

Release for use in  
papers of Sunday,  
December 12, 1937

ADDRESS

"CONSUMER PROTECTION BY GOVERNMENT"

Prepared for delivery by

ROBERT H. JACKSON

Assistant Attorney General of the United States

Before

CONSUMERS NATIONAL FEDERATION

2 West 64 Street, New York City

December 11, 1937

8:30 P. M.

Abraham Lincoln used to have a formula for trying times: "If we could first know where we are and whither we are tending, we would better know what to do and how to do it."

These are not difficult days, measured by what we have gone through, and what other parts of the world are going through. But they are uncomfortable days, and they are days in which a portion of the population which needs protection as consumers, may equally need protection as holders of jobs. It seems unrealistic, therefore, to think of the interests of the consumer today except in relation to our whole economic situation.

Applying Lincoln's formula, where are we right now -- both as consumers and as workers?

The President has been called a demagogue for saying that one-third of the nation is ill-clad, ill-nourished and ill-housed. Certainly, the Brookings Institution is not a propaganda agency of the Roosevelt Administration. But the figures of the Brookings Institution, even before the depression of 1929, show that the President understated our difficulty by 100%.

Many of you will remember this finding of the Institution: "At 1929 prices a family income of \$2000 may perhaps be regarded as sufficient to supply only basic necessities \* \* \* It is significant to note that more than 1,600 families, or practically 60% of the total number, were below the standard of expenditure. \* \* \* Of the non-farm families as a whole, 16 million or 74% did not have sufficient income in 1929

to provide an adequate diet at moderate cost."

The same study showed --

71% of the population, nearly 20 million families, with less than \$2,500 of annual family income, --

60% or 16 million families with less than \$2,000 annual family income, --

42% or 12 million families with less than \$1,500 annual income, and --

21% or 6 million families, with less than \$1,000 annual income.

These families are not only the greater part of America today. They are pretty nearly all of America tomorrow. They alone are reproducing themselves on a survival basis -- their children are probably 90% of the children of America.

Dr. Lubin, Commissioner of Labor Statistics, has strikingly set forth the reality of what it means to live on one of these lower bracket incomes. Some of you may know his study of a year or two ago of consumption in a typical city dweller's family with a single wage earner. The typical American wage-earning family such as we have in New York lives on an income of from \$1,200 to \$1,500 a year.

How do they live on it? What can such a family do with that income of a hundred or a hundred and twenty-five dollars a month?

Ill-clad?

For clothing such families can spend only about 12% of every dollar of income. In a family of four less than \$4 per month per person is available for clothes. The father of the family must make a suit last three

years. He can buy a new overcoat only every four or five years. The mother can buy only \$5 or \$6 dresses and has one winter hat and one summer hat a year. (But she does have silk stockings).

#### Ill-nourished?

Food expenditures take one-third of the employed worker's income on the average, but for the employed worker's income in the lowest brackets it is a larger proportion. It amounts to about \$8 per week or \$2 per week each for a family of four. The diet is weighted heavily with flour, potatoes, bread and pork. The market basket has little space for fresh fruits and vegetables, and despite the importance of milk to the health of youngsters, 4 out of every 10 families consumed less than 2 quarts of milk per person per week.

#### Ill-housed?

For \$20 a month such a family gets a flat or half a double house or a four or five room frame house for the shelter of its four or five members. Rent claims about 15% to 20% of the average employed worker's income.

The house is not steamheated nor does it have an oil burner or other central heating.

Go to the movies, read advertisements, listen to orations about the American standard of living and you would expect to find electric lights, gas or electricity for cooking, running water and a flush toilet inside the home as normal elements in the wage earner's standard of living. Yet this survey shows that in many large cities a large proportion of employed wage earners' families did not have some or all of these elementary living conveniences.

What of the luxuries that have become necessities?

If a family in this income bracket has a car at all it is not likely to be a new one. In one year in a middle western city it was found that for every 100 employer wage earners' families three bought new cars and twelve bought used cars during the year. In a large eastern city one out of a hundred bought a new car during the year and three bought used cars.

"It is only at the highest economic levels", says Dr. Lubin, "that the wage earners' families can afford frequent movies, a second-hand car, and clothing which meets the needs of winter and at the same time has some style. Even at these higher levels, after taking care of the family's needs for food, clothing and housing, it is only infrequent that the amount left over for other purposes is equal to one-third of the family income."

To this type of family, life is a matter of bare shelter, food and clothing. Health is accidental, for such families can afford little medical, dental or hospital care. Justice is luck, for the victims of unjust dealing cannot afford an advocate. Entertainment, except the lowest, is free or non-existent.

What can government do for this cradle of tomorrow's America?

It can use anti-trust laws to stop obvious raids upon the consuming classes.

There are definite limitations upon the usefulness of these laws. No corporation ever really loses an anti-trust case because it is always longer than any other proceeding in the time-consuming processes of law. The government lawyer who begins a case seldom manages to survive in government long enough to see the case through the Supreme Court. The anti-trust laws themselves are full of loopholes because the courts have treated them most

unkindly and there has been no conscious effort in the last fifteen years to keep them as modern as the ways of the transgressor. No Congress will ever realize the size of the appropriation necessary to fight a comprehensive battle against monopolies through many and prolonged trials and successive appeals.

Nevertheless, even during a necessary process of revision, the anti-trust laws can be employed in strategic sectors as really effective weapons in a battle against high prices if private enterprise as a whole is wise enough to see that what the Government is after is not to wreck business but to keep prices reasonable so that the consumer can buy and business can keep going, and the worker can have a job.

For the first time in our history an appreciable number of business leaders are beginning to believe that the only way private enterprise can keep our present economic system going indefinitely is to organize itself on a low price-high volume basis which will make buyers producers and producers buyers on a scale we have never before known in this country.

Nothing has done more to create a hope that we may have this new conception of its interests by private enterprise generally than the present recession, depression or whatever we choose to call it. Most economists who are not special pleaders, are convinced that the attempt last spring to taper off the Government expenditures was spoiled by the failure of private enterprise to realize that the consumer could not be gouged without serious effect upon the survival of private enterprise itself. You will remember how in his last Fireside Talk, the President quoted Professor Sprague of Harvard and the Bank of England to the effect that the future of American

business depended far more on the price policies of our business leaders than on anything done or not done in Washington. Out of this recession private enterprise is learning the ancient truth that competition is the life of trade and that when monopolists run prices to the sky, they can't keep volume from falling through the cellar.

We are not running into a major depression today for good and sufficient reasons. The first reason is that the government not only knows it must step in, if necessary, if private enterprise cannot adjust to conditions, but the government is organized to do so in time, as it was not organized in the emergency days of 1933.

The second reason is that fundamental conditions today are not those of 1929. In 1929 to 1933, our financial-economic situation was never in such shape that we could make the downward readjustment of prices necessary to resume normal business activities on a normal competitive basis, without upsetting the private debt structure and the banking structure of private enterprise.

Today we find an absence of those difficulties and of those conditions which produced the last depression. We have not scattered through the country a flood of wild cat securities. We have not been exporting billions of dollars to foreign borrowers. We do not find such excess plant capacity or such over-production of goods as in 1929.

Our financial institutions by and large are on secure foundations. They are loaded with an excess of cash instead of an excess of questionable securities and frozen assets. Unemployment compensation systems are for the first time in our history soon to begin disbursements that will help combat deflation.

We can have no prolonged recession if we do not exclude by unemployment a large part of our labor resources from production and thereby exclude the unemployed workers from our exchange system. We need more goods, and business has shown an extraordinary measure of ability to produce more goods with a given amount of labor. We have not learned to turn this greater productivity fully to the advantage of living standards. We seem to have converted a large part of our labor savings into unemployment. The biggest task facing American business is how to restore the unemployed to our exchange system by accepting their services--the only thing they can use for money--in exchange for the product of industry.

How can American business bring all American workers and consumers into an exchange relationship?

Big business jerked prices up as soon as volume began to go up. It acted on the theory that under the competitive system business had the right to charge what the markets could bear. Results show that big business misjudged the market and charged more than the traffic could bear. It's now up to those lines of business, which did boost prices, to play the competitive game according to the only rules under which private enterprise can function, and to restore prices to a level demanded by the market, to reduce prices until buyers begin to buy and our exchange economy begins to work.

The exchange economy based upon a free market demands producers produce as much goods as consumers can consume. We don't ask the farmer or the manufacturer to produce more than the consumers need. But a free market presupposes the willingness of business men to supply the normal demands of the market at the market price, at a price buyers are willing to pay for normal volume.

If business is going to do its part to bring about revival, business must boldly reduce prices to the point necessary to cause a normal flow of goods to the consumer. Big business is not today permitting the competitive system to work. Fortified by high corporate surpluses big business refuses to supply the normal requirements of the consumer, but will sell only to those few who are willing to pay the prices fixed last spring when business was booming. Although the consumer's income is about a third less than it was in 1929, big business is asking the consumer to pay more for their goods than they did in 1929. If a consumer wants to build a home, he must pay 11% more for cement, 5% more for steel, 4% more for lumber than he did in 1929. For some building materials he must pay even 100% more than he did in 1929. How can we have a housing program under such conditions?

If we want to preserve our competitive system, all of us must take some risks. Business men must venture, confident in the belief that the market will absorb an increasing volume of goods if prices are sufficiently reduced. Business men know that substantial profits can be realized with substantially lower prices if volume production is maintained.

Who is going to take the risks in this policy of price reductions? The only people who can take it -- business. Business now has the risk in any event. The risks of failing to venture are greater than the risks of the venture.

If big business holds back from production and unemployment grows, an irresistible demand will arise which no responsible democratic government can ignore, for more rather than less government expenditures.

Increased government expenditures will mean increased taxation, and big business which already controls half of the corporate wealth of the country will have to bear the major part of that burden.

It is time that business take a leaf from the book of one of its most successful captains. During the depression of the early twenties when other manufacturers were waiting for people to grow rich enough to buy automobiles, Henry Ford built a car which a man could buy without waiting to grow rich. What I may think of Mr. Ford's labor policy and many other of his policies is beside the point. His price policy still stands out as the most intelligent and imaginative business strategy in this generation. There is an even greater opportunity in the housing field for the suppliers of steel, lumber, cement and gypsum if they only had a tithe of the enterprising spirit which Henry Ford had when Wall Street was gloomily predicting that the bankers had Henry on the run.

Henry Ford is not the only business man who knows this lesson.

The group headed by Mr. Gerard Swope and Mr. Owen Young have developed a business philosophy of "More goods for more people at less cost." One does not have to agree that all of their proposals are acceptable to find in this formula a practical objective towards which reasonable minded men can work.

Mr. Lamont duPont this week said to the manufacturers, "The bulk of responsibility for future social betterment should be placed on industry's shoudlers. It belongs there. And industry accepts that responsibility." Every right thinking citizen will agree. Industry must produce what the people consume. It must also provide the purchasing power either through

wages or through taxes. Many have assumed there would be a way to evade the burden. Facing the responsibility is the first step in discharging the responsibility.

Again he said: "All forward looking industrial activity is planned. It is based on what the planners believe will be the needs and conditions of 1, 5, 10 or even 20 years hence." Of course that is true. It would be just as true if it were said of government. Yet for some years business and its press have persistently denounced and ridiculed efforts at governmental planning. There can be no teamwork with unplanned plays by government and planned plays by business. The implications of Mr. duPont's statements are that business must withdraw its opposition and that government must engage in planning parallel with that of business.

Mr. duPont is also quoted as saying that it will take at least a few years of planned development to create the 3 million industrial jobs that do not now exist but which are necessary to provide for the problem of unemployment.

If this is true, as I believe it is, then it means that government can not now withdraw from the field of relief and public works, and that any sudden effort to do so would produce disaster. This frank and realistic statement of Mr. duPont opens the door to consideration of what measures government should take in the interval.

Mr. duPont asked two things of government as conditions under which private enterprise would go to work to keep the country in economic balance. He asked government to stabilize, over a long period of time, first, taxes and secondly the legal rules under which industry operates.

Much as I appreciate Mr. duPont's imaginative perception of industry's responsibility and of the low-price, high-volume policy through which alone it can meet that responsibility, I wonder if he was not putting the cart before the horse in stating his expectations of government. For so long as the bulk of our economic enterprise is private, government can stabilize neither taxes nor the rules of the game unless managers of private enterprise move first.

Take taxes, for instance. The yield of a tax rate depends substantially on the volume of business done by private enterprise. Likewise, the amount of revenue government needs depends upon the volume of employment which private enterprise creates. For many years now, the highest cost of government -- the chief need for taxes -- has been the necessity of caring for those toward whom private enterprise has not performed the responsibilities which Mr. duPont recognizes. There can be no stability either in the rate or the amount of taxation until there is stability of employment.

Now take Mr. duPont's second requirement -- that the legal rules of the business game be stabilized -- in other words that we should have no more reforms affecting business. If that can be done I am sure it cannot be done until private enterprise first makes up its mind that it will not evade or disobey old laws so that it is constantly necessary to make new ones. The reason we are proposing additional antitrust laws is that the old ones have been evaded.

What are the kinds of laws of which business is complaining today? They are laws regulating the capital markets, laws relating to great public utility companies, laws regulating banking, laws relating to discrimination between big purchasers and little purchasers, laws trying to force the distribution of corporation surpluses so that capital for new enterprises may be found free in the hands of the stockholders of old enterprises rather than be locked up in the treasuries of those old enterprises where they can be used only for the expansion of those old enterprises.

Fundamentally, every one of those laws is an expression of the most basic political instincts of the American people -- a fear of concentrated economic power in the hands of a few and a determination to break up that concentration. Every law of this kind is on the statute books because business refused to comply with standards a majority of people had accepted. From my experience with the antitrust laws, I am convinced, for instance, that if ambitious leaders of business had been willing to adjust to public opinion rather than flout it, at the time those laws were put on the statute books, hundreds of new regulations of business in the last five years would never have been necessary.

If private enterprise in America will do business in a way the American people will not fear, rather than the way a few men bent on private power insist on doing it, there would be fewer laws regulating business in this country and fewer complaints of business against government or government against business. But with the present attitude of Big Business toward the effort of the American people to protect themselves against Bigger Business, the only hope for an end of new rules to the game is for Big Business to adapt itself to and accept the present rules of the game.

What should government do in the present situation?

In my personal opinion government should do the common sense thing. It should give private enterprise all the assistance and encouragement that can be given without sacrificing the progress toward the preservation of American democracy which we have made in the last six years. It can give financial assistance by way of insurance and underwriting to help private enterprise break into new fields like housing where the ground has never been thoroughly explored. It can correct specific inequities in the application of tax laws, without, however, abandoning our American doctrine that taxes shall be paid in proportion to ability to pay.

But it does not need to surrender what it has gained for the protection of the many merely because the few with the greatest stake to protect, insist on trading the last ounce of concession out of government as the price of willingness to use capital which they may later have to contribute to government in taxes if they do not use it now.

In the meantime that leaves upon government an obligation to resume the economic initiative. That obligation will last until such time as private enterprise has really learned how to provide the millions of new jobs Mr. duPont predicts. It will last until there is more knowledge of modern economic conditions and more willingness to cooperate with democracy on the part of our great business leaders so that we can taper off from government spending to private spending without having to surrender the liberties of the American people as the price.

I am confident for the future of the average American these days because I am confident that the President and the Congress of the United States will not fail to keep faith with the people, and because I am hopeful

that there is growing up in private enterprise a new group of leaders who understand the responsibilities of private enterprise and its risks in a modern economy, and are not afraid of their own competence to play the game in the modern way.