

For Release
Saturday Morning
papers.

ADDRESS

LITTLE AMERICANISM

Prepared by

ROBERT H. JACKSON
Assistant Attorney General of the United States

For

New York Press Association,
Onondaga Hotel,
Syracuse, New York
January 28, 1938.

9 p.m.

Joe Kennedy remarked the other day that the trouble with this country is that it has too many persons who are specialists in other people's business.

Maybe he meant editors -- maybe lawyers. We have this at least in common, that we both take great liberty with the affairs of the public. And I am indebted to the press for so many suggestions about my work that I must begin payment by returning a few hints about yours.

Nothing more heartens me about the future of American democracy than a good look at the press. To me the greatest proof that the ingrained instincts of our people are democratic beyond argument is the fact that our democratic government, facing the conditions that elsewhere produced taunting dictatorships, has not even lifted its finger to temper the ardor of a press that is largely critical.

The only interference that even hostile owners of newspapers have been able to charge against government has been the insistence of government that the employees of the press should be able to bargain collectively for fair wages and working conditions. And the Supreme Court did not agree with them about that.

But if I am heartened by the fact that democracy has not destroyed the freedom of the press, I am equally heartened by the converse of that fact. A free press, doing its fairly unanimous worst, has not been able to destroy a democratic government. The simple truths of great leaders can travel from mouth to mouth and in

the end our people are shrewd enough to know who is with them despite all the packaged opinions that are handed them.

But every newspaper man and every newspaper owner is acutely aware that the freedom of the press is something different today from what it was in the years before its ownership began to get concentrated. Because the newspaper man can see what the effect of concentration and private regimentation has been in his own business, I feel bold to try upon an audience of newspaper men some thoughts I have upon the effect of such concentration and private regimentation in all business.

Of course the concentration of control of newspapers is less dependent on mere financial advantage than the concentration of other business. Papers tend to cluster around a newspaper genius, and genius retires from business. Newspaper chains offer less to fear than many forms of enterprise where control continues after genius has left.

Five years ago we were going through a slump in business so deep and dangerous that it had us all scared to death. We could take no chances on being picayune about the long term philosophy of the way out. When an avalanche is crowding you over a precipice you can't afford the luxury of worrying where the only path of escape may possibly lead you. And five years ago only one man had the eyes to see and the nerve to take the only path out. He got us out when most of the people who had met a pay roll doubted that there was a way out.

Today's business slump is a different proposition -- thanks to what has been done in the past five years. This time we can afford a choice of ways out. This time we can and must choose for the long pull on the basis of the changed conditions. And to me the nub of that choice is whether as a practical matter the schemes for stabilization of industry, of which we hear so much today, are a way out of the present recession in view of the kind of social life Americans want to lead.

I don't mind saying that I have amended my opinions on the functions and relations of business and government several times in the 25 years since I was admitted to the Bar.

There is something in my experience which makes me always suspicious of eternal verities in economic theories, particularly when economic facts are changing. Never in the history of the world have the facts changed as fast and as profoundly as they have changed in the past 25 years. We have had the biggest war, the biggest boom, the biggest bust, the biggest recovery from a bust, and the biggest changes in constitutional law in our history. In the course of that procession we have had the biggest program of government financial help to business, and the most idealistic and devoted effort of government to help business stabilize itself through business self-government, that a democratic nation has ever known. Every stage in that procession has offered lessons to those

who had not closed minds, and we have a new basis to judge the workability, under the conditions of 1938, of undoubtedly sincere and idealistic plans.

Now there are many things which the government has done to give fundamental stability to the economic system so that today a competitive system can really work without the social costs which competition has involved in the past.

We have done more than in all the rest of our history to conserve and protect our natural resources.

By legislation recognizing collective bargaining we have made a real start in seeing to it that the costs of competition do not come out of labor. With a wage and hour bill we are trying to extend that protection to the lowest paid workers until such time as they can get the benefit of unionization.

We have protected the sources of business capital in the stock markets and the sources of steady consumers' purchasing power in bank deposits.

The interests which are put at risk by business competition today therefore are much narrower than the interests which were at risk in business competition in 1933 before we had any of the Roosevelt reforms. Furthermore, the NRA during its life taught business men more about the essential nature of the business process and about intelligent competition than they had learned in all of the rest of our history.

The need for stabilization of business by way of relaxation of

our present Antitrust Laws is therefore much less than it was only five years ago. But the dangers from relaxing those laws are not one bit less. In view of an accelerating concentration of control that has occurred in the last five years, the dangers from abandoning our Antitrust Laws are probably greater today than they would have been five years ago.

I am convinced that many who are coming to Washington to urge a suspension of antitrust activity in favor of a planned stability in their businesses would not actually want it if they stopped to reckon its costs. If any business is to achieve a real, as distinguished from an elusive, stabilization, it must accomplish certain basic changes in its own structure. It must do so by economic planning, and the plan must be as comprehensive as the industry itself and as wide as the nation. A plan, if effective, must cut very deeply into our traditional business freedom.

Production can not long be planned except at the cost of a planned price level, an allotment of a percentage of idleness among the different units of the industry and a planned regularization of employment so that the full force of the stabilization will not fall on the workers whose purchasing power provide the markets for industry.

It involves some means of limiting and regulating new entrants to the industry; a stable industry is one which has closed the door to opportunity.

It involves the stabilization of technological processes, for technological improvement of products and processes is probably the most effective cause of instability and failure in industry. But suppose we had stabilized on a Model "T" automobile or had stabilized the tire industry on fabric tires. Would we want to stabilize the air conditioning or radio or aircraft industry at the present state of the art?

It is certain that these steps would have to be taken in concert by the units of an industry. For I think it would be generally agreed that no measure of stabilization would be workable unless it had the assurance of dependable support and voluntary adherence which could be found only in the approval of the most powerful units engaged in an industry. This means that the public policy, long embodied in the Antitrust Laws must be definitely abandoned in favor of what is euphemistically referred to as self-government in industry.

I know there will be denials that some of these steps are indispensable. It seems clear, however, that there can be no effective stabilization that omits any one of these steps. All must be taken if an industry is to find an actual angle of repose.

Let us grant, for the purposes of the argument, that the industry which is made the subject of stabilization is advantaged by it; that its investors find greater regularity and certainty of income; that its managements are released from the harassment of competition, and that it will not be vexed with surpluses, and that it may operate more steadily. In spite of all these advantages, I have grave doubts

whether private business is yet ready to make the concessions in the public interest without which stabilization by law cannot be approved. It is this part of the road for which I find my business friends have no maps. What then, is the public interest that is to be served as a condition of permitting a privately planned or a publicly planned economy?

Of course, at the very outset business must answer the question as to how the advantages of any proposed stabilization are to be distributed within the industry. Let us assume that it does not increase and does not decrease price to the public.

Will the greater regularity of income be reflected in a lower dividend rate and will the improved credit risk be reflected in a lower rate of interest?

If competition is controlled and business management subjected to less vexation, will the excuses for large salaries and bonuses disappear?

What will labor's share in the improved stability be? Is it to have assured employment or an annual wage, and what will the wage policy be?

Certainly the government cannot become a party to a planned stabilization that does not assure an equitable distribution of its advantages between creditors, stockholders, managements, and labor, which together constitute the industry.

The public's interest in a given industry is far more extensive than a mere regulation of price. It is interested in service, in marketing policies, and in that multitude of practices which affect public relations and have always tended to make monopoly hateful.

And, even if we arrive at agreement as to the objectives to be served by the public interest, we have yet to master a technique by which the public interest can be represented in a private industry. The public interest is the most important and far-reaching interest of all, yet it is widely dispersed and inarticulate. Yet if you will enter public service, you will find yourself feeling pretty ineffective and powerless when you undertake to defend the public interest against united, powerful and articulate private groups.

The greatest problem of stabilization which its advocates find it convenient to ignore rather than to solve is how the public interest can properly be represented short of political control of the industry.

Some suggest that the industrial planning should be made in the presence of observers or conferees representing the government or with some kind of government representative, either participating in the decisions or approving them.

I am skeptical of the adequacy of any such plan. Industries are represented in such negotiations by their own specialists. They are paid to look after the industry's interest which frequently conflicts with that of the consuming public. They cannot be expected to serve two masters. The government would be represented by a jack of all trades, a lawyer perhaps, with a theoretical knowledge at best, often with neither experience nor staff to measure the full effect of the policies with which he is dealing. If the public representation shows zeal for the public interest, that zeal may be ascribed to vindictiveness or amateurism. Many kinds of business would confer with government,

not to get the advice of a government counsel, but immunity from the penal provisions of the Antitrust Laws. Unless I misjudge the temper of Congress, it is in no mood to authorize any government officer to dispense immunities from those laws.

Now the fact is that plans by business men have for a good many years been the subject of negative commitments by the Department of Justice. That practice has not been recently followed but the experience is enlightening.

I have had occasion to look into the dairy products industry, for example. The situation in that industry concerns many of you.

Here is a conspicuous instance where big business has thrust itself between the farmers who produce and the consumers who must buy dairy products. It has not built a new industry -- it has bought up many existing ones. You will find in the report of the Federal Trade Commission investigation of milk that after January 1, 1928 two great dairy products companies conducted a campaign of buying up the small industries throughout this and other states, and they have acquired over 560 smaller local companies. No Department of Justice would ever approve this total result. But in times long past there were separate proposals to purchase some of these units laid before the Department of Justice, and the Department advised that there was no reason to raise objection.

I do not say this in any criticism of those commitments. I say it in order to demonstrate the results of the process of having someone for government sit in conference on the plans of these business

gentlemen. Disclosures are made to the extent deemed wise by the business, and considered only as single steps. Most able and conscientious officials can not ferret out the full effects of business proposals and, while they may see no objection to single steps, they would recognize the whole plan as dangerous.

It is now proposed that this process of conference and approval be regularized into the law. There may be some things that can appropriately be the subject of such action. But we have a right to ask that anyone who brings forward such a plan state his whole aim with great care and precision.

And we have a right to ask where this planning by business around the table with a government observer or conferee present is to stop. It is to be observed that the proposal does not authorize the government to initiate any plan nor to adopt or enforce one. The whole of this planning is to originate in private hands, and the government may say "Yes" or "No." If we are to have economic planning we can hardly be asked to vest the whole power to originate plans in private hands, and give the public interest only a veto power.

The blunt truth is that no one has yet pointed a way by which the public's interest in the policies of an industry can be protected short of being represented in the day-to-day management and control. Certainly the public is entitled to no less protection than bankers find practical for themselves. This means distinct public assumption of responsibility for the policies of an industry.

It therefore becomes clear that we cannot wisely permit the

camel's nose to get into the tent with the beginnings of a system of business stabilization unless and until we have some technique for public participation in the day-to-day decisions of that business. This would be a degree of public participation which I do not believe business men will grant or government can accept.

Perhaps complete stabilization is the destiny of our industrial system, several generations from now. But I see no signs of our ability to make the intricacies of such a system work with the facilities available in this generation. Until we know more about the facts of modern economics; until we have more wise men in business and more able men in government, we had better stick to making the best of the system that we have.

An H. G. Wells theory of a beautiful society where a democratic aristocracy of the best brains and good will plans a completely intelligent use of available national resources is one thing. Something else is the horse-trading on a specific regulation of industry that goes on across the table between the representatives of a private interest on one side and a government administrator on the other. I am quite frankly afraid that the net practical effect of such negotiations over the long run will only increase the concentration of economic control in this country. I have an instinctive distrust of the long-time ability of government to regulate rather than prevent concentration of control. Experience demonstrates, particularly in the public utility industry, that government regulation tends too frequently over a period of time to pass under the control of those who are supposed to be regulated.

That does not mean, as has been charged, that I am against bigness in industry. I do not believe that a Democracy has to refuse to take the risks of modern life. I do not believe that in order to preserve our democracy we have to refuse to permit the growth of industry to the size necessary to utilize the advances of science. I do not fear industry growing large enough to get the benefits of mass production. I do not fear size that justifies itself by operating efficiency and economy.

But I do think that concentration of control beyond the needs of operating efficiency, size created not by the normal growth of operating capacity but by a financier's merger put together for securities' profits, is dangerous to the health of our economy as well as dangerous to our democracy. And I find that the business men who are operating the industrial units which are producing the biggest profit per dollar of capitalization agree with me.

If for that fear of unnecessary concentration in the hands of a few I am a "little American", I plead guilty to the compliment. For if that is little Americanism, the great rank and file of the American people are and always will be in their hearts little Americans, and what we have always referred to as the American dream of a self-sufficient, independent people was a dream of a little America.

In 1932, 5% of the corporations of the United States owned 85% of all of the corporate-owned wealth, and more than 50% of all the net income enjoyed by corporations that year went to only 232 corporations. In 1938 I would venture the figures are considerably more alarming. And the average man and woman is beginning to notice what those abstract figures mean to the life of a community.

In every smaller community they see melancholy evidences of the blight produced in local business by this march of concentration. They note the disappearance of the local merchant, the local manufacturer, the local banker, and the local utility man. Each of these were leading independent and free citizens. There were values in this local independence and responsibility which are being sacrificed -- without compensating economic advantage to the nation -- to the ambitions or the dreams of these men who are "unwilling to classify" themselves as "Little Americans."

It is vital to the welfare of any of our smaller cities to develop its owners and its industries together -- both local products -- and to keep its industries away from absentee financial interests.

We are in a critical period of our industrial and financial history. The answers that government gives today to the problems before it will profoundly affect the kind of life that our children will lead on this continent.

Above all, it is our way of life that most concerns us. We must not as a nation become so immersed in financial juggling and industrial empire building as to forget that men do not live by bread alone.

Each of us is a part of three great systems. We are cogs in the economic system by which we make and distribute goods, cogs in the social system by which we develop men and women, and cogs in the political system by which government keeps ordered relations between the two systems and between the members of each.

Our economic system with its production of goods and wages and profits must serve, and must not master our social system which includes

our homes, our schools, the churches and all of the neighborly and cultural and spiritual influences which come from civilization. We cannot permit private corporations to become private governments.

A wise government cannot allow great public problems to be settled in terms of economics alone. The economic system must not only shape itself to the needs of our social system.

Just as importantly it must shape itself to the emotional pattern of our people. Pride and humiliation and the sense of having a business system in which the average man may hope to have a stake of his own are factors in the willingness of a people to fight and die for a country. And sometimes men engrossed in logic forget that what is called "Little Americanism" is a matter of the heart with the American people. We have not been educated in the tradition of the peasant. We are a proud people raised on the doctrines of equality found in the Declaration of Independence. We do not like to be bossed too much, not even by a boss whom we know we can change through the ballot box. We do not like to have any one man or corporation own the town, nor to have all the business of the country to be swallowed up by a few corporations.

So long as the American spirit lives, and democracy survives, so that its spirit can be expressed in law, the American Congress will be trying to break down the concentration of power just as fast as the ambitions of a few pile it up.

And it is my guess that the American people are shrewd enough to scent a camel's nose before it gets within ten miles of their tent.