prior to the birth of Christ. It has resulted in a government by men, rather than in a government ruling men. Do we want to go back? By way of answer, rather we take pause and remind ourselves of the gratitude we owe for our democratic institutions and principles. We want none of their dictatorships, their oppression, their ruthlessness. Our course to follow is that of democracy and individual initiative, and honest and fair competition, for therein lies the greatest measure of freedom and human happiness. Democratic principles are the bulwarks of freedom, prosperity, and security.

Not only do we see the departure from these true principles of liberty in foreign countries, but there are tendencies in our own land which, if allowed to continue would fetter and strangle our economic and political well-being. It behooves us all to be alert to these tendencies and to stand guard.

Among the questions posed by these tendencies, both here and abroad, is that of monopoly. This question has ever been the concern of liberty-loving people; and at no time in our recent history has it been more

acute and more pressing for solution than at present. The entire situation is now up for thorough examination by a select committee of the Government known as the Temporary National Economic Committee, created by Joint Resolution of Congress. The immediate purpose of this committee is to find ways and means of strengthening our present anti-trust laws; the ultimate aim is the maintenance of a reasonable freedom for individual initiative.

The problem of monopoly appears to be ever with us. As we have seen, it has been of pressing concern to the people since ancient times. The fight against it has gone on through the ages and to each new age it is newly vital. When brought under control as to one form it is not uncommon to find it break out in another form. In its broadest aspects, the problem, which is one of 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. Any general monopolization of the means of production and distribution carries with it limitation of purchasing power. The inability of millions to produce, to purchase, and to consume is but the reflection of such monopolization.

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.

#### FASCISM OR COMPETITION IN AMERICA?

In America, the roads leading to a complete elimination of the competition of which I speak are two-fold. They both lead to fascism. One is the trial blazed by German and Italian Fascism. This would be the long and hard road to travel. An orator would have to be discovered. Monopolists would have to spend vast sums on his campaign. Then the people would have to be aroused to fury against some convenient enemy that would take popular attention away from the sins of monopoly. It might be Jews, or Negroes, or Communists, or Fascists. The purpose would be the same as it was in Germany or Italy--to get the people drunk with unreasoning fury so that they would turn the government over to the representatives of the lords of monopoly. Then the few remaining free business men could be swallowed up, and all power could be centralized in the hands of the few who already control most of the economic life of the country.

The other road is a short cut to fascism. It is effected by catching unwary liberals off their guard and by selling them a Fascist economic system as the cure for depression. No orator will be needed. All that will be necessary is to convince those in power that competition as the driving power of our economic system is outmoded--that the way to real prosperity lies in scrapping the anti-trust laws and letting business men get together and plan prosperity. Competition, it will be said, is another name for chaos. Price cutters will be called destroyers of business, bacilli of unemployment and vanished dividends. Enduring prosperity, it will be said further, is after all a problem for business men. Get the amateur regulators of business out of the way and let business men confer and put our economic system in order. As it is, the present anti-trust laws prevent business men from getting together and planning production for the entire country.

To the man untrained in analyzing the consequences of economic proposals, planned economy might appear to be the way out. The man in the street instinctively likes the idea of a plan. Few people have not at some time in their life experienced the destructiveness of competition--and the desire for protection against change and uncertainty is one of the oldest longings of the human race. But how difficult it would be to plan prosperity, how much we would really have to pay for the stability we created! Above all, the advocate of the planned economy mirage is ignorant that competition is also a way of planning business and is the only way that business can be planned if democracy in America is to be kept alive.

For the last fifteen years there has been some very short-sighted thinking about competition. Indeed, for a brief period not so long ago, we were on the verge of sanctioning by law the permanent elimination of competition from our economic order. Since that time, the resources of Federal Agencies have been strained to the breaking point to compel business men to relinquish numerous techniques they perfected in that brief period when they thought that competition would endure in name only.

Fundamentally, however, the question of control of monopoly in this country has been for half a century a pressing national issue. The progressive elements in both major political parties have never lost interest in it, and the platforms of both now pledge a renewed attempt to enforce and strengthen the laws designed to protect the public against monopoly.

But most disheartening of all is the fact that in the last year or so, there has apparently been launched another business crusade to legalize price fixing or restriction of production in industry by business men. Hardly a week goes by that we do not read in the press of some group of business men who are again clamoring for a repeal of the Anti-trust Laws as the one step necessary to effect recovery. Many business men seem to believe that America has still to make up its mind whether it wants the competitive system or wants to go into some other system. Now, if we are to go over into some other economic system, what should we consider?

It is my firm belief that if we move into a business order from which competition has been eliminated, it will be the first stage of fascism. It definitely will not be the American system of competition. Such a program would eventually end up in the personal rule of a dictator and then both American business men and the American people would be the sufferers. Under fascism everyone loses out in the last analysis but the Dictator and his intimates. This is precisely what happened in Germany and Italy. Business men in both these countries, setting out to control the economic life of their nations, found that they had only stuffed the turkey for a dictator.

I agree that it is perfectly natural for anyone in business to be thoroughly aware of the dangers of free competition. At any moment, some competitor is liable to start a price war which, before it is over, may have every concern in the industry in the clutches of bankruptcy. Or someone may introduce new machinery that will make life hard for those who cannot afford to modernize their plants. Or a company that sells honest goods may be driven out of business by some fly-by-night concern that has no scruples and cares nothing for a permanent reputation. Most serious of all, in a free market the largest concern, with great financial backing, may continue to undercut the small concerns and to engulf them until it seems that the only kind of freedom for a small business is freedom to be devoured by his more powerful competitors. With the terrors of free competition before their eyes, many business men must have been tempted to look for some safe shelter. I sympathize with their feelings as they look out into the stormy sea of business and wonder if they dare to sail through such hurricanes and tidal waves. At the same time, my major purpose here today is to point out that with all its terrors, the open sea of free and fair competition may be safer and more profitable to sail than the quiet but poisonous waters of a controlled economic order.

No man has a right to cheat either his customers or his competitors, or bribe his competitor's agents, or counterfeit his rival's goods, or obtain business by lying and slander. Neither does he have a right to sell goods below cost for the purpose of running out a competitor. Business men have a right to do what they can, either by private organization or with the help of the Federal Trade Commission, to promote honest trade practices. The danger is that the tempting pleasures of restriction of competition may creep in. Ethics, as everyone knows, may start as an agreement to avoid dishonesty, but is very apt to end as a code of rules for never giving the customer fair play. The temptation is gradually to bring competition itself under condemnation, and to call any man who really tries to take business away from his rivals a "chiseler." When you have reached the point of calling honest competition chiseling, you are far away from the American tradition of free initiative in business.

Do not deceive yourselves. When you get under the protection of organized leadership--whether by a monopoly or an underworld racket--you have entered a different world. You have landed on the shore of



that world where communism and fascism are the strongest political forms, where democracy and freedom have their backs to the precipice.

Observe what happened in America as soon as a few industries were organized into trusts or holding companies, or some other form for controlling the market. These organized industries had an advantage in dealing with small business, with labor, with farmers. In general, they had the whip hand over the producers of their raw materials and the consumers of their products. They also had the advantage of the inside track in the capital markets. If anyone wanted to fight them, they could last longer and suffer less than any smaller opponent.

Let us make this fact clear. So long as one or two industries could organize to take advantage of everyone else, it worked fine. But as more and more interests come in, the scheme simply does not work out. In the end, all it amounts to is mutual destruction, a universal sit-down, and universal starvation.

We see, then, that competition was intended to be, and is, the sure fire antidote to the autocratic State. So long as competition is the law of our land, America is safe from dictators, fascism or communism. So long as we cling fast to the competitive system, every court in the land is the constitutional enemy of the autocratic State and the ambitions of any would-be dictator.

In plain words, be on the guard for monopoly. Free competition that lets one concern devour all the others turns into monopoly. There has to be a limit, and that is the purpose of the anti-trust laws, because the only way to have free competition and yet have a limit is to impose limits by law.

You retail dealers have as much at stake in this matter as the average citizen. If monopoly is allowed to grow, you and thousands of other business men must eventually go down as victims. The streams of commerce must be kept open and free to insure national well-being. Questionable or unfair trade practices are among the main obstructions to this steady flow of commerce which too frequently interfere with the forces of supply and demand and disturb the competitive balance.

Each member should take his part in effective housecleaning within an industry. He should give his cooperation and full share of fair dealing to his fellow members and in return, merit fair treatment and a proper respect for his rights. I have said elsewhere that life is a mirror; we see what we reflect; we receive what we contribute - no more and no less.

#### PURPOSE OF FEDERAL TRADE COMMISSION

The passage of the Sherman Anti-trust Act of 1890, which is still on the books, was the culmination of prodigious efforts to prevent monopoly from overwhelming our people. In 1914 the need for supplementing

the Sherman Act was sufficiently crystallized that steps were taken to deal with certain of its phases through creation of the Federal Trade Commission. In the experience under the Sherman Act up to that time it was found that it was largely through the use of unfair and deceptive acts and practices in competition, and the employment of certain specific devices that monopoly was able to gain a foothold. Practices to which I refer include misrepresentation and misbranding of products; defamation of competitors; illegal price discrimination; commercial bribery; illegal rebating; full line forcing to suppress competition; inducing breach of contract to wilfully injure competitors; selling goods below cost for the purpose of running the competitor out of business, and the like.

Our purpose, then, is to maintain a wholesome competitive condition in all industries, and to prevent the inception and existence of these unfair trade practices. The Commission is your law enforcement officer, prepared to give friendly counsel and to support your efforts to conduct your business within the law of good conscience and fairness. If one's purposes are lawful, he will find the Commission to be a helpful friend. If one's purposes be objectionable, he will find the Commission determined to perform its duty, which is to give effect to the purposes and objectives of Congress as expressed in the various statutes whereby it clothed the Commission with its mandate on the question of fair conduct in business. The Commission will help you to the limit of its power to attain all proper and lawful objectives. That is our message of cooperation and good wishes for the successful outcome of your endeavors.

#### CONCLUSION

In conclusion, let me say that it is a great pleasure to have this opportunity of appearing before you today. Let me say too that there is one thought I wish to leave with you, with the hope that you will keep it in mind. That is, that the Commission wishes your valuable cooperation in the work it is attempting to do, which is the elevation of the standard of business ethics and the elimination of unfair competitive practices, from which honest business men and the public generally inevitably suffer.

Bear in mind that the Commission is not a punitive body; rather, its processes are injunctive, and its desire is to be cooperative and helpful, rather than coercive. In the effort to effect our aims, which are solely in the interests of both such retailers as yourselves and of the public, cooperation is of necessity the key-word.