

## What Is Crippling Free Enterprise?\*

By GEORGE A. BRIGGS

*Those who ardently advocate free enterprise and at the same time justify specific private monopolies are like a woman who has a keen relish for virtue, slightly flavored with adultery.*

### I

IT HAS BEEN my good fortune lately to view rather extensively the latest fashions in economic theory as these are revealed by text books used in leading universities. It has been an interesting experience. Why did anyone ever call this a dismal science? Scattered through this literature are descriptions, charts, diagrams and equations of interdependent economic forces, which give an analyst a chance to suggest in non-technical language what is happening to free enterprise.

The Russians, of course, as well as many of our own people and some of our economists, say it is an outworn system and should be supplanted by a planned economy. My survey of the data does not lead to this conclusion. It indicates instead, that the interplay of private initiative, which Walter Lippmann calls the "division of labor regulated by a free market," is as vital to the health of the economic body, as the automatic functions of internal human organs are to the physiological body.

It cannot be denied that the system is out of order, but this does not appear to be due to inherent weaknesses. On the contrary, government itself is the villain of the sketch. More-or-less unwittingly it sabotages the very system it is supposed to preserve and protect. Then, aghast at the inevitable consequences, it tries to remedy them by patchwork regulation. Let us consider a few of these instances of sabo-

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tage, and begin with the granting of charters to productive enterprises.

## II

A CORPORATION has three chief advantages over a partnership or individual ownership. The liability of stockholders is limited to their investment. This partial exemption from laws to enforce contract makes capital more readily available for productive purposes. Then, too, a corporation has continuity. It is not disrupted or legally disturbed by the death of a stockholder.

These features do not in any way interfere with the principle of free private initiative since the way is open for any group of men to form a productive corporation. On the other hand, since a corporation cannot exist without a formal charter from government, the latter should be very careful to place limitations upon it. This is true because in the mind and heart of unregenerate man there lurks a tendency toward larceny, or, to put it more mildly, a lust for monopolistic power. As Adam Smith observed almost two hundred years ago, "men of the same trade seldom get together even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices."

Far from recognizing this tendency and insisting upon provisions to restrict it, our states have vied with each other in offering special advantages and immunities to corporations. No doubt this is done chiefly for the purpose of securing franchise taxes from corporations to which the particular state grants charters.

Some of these laws legalize procedures which do not discourage promotional extravagance, and do intrench management. Because of this and other reasons, many corporations consist of managerial dictatorships which, within broad limits and in many ways, may legally use their position to

their own advantage and to the disadvantage of stockholders. Especially is this true when stockholdings are widely spread. When, by whatever subterfuge, government grants such special powers and privileges to an individual or, as in this case, to a managerial group, it nullifies the principle of free enterprise. This principle demands above all else that economic activity must be free from the taint of governmental favoritism.

Some suggestions, then, are in order for restrictions on corporations to prevent them from being a menace either to the total economic structure or to their stockholders.

There should be rigid restrictions on expense for promotion and financing. It is said, for example, that these expenses in the case of the United States Steel Corporation amounted to \$62,000,000.

Then there should be only one kind of investment, namely common stock, fully paid in and fully participating. When there are issues of bonds or preferred stock, the holders of such securities are legally powerless to resist arbitrary, self-centered managerial policies so long as the corporation keeps out of bankruptcy.

Then, also, there should be drastic limitations on voting of proxies. It would seem indeed that in the case of requests for higher managerial salaries and bonuses, the proposals should be validated by a mail referendum and determined by a majority of those voting on the question, each stockholder having only one vote.

There should be mandatory provisions for stockholders' meetings at specified intervals and the board of directors should not be self-perpetuating. Years ago, the writer of these suggestions was president of a corporation which did not hold a stockholders' meeting for eighteen years. The directors held office until the next stockholders' meeting, which never was held. In the meantime, if a director died

or resigned, his successor was chosen by the other members of the board.

Surplus earnings should be distributed in dividends. If the management wants more funds for expansion it should be compelled to go to the market and sell new stock. When earnings are ploughed back into the business for further growth, the stockholders are coerced by management to make savings. Even the smallest stockholder should not have his freedom thus invaded.

Further, management should be made legally responsible to individual stockholders as well as to the corporation. Unfortunately, as our laws are now construed or were a few years ago, management can use inside information to swindle individual stockholders in certain ways, provided the action is not prejudicial to the interests of the corporation. For example, individual stockholders ignorant of pending developments known to the management, have been induced to sell their holdings at a price which would have been indignantly refused had they had knowledge of what was about to happen.

Lastly, one corporation should not be permitted to own stock in another corporation, and there should be no interlocking directorates. Every tub should stand on its own bottom.

### III

ANOTHER INSTANCE OF SABOTAGE, brazen sabotage in this case, but welcomed by corporations and many others, relates to our patent laws. They are designed to stimulate invention. Thus an inventor is given an exclusive monopoly on his patented article, ostensibly for seventeen years, but, as we shall see, practically in perpetuity. This special monopolistic privilege plainly negates free enterprise. The problem is: what should be done about it?

There are two schools of thought, both of which believe in free enterprise. The first of these holds that practically all inventions are made by research departments of productive enterprises. The object is to reduce cost of operation. Every machine, every tool, every gadget in a factory is designed for this purpose. Incidentally, there are quite a number of machines, tools and gadgets in a modern factory. If the reduction in costs of operations more than covers the expense of research, then the latter is justified. No further incentive is needed. If expenses of a research department are not thus balanced, then it and the factory are guilty of inefficiency. So this school would repeal all patent laws.

It will be noted in this connection that machines, tools and gadgets are constantly being improved. Each improvement calls for another patent. So, instead of a seventeen-year monopoly on a single patent, a patent structure is created which, unlike man, is not mortal.

The other school holds that while most inventions are made by such research departments, nevertheless really basic inventions are usually made by amateurs. The names of Alexander Graham Bell, Elias Howe, S. F. B. Morse and others are adduced as evidence. Even so, it is held that some method of reward other than legal monopoly must be devised. As an example, the alternative of a bonus system, now used by Soviet Russia, is cited.

#### IV

NEXT, LET US CONSIDER governmental protection of brands and trade marks. If a company wants such protection the government and the customer are entitled to know what it is that is being protected. The product should not be shrouded in mystery.

If a go-getting enterpriser wants to keep his formula secret to reduce vigorous competition, the way is open for him to

do so. Suppose he wants to mix five cents worth of material with a quart of water and sell the compound for a dollar. In such a case, and such cases exist, he may achieve his desire for at least partial secrecy by not asking for governmental protection of his brand.

It would seem reasonable, however, that when protection is granted a brand or trade mark, relating to food stuffs, cosmetics, medicines, tooth paste, cleaning powder and other things involving easily understandable formulas, the complete formula, both qualitative and quantitative, in such cases, should be printed on the label.

In the case of brands and trade marks of another kind, the product should be graded by the same governmental agency that grades purchases made by government. The grade should be included in every advertisement of the product. As a byproduct of the main design to prevent monopoly and to encourage free competitive enterprise, the reader will note of course how these provisions would deflate much advertising ballyhoo. Would not that in itself be a public service?

## V

NOW WE COME to a subject which has called forth more heat and less light than almost any other. I refer to duties on imports. Such duties obviously create either monopolies or what economists call monopolistic competition enterprises. For the purpose we have in mind, then, there should be no duties on imports.

Further, since we have been a creditor nation for many years, we are beginning to see that such duties are against our own interests for many reasons. They restrict exports as well as imports. They hamper the collection of principal and interest on loans made abroad. And they divert industry away from fields economically more desirable into fields less desirable. Even the Congress of the United States is now for

the first time dimly perceiving that a continuous excess of exports over imports does not constitute a favorable balance of trade.

## VI

BEFORE GOING FURTHER, let us go back for a moment to our friend, the corporation. When it is granted special privileges in its charter; when it also enjoys monopolistic powers conferred by patents and tariffs, then quite often it grows in size beyond the point where diminishing returns begin. That point will vary, of course, with different industries. But economists agree that in any industry there is a point beyond which any further increase in the size of the enterprise will increase costs per unit of production.

The writer is going to hazard what one of our weekly magazines would call a guesstimate. It is based partly on actual knowledge of some relative costs per unit between giant corporations and smaller ones. Doubtless too, it is based partly on wishful thinking. For what it is worth, here is the guess.

More than half of the fifteen biggest productive corporations in the United States would be broken up into smaller and more efficient independent enterprises if all special legal privileges were withdrawn.

A corporation "is a useful instrument. So is a buzz saw."

## VII

ONE HESITATES TO SUGGEST that anything is wrong with our system of land tenure. It is held in deep respect. The words reverence and worship perhaps are most descriptive of our feelings. Yet, let us be courageous and investigate the subject.

A deed to land carries with it two kinds of power. First, there is the right to exclusive possession. This does not interfere with free enterprise. On the contrary it promotes it.

No one would be justified in improving land if he could not be assured of continuous tenure and permanent ownership of buildings and other improvements which his enterprise may place upon the land.

The other aspect of a deed to land gives the owner power, if he does not wish to use the land himself, to determine the conditions upon which he will permit others to use it. As to improvements, created by enterprise, this procedure is thoroughly legitimate. But is it legitimate as to bare land?

Economists are largely in agreement on a few points respecting land. It is a free gift of nature. Certainly that is a truism if there ever was one. Government, therefore, interferes with free enterprise when it permits any individual to exact a price for the use of this free gift of nature; when those who do not have land but wish to use it, must pay those who do have land but do not wish to use it.

Further, there is a great difference in value between different tracts of land, a difference which is a function of population and does not inhere in land as mere land. A rural tract, for example, is much less valuable than a tract of similar size in the downtown district of a metropolitan city. The annual value of each tract is known to economists as rent.

When one man can exact from another a price for this free gift of nature, the selling price approximates the capitalized value of rent which goes to the owner of the land. If each owner or user annually paid into the public treasury the amount of this rent in lieu of taxes, then all owners and users would have equality of opportunity. This would be true because the rent paid in each case measures the advantage to the owner of having exclusive possession of the tract in question. Then, too, since no rent would be retained by individuals, the selling price of land, exclusive of the value of improvements in or on it, would disappear.

The use value would remain the same as, or better than, it



now is. There would be no temptation to hold land out of use for speculative purposes against the time when growth of population would make it more valuable. All land that was needed would be brought into use. This increase in available supply would tend to reduce rents.

I do not know why we are so obsessed with the conviction that high land prices are desirable. One economist, however—Harry Gunnison Brown—who is not so obsessed, says, "The truth is that high land prices are an economic and a social calamity. They make it harder for the struggling worker to purchase land for a business, a farm, a home. They accentuate the trend towards tenancy, as against ownership by the user of the land."

#### VIII

IT WOULD SEEM in the light of this analysis that some of the chief sins of government against free enterprise are laws relating to corporations, patents, brands, trademarks, duties on imports and land tenure.

Some of these laws were adopted with the best possible intentions. Resulting evils simply confirm John Dewey's thought that unforeseen consequences of an act often are more important than those foreseen or hoped for. On the other hand, many of these laws were enacted at the behest of sinister pressure groups who cry to high heaven for freedom and free enterprise, while what they want and actually get is freedom to acquire monopolistic advantages for themselves and their kind.

The question arises, then, what chance is there for preserving free enterprise through democratic processes? Straight thinking and humility of spirit may be helpful here if we wish to cultivate them and know how to do so. They will make us face the significance of a statement by John Ise in his great book, "Economics," recently published, that "it is

one thing furthermore to draw up an ideal scheme, such as men of good will and high principles ought to like; it might be quite another to administer it to the satisfaction of a public made up heterogeneously of intelligentsia and ignoramuses, workers and drones, altruists and egotists, idealists and pig-trough philosophers."

The question now resolves itself into what will be the ultimate outcome of the impact of pig-trough pressure groups on the economy of such an electorate? If present trends persist, there is little basis for optimism. Trends, of course, do not always persist. In physics, for example, when heat is gradually extracted from water, the latter ceases to contract and begins to expand at 40 degrees Fahrenheit. It is conceivable that well-organized, public-spirited pressure groups might cause a similar reversal of trend in the human situation we are examining.

To this end, if they held firmly to the ideal, and worked for and toward it with intelligence and persistence, such a course would at least enrich their lives, and it might provide the most promising way to evade the poisons of pessimism.

Meanwhile they could be sure that if freedom of enterprise, and other freedoms to which we give fervent lip service, cannot be preserved by and through democratic processes, their doom would be sealed sooner and more swiftly under any other form of government.

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