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FAIR TRADE AND DISCOUNT HOUSES

BY SENATOR HUBERT H. HUMPHREY

(Excerpts from an address by Senator Hubert H. Humphrey to the 70th Annual Minnesota State Pharmaceutical Association Convention on May 5, 1954)

Democracy will survive because there are millions upon millions of people that have a stake in life; who feel that this democracy is theirs. They feel that it means something to them. I want to see the kind of America where I can drive up and down the highways and find thousands and thousands of people who own their own homes and their own property. It gives them a sense of status and stability and respect. I do not want to live in a society where somebody is the boss and everybody else is the hired hand. I want to live in a country where everybody can aspire to be boss, where he can be his own manager, and owner.

These rules of fair play and fair trade that I am talking
about made that possible. Why? I suppose that somebody
could make a good theoretical case out of this. If we
did away with all independent druggists we might get
tooth paste at two cents a tube less. There is such a
thing as having people who can talk and speak up and not
be bludgeoned into position.

Political freedom depends upon economic freedom. You can
not have political freedom without economic freedom and
you cannot have political freedom without people having
a great stake in their country and with the sense of owning
and possession that comes from their management and owner-
ship -- their property, their business, their farm, their
home.

We have to get this over to the American people. Fair trade
fits right into this picture. As a matter of fact, fair trade

is sound competitive practice and more than that, it gives people a chance to live. It makes for good communities.

You would not have the churches and the playgrounds and the community houses in America, ladies and gentlemen. You

would not have the kind of community you have if it were

not for the thousands and thousands of independent business-

men up and down Main Street that pay bills and taxes and

make these contributions to the Community Chest and the

Red Cross and the hundred and one other activities. You

would not have these great world communities as we have

here in Minnesota if it were not for the self-respecting,

productive, efficient farm land owner. I have been in

parts of America and watched the workers, imported workers,

Mexican workers, brought into this country by the thousands,

picking fruits and vegetables and cotton. They are not living.

They are existing. Somebody on top is getting rich and

somebody below is being degraded.

I want to live in the kind of America where my four children can be drug store operators, too, and the kind of country where if one of my sons or daughters decides he wants to go on a farm he can own the farm and does not have to be a hired hand. That is what democracy means.

We have won this fair trade battle in the Courts. In 1951 we saw these visions of price war going on because of a weakness in the Fair Trade Law. You know what the Court ruled and you know we had to revise that Fair Trade Law and make it conform to the rule of the Court. We have won our struggle in the Court.

I have documented this in my preparation of my talk for you. Winning our fight in the courts we found that in the recent Schwegmann-Lilly case, the Supreme Court refused to take jurisdiction and review the findings of the lower Court thereby by negative action establishing the constitutionality of it. We found that the Fifth U.S.Circuit Court of Appeals

in June upheld the constitutionality of the Fair Trade Law under the McGuire Act. We found one state court in Georgia ruling against it but recently the Georgia Legislature changed the law to conform to the law handed down by the Court.

The fight of fair trade today isn't ⁱⁿ the courts any more.

It is shifting and takes on three or four aspects -- one to prove to the American people that it destroys competition when you and I know it protects it. Secondly, to show it is inflationary price fixing and holding prices high. We know that of all the commodities in America in this great period of inflation that have held the line it is those commodities that have been fair trade. They have been best of the group.

There isn't a business in America that can show the record for holding the price line as well as the retail pharmacist

and the retail druggist from World War II up to 1954 --
show me one business in America that has held the line on
prices, giving the consumer more for the dollar, than the
retail pharmacist. Fair trade has played its part in this
accomplishment.

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What is the new attack? The new attack is in what I call the
economic market place. You want to know what it is? The
second part of the title of my talk deals with the discount
house.

I have here from Washington, D.C., something I picked up before
I came down -- "Master Mail Order Company of Washington, D.C."
(I listened to the gentleman a minute ago talking about cameras.)

"Kodak, Eastman film, list price per roll, 41 cents, your price
per dozen, \$3.69. Mr. Pharmacist, you almost pay that much
wholesale for them. In Westinghouse appliances, Westinghouse

Roaster Oven, Fair Trade \$39.98, their price \$29.99. We can go down to the Kodak Duoflex, list price \$14.50, your price \$11.31. You cannot survive that kind of competition. What is going to be done about it?

The time is at hand and I hope this room is filled with manufacturers' representatives. Fair trade is a cooperative relationship and contractual relationship between the manufacturer and the retailer through the wholesaler or distributor. It is time the retailers told the manufacturers that it is up to them to live up to the full meaning and purpose of the Fair Trade Law. With equal candor, it is time for every retailer to live up to the full intent of the Fair Trade Law because even some people who say they are for fair trade have violated it in an effort to get a fast sale so the competitor down the street would not get it.

We know fair trade does not provide exorbitant profit. We know that it provides competition, because you can't fair trade an article unless there are other articles that fulfill the same services which are competitive to it. We know that every article is not fair traded--it is mainly nationally advertised articles and there are always competitive commodities, those commodities that are substitute commodities that act as part of the competitive force in the economy. I call to your attention the economic parasites eating at the foundation of our economic stability. It may not have gotten into your home town yet but it is in Minneapolis and St. Paul, and Toledo and Washington, D.C. and New York. These are merchandising bootleggers. Sometimes they don't even have these discount houses or the accommodation of an office. They have a mailing address. They are brokerage parasites, frequently never even handling

the commodities themselves, doing a middleman's job between the distributor and the consumer.

I have found another term for these discount houses and I think it is good, "Merchandising Specialists". The Fair Trade Law of this country lays down a code of ethics, an economic moral code and these discount houses are a violation of that economic moral code.

Are you thinking that this is just a problem that I am concerned about? Not on your life. I have in my possession an address of a prominent man in the Retail Dry Goods Association by the name of Mr. Ben R. Cohen of Richard's Department Store, who spoke in a New York department store before 8,000 department store managers and their representatives. The department stores of this country are beginning to get excited about discount houses. He called upon every department store owner and manager to lead the fight against

these parasites of distribution. Mr. Pharmacist, you had better join in that fight because this is beginning to spread.

Let me give you an example of what can be done. Retailers must call upon their fair trade manufacturers to choose between legitimate merchandisers and the "merchandising speak-easy". Many manufacturers are willing to do this and they all will be if you remind them that you are their outlet.

It doesn't make any difference how much national advertising we have in this country -- if we do not have outlets and consumers. The local drug store on the corner, in the middle of the block, is the outlet. He is, so to speak, the television screen of business that carries the show of national advertising into his community -- not the discount house in the back alley but the pharmacy, the department store on Main Street with big overhead and big investment and big inventory and employees hired out of the community. He

is the show case. He is the outlet for the nationally-advertised brands and the manufacturers of those brands.

Mr. Manufacturer has to have it put right to him: Are you going to play in the back alley or out in Main Street?

Are you going to engage in this kind of bootlegging operation or engage in legitimate fair trade practice? I think when that kind of choice is made it won't take them long to make up their minds.

Let me give you an example of what is being done. Many legal suits are being filed. If the legal suits are filed with heavy enough damages, they are effective. There is one case of the firm of E. J. Corvett of New York City and a fair trade suit brought against it by Helena Rubinstein for \$250,000. These fair trade suits are being won where a manufacturer wants to prosecute and they can get the evidence. The Benrus and Bulova Watch Companies each

have a suit against a distributor in Toledo. In Stockton, California, Westinghouse has a suit against a fellow named Charles Hawkins who has been a long-time foe of fair trade.

If Westinghouse wins that suit (and I think it will) then you will not see such things as a \$41.20 fruit mixer for \$30.90; Timer Clock, \$12.95 for \$9.71; a broiler at \$8.95 for \$6.17. All Westinghouse has to do is win one or two cases and that puts the end to outfits such as this.

There are other things that I think are important. There was a recent State Supreme Court Case in New Jersey in the matter of the Sunbeam Company. (By the way, the Sunbeam appliance manufacturers are vigorous fair traders. I came across the President of the Sunbeam Company flying from Chicago to Washington and we found ourselves to be kindred souls.) This case was against the Windsor Company on Fifth Avenue and they required Windsor to make available to the Sunbeam Company all

records showing where Windsor purchases were made in the sales of Sunbeam appliances. Also, the Supreme Court of New Jersey, in this case, required of the company the records of what distributors sold Sunbeam Products to Windsor. This gave the manufacturer the chance to track down the economic back-alley artists.

That is what your problem is today. What will you do? You will do something through your Association. When you find a discount house in operation and nationally-advertised brands being sold in violation of fair trade it is your duty to bring this to the attention of the responsible officials of this association and ask that the manufacturer prosecute and seek legal remedy to correct what is a violation of public law. Fair trade is a public law. Fair trade is authorized by the Congress of the United States, signed by the President, and authorized by 45 State Legislatures and signed by

45 State Governors. If I have my way, we are going to authorize it in the District of Columbia. There is a bill introduced by the Senator from Maryland Glenn Bell (N. S3927) and I wrote him a letter and said "I think I know a little about fair trade. When the fight is on, let me know. I am itching for another fight on fair trade."

Back in 1951 it looked bad! There were price wars, etc.

Then the Mc Guire Act came in and we had new and stronger

fair trade laws. Today it is the crisis in the market

place and the discount houses. The answer is a re-examination

by the manufacturer of his policies.

It is up to us, as business people, to have the public

understand that discount houses can eat away the conomic

and social and human values, in real estate, in local taxes,

and in community service. These discount houses are fly-by-

nights. They will never be in the small community or the City of Minneapolis to take up their share of the burden. Just remember, for every dollar that somebody doesn't pay, you have to pay that much more. For every burden that someone doesn't shoulder, you have to take on that much of a load. That is why we have fair trade, so we share burdens equitably.



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