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BUSINESS AND FREEDOM

by

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Over a period of many years I have spoken and written about such issues as education, freedom, science, engineering, and technology—all of concern to many Americans.

But since this audience is especially interested in business and economics, I thought I would share with you some of my thoughts on these, based on my experience in dealing with many segments of American industry for more than 35 years. Part of my work has involved the procurement from private business organizations of billions of dollars worth of machinery, electrical equipment, and nuclear components for ship propulsion and for civilian power plants.

This experience, combined with a lifelong interest in government, philosophy, and history have given me a unique vantage point to observe many aspects of business conduct.

I feel especially indebted to our country for the opportunities it has given me—education, a profession, observing other cultures, and a variety of experiences. In every respect America has been good to me.

I am deeply concerned, however, that the opportunities we have had in the past may not exist in the future. As a nation, we are burdened by internal problems unparalleled since the Civil War: the energy crisis, the threat to the environment, the problems of the cities, the abuse of and consequent loss of respect for traditional institutions and values.

Compounding these problems and exacerbating them is a condition of increasing moral decay which seems to be spreading throughout our society. This exists in many areas, but I will focus on business, and the state of business ethics.

Although I shall be critical of certain business practices, I am not hostile to business, to free enterprise, or to capitalism. I believe in the capitalist system. No other system offers as much opportunity for individual freedom. I criticize only because I do not want to see this system destroyed.

Business is an essential part of society. Throughout history, societies have recognized its importance and have established standards for its conduct. The code of Hammurabi 4000 years ago governed contracts, loans, debts, deposits, and other areas of commerce in ancient Babylon. The Old Testament forbade stealing—one of the Ten Commandments—also bribery, short measure, false dealing, lying, fraud. During the Middle Ages, the Church prohibited usury. From the Protestant Reformation emerged the idea of business as a Godly calling in which the businessman conducted his affairs as a public service, of benefit to

himself and to his neighbors. From the earliest days of recorded history man has struggled to reconcile the pursuit of profit with honest dealing and useful service, to balance self-interest with the common good.

Because of industrialization and urbanization, the effect of business on society is now greater than it ever was. A half century ago Calvin Coolidge said: "The business of America is business." Its influence is no less pervasive today. Our society honors those who excel in business. Labor leaders, doctors, lawyers, accountants, engineers emulate them. Business leaders, as much as anyone, set the moral tone of society.

Yet the image business leaders convey has not always been flattering. In 1912, Charles Francis Adams, Jr., descendant of two Presidents, said of business in the United States: "I have known, and known tolerably well, a good many 'successful' men—'big' financially—men famous during the last half-century; and a less interesting crowd I do not care to encounter. . . A set of mere money getters and traders, they were essentially unattractive and uninteresting. . ."

This quotation from Adams is as important as that from Coolidge, for Adams warns that business leaders may lack the vision to see their obligation to the society which nourishes them.

What example are businessmen setting today? Can you remember a single week in recent months when the press was not filled with accounts

of business wrongdoing? Here are a few recent ones: 19 companies convicted of making illegal political contributions; the fertilizer industry investigated for price-fixing and other anti-trust violations; a well-known ice cream manufacturer indicted on charges of knowingly marketing tainted ice cream; a major oil company making unlawful payments to foreign officials; six securities firms disciplined for stock manipulation; prominent bankers indicted for unauthorized speculation in foreign currencies; a leading truck manufacturer found guilty of conspiring to evade taxes.

In the area of defense contracting where I have first hand experience, the problems are similar. The Justice Department is investigating the possibility of fraud in contract claims; Congress held hearings on the refusal of one of America's largest corporations to comply with Defense procurement regulations; some contractors have refused to honor Government contracts; there were charges of conflict of interest involving former military officers working for defense contractors.

Because unlawful actions are more newsworthy than lawful ones, one might contend that news accounts are not an accurate measure of the prevailing moral climate in American business. On the other hand, unethical, though not illegal conduct often goes unreported. I have observed such unethical practices first-hand: use of deceptive accounting techniques, refusal to honor contracts, attempts to subvert laws and regulations. Such practices are commonplace; I doubt they are confined to the defense industry.

The business community has evidenced little concern about transgressions within its ranks. Criticism of business conduct typically comes from outside. Even ethical businessmen appear to feel no obligation to speak out against less scrupulous colleagues. Nor is this silence broken by so-called experts in ethics. A recent survey of theologians and professors of business ethics about bribery and political meddling overseas by American corporations resulted in inconclusive answers. One professor called foreign bribery a "semantic" rather than an ethical problem. Some prominent clergymen with close ties to business declined to comment at all.

But the public is not indifferent. Another recent poll reported that eighty-two percent of the American people believe that, if left alone, big corporations will be greedy and selfish and make profits at the expense of the public. Proliferation of consumer interest groups confirms this growing public concern.

Too often business has reacted to public criticism with more and larger public relations campaigns. Companies contend they have been misunderstood; they emphasize the benefits they claim to be providing the public, stockholders, employees, customers and to the free enterprise system. Press releases and advertisements portray businessmen as rugged individualists who believe in free markets, price competition, and concern for our society. Unfortunately, too few of them act in accordance with these high ideals.

Some argue that illegal or unethical practices which do come to light are not typical; that the ones who survive in the marketplace are ethical; that those who fail to meet minimum ethical standards lose out in our competitive system. This is the classic concept of the self-regulating economy articulated by Adam Smith 200 years ago. Unfortunately, in our modern economy, buyers and sellers are seldom equal; competition frequently is not adequate to insure ethical conduct.

Many businessmen are, of course, ethical. Many firms, particularly small ones, act in the finest tradition of the free enterprise system. A typical example of how the small company operates is one that has an important contract for my program. Its outlook is refreshing. Its owners do not spend nearly all of their time, as do the officials of large companies, on public relations, lobbying, and exerting political influence. Instead, they understand it is up to them to please the customer and make a success of the work. This they do by paying close attention to the work itself. When confronted with problems, they do not seek bail-outs or subsidies or use influence in high places to get special privileges.

I have found that small and medium size companies take a more responsible view toward their contractual obligations than the large ones. One reason for this is that market forces generally are more effective in restraining their behavior. They are also better able to perform a back-up role of providing new and alternative products when larger firms fail to do so.

I have also observed that larger firms expect to be insulated from risk of business failure. When a small firm becomes inefficient or otherwise unable to compete, it fails. But many large companies act as if the Government has an obligation to protect them from failure. And within Government, there are policy makers who are loathe to allow large firms to fail because much is at stake for the owners, customers, employees and creditors.

I disagree with this point of view. Rather, I agree with the sentiments expressed by Mr. Donald T. Regan, chairman of one of the largest and most prominent Wall Street brokerage houses. Here is what he said of stockbrokers who faced financial ruin: "So what if they go bust? What God-given right do they have to stay in business? That is what the country and capitalism are supposed to be all about." If we gave the matter adequate thought, we would realize that we are really protecting the managers who have been responsible for the failure. The facilities and actual working people are still there and in many cases could continue to produce under different ownership or management.

Another way large companies have tried to escape the workings of the self-regulating economy is to produce what they want to sell, rather than what the consumer needs to buy. Sale of these products is induced through skillful advertising, and the price set without regard to demand. Large conglomerate and multinational corporations are

particularly effective in avoiding market forces because of their size, diversity, and ability to muster great financial resources to pay for advertising, public relations and lobbying.

Large corporations are often able to escape the traditional safeguards of the marketplace. This is especially disturbing because of their ever-increasing accumulation of economic power. One hundred corporations control over 50 percent of our entire industrial output. Four corporations, in their respective industries, control over 99 percent of vehicle output, 90 percent of aluminum fabrication, 80 percent of cigarette production, and 72 percent of the detergent market.

Often the largest businesses—those not subject to most of the restraints of free enterprise—are the most outspoken advocates of the capitalist, free enterprise system as an effective safeguard against business excesses. They want the public to believe that the free enterprise system regulates their behavior, when in fact they are escaping the restraints of that system. Time and again, they lobby against new Government regulations, and herald the virtues of competition and the marketplace as if they were small businessmen subject to these forces. Simultaneously, they lobby for assistance in the form of tax loopholes, protected markets, subsidies, guaranteed loans, contract bailouts, and so on. They take no chances; they light one candle for Christ and one for the devil.

Apparently, they want subsidized free enterprise or capitalism with a guaranteed return—a contradiction in terms. So long as they make profit, they want the benefits of the free enterprise system. Once profits turn to losses, they look to Government for help.

Freedom is not a license to avoid responsibility. If men expect to reap the benefits of our system, they should be willing to accept its responsibilities and risks.

Many in the United States are troubled by the pervasive influence of big business on our economy. Reinhold Niebuhr, the theologian, observed that the imposition of ethical standards on large organizations is one of the major problems of our time. Ordinary citizens, and some national leaders recognize this problem.

Some perceive the solution in the classic concept of a self-regulating, free market economy, free of all, or nearly all Government regulation and control. Others advocate an economy regulated and controlled in large part by Government.

I subscribe to neither of these views. As a student of history, I do not believe that free market forces automatically restrain excesses of the profit motive or impose a standard of ethical conduct on big business. It is questionable whether market forces ever were truly effective in restraining their conduct. When there was an essentially free market in this country—during the late 19th century before anti-trust legislation and during the laissez-faire period of the 1920's—

there was much business misconduct. Those were the days of the Robber Barons and manipulated stock prices. The free market of those periods failed to restrain big business. The inevitable result was increased Government regulation, most of which had its origin in the abuse of the free market.

The factors which have made the free market ineffective—the rise of large corporations, the sheer size of our economy, the complexities of modern industrial production—will continue. Under these circumstances, a free market economy of small, autonomous businesses roughly equal in economic power, is a naive notion born of nostalgia for what never was.

By contending that the current marketplace can effectively regulate business conduct, businessmen unwittingly do a disservice to the capitalist system; they play into the hands of advocates of a strictly regulated economy. When market forces fail to regulate business conduct and wrongdoing results, public pressure for regulation mounts. In effect, those most committed to an unregulated capitalist system end up overwhelmed by regulation because the free market they advocate does not by itself exert sufficient restraint on their conduct.

At the other extreme are those who favor Government regulation and control. In their view, business cannot be trusted to keep its house in order. Their belief, to paraphrase Clemenceau, is that

business is too important to be left entirely to businessmen. Their thesis is that capitalism can only result in a rich society, not a just one; therefore, it cannot or should not survive.

I do not support this view. I believe in capitalism and in competition. I believe that business has a right to pursue reasonable profit. I am convinced our capitalist system must survive in order for our fundamental freedoms to survive. In this respect, I am a conservative in the literal sense of that word, which means "to save," to respect established values.

The essence of our capitalist system is spontaneity and freedom of choice. Businessmen, at their own risk, may choose which products to produce, at what prices to offer them, from whom to buy materials. Entrepreneurs are free to try to fill perceived economic needs.

Contrast this with a system in which the economy is under complete state regulation and control. Industrial activity is planned by the state. There are no entrepreneurs as we know them. By and large, businessmen can not enter fields of their choice but are told by the bureaucracy what products to produce, at what price to sell them, from whom to buy.

The material well-being under our system can be traced to fundamental differences. In the United States there is a free business community in conflict with itself and with Government regulation and control. From this conflict and tension comes progress. In the state-

controlled system conflict is minimized. But without conflict there is little criticism and without criticism, there is less chance for progress.

More important than material well-being is the degree of individual freedom under the two systems. Because economic and business activity is central to a modern society, the form of economic organization has a great impact on freedom. This is particularly important for freedom in large, industrialized nations. Communism and socialism generally give lip service to individual liberty, but do not always practice it. State control places a premium on material well-being at the expense of freedom. Some visitors to communist and fascist countries have praised what they see, pointing to clean streets and the absence of stray dogs. Many do not note also the absence of freedom in the streets. It is a striking coincidence of history that all utopias, from the Guardians of Sparta onward, inevitably developed into some form of dictatorship.

Capitalism, based as it is on freedom of choice, helps preserve our other freedoms. For all its imperfections, it is the best system yet devised by man to foster a high level of economic well-being together with individual freedom. Should our capitalist system be destroyed, its destruction will be accompanied by the loss of most of our other liberties as well.

Let me summarize where I think we are: the classic concept of a self-regulating, free market economy in a complex modern society no longer enforces the required high standard of ethical business conduct. Those who advocate exclusive reliance on the market do disservice to capitalism, since the result often is increased Government intervention, the very antithesis of their goal. On the other hand, the destruction of capitalism and the establishment of complete state control are inimical to economic and political freedom.

I advocate a middle ground between these two extremes. I am concerned with the survival of our capitalist system. Here are some steps I believe should be taken to preserve it.

First, I believe that businessmen must treat Government regulation realistically rather than with instinctive opposition as well as manipulation through public relations and political influence. Much of Government regulation is necessary to protect the public against the recurrence of past abuses, and because it is unrealistic to expect any group to truly police itself. Businessmen should face the fact that regulation is inevitable. Blind opposition to all regulation detracts from the valid complaints business may have about the excesses of regulation.

But they undermine public confidence in their integrity when, to protect themselves from normal market forces they publicly oppose regulation while privately exploiting the regulatory process. For example,

according to the Chairman of the Federal Trade Commission, the Civil Aeronautics Board has, by controlling the entry of new airlines into the air transportation market, eliminated all competition in air routes and rates. When the Administration recently proposed reducing economic controls on the domestic airline industry, the chief executive of a major airline opposed this move. It is obvious the airlines oppose deregulation.

Second, I believe businessmen must vigorously advocate respect for law. Law is the foundation of our society. Few areas of society are as dependent upon law as is business. It is law that protects such essential rights of business as integrity of contracts. When businessmen break the law, ignore its spirit, or use its absence to justify unethical conduct, they undermine business itself as well as their own welfare.

They should be concerned with the poor record of law enforcement as it relates to them, and be willing to reexamine an idea if an intellectually responsible attack is made against it. They should be concerned about the double standard where an ordinary citizen is punished more severely for a petty crime than corporate officials convicted of white collar crimes involving millions of dollars. In the recent cases of illegal corporate campaign contributions, only two of 21 executives convicted of violating the law received jail sentences. Most continued in their high level jobs or stayed on as highly paid consultants. Corporate fines averaged \$5,000 and individual fines

less than \$2,000. The lightness of these penalties should be of concern. Some may take comfort in the traditionally light sentences imposed for white collar crime. But the more thoughtful should recognize it is not to their advantage to operate in an environment where those who violate or skirt the law make out better than those who respect and honor it, in letter and spirit.

They should take note of the recent Supreme Court decision in the Parks case. This decision may herald a new era of individual accountability for businessmen if its logic is applied widely by legislative bodies and courts. In that case, the Supreme Court ruled that corporate officials as individuals may be liable for the illegal acts of their companies. The Court said: "The only way in which a corporation can act is through the individuals who act on its behalf."

The Parks decision may balance the 1886 decision of the Court in the case of Santa Clara County vs. Southern Pacific Railroad in which the Court held that the Fourteenth Amendment applied to corporations. The Santa Clara decision thus gave corporations the same rights of protection as a "natural person." Although corporations had now won the rights of persons, the officials acting in their behalf were not held to the obligations required of persons. Instead, they were able to disclaim personal responsibility and shift the blame for their illegal acts onto the corporation.

I have long held the view that if a corporation is to be considered a person for purposes of protection under the Fourteenth Amendment, then all the obligations incumbent on a person ought to be binding on the corporation. And, since the corporation acts through its officials, they should be held personally liable for illegal corporate acts. The Parks case appears to be a step in this direction.

Although I have been speaking of compliance with the law, there is more to respect for law than merely observing its letter. No law, however strong, will suffice if men lack the inner will to act legally. Each of us is his own lawmaker; he is daily making decisions of right and wrong. If we break our personal laws of morality and integrity, then statutory laws can have no meaning for us.

Respect for law and realistic treatment of regulation are important steps that can be taken to preserve our system. But these steps involve accommodation to external forces and, as such, will never be wholly effective. External constraints such as law or regulation cannot entirely overcome man's inner motivations. Man has free will. Because of this, a third step is necessary—a moral approach that must begin by taking a hard look at ourselves.

This should start with the executives of large corporations—the ones most favored by capitalism. Many of them benefit from the system in which they risk little personally. They are given handsome salaries as well as other economic benefits. They are powerful and influential

and have the most at stake in preserving our form of Government and our free society. They, above all, should be concerned with preserving our freedoms. This is best expressed in the Biblical injunction: "For unto whomsoever much is given, of him shall much be required."

Businessmen must do more than merely seek to preserve the freedom to make money. The unrestrained pursuit of profit is the heart of the problem; it cannot form a part of the solution. They should seek a higher purpose. They should restore ethical behavior to business practice.

In recent years there has been much talk about the need for businessmen to accept "social responsibility" and help solve critical national problems. Too often, however, they appear to conceive of social "projects" as substitutes for legal and moral practice. Often these projects are not substantive but only the familiar panoply of public relations, and the public has become skeptical of such gimmicks. They would be far more sympathetic if more businessmen demonstrated by their actions the determination to conduct their affairs ethically.

Businessmen need to exercise self-restraint. Capitalism in America should be practiced within a strict moral code. Morality benefits business, those who operate illegally or unethically threaten it. In failing to exercise self-restraint, they are stretching the rubber band until it is near breaking. If they so continue, they will inevitably be faced with being called "malefactors of great wealth" and having their

large empires broken up as was done by Theodore Roosevelt. Many today see this as the basic way to remedy the excesses that pervade business. Besides this, there will also follow, as in the administrations of Woodrow Wilson and Franklin Roosevelt the establishment of powerful Regulatory Commissions to replace today's toothless ones.

Trust and good faith facilitate business. The underpinning of the capitalist system is to a large extent trust—the faith that men will deal fairly and honestly with the customer; with the general public; with each other; and with the stockholder.

There is another reason to adopt a strict code of moral and ethical conduct. As heirs to the ideas and accomplishments of all men who have ever lived, it is the responsibility of all of us to preserve a free society, where knowledge, truth and justice flourish, so that our inheritance can be passed on to posterity. Our responsibility involves dedication to an ideal higher than self. This means love of country and love of one's fellow man—present and future. It is marked by excellence, courage, honesty, selflessness, and many other terms which for millenia have represented the best traits of man.

Few would dispute that men should live morally and ethically according to these higher ideals. Why do we then not pursue this alternative? Primarily because it is the most difficult of all paths. Men have tried for thousands of years to be ethical and moral, with differing degrees of success. The duty to uphold the rights and

interests of others often succumb to selfishness. Then, when chaos threatens, many find it easier to accept the discipline of strict laws, regulations, and even curtailed freedoms than to exercise self-discipline. That is why, for a basic change to be made, it is necessary that men change their way of thinking. Change which is significant manifests itself more "in intellectual and moral conceptions than in material things." As difficult as this appears, such changes have occurred in the past.

The Hebrew concept of one God was one of these; it ultimately replaced the many gods of the pagan world.

The ancient Greeks adopted the attitude that reason must prevail among men and that the citizens themselves should govern.

The English Revolution of 1688 and the French Revolution of 1789 did away with the concept of divine right of monarchs; this led to greater democracy and freedom.

The ideas and works of Copernicus, Galileo, Kepler, Newton, and Darwin entirely changed man's concept of his place in the universe.

But men do not change their thinking overnight. For that reason we will continue to need laws and regulations to govern our personal lives and our business activities. I do believe, however, that individuals can change and can make a difference. People are eager for leaders who will give of themselves for the good of their communities. They are sick of platitudes, of high talking and low living, of fine words and selfish deeds. They want and will follow those who live by higher values.

Our Bicentennial should remind us that the leaders of our Revolutionary period showed that the individual can make a difference. These men, properly honored by the title "Founding Fathers," valued freedom and culture more than wealth. They brought fundamental honesty to the business of government, and dealt with their countrymen on frank and open terms. They lived by the ideals they propounded. The Declaration of Independence was no idle statement for them. In support of it they pledged, and some lost, their lives, their fortunes, and their sacred honor. Through their beliefs and individual deeds our Revolutionary leaders stirred their fellow countrymen to struggle and sacrifice for independence. More important, they set a moral tone and example for their age and ours.

To set an example, an individual starts with himself. He puts his family and his community above his own desires. He puts high moral and ethical principles into his personal and business dealings. He accepts as his personal responsibility the duty of restoring the concepts of honesty, truth and morality.

As a nation, we can choose one of two ways to bring about the changes needed in our country: we can use the power of the state or we can entrust the task to our capitalist system. In my opinion, to use the state will result—as it has in other parts of the world—in a loss of freedom. I believe the job can best be done by our capitalist system provided those who lead it understand that the methods used

must be legal, must be supported by our government and people, and must transcend some of the current ways of conducting business.

While capitalism must be based on the opportunity to make profit, those in charge must not use their special position to gain advantage over our country and our citizens.

The great problems facing us today—energy, population, the environment—demand the highest degree of ability and initiative. Solutions require basic changes in thinking and a willingness to question past practices. Although these problems are national in scope, the search for solutions can begin with day-to-day activities. For example, businessmen would be well advised to question their effect on our society by creating, through advertising, artificial demand for products of questionable value. They would also do well to consider the implications for the future of capitalism of a recent study which shows that misleading television advertising may permanently distort children's values of morality, society and business. And they should examine whether their practices exploit the fact, reported by another study, that 62% of adult Americans are rated either incompetent or barely competent on consumer economic questions.

Businessmen have a special opportunity and responsibility to effect beneficial change in our society. To do so they must set demanding goals for themselves. They should ask what will be their contribution to the legacy which American civilization leaves to the world? The

Hebrews endowed mankind with concepts of morality; the Ancient Greeks left concepts of democracy and self-government. The legacy of the Roman Empire was law.

It is my hope the American legacy will be more than a business structure whose major objective is attainment of wealth; more than a facility for self-serving public relations; more than a highly developed advertising industry with its propensity to "image-making." I hope America's legacy will be the accommodation of the forces of capitalism, democracy and morality in a highly industrialized society. Such a rich legacy would be worthy of a great nation.