

to this challenge begins with a caveat. Zeal in attacking the problem of linking maximum production with dollar stability should be tempered with careful discrimination. "As prudent men we should not take hasty steps to alter an institutional system so deeply grounded in our traditions and so successful in meeting immediate postwar demands and opportunities. At the same time we should not be tardy in taking well considered steps toward correcting such deeplying or slowly developed shortcomings as time has revealed in our modern system of free but highly organized industrialism."³

Within such an interpretation of the needful role of the Federal Government in the private market, our positive program should be a vigorous implementation of the policy explicitly stated in the Employment Act; namely, "to foster and promote free competitive enterprise." This clause was not a mere political gesture toward threadbare tradition, but rather was a correct reflection of a basic principle of American and Western European economic science—that free competition among the complex thrusts of supply forces and the diverse pulls of demand forces furnishes the optimum condition for attaining maximum productive use of the economy's resources and maximum consumer satisfactions. Four ingredients of a free enterprise program seem to me to be indicated: (1) integration of our sprawling and confused antitrust statutes under a basic policy law or Joint Resolution that declares a comprehensive principle of free competitive enterprise; (2) pressure for vigorous and consistent enforcement of this principle both through the Department of Justice and also the ancillary agencies of the Federal Trade Commission, the National Labor Relations Board, the Secretary of Agriculture (Capper-Volstead and Marketing Agreements Acts), and several independent commissions; (3) realistic studies by the economics profession of the fundamental theory of large-scale competition, and the use of this enlarged understanding for the guidance of courts in applying general statutes to particular situations; of Congress and of administrative agencies in perfecting our competitive institutions and current practice under them; and (4) systematic but nonpropaganda campaigns of general education of the various functionaries and the general public in the operative requirement of a free competitive economic system.

The integration of a consistent and comprehensive procompetition legal structure should begin with a clear-cut declaration that all parties and interest groups shall stand equal before the law of the land, that no segment of the economy—industrial, commercial, agricultural, labor, or financial—shall be immune from safeguards set up to prevent the abuse of concentrated economic power. This unification of our institutions of big-unit competition would then require careful re-examination of our many special regulatory laws to see that their provisions are in strict conformity with the general declaration of policy as well as recognizing the operative needs and peculiarities of the several business areas. Even so, the definitions and rules embodied in these special statutes can hardly be more than a skeleton of generalized statements of principle and intent which must have flesh put on its bones by enforcement authorities—who must exercise a considerable margin of discretion in interpreting a given state of facts in a complex and changing economy and in aligning regulatory action with declared policy.

To say this emphasizes the close interrelationship among all four of the ingredients I have proposed. For the selection of cases to be examined and acted upon by the Department of Justice or the independent commissions and the findings made by them must be guided by economic analysis as much as by legal technicalities or by ease of handling or prospect of a successful outcome. It is cause for congratulation that there are today a considerable number of professionally competent economists in the staffs of these several agencies, that they draw upon the skills of brother economists in academic and business connections, and that the variegated wisdom of all three groups is made available to our lawmakers and amenders through the intellectualized apparatus that has been introduced into our Congressional system—and that is still growing. This is all the more important because so many vital questions of both corporation and labor practice are still in so ambiguous and indeterminate a state.

We do not have any economic pope who is in a position to give us any infallible answer, for instance, as to the competitive or noncompetitive impact of conglomerate mergers or the lush proliferation of big companies into lines re-

³ Excerpted from the writer's testimony before the Senate Subcommittee on Antitrust and Monopoly Hearings on Administered Prices, pt. I, p. 13, July 9, 1957.