

Business firms that wish to acquire or merge with firms find that the final decisions are not yet rendered, and I think we could adopt some amending legislation to expedite matters. For example, I would endorse the O'Mahoney bill, the one on prior notification, particularly the injunctive provision for the FTC.

I think this would be a very positive measure and it may be that we also could develop rules of thumb regarding the percentages that would be presumptively illegal if firms of, say, 20 percent or more tried to merge with some other firm, having say 10 percent, horizontally or vertically, that they would be illegal on their face, and the presumption could be rebutted with appropriate evidence.

These very suggestions would carry us into a new area—but I do think we could reduce business uncertainty about how the merger law is going to affect them if we did amend it along the lines that I have just indicated.

Senator PROXMIRE. Mr. Barber, do you want to comment?

Mr. BARBER. There is a great deal of merit to the kind of suggestions that Professor Lanzillotti has made, and which, among others, Professors Kaysen and Turner have developed in their books, "Anti-trust Policy," which would set out guidelines and indicate in a given situation that firms proposing to merge or firms in a certain position shall be treated in a specified manner. I feel this would simplify the administration of the law and would go a considerable distance to help in achieving lower levels of concentration.

I recognize we can prolong this for a great period. But let me only suggest again that what strikes me is that while we have talked today about a great many aspects of this problem and about antitrust laws and possible changes in them, I fear that we may leave with nothing more than a long discussion.

I think what we do need are some specific considerations, proposals, and I can't help but think that if we are sincerely interested in this problem, that if we really think it is significant enough to devote even a day's hearings to, we should look at it a lot more closely and reach some determinations. Otherwise we have wasted a lot of time.

I think we have got to make up our mind at some point whether we mean it when we say we want to help small business, when we want to enforce antitrust policies, when we want to have free competitive markets and so forth, and that if we don't mean it then I think it would be well to use the resources we spend in this way on something more constructive, like the construction of fallout shelters or something. [Laughter.]

This brings me back to one point that you raised, Senator. I know you have done a great deal in the procurement area and have worked very aggressively and sincerely and have tried to improve the situation. But I do not share the conclusion that you came to earlier that it seems virtually impossible to do anything about it. I think things can be done about this. I think they should be done. But I agree it is going to take some very close hard prodding at middle-rung military officials, not the top rung.

Senator PROXMIRE. Thank you very much.

As a middle-rung Senator we are going to have Judge Loevinger tomorrow who is below the President.