Symposium Review: Galbraith's 'Concept of Countervailing Power' and Lilienthal's 'Big Business'

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IN these two books we find two doughty knights of the pen entering the lists of economic controversy. The scope of their argument and the weapons and tactics they use are marked by differences no less striking than is the fact that nonetheless they are joined in a common cause—the justification of bigness.

David Lilienthal is a lawyer turned executive of a public enterprise and now returned to legal practice and business consulting. Kenneth Galbraith is an economist who served a tour of duty as a bureaucrat in Washington and is now returned to academic halls. Both are journalists, the former a professional, who served some years on the staff of *Fortune*, and the latter a "semi-pro," who first published much of the content of this book as a series of articles in *Collier’s*. Hence both books are readably different from the ordinary treatise. Professor Galbraith, however, assures the reader that he could have written in the incomprehensible idiom of the professional economist had he so desired. His book may properly be regarded as an economic brief for the defense in the case of *The Public Interest v. Power Groups* whereas Lilienthal’s book might be filed as an economic brief for the plaintiff in the case of *Big Business v. Current Interpretation of Antitrust*.

The latter admits that he grew up in the small-town, small-business prejudice against Big Business. Become lawyer, he revered the Sherman and Clayton Acts as protectors of free enterprise and the public against big business domination. But two years on the Wisconsin Public Service Commission, thirteen years as a
director of TVA, and three years as chairman of the Atomic Energy Commission, he testifies, struck the scales from his eyes. He came to see bigness in corporate and in governmental organization as essential to the achievement of the technological, the economic, and even the social possibilities of modern life. Now retired from the active executive role to the analytical and advisory role, he feels he can take a "relaxed look at this controversial issue." Some may think they see traces of the convert's zeal.

Far from being a mere apologetic defender of Big Business, Mr. Lilienthal is its militant protagonist. He not only capitalizes Big Business through the book; he apotheosizes it as "a proud and fruitful achievement of the American people as a whole... a social institution that promotes human freedom and individualism. ...Big Business is basic to the very life of the country; and yet many—perhaps most—Americans have a deep-seated fear and emotional repugnance to it. Here is a monumental contradiction."

Mr. Lilienthal gives considerable detail as to how Big Business promotes these ends in thirteen chapters on the fine "fruits of bigness" in "the new competition." The argument focuses around two points: (1) that possibilities of monopolistic pressure on the buying public are sharply limited under modern technology and (2) that there is real price competition between large industrial and commercial corporations under present conditions of professional management.¹

The present reviewer can hardly fail to be in basic agreement with both these views since, fifteen years ago, he took essentially the same positions, though in terms somewhat more restrained. I concluded:

"To point to the mere size of modern corporations, functioning as they do today, as an evidence 'that the era of competitive capitalism has been brought to a close' is a conclusion not supported by the evidence. Insofar as large-scale organization puts the natural pacemaker in a position of command within a large segment of the economy, it means a struggle to advance the lines of economic effort of truly heroic proportions. The competition among pigmies, which some are eager to try to restore, is puny by comparison. Competition is quite as keen and much more productive of results when we find industrial giants marshaling their mighty resources to perfect techniques and new schemes of organization through whose use more and better goods may be put within the reach of the masses."²

¹. Moreover, "one of the attractive aspects of modern Big Business is that it creates opportunities previously non-existent for a multitude of small business enterprises, and broadens the area wherein smaller businesses can find opportunities that are neither profitable nor suitable for the big" (p. x).

Mr. Lilienthal argues not only that this kind of large-unit competition may be active and beneficial but that it in fact is so. He advances three reasons: (1) A growing intention to serve the consumer and the workers springs from internal changes:

“A new kind of ‘top boss’ of large business undertakings is a man with a strong and practical sense of responsibility to the public, and an awareness of the ethics of present-day business competition... trained as professional men in the now numerous and seasoned graduate schools of business administration... [or] come to management posts with a background of technical training and experience, as chemists, chemical engineers, physicists, mechanical, or civil engineers. . . . These men represent graphically, in their persons and in their outlook and function, the coming of age of Big Business” (p. 27).

(2) Competition in services to the public is forced upon astute management by the constraining force of consumer choice or of public opinion in a more abstract sense.

“This is by no means true only of buyers of huge quantities, such as chain stores or automobile companies. . . . Not only are a big company’s prices thus the subject of public challenge and criticism if not actual fixing. . . . The same is true of the quality of its products; its labor relations, the effect of its policies on broad issues such as inflation or our relations with Latin America; the change in public accountability on the part of industrial management is a reflection of the effectiveness of the new checks and balances upon abuses of economic power” (pp. 29-31).

(3) There is the ameliorating influence of labor unions.

“The most significant change [in the changed America of Big Business] is in a modification of the power of employers to fix the terms and conditions of employment. . . . [These] are now matters of negotiation and agreement with labor’s representatives” (p. 20).

In all this Lilienthal marches in step with Galbraith (whose book he had evidently read since he, at one or two points, uses the phrases “countervailing power”). But, of course, the facts had been a matter of common knowledge in business circles and economic writings for some time. Lilienthal recognizes that there are still shortcomings in the behavior of big business. But his discussion of “the Hazards of Bigness” (Part IV) gives a growing impression that

3. He seems also to take much the same view as Galbraith as to the countervailing role of the state. “It is government’s changed and expanded role in economic affairs, notably since 1933, that in my opinion reduces to quite manageable proportions the danger of abuses by Big Business; thus armed we can now safely promote and encourage Bigness rather than view its growth with apprehension.” LILIENTHAL, BIG BUSINESS: A NEW ERA XI (1952).
these were hazards of the bad old early days of big business dereliction that have largely been eliminated by the enlightenment of executive leadership today. It is not that bigness as such has defects, but that some men frustrate the innate beneficence of bigness.

Applying his analysis of bigness to the antitrust issue, Lilienthal argues that experience under the actual developments of technology and enlightened management gives adequate evidence that the framers of the Sherman Act were wrong in supposing that monopolistic power and its abuse were inherent in the newly emerged "trusts" or consolidated companies. The evils which promoted the passage of the Act are neither inherent in the big business organization as a structure nor inevitable in the behavior of its human agents. But the trend of recent court decisions has, in his view, ignored the lessons of this experience (as has also much of the administrative work of various federal regulatory bodies) and thus threatens to justify the comment of Justice Holmes that "the Sherman Act is a humbug based on economic ignorance and incompetence."

Mr. Lilienthal sees dire consequences flowing from the recrudescence of the doctrine that size should be construed as illegal per se. He sees them as really crippling restraints.

"The legal antagonism to size as such causes a profligate waste and distraction of the energies of management and technical talent of business. It substitutes, in business councils, the supercaution, not to say timidity, of the lawyer for the enterprise and boldness of a business manager and technical expert. It bogs down the Federal courts with endless and unmanageable litigation to the detriment of all other litigants. Because much of our public policy toward Big Business and its expression in interminable antitrust lawsuits and Congressional investigations is so obviously fruitless and barren, it thereby undermines respect for government among conscientious citizens" (p. 5).

This claim that if this single handicap were removed, Big Business would promptly achieve a new day of abundance and economic progress overstates Mr. Lilienthal's case. Admitting that much of the antitrust crusade is burdensome and ill-conceived, his own first chapters document the fact that, even with this handicap, we are making amazing technological progress, achieving a high level of managerial efficiency, and attaining greater dignity and peace in business relations. The cumbrous car of social progress is held back by economic stupidity in the ranks and cupidity among the leaders much more than by the Sherman Act or its misinterpretation "based largely upon prejudice created by abuses long since corrected, upon an antiquarian's portrait of another America, not the America of the mid-twentieth century" (p. 5).
As to Government policy in the face of this state of facts, as Lilienthal interprets them, he would let the Sherman Act and Clayton Amendment stand as they are, rely mainly on the competition among large-scale units supplemented by the counteraction of labor, consumer groups, and public opinion to protect the public interest. Beyond this,

"the Antitrust Division of the Department of Justice, and the members and staff of the Federal Trade Commission constitute a kind of F. B. I. of the world of business competition, with a responsibility to detect and to protect the public against acts of coercion, deceit, boycott, collusion or forms of business violence that inflict injury on competitors and the consuming public. The enforcing officers should concentrate on these specific policing functions, which should be maintained and even strengthened in their administration" (pp. 169, 170).

To make national policy clear and not subject to the personal views of particular administrators or courts, Lilienthal proposes a Basic Economic Act. Whereas "the Sherman Act forbids 'restraint of trade'—a double negative, the new law, by contrast, should expressly foster the development of trade—a double affirmative" (p. 185).

Here the reviewer finds himself beset by doubts. How can a federal statute promote the development of private economic activity and service to the public? Lilienthal has argued mightily that that invaluable quality is inherent in modern business and its leaders; what is needed is that it be not crippled. He himself cannily refrains from specific suggestions as to the content of the new law's policy declaration, saying merely, "it would be necessary in such a law that there be spelled out, in legal terms, well-defined criteria by which to judge whether Bigness furthers or injures the public interest, criteria of the sort I have herein suggested only in laymen's language (p. 186). Under the new law, "the legal test Bigness would have to face would thenceforth be whether the particular aspect of size challenged by the government does in fact further the public interest" (p. 187). That is a large order indeed! I doubt that practical business executives would be eager to jump from the present frying pan into that lethal fire.

It would be obviously impossible for a statute to lay down in precise and comprehensive terms a scheme for measuring the quantitative or even the qualitative impact of a big company's actions on "the overall public interest." Would it not be sufficient, according to Lilienthal's own objectives, to have the law limit its "basic economic policy, by which courts, executive agencies, and Congressional committees would all be guided" (p. 185), to two points: (1) that mere size was not to be construed as in violation of anti-
trust laws because of its potential use to limit competition or harm the public interest (any more than we arrest a citizen because he is so strong as to have the power to commit mayhem or murder or so poor as to be under great temptation to steal); (2) that, in judging the admissibility of practices of large companies, courts and administrative officers shall "consider . . . all the surrounding facts and circumstances . . . a doctrine advanced by some of our greatest judges, notably Hughes, Brandeis, Holmes and Roberts. It would once more give vitality to the now almost moribund 'rule of reason' in construing (antitrust) laws."4

This reviewer does not see how criteria of beneficence can be written into a statute. He does agree with Lilienthal that it is highly important for Congress to declare itself against that interpretation of Sherman and Clayton that says that the power of bigness "should not exist . . . Industrial power should be decentralized. It should be scattered into many hands so that the fortunes of the people will not be dependent on the whim or caprice, the political prejudices, the emotional stability of a few self-appointed men. The fact that they are not vicious men but respectable and social-minded is irrelevant. That is the philosophy and the command of the Sherman Act" (p. 173).5 It is high time that this issue be clarified.

Galbraith's approach to the general problem is on the whole even more optimistic than Lilienthal's. While in theory the growth of power aggregations should have made our economy bog down, we are in fact achieving a "tolerable" result. Though he uses this word repeatedly, he really goes somewhat further in his optimism. "The favorable performance of the American economy in the years following World War II is a fact. [With minor exceptions], there was little hardship. . . . The ideas which caused the present to be viewed with such uncertainty and the future with such alarm were not operative. . . . The present organization and management of the American economy . . . works, and in the years since World War II, quite brilliantly" (p. 2). It is only an illusion of economic insecurity that besets us and that he attempts to dispel under the sardonic chapter title "The Insecurity of Illusion."

4. Here it may be useful to recall the Capper-Volstead Act. It was based on the fact that the Clayton Amendment merely protected cooperative associations from being dealt with as ipso facto violators of the Sherman Act, leaving the issue of practices in restraint of trade (and presumably size under present Supreme Court rulings) to the Department of Justice and state courts. However, it gave the Secretary of Agriculture the special power of acting as a tribunal to protect the public and gave him as a criterion "undue enhancement of prices" by co-ops. His finding on the point was to be prima facie evidence in any court where a co-operative association is sued for infraction of the antitrust laws. Could Mr. Lilienthal's Basic Economic Act, aside from its definitions of collusive or coercive acts, prescribe criteria any less tenuous than "undue enhancement of prices?"

Galbraith does not direct his analysis specifically or merely at the big corporation as does Lilienthal (though even he makes some excursions into the realm of big unions and big government operations). Galbraith is concerned rather (but reassuringly so) with great interest groupings—business, labor, agriculture, government. For him, alarms about concentrations of economic power are unjustified. The disease engenders its own antibodies, and Nature cures all things. Some malaise, some lost time, some incidental expense, of course, but neither death nor permanent injury to the body economic.

Galbraith pays less detailed attention than Lilienthal to technology as a means of providing substitutes and thus preventing pressure of the strong producer on the weak consumer, but rates "the modern industry of a few large firms as an almost perfect instrument for inducing technological change" (p. 91). He gives much more attention to the growth of countervailing power of consumers when Sears Roebuck or the Giant Market becomes their purchasing agent or of other big producers when they themselves become the sole or dominant buyers of their suppliers' product.

It is not a little surprising to find him referring to this development as ignored by economists (pp. 118, 141) in view of the fact that for years back it has been extensively treated in discussions of imperfect competition and has even led to the general use of the term monopsony to describe concentrations of buyers' power vis-à-vis monopoly (or oligopoly) as concentrations of sellers' power. Galbraith, after saying that economists have failed to see that industrial power has concentrated in the hands of strong buyers as well as sellers recognizes its place in the literature and dismisses it (p. 120) as "the terminology of bilateral monopoly power." The point of his rejection is that "in the economic literature, it is treated as an adventitious occurrence," whereas he stresses its "self-generating" aspect. It would not be hard to document the proposition that in fact it has often been discussed as counter-organization of market power. And as to its self-generating quality, he himself points out that absence of imaginative leadership, a sturdily cohesive membership, or the will to use power weapons may negate the self-generating principle, leaving a power vacuum that government must step in and fill.

Other countervailing pairs in Galbraith's sketch are farmers and processors (also chain stores and cooperative groups), management and the labor union. 6 "The operation of countervailing power is to be seen with the greatest clarity in the labor market, where it is also

6. He also includes, casually, such unpaired items as unemployment insurance, SEC, minimum wage provisions, and "soft money."
most fully developed” (p. 121). This presents the familiar picture of workers organizing for collective bargaining on a wider and wider scale as corporate power has grown. It presents also the persistent problem of securing “equality of bargaining power” under the Wagner Act and the Taft-Hartley Act, the real meaning and Congressional intent in Section 6 of the Clayton Act, and recurrent proposals to put labor organizations under the antitrust laws. Clearly Galbraith would not go along with that proposal, though his complacency about the efficiency of countervailing power would presumably not go so far as to align him with John L. Lewis in advocating repeal of all labor laws. He might expect that the two parties would battle mightily to produce a workable compromise. He shows no fear that frequent or prolonged deadlocks between them might lead to seriously reduced employment and production.

Faced with this disturbing suggestion, he would no doubt argue that we have been meeting this sort of challenge “in the years since World War II quite brilliantly”—witness the employment figures and the production index. But success in the presence of inflation as an escape clause is not conclusive as to what may eventuate in times of disinflation or price stability. Other economists have had less complacency than Galbraith that a balance of power will assure both peace and progress rather than stalemate and lowered productivity. In such a contingency, Galbraith would no doubt produce his sovereign remedy—the intervention of the state. Of that, more later.

Agriculture presents “the effort of longest standing to develop countervailing power.” To some extent, farmers sought to redress a situation of disadvantage by curbing the power of those to whom they sold or from whom they bought. They were a major force in securing the passage of the Interstate Commerce Act, the Sherman Act, and other “Granger laws.” Galbraith argues that agrarian support of soft money was a second drive for countervailing power but that both have now declined in importance, whereas the growth of cooperative associations built market power against both the buyers of farm products and the sellers of farm supplies. When the structural weakness of even “national” cooperatives proved inadequate to countervail against the forces (or weakness) of domestic and foreign markets, the Federal Government was brought in (1929 and 1933) to administer carryovers and control or at least guide the future flow of supply.

Here we come to the top stratum of Galbraith’s model of countervailing power. He does not really think that General Motors, Ford, and Chrysler will countervail perfectly against each other in the
car market; that Sears Roebuck, Standard Oil, and other mass distributors, will precisely countervail against the Big Five in the tire market; that labor unions will just countervail against manufacturers, merchants, and farmers to give us a satisfactory pattern of private capitalism. In his model, the Government plays the ultimate and crucial role. He would assign to Government itself the role of becoming the countervailing power against any "original" power that arises in the economy.7

"It is incumbent upon government to give [countervailing power] freedom to develop and to determine how it may best do so. The government also faces the question of where or how it will affirmatively support the development of countervailing power.... Both farmers and workers have sought and received government assistance either in the form of direct support of their market power or in support to organization which in turn made market power possible. In short, the government has subsidized with its own power the countervailing power of workers and farmers.... This assistance, clearly, explains some part of the self-confidence and well-being which these groups display today.... What has strengthened the American economy so admirably in the past must be presumed to have an unexploited potential for good in the future. ... We cannot assume that efforts by presently unorganized groups to seek market power and to seek the assistance of government in their effort, is finished business" (pp. 143, 152, 153, 154).

On the issue of antitrust law and judicial interpretation as such, Professor Galbraith has relatively little to say. Antitrust law has become an inadequate weapon because monopolistic powers are "ubiquitous" and "it is evidently not so practical to indict a whole economy" (p. 55). He would clearly not attack size or market power as such, but would have courts and administrative agencies address their attention primarily to the question of the end to which market power was being exercised, and how. "The mere possession and exercise of market power is not a useful criterion for antitrust action.... Against whom and for what purpose is the power being exercised? Unless this question is asked and the answer makes clear that the public is the victim, the antitrust laws, by attacking countervailing power, can as well enhance as reduce monopoly power" (p. 149). In the A.&P. cases, the "government was in the highly equivocal position of prosecuting activities which have the effect of keeping down prices to the consumer. The

7. This concept of monopoloids as wielding "original market power" needs examination from the economic side. Is it not in fact an outgrowth of the powers of corporate organization, tariff protection, patents, or franchise given by the state to such a group to enable it to countervail against the still prior power of foreign producers or domestic buyers? Just how could market power be independent of or antecedent to an institutional structure?
position of market power which had given A.&P. its opportunity were left untouched. (p. 148) . . . Serious damage can be done to the economy by such legislation as the Robinson-Patman Act. . . . legislation that strikes directly at the effective exercise of countervailing power” (p. 149).

It is evident that there is much common ground in the thinking of Galbraith and Lilienthal. Neither would attack mere size or latent power. Both urge that courts and administrators should require adequate evidence as to the impact of given practices on the consuming public and on the productivity of the economy and should not be concerned to protect any and every competitor against the greater efficiency or higher standards of service which a rival was able to attain and willing to put into practice. Galbraith does not argue that “an exemption of countervailing power should now be written into the antitrust laws,” but he quite conceivably would welcome a Basic Economic Act such as Lilienthal suggests which would clarify national policy negatively by declaring that size or potential power shall not be the test of legality and affirmatively setting forth general criteria of operational efficiency, technological progress, and public benefit for the guidance of courts and administrative officials.

In spite of these areas of agreement, however, there is fundamental divergence in the views of the two authors. Whereas Liberal Lilienthal would turn business loose to achieve the full fruition of its powers and reserve to the Federal Government only the power to police abusive practices, New Dealer Galbraith would put the Federal Government in the position of ultimate power and responsibility to make the economy work, redressing the weakness of group position or the faults of group bargains and production and marketing adjustments. Only this would, in Galbraith’s judgment, bring about performance commensurate with the potentialities of our resources.

The later chapters of American Capitalism dispel the impression conveyed in earlier chapters that the concept of countervailing power amounts to a modernized version of the Unseen Hand, which would permit group competition to accomplish in an advanced industrial society the benign adjustments of the market which in a simple society could be achieved through atomistic competition. Instead of looking backward toward automaticity, Galbraith seems to be pointing forward to an economy of central economic planning.

“In the past, private business management has had decisive responsibilities in the economy. (p. 171) . . . Like competition, countervailing power operates to prevent the misuse of such power. (p. 172) . . . Since the development of countervailing power is irregular and incomplete, it does not provide
a blanket case for the exclusion of state interference with private decision. Moreover, the state must be expected to participate in the development of countervailing power. (p. 173) . . . No case for an ideal distribution and employment of resources—for maximized social efficiency—can be made when countervailing power rather than competition is accepted as the basic regulator of the economy. (p. 175) . . . It cannot be argued that the undisturbed judgment of the industry in these cases (steel, housing, automobiles) is necessarily the best one; the social judgment reflected in the attitudes of government, may well be theoretically better. (p. 176) . . . The objective of social control over production decisions is to make the resulting decisions more responsive to social needs and desires. (p. 177) . . . Public ownership of these industries (coal mining, transport, electricity, gas utilities, overseas communications, and banking) is commonplace in advanced industrial countries.” (p. 179)

In closing, I must admit to considerable bafflement as to one phase of Galbraith’s argument, which apparently is basic to his thinking—the issue of inflation. Generalizing that “the support of countervailing power has become in the last two decades perhaps the major peacetime function of the Federal Government,” Galbraith lists a string of labor, agrarian, and other reform measures as “among the most important legislative acts of the New Deal, all designed to give a group a marketing power it did not have before.” He cites the “brilliant performance [of] the period since World War II” as demonstration that, through countervailing power, we have found the solution to the problem of making modern capitalism succeed. This gives rise to the question: Has a growth of countervailing power been the cause of such a better functional adjustment among the several parts of our economic system as would put our current prosperity on an enduring basis? Or did the brisk activity and high incomes of this period stem largely from other and perhaps temporary sources? If recent levels of prosperity should not continue through the years just ahead, would his case for the efficacy of countervailing power still stand up?

And even as for these years, is there not inconsistency in his argument that the post World War II period of prosperity has been due to measures based on the concept of countervailing power when he himself insists sharply and repeatedly that the beneficent mechanics of countervailing power are inoperative in periods of inflationary pressure? Were not these last two decades notable for the persistence of inflationary pressure? And in the Government policies which he so applauds, do we not find these groups granted

8. I trust and believe that, in stringing together these brief quotations, I have not wrenched the thought out of the context but rather have brought to sharp focus the essential elements of Galbraith’s position.
not merely a "subsidy of power" from the Government but many of them also a subsidy from the Government purse, with inherently inflationary impacts?

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Both of these books are exceptionally well written.

Mr. Lilienthal believes that Americans have a deep-seated fear and an emotional repugnance of bigness. He refers to Mr. Justice Douglas' dissent in the *Columbia Steel* case as a classic current exposition of a frankly emotional antagonism. He believes that a chief reason for the continuation of this repugnance is that "we think negatively." If we would cease to think negatively then many big jobs could be done with the aid of bigness. The problem of bigness in this country has changed, he feels, with the acceptance of social responsibility by the large companies, the new role of governmental participation in economic and previously private affairs, the power and influence of organized labor and a change in the power of large buyers. Competition has changed also, for integration has brought us competition within firms, and anyway competition for practical purposes should be regarded as rivalry, which arises among large firms and does not require the existence of many small units. But the old attitude or perhaps an erroneous new attitude against bigness persists in the administration of the antitrust laws. We should return to a yardstick which would make relevant all the surrounding circumstances—"a doctrine advanced by some of our greatest judges, notably Hughes, Brandeis, Holmes and Roberts." Indeed, we should have legislation which will make us focus on a double affirmative; namely whether the laws as enforced will expressly foster the development of trade. We will be concerned then with productivity and the promotion of an ethical and economic distribution of this productivity. Apparently the application of the new law to a big enterprise might take into account the company's contribution to national defense, its labor relations, pension funds and welfare plans, the reasonableness of its prices, the adequacy of its services and its technological advances. In this new light bigness will be able to further spiritual values and we will lose that false snobbishness which has made us lose faith.

Mr. Galbraith tells us his book is not in the tradition of the great polemic. It is a good humored book and it concludes with an appeal for good will. He remarks that "pessimism in our time is infinitely more respectable than optimism." Mr. Galbraith notes a feeling of apprehension and insecurity in our society, although "in the face

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of success.” The feeling of insecurity, although subject to discount even by businessmen themselves, arises from a belief that our economy is either headed for state socialism or a depression or both. Perhaps governmental intervention has risen to the theoretical point where the “conservative . . . would already be dispossessed.” On the economic concentration side, “economic power belonging to the genus monopoly is commonplace in the economy,” and in theory “we should all be suffering under the exploitation and struggling to pay for the inefficiency of monopoly.” In fact, our present economy “is working brilliantly.” Mr. Galbraith’s book concerns the reconciliation of theory with fact.

The reconciliation is not accomplished by minimizing the substantial amount of economic concentration often said to exist in our society. Mr. Galbraith’s conclusions on this score are that a small number of larger corporations are responsible for a very substantial proportion of all industrial activity, that “entry into an industry is easy only when it is new,” and that the replacement of the old and senile by the young and vigorous is a far fetched fiction. Moreover, under oligopoly conditions, there is a convention against price competition in order to avoid self destruction, and competition takes a form “no longer eligible for a blanket defense”—rhymed commercials, soap operas and bill boards. Mr. Galbraith achieves his reconciliation of fact and theory, first, by advancing the notion that “modern industry of a few large firms is an almost perfect instrument for inducing technical change.” The resources and the power of the firms make research and technological development possible and prevent the gains from being passed on to imitators. “In this way, market power protects the incentive to technological development.” The theory is that “there must be some element of monopoly in an industry, if it is to be progressive.” The “slight continuing loss of efficiency, as compared with ideal performance, resulting from the possession of market power is regularly offset and more by large gains from technological development.”

In addition to the theory of monopoly as the instrument of technological change, Mr. Galbraith has the theory of countervailing power. The theory is that the monopoly power of the seller is reduced not by the existence of competition, but from the check of economic power in the hands of strong buyers. The strong buyer is apt to be deeply concerned with volume of sales. This leads him to exercise his power against any attempt by his supplier to raise prices. The Great Atlantic and Pacific Tea Company “has used the countervailing power it has developed with considerable artistry.” So also, “for many years the power of the automobile com-
companies, as purchasers of steel, has sharply curbed the power of the steel mill as sellers."

Failure to understand the role of countervailing power has resulted in the indiscriminate use of the antitrust laws against firms that have succeeded in building countervailing power, "while holders of original market power, against whom the countervailing power was developed, have gone unchallenged." Despite this lack of perception by the Government on the antitrust side, "the support of countervailing power has become in the last two decades perhaps the major peacetime function of the Federal Government. Labor has sought and received it in the protection and assistance which the Wagner Act provided to union organization. Farmers sought and received it in the form of federal price support to their markets... Unorganized workers have sought and received it in the form of minimum wage legislation..." The beneficial influence of countervailing power is limited, however, by inflationary pressures on the market, for where there is an excess of demand, the best hope of the buyer "may be to form a coalition with the seller to bring about an agreed division of returns."

Both Mr. Lilienthal and Mr. Galbraith, therefore, share a faith in the importance of large scale enterprise for inducing technological change. Perhaps the most striking example given by Mr. Lilienthal for his position is the crucial role played by American Telephone and Telegraph, with its combination of operating and research units, in the development of atomic energy. Mr. Lilienthal's position does not seem to depend on any monopoly power residing in the large units. On the contrary, the impression one gets is that Mr. Lilienthal's life among the large has convinced him that competition is much more pervasive than he thought. Mr. Galbraith's point is a little different. At least at the stage of his argument concerning the importance of large scale for technological change, he leans heavily on monopoly power. It is the difficulty potential competitors have in gaining access to the industry which, in Mr. Galbraith's view, protects the large scale enterprise and makes invention and new developments pay. Mr. Lilienthal is disapproving of those who find monopoly where he sees competition; at this point Mr. Galbraith sees monopoly power and discovers that it has advantages.

It is difficult to know how much emphasis Mr. Galbraith intends to give to his position that size carries with it the advantage for the community of individual monopoly power. The contention that countervailing power acts as a substitute for competition in reducing the effects of monopoly power seems to clash with the contention that it is the actual exercise of monopoly power (pre-
sumably not checked by countervailing power), which has made for technological change. But perhaps the appropriate conclusion is that countervailing power, while it reduces the effects of monopoly, nevertheless permits enough monopoly consequences to remain to induce invention and development. Countervailing power is thus a force which operates as a substitute for the competition which might come from the addition of another competitor in the market. Indeed there is some reason to believe that a good deal of what Mr. Galbraith calls countervailing power could be regarded as the potential competition of another firm. The threat of a buyer to go into production for itself is, after all, the threat of a potential competitor, and it requires no new analysis to show that this might reduce monopoly power. There is, however, no objection to labelling this threat as countervailing power, or in speaking of it as one of the advantages of integration.

It appears, however, that Mr. Galbraith, while he is extremely careful in the claims he makes for his theory, sees in countervailing power something more than merely potential competition. The theory appears to be that buyers will use their power defensively to beat down the prices which otherwise would be charged by monopoly sellers, and that the benefits of this process are passed on to consumers. If this is the theory, then the possessor of countervailing power must stand between the consumer and the original monopolist. Thus it is not clear how the theory is to operate when the countervailing power is regarded as possessed by labor unions or by farmers, to mention two examples given by Galbraith, unless indeed the theory is that laborers and farmers are to be regarded as the consumers for this purpose, or that there may be both good and bad countervailing power. Moreover, it is not clear why under the theory, the defensive possessors of monopoly power, that is those having countervailing power, should pass on to consumers the fruits of their victories. Mr. Galbraith himself suggests that in times of excess demand the two monopolists, that is the original and the countervailing, may divide the spoils. It is not clear why such a division might not occur even in the absence of excess demand. The answer may be that countervailing power is not really monopoly power. If so, it is not clear what it is, unless perhaps it is the threat of a potential competitor.

Mr. Lilienthal states that his book is not about the antitrust laws; nevertheless, it is something of an attack on what Mr. Lilienthal conceives to have been or might be the administration of the law. Mr. Galbraith voices his concern over a failure in antitrust administration to give sufficient consideration to whether the power attacked is countervailing. Both Mr. Lilienthal and Mr.
Galbraith presumably would enlarge the scope of matters to be considered in an antitrust prosecution. Mr. Lilienthal's list of items might be the larger, since it includes proof as to wage policies and pension funds, whereas Mr. Galbraith would rely apparently on an analysis of whether the power has been well used against another monopolist. This is to suggest that the antitrust laws should be primarily instruments of Government regulation of business, with emphasis, I should judge, on the word "regulation." This is the kind of thing that passes for the rule of reason, which in such a context and with good authority could be called the sea of doubt. The underlying thought may be that a consideration of these additional matters will diminish Government prosecutions. If this is the object, however, one may wonder whether a more appropriate formula could not be devised than one which rests on a scrutiny of price policies or on whether the power is used offensively or defensively. One may wonder whether the defects of the Sherman Act are such as to require making it more like the Robinson-Patman Act on the one hand, or traditional cartel regulation on the other, in order to improve it.

Basic questions are raised by these two volumes. One question concerns the relationship between technological change and monopoly power. Mr. Galbraith assumes a relationship and he may be right, but he does not prove it. Another question concerns the relationship between size and monopoly power and the very legitimacy of the ideas of monopoly and competition themselves. Mr. Lilienthal's argument that size is not to be condemned, quite apart from whether one agrees with him, takes on quite different meanings, dependent on whether or not monopoly is still regarded as a useful concept. If competition is rivalry and exists within a firm, perhaps it may exist where there is only one firm. Perhaps then competition is monopoly. If monopoly induces technological change and the corrective for monopoly is more monopoly, one may well ask what is the advantage of competition. The Lilienthal and Galbraith books tend to push us in the direction of an analysis of good and bad monopolies, or perhaps to say the same thing, good and bad competition. No doubt such a thought has always had something to do with the administration of the antitrust laws, but this would be a major change in emphasis. It would weaken the role of the antitrust laws as a symbol of that kind of Government action which permits competition to regulate and denies a more active role to Government. A third question implicit in both books relates to the appropriate role of Government. The new kind of antitrust proceeding would assign to the Government, at least through the courts, a much greater discretion in dealing with
business enterprise—a freedom to interfere as much as to refrain, resulting in a larger participation by Government in economic affairs as a whole, either as co-partner or as the creator of countervailing power. The idea that the Government should change the rules for competition dependent upon whether an individual firm shows social responsibility seems somehow abhorrent to the theory of free enterprise. A part of the difficulty is the lack of content in the phrase social responsibility. It seems to imply conduct contrary to the firm's best interests, and if it doesn't, it is difficult to know what the phrase adds, other than a gloss on the idea of individual responsibility, which should be assumed.

Despite what many have written on the subject, including myself, I do not know whether it should be said that there is a great deal of economic concentration in this country, and recent studies cast great doubt on the once prevalent notion that concentration has been increasing. Mr. Lilienthal must know that the note which his book strikes about the new competition and the changed conditions which have made size so important is an old note indeed. Perhaps Mr. Galbraith would agree also that in general the conditions of concentration with which the Sherman Act has to deal today are not so different than they once were. I am not sure, therefore, why either Mr. Lilienthal or Mr. Galbraith believes a change in antitrust enforcement methods is required. As Mr. Lilienthal must know, his book makes a great deal more out of the problem of size than do either the Supreme Court decisions or antitrust prosecutions. Perhaps Mr. Galbraith would agree that fewer mistakes have been made in antitrust prosecution than in the administration by the government of aid to countervailing power. A rethinking of the basic concepts as may be implied in Mr. Galbraith's book and perhaps in Mr. Lilienthal's may bring us to new conclusions about both antitrust policy and the role of government. I must confess as to some uncertainty as to the intended level of discussion in either volume. If these books are calculated to reshape basic concepts, I am afraid they jump too quickly from an incomplete discussion of basic ideas to a reformulation of government policy. Until there is a further reformulation of basic ideas, it might be well to protect the antitrust forum from either a consideration of good or bad countervailing power or such matters as the reasonableness or unreasonableness of the firm's price or wage policies.

M. A. Adelman*

The late Joseph Schumpeter was a great economist, a great con-

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servative, and one who loved irony and paradox. How delighted he would have been to see his ideas\(^1\) given wide currency by those on the liberal side of the fence! But Messrs. Galbraith and Lilienthal also have a good deal to offer on related topics. Both books are timely. One welcomes the authors' insistence that we take a good hard look at the institution in terms of our needs and interests.

Mr. Galbraith's principal theses may be outlined, in over-simplified fashion: (1) Capitalism was formerly regulated by competition, which served both to allocate resources properly and to prevent severe depressions. But the growth of concentration and big business has replaced competition with oligopoly whose economic results are the same as monopoly. (2) Since big business exists fundamentally because of economies of large scale production—including business know-how as an important economy—it is futile and even pernicious to advocate large-scale dissolution. (3) Furthermore, oligopoly is "an almost perfect instrument for inducing technical change" (p. 91), and higher standards of living. (4) Competition has been replaced as the social regulator by "countervailing power." This is exercised (a) by large buyers in their markets, and (b) also by labor and farmers through the State. (5) Our government and people, conservative and liberal alike, are deeply committed to anti-depression fiscal policy, and those who denounce deficit spending will be just as quick to use it as their opponents. (6) Countervailing power works well in a deflationary setting, but poorly in inflation. So do fiscal and monetary policies—overbalanced budgets, restricted credit, and the like. Direct price and wage controls are also necessary (pp. 205-6).

My own comments can best be set out in the same order. (1) There is no reason to believe that the economy is any more oligopolistic or less competitive than it was a century ago. The number of firms in a given industry may be fewer than in 1853; the number in a given market, where prices and production are determined, may be more. The reason is simply that markets have expanded, largely but by no means wholly because of transportation costs falling to a small fraction of 1853 levels. There is no evidence, in or out of Galbraith, that competition has declined. If it was once a sufficient regulator of the economy, it still is. But in one respect it never was. Business cycles have existed as long as capitalist enterprise, and competition never prevented them.

\(^1\) Schumpeter, Capitalism, Socialism, and Democracy 63-106 (1947).
There is no reason to suppose that the prevalence of big business had anything to do with the Great Depression.

(2) For reasons to be indicated below, I think that this formulation is not incorrect, but not helpful either.

(3) The alleged opposition between competition and technological progress is difficult to accept. Where profits on old methods and old products are melted away by competition, the urge is greatest to seek the profits of new products and methods. Conversely, where profits can be maintained by monopolies or cartels, the urge is less. Surely a comparison of Europe with the United States confirms the theory; even more to the point is a comparison with under-developed countries, with their small-scale industries monopolizing even smaller markets. The better record of American industry is more plausibly explained by a more competitive environment than by oligopoly per se. For the other nations have more oligopoly and less progress.

It is easy to compare the dramatic achievements of certain oligopolized industries with the apparently poor record of certain unconcentrated industries. But a closer look inspires some doubt about any generalization. Productivity has not increased any faster in one group or the other—although I hasten to add that the scientific study of the phenomenon is scarcely begun. Two able studies of industrial innovation reveal, as one would expect, a mixed picture. Thus, "[t]he lack of strong competitive pressure at times permitted General Electric [rather than develop fluorescent lighting] to concentrate its attention on improving the older incandescent lamp which would not endanger its established interest in the status quo."

Again, one may compare the unconcentrated coal industry with the concentrated oil industry, to the advantage of the latter. But drilling for oil is done by an industry of contractors far more diffused and unconcentrated than even the coal industry. They have adopted innovations made partly by themselves, partly by other segments of what we call "the" oil industry. Similarly, bituminous coal productivity has greatly benefited through innovations by machinery manufacturers who are not included in "the" coal industry. Thus the comparison is partly vitiated by artificial industry boundaries.

Furthermore, industries vary a great deal in what may be called


3. Bright, op. cit. supra note 2, at 455. The untimely death of Dr. Arthur A. Bright in May, 1953, was not only a personal loss to all who knew him, but an irreplaceable loss to the study of industrial economics.

their "innovation potential." Research and development may require large firms in some industries, but not in others. Whether the structure fits the requirements is something about which we know too little to generalize.

(4) The meaning of "countervailing power" is ambiguous. (a) It may refer to a buyer large enough to rise above localized monopolies and seek better alternatives elsewhere; to integrate vertically if suppliers try to hold him up; to violate conventional industry boundaries with new products, etc. But this is simply competition—to call it "countervailing power" is to use two new words where one old one would do. A large buyer may also have power to obtain lower prices than his rivals. Depending on the circumstances, this may promote competition, or it may inhibit it by making entry more difficult. Here are at least three possible kinds of countervailing power, each with a different implication for prices and production. No blanket approval or disapproval seems appropriate. They all exist; we do not know how widespread or quantitatively important they are.

The heavily emphasized distinction between "original power" and "countervailing power" also seems irrelevant to the effect. A cure is countervailing power against a disease, but proverbially the cure may be worse than the disease.

(b) It is doubtful that the growth of unions, or of farm legislation, can be explained as countervailing power to big business. There is no correlation between the degree of unionization on the one hand, and size or concentration or oligopoly on the other. Some of the largest unions are in the most atomized industries. And the farmer escaped the control of (mostly small-town) monopolists years before he obtained parity. One may consider unions desirable, and also approve some protection for farmers against the erratic and economically senseless price-swings to which they are peculiarly subject. These are not live issues; what we really want to know is how far it is desirable to go in either direction. I venture to believe that Mr. Galbraith is not pleased to see the butter producers and the feed producers, each mobilized into a single bargaining agent, fighting it out in the office of the Secretary of Agriculture.5 The butter support program is a national scandal, and there are more in the offing.

Nor could Mr. Galbraith have enjoyed the spectacle of steel management and steel labor bringing their 1952 dispute into the

5. See "Dairy Group Will Take Lower Butter Price But Ask Feed Cost," AP dispatch in the Boston Herald, May 20, 1953, p. 26: "[T]he dairy industry advisory group has expressed willingness to take an immediate cut in the 65 cent-a-pound support price for butter . . . [T]his offer by the dairy group . . . was based on the consideration that price supports for dairy feeds, particularly corn, be reduced too."
White House, the President seizing the mills and the Supreme Court snatching them back. This is no formula for social stability; it is unwieldy at best and dangerous at any time.

(5) This seems to me an obvious fact.

(6) Mr. Galbraith states that in a competitive economy, inflationary pressure—an excess of spending power over the current values of goods—will result in a definite and limited price increase. I think Mr. Galbraith would be in a minority of one among economists if he seriously maintained this position, and it is doubtful that he does. There is no such thing as a price rise closing the inflationary gap. For the recipients of the higher prices thereby gain higher spendable income—whether they are pure competitors, or corporation stockholders and employees, or anything else. The excess demand stays in operation and keeps raising prices until higher taxes or larger savings cut it down.

Under a regime of countervailing power, this inflationary spiral is considered possible. Since Mr. Galbraith favors such a regime, this warning does credit to his intellectual honesty. However, the spiral is only dramatized by price-wage bargaining. It exists under any degree of competition. Perhaps the spiral is aggravated by the existence of labor and management groupings; this is still an unsettled question among economists.

Space is lacking to explain why I take a less optimistic view of direct controls in a semi-mobilized economy than does Mr. Galbraith.

Mr. Lilienthal's basic thesis is that Big Business is a great economic and social asset, and ought to be accepted as such. He is deeply irritated (justly so, in my opinion) at people whose attitude toward the material fruits of bigness is similar to that of the Empress Maria Theresa at the partition of Poland: "She wept, indeed, but she took." Bigness is certainly necessary for our high and expanding standard of living and for our national security. But the crucial question is not whether size is necessary but how much size is necessary. If the five biggest steel corporations were split into (say) fifteen, the successors would all be big; steel must be made on a big scale. Whether we would be better off with the big five or the big fifteen is the real problem, and Mr. Lilienthal gives us no guiding thoughts, no set of criteria, by which to make up our minds. If bigness is simply good per se, that firm is best which is biggest. And since Mr. Lilienthal expressly approves diversification and integration in conjunction with bigness, we arrive at the ideal of One Big Corporation—the socialist state.

Of course Mr. Lilienthal would detest this conclusion. But clearly something has been left out of the argument—the selective force of competition in deciding where and to what extent big or
small business units are necessary. The assumption is that the competitive process is, in the long run, much better than any individual or group for determinations of this kind. Or as R. B. Heflebower has put it: "No person or group of persons, public or private, is qualified to judge what is good for the economy. Only the market can make that appraisal." 6

Mr. Lilienthal, on the contrary, proposes a Basic Economic Act under which "the legal test Bigness would have to face would thenceforth be [the judgment of "the court or tribunal"] whether the particular aspect of size challenged by the government does in fact further the public interest" (p. 187, italics in original). Such a law might well be subtitled An Act to Prevent Unemployment in the Legal Profession, and I hope that nothing like it will ever be passed. I also suspect that Mr. Lilienthal would like it no better than I do. For he does not want either Congress or a commission deciding how big is too big (p. 159).

Mr. Lilienthal probably believes that competition as we have it today is an effective regulator, but he does not investigate or touch on the problems of choosing the criteria of effective competition. I am unable to say whether he thinks that big corporations have no power to act in any anti-social fashion, or that they have too keen a sense of social responsibility to do so. Granted that prevailing standards of business ethics are considerably higher than they were a generation ago, it does not seem wise to make noblesse oblige the foundation of our economic policy. I do not allege that Mr. Lilienthal does propose this; I can not discern that he rejects it.

This ambiguity proceeds, I think, from an ambiguity about the workings of competition in our economy. Mr. Lilienthal properly (by my standards) emphasizes that the essential benefits of competition are innovation. But this is coupled with a curious and often confused aversion to price competition, as though there were some kind of antithesis. He points to the superiority of quality competition over price competition. In fact, they are closely interdependent. Whether or not a given increment to quality, or a greater "suitability to the user's needs" (p. 52), are worth while, is strictly a matter of comparing the extra quality with the extra price. Where individual and business consumers can choose freely, some take the higher quality and some the lower prices. But if there is an agreement to avoid price competition, "quality competition" is usually a social loss, especially when it degenerates into gadgeteering. I sympathize with Mr. Lilienthal's belief that the virtue of competition is not a lot of little competitors crying

their wares at prices that dance madly up and down within the hour. But he reaches the opposite and no more desirable extreme. Yet he also points with pride to our large distribution firms like Sears and A. & P. Their essential contribution was to inject price competition into an area—retail trade—where it had been very sadly lacking. The mail-order catalogue represents price competition on a scale undreamed of in 1890.

Mr. Lilienthal is also inconsistent on the relation between the number of competitors and the intensity of competition. He seems to think there is little if any real relation. Yet he insists on the importance of inter-commodity competition, and of the “one big market” of the Continental United States. But their importance lies in the fact that they introduce more competitors into any given market. The crucial question is particular, not general: how much competition is introduced into the specific market at the specific time? Some of Mr. Lilienthal’s own examples seem to me to argue convincingly on the side of another and different kind of public policy from the one he urges. Thus, he hints broadly that TVA was faced with high non-competitive prices for copper transmission lines; but the monopoly situation was circumvented by turning to aluminum cable at a considerable saving. It may be asked: What of buyers who were businessmen, who had to worry about making a profit, and were subject to the pressure of time and the cost of interrupted production? If there had existed not one monopolist of aluminum but a few (big) competitors, might not aluminum cable have been more widely and cheaply available? And if, in addition, the antitrust laws had been more vigilantly enforced, would not the rigging of copper prices have been impossible even without any special Government intervention?

Again, Mr. Lilienthal thinks a conspiracy to fix prices or limit output of cotton or wool “would be undesirable in theory and [unlawful], but its effect on consumers would be largely irrelevant” (p. 62). Nothing could be more untrue. A monopoly of wool and cotton could exact much higher prices than now prevail, because wool and cotton still supply the great bulk of our textile needs despite the inroads of the synthetic fibers. Thirty years hence this may no longer be true; but as of the here and now it is.

Perhaps it is this incomplete (as I consider it) view of competition that underlies Mr. Lilienthal’s view on public policy. Perhaps he has been disturbed by the tendency in some recent antitrust decisions to make size an offense per se. I have myself strongly criticized these decisions. Yet it may be permissible for an economist to argue the virtues of a common-law system to a lawyer. Must we not distinguish between the logical implications of a decision,
and the prediction that the courts will actually follow those implications? In seeking to settle particular cases, judges may unknowingly or half-knowingly invoke general principles which some of us consider thoroughly bad. But the arguments of counsel, the writings in the law reviews (which Cardozo once called the highest courts of appeal!), and the climate of discussion reveals those implicit major premises for what they are, and if unacceptable to the dominant sentiment of the community, the undesired stream of doctrine is lost in the sands of hostility or neglect. The decisions which both Mr. Lilienthal and I dislike—since he scarcely mentions any, I may be presuming too much—have not thus far made any substantial difference in the rules of the American business game. I hope this will continue to be the case; but nothing is gained and much may be lost by insisting that these decisions are ruining us. Ruination may then seem quite tolerable!

Forest D. Siefkin*

Twenty-five years ago, a lawyer or a businessman would not have been asked to review books on economics and it is somewhat unlikely that the two books here considered would have been considered for a law review. Economists, lawyers and businessmen all operated in more or less separate compartments with little or no communication between them, except that the businessmen were required to consult the lawyers from time to time. This was not true, however, for the economists. It was a rare business institution or a rare government bureau that boasted an economist. To the general public even the traditional theories of economics were at most contained in text books opened at college and neglected ever afterwards.

The last score of years changed that. Economists became the medicine men of the New Deal. There were almost as many kinds as there were kinds of engineers or Democrats. At the time of the depression began the debates over Keynesian doctrines which have continued to this time and which divided most economists into two major groups of Keynesian and Anti-Keynesian, with many variations in each. All kinds of economists began to be listed in the salary classification plans which were being formulated in and out of Government. They came to the Government first as advisors, but later as administrators of almost every Government activity. Most of these activities affected the domestic economy, the foreign economy and the national defense in some degree.

Mr. Galbraith was one of those who came from academic life

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to Government work and became both an advisor and an executive. He had wide experience as an administrator of Government price control operations. Other experience, besides his academic work, has been in other Government service. Except for a period as editor of Fortune Magazine, which can hardly be considered business experience, all of his time has been spent in education or Government.

His book *American Capitalism* draws from these experiences in analyzing the nature of American capitalism as he conceives it and in propounding a theory which he calls "the concept of countervailing power." Mr. Galbraith's conception of the economic world bears little resemblance to reality, as this reviewer has seen it. Although in his preface he addresses his book to diligent laymen readers and says, "There may be some—I hope not too much—that such a reader will find implausible, but there will be little that he will fail to understand." In spite of this assurance this writer is not certain that he does understand all of Mr. Galbraith's arguments. With such a reservation, here is an over-simplified outline of his economic world.

A. Businessmen and conservatives still view the world through the theories of perfect competition developed by the classical economists in England.

B. Competition is the first requirement of this system.

C. The present American economy is typified by industries consisting of a few large producers surrounded by less important small producers, such a constellation being referred to as an "oligopoly."

D. In this economy there is no price competition and therefore no competition that produces the classical checks and balances because,
   (1) There is a "convention" against price competition in oligopolies, and,
   (2) Price leaders become common and there is a tacit understanding that their prices will be followed.

E. Mr. Galbraith does concede some rivalry in his economic world, consisting of,
   (1) Wasteful amounts of money spent in advertising persuasion and selling.
   (2) Technological advances. (Mr. Galbraith does not seem to emphasize this aspect of competition.)

F. The growth and market power of oligopolies have brought about "countervailing powers" by the development of large buyers and large labor unions and other groups acting together.

G. These so-called countervailing powers have replaced competition and in deflationary cycles of the economy protect the public much as would competition under the classical theory.

H. In times of inflation, however, countervailing power does not work because,
(1) In such times a strong labor union and strong producer will effect a coalition, since the producer has no interest in keeping wages down and can very easily pass them on in the price.

(2) Large buyers lose their countervailing powers because of strong demand for goods, enabling the producer to sell to anyone.

At this point even the amateur reader of economic theory will recognize many familiar ideas. The oligopoly theory has been discussed in much economic literature and the theory of imperfect or monopolistic competition has become a well-known theory. The new ingredient which has been added by Mr. Galbraith's book is the proposal that there is no competition in an economy which is typified by oligopoly and that countervailing powers have developed which replace competition in deflationary swings of the economy.

Mr. Galbraith's view makes the American businessman either very stupid or very insincere. He assumes that the businessman either has not changed his economic theories beyond those of the 19th Century, or if he knows better, uses the theory of perfect competition to justify a special position in the present economic world. It is further implied, I believe, that he has no feeling of social responsibility either to better the condition of his employees or to furnish the customer with better products at the lowest possible price, or to play the part of a good citizen. Mr. Galbraith's picture of the businessman is clearly of one whose only interest is to obtain the largest profit at the expense of workers and customers. Many people believe, on the contrary, that the last twenty years have developed in the American businessman an awareness of the long-range advisability of exercising whatever powers he may have in a background of social and economic responsibility.

The writer is not sure that he understands what Mr. Galbraith implies when he states that there is a "convention" against price-cutting in "oligopoly." Perhaps he does not mean to imply anything like agreement or conspiracy. If he means only "custom," then the word "convention," which under some uses implies agreement or active collaboration, then it seems that he has used an unfortunate word and one which is likely to create an atmosphere of prejudice. The writer would have the same comments with respect to the word "coalition" when used to describe the relations between organized labor and industry during periods of inflation.

Of course, competition in a manufacturing industry, where there are relatively few producers, is different from competition in the wheat market. That does not mean there is no price competition.
Mr. Galbraith
A. Overlooks price competition between products, such as oil vs. coal, copper vs. aluminum; wool vs. synthetics, automobiles vs. houses, etc.
B. Assumes that an important member of a large industry would be reluctant to reduce prices because of fear that a competitor in turn would cut his price, or would be in trouble in attempting to compete. The writer has been exposed to many important discussions in this field and all he can say is that this assumption is simply not true. On the contrary, only satisfaction is expressed when a price can be lowered so as to create a problem for a competitor. In discussing prices, one of the primary factors is the fear that a price may be named so high that a competitor will get the business and the pricer will lose it.

In the same category are the author’s conclusions from his analysis of the cigarette business. His assumptions may not be true even in that business, but it is certain that an industry such as the one this reviewer is familiar with principally thinks of cost in pricing unless a competitor’s lower prices force us down. After costs and proposed profit are estimated, the pricer customarily looks at the competitor’s prices to see if it will be necessary to cut the margin of profit in order to stay in the market. This is the typical case. There is certainly no “convention” or “custom” that this writer knows, in the heavy manufacturing industry, which prevents lowering a price. For Mr. Galbraith to say that such a “convention” is typical of American industry seems a generalization almost bordering on irresponsibility.

It would be interesting to ask members of our Sales Department whether they believe there is no price competition in selling any of our machines or replacement parts, or to ask our price and contract department how often it has refrained from lowering a price for fear the lower price would be met by a competitor’s cut.

Mr. Galbraith has neatly classified market powers into original powers and countervailing powers. He seems to believe, for example, that the antitrust pressure on the A. & P. stores was an economic monstrosity because it disturbed the development of countervailing power. Only a moment’s consideration will indicate the practical problems of attempting to hold the balance even between the original and countervailing power so that they offset each other. Such an attempt could only be made through Government action.

That leads to the really depressing part of the book. The theme of the last chapter is that countervailing power and application of
the Keynesian theory will protect the public and assure it adequate goods at reasonable prices in times of depression. It will not work, however, in times of inflation. Then in time of war, or preparation for war, the scope of private decision becomes substantially narrower and capitalism must be modified by extensive centralized decisions (Government intervention). One can hardly doubt that Professor Galbraith believes that major revisions in American capitalism are now a probability. This may take the form of Government control of prices or of decisions that are now in the hands of business management, or it may be public ownership of the instruments of production. One way or another, his view is that in times of inflation Government will tend to appropriate to itself the making of decisions now in the hands of business management. This, of course, also means decisions now in the hands of labor organizations and, as a necessary corollary, now in the hands of individuals.

The entire book seems to point out to the reviewer, and again he may be unable to read Mr. Galbraith’s book properly, that he is making a case for more Government intervention and more Government controls; a case which, if accepted as a plan of action rather than an economic theory, fills this writer with apprehension and dismay. Nevertheless, the book is a very stimulating and interesting one, which, taken along with Mr. Lilienthal’s, states as strong a case as has been made for increased Government controls.

In some contrast to Mr. Galbraith, David Lilienthal shows a realistic understanding of the operations of larger business units in American industry. He has carefully catalogued all the advantages and, it seems to me, presents a convincing argument against indiscriminate divestiture or hamstringing of large business units simply because they are big.

To Lilienthal the liberal trustbuster who believes bigness in itself is harmful is basing his theories on those of the trustbusters of the Nineteenth Century, while his surrounding circumstances have moved far beyond. To Galbraith the business man sees the economy in the light of the classical economist of the Nineteenth Century, while his surrounding circumstances have traveled far beyond his economic theories. It may be as the result of prejudice or self-interest, but Lilienthal’s position in this respect seems the sounder one to me.

In many respects, however, Galbraith and Lilienthal are in substantial agreement. They both recognize the beneficial results of large scale units, and they both oppose the indiscriminate breaking up of business units merely because of size and because of a few producers in industry. They both recognize the limitations upon
the actions of business management that have arisen in the Twentieth Century, such as increased power of large buyers, increased power of labor unions, technological research and other factors. To Lilienthal this is competition, or, as he styles it, "new competition." To Galbraith these are "countervailing powers." Of course the cataloguing of Galbraith's Countervailing Powers against Lilienthal's forces of New Competition would show that they are not in all cases the same. For example, Lilienthal believes advertising has performed a valuable function in New Competition, whereas to Galbraith advertising is not only not a countervailing power, but is an economic waste. Lilienthal's New Competition has been contributed to by the increased sense of social responsibility of business management and its accountability to groups other than shareholders, such as to its workers and to government. In Galbraith's view, this sense of social responsibility is not mentioned as a Countervailing Power. Lilienthal, of course, does not distinguish between the effects of his New Competition in inflationary markets and deflationary markets. Galbraith's Countervailing Powers, he believes, will not work under serious inflationary conditions.

It is interesting to observe the attitudes of the two men towards the role of Government in present industrial economic matters. While Galbraith is not specific as to the action Government must take when Countervailing Powers break down in times of inflation, nevertheless it is his view that the Government must then step in and take away from business management many of the decisions that are now in its hands. In other words, in times of inflation it will be necessary to resort to "centralized" decisions. I think this implies the telling of management what prices to charge, how many employees to employ, what to pay them, what products to manufacture, and ordering them with respect to many other things that now are the prerogative of management. Just where Lilienthal stands on this is not clear. In discussing the new role of Government in the business economy, which he believes is one of the elements which bring into being his New Competition, he makes a statement, it seems to me, full of disturbing implications:

"Machinery will be set up where it is not already now available for government participation in many economic relationships and transactions which 40 years ago or less were regarded as strictly private matters to be determined by impersonal forces of economic powers in the hands of parties to the transaction." (Emphasis mine.)

Certainly much of this machinery has already been set up. Is it part of Lilienthal's theory that the machinery already set up has contributed greatly to the effectiveness of his New Competition,
and that as time goes on much more of the same kind of machinery will be needed? I am afraid this is the implication of the statement referred to and of his view as to the contributions the new role of government has made to his New Competition. If so, he has gone even further than Galbraith, who believes such "centralized decisions" are necessary only under serious inflationary conditions. Lilienthal seems to believe that this intervention of government, to a continually increasing extent, is needed for his New Competition to be effective. The basic problem involved is whether enterprise shall be free or whether it shall be limited through government intervention, and if government intervention is required, at what point is it required and what form should it take. Lilienthal's views on this basic problem are not at all clear at this point.

However, when he makes his proposal for basic economic law (Chapter 22), he seems to proceed on a different theory. We must decide, he writes, what kind of country we wish and then he describes those things that we wish from our industrial economy. They are described in very general terms and would seem desirable to almost everyone. He would then develop these objectives into factors that could be made the basis of a determination whether an industrial unit is acting in the public interest. The evil to be corrected would be acting against the public interest.

It would seem that such a system would work like this: If the authorities believed in any particular case that a company was not conducting itself in the public interest, a proceeding could be commenced. The question at issue: Is or is not the company acting in the public interest in the light of the desirable general factors proposed by the author? This is a very different type of government intervention from direct government control or centralized decision, such as price control, wage control or product control. It would seem to contemplate proceeding individually against industrial units. If it should be found that such a unit was not acting in the public interest, relief would be granted, such as dissolution or injunction or other remedies which would insure that thereafter the unit or its resulting components would act in the public interest. This is much the way the antitrust laws operate today, except, of course, that the standards for the determination of violation of the law are entirely different from the standards proposed by Lilienthal.

The objections to changing the standards seem fairly obvious. First, even though new standards are developed as the result of the very general statements proposed, the court or administrative agency enforcing the law would for a long time have great latitude
to impose its own ideas of public interest. We have been about sixty years in defining the present language and it seems too bad to start another sixty years (or more) of interpretation. Secondly, it would seem that the approach of other bodies, the latest and most inclusive being the new committee announced in August by the Attorney General, offers a more scientific and sounder approach to the problem of promoting the public interest in antitrust and related matters. I would have greater hopes of advancement of the public interest, as well as improved understanding by business institutions, from the work of such a committee than in following either author reviewed here—interesting and stimulating as both books are.

Arthur J. Goldberg*

I suppose that there is no concept more firmly embodied in our body politic than that monopoly is an evil and that competition is desirable. Each of these books attempts in its fashion to change some of the connotations which are normally attached to these politically indisputable precepts.

Mr. Lilienthal's book attempts to show that big business is socially desirable and that, therefore, it should be encouraged and not destroyed just because it has the potentialities of monopoly action. Mr. Galbraith, on the other hand, accepts big business as typically operating in monopoly fashion, but seeks to show that forces other than competition are sufficient to enforce a socially desirable use of our productive resources.

It is almost impossible to discuss these two books without a basic understanding as to what our terms mean. The word "competition," for example, has two different, and, indeed, contradictory meanings.

Mr. Galbraith, who uses the word in the sense of the traditional economist, would say that competition is typified by the market for agricultural products, such as wheat. But I dare say that it would come as a distinct shock to any small wheat farmer if you told him that he was in competition with his neighbor. Of course, he would say, I am not in competition with my neighbor. My wheat is no different from his, and I don't claim that it is. I don't try to persuade anyone to buy mine rather than his. I don't undercut his price and he doesn't undercut mine. In fact, we don't even put prices on our wheat. We just take whatever the market price is, for the particular grade, when we sell. Obviously, we aren't competing with each other.

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Yet, ironically, the factors which could lead our hypothetical farmer to deny that he competes with his neighbor, are precisely those which identify him as a competitor in the traditional economist's terminology. Our farmer, if we asked him to illustrate what he meant by competition, would likely refer us to the market for motor cars or cigarettes. Yet, in Galbraith's terminology, these markets are not competitive at all but oligopolistic and, at least price-wise, are likely to behave as if they were monopoly markets.

Definitions are, therefore, indispensable, even in a brief discussion. Competition must mean one thing or the other. It cannot mean both. But the word competition has a definite social value, the subtle connotations of which cannot be avoided even if the definition makes it clear that these connotations are not applicable.

I would prefer, therefore, to neutralize these connotations by saying that Mr. Galbraith's competition is Classic Competition—that is, a market in which there are a large number of sellers and a large number of buyers of an undifferentiated product, such as wheat, none of whom exercises any influence upon the market price. An economy in which this kind of condition prevails for all sellers, both of consumer goods and of the factors of production, and in which, similarly, no buyer is large enough to influence prices, is a Classic Competitive economy.

Competition, as the term is ordinarily used, such as in my hypothetical farmer's sense, the competition of cigarette or automobile manufacturers, I shall call Ordinary Competition. In this usage, a competitor tries to build a better mouse-trap, or to sell his brand for less than his neighbors, instead of producing an undifferentiated product and offering it on the market for whatever it will bring.

I lay such emphasis upon definition because I believe that much of the burden of both of the books under consideration here consists of an assault upon ghosts which exist only as the result of a confusion of definitions. The thesis of Mr. Galbraith's book, for example, seems to be that competition can no longer be relied upon as the governing force in our economy. His theory, in capsule form, is that our economy works efficiently because a force, which he describes as countervailing power, operates in place of the competition which has long since ceased to exist. I would like to suggest that his premise as to lack of competition is correct only if Ordinary Competition and Classic Competition are assumed to be the same thing.

Mr. Lilienthal, on the other hand, urges, as at least part of his basic thesis, that real competition can be effectively provided under conditions of Bigness and decries those who would eliminate
Bigness because of its unused potentialities for the destruction of competition. But, of course, Bigness is consistent only with Ordinary Competition—not with Classic Competition.

The difference in the definitions of competition, furthermore, indicates quite clearly the difference in approach and method of the two books. Mr. Galbraith, as a professional economist, is aware that it has been theoretically proven that, given any state of community resources and desires, the highest level of economic efficiency and the best distribution of production effort, in terms of those resources and desires, will be achieved automatically in a classically competitive economy. Monopoly at any point will distort the distribution of productive effort and reduce the economy's efficiency. Competition long has rested its claim as a preferred way of economic life upon this proof.

The proof, however, applies only to a condition of Classic Competition. It does not apply to what I have called Ordinary Competition. Indeed, what I have called Ordinary Competition exhibits, more often than not, the characteristics which, in the Classic model, are described as monopoly.

If this is so, says Mr. Galbraith, why does the economy work so well? He does not doubt that it does in fact work. The problem which he seeks to meet is the assumed contradiction between that fact and the classical theory.

Such grave problems do not much concern Mr. Lilienthal. His primary object is to demonstrate what Mr. Galbraith assumes—that the economy has worked well under conditions of Bigness (which almost always is, in Mr. Galbraith's terminology, monopoly).

Under a variety of headings, Mr. Lilienthal cites example after example to show that the prejudice against Bigness as such, which he finds in the antitrust laws and in the mores of our society, is erroneous. If it is possible to find some theoretical basis for his approach, that basis would seem to be simply that modern production is, in most areas, carried on under conditions of long run decreasing social cost. The bigger the business, the more efficiently it can serve society. As implied by Mr. Lilienthal, this is not a static concept as to the cost of production at any given point of time. It derives from the ability of big business, as opposed to small business, to conduct extensive research, to sell its products by the use of large scale advertising, to provide for stable employment and to create conditions of progress. In his view it is Bigness which provides sufficient resources for industry to take the long, rather than the short, view.

Coupled with Mr. Lilienthal's uncritical admiration of the eco-
nomic advantages of size is the feeling that corporate management in enterprises of great size becomes less responsive to the purely economic interests of the stockholders and more responsive to the needs of the community and the desires of society. On reflection, however, this may merely be an example of the ability of big business to take the long run viewpoint. I do not think that Mr. Lilienthal seriously believes that corporate management could justify to its stockholders any action which would not maximize present profits for the enterprise, if it was not able to argue that the course of action taken would create the advantageous public relations which are essential to the maximization of profits in the long run. An enterprise which today says “The public be damned” runs the risk of public disapproval and governmental intervention in its operations which, in the long run, may redound to the monetary disadvantage of the stockholders.

Mr. Lilienthal’s treatment is superficial. It is superficial because the use of the technique of simply recalling examples which come to mind, without careful examination as to whether there are not other, and contrary, examples in the same field, cannot really pretend to be a fair or systematic analysis. It is easy, for example, to make the broad statement that only a big business can afford to smooth out dips of employment and thus provide for some degree of stability in employment. But if one examines the history of guaranteed wage plans one would find that it is the smaller companies which have pioneered in this field. Presumably when Big Business gets around to agreeing to guaranteed wage plans, it will be possible to say, as Mr. Lilienthal does say of pensions, that “the outstanding plans are those of the larger enterprises” (p. 106). It will be possible to say that because the plans of the larger enterprises will cover much more significant segments of the economy. But this, of course, simply repeats the premise that Big Business is big.

1. Many other examples of uncritical generalities can be found. The discussion of color television (Pp. 162 et seq.), for example, does not even suggest that what may have happened was a deliberate industry refusal to accept a non-compatible system at any early date (before there were “television sets in millions of homes”) so as to create a substantial problem of compatibility and thus require a much more complex and expensive system of color and delay its introduction until the black-and-white market was substantially saturated.

Similarly, the summary dismissal (Pp. 148 et seq.) of the question of whether Big Business does not have an advantage in presenting its viewpoint to the public is somewhat surprising to one who has learned, through experience, that it is virtually impossible to obtain adequate public recognition of labor’s viewpoint in a major industrial dispute such as the steel strike of 1952.

The danger of uncritically reciting examples of the benefits of Bigness is that, after a while, you begin just to recite the fact of Bigness and assume the benefits, because after all, the enterprise could not have grown so large if it did not perform its functions well. Thus, for example, Mr. Lilienthal marvels at the size and growth of the Bank of America National Trust and Savings Association. But, as far as I can see, all he says about it is that it is big.
Mr. Lilienthal does, at the end, attempt to conclude his paean to Bigness with some overall conclusions as to amendments of the antitrust laws. But I cannot believe that he means his suggestions to be taken seriously. He assumes, on the basis of one dissenting opinion, that size itself is today illegal under the antitrust laws and proposes a substitute. The substitute is a Basic Economic Act under which the legal test to be met by any monopoly would be whether it "furthers the public interest." What standards are to be used? Such measuring rods as "the criteria suggested throughout this book, and others of that character" (p. 187)!

Mr. Lilienthal's inability to formulate standards for his proposed Basic Economic Act derives, I think, from the lack of any basic theory as to why the economy operates efficiently under conditions of Bigness. If we had any idea as to what the underlying conditions were for beneficent as opposed to malignant forms of Bigness, the standards would be formulated in terms of those conditions. But no standards are offered. Indeed, it is never satisfactorily explained why, if some Bigness is good, more Bigness would not be even better, with the ultimate conclusion that one big corporation would be best for all.

In making these critical observations, I do not, of course, seriously undercut Mr. Lilienthal's basic proposition that our economy has functioned, and functioned well under conditions of Bigness. I do not doubt the advantages of size. Nor do I doubt that the existence of size does not always entail the dire consequences which, in the classical system, are necessarily thought to follow from monopoly. But the fact that evil does not necessarily follow from size is not the same thing as saying that it never does, or even that it usually doesn't. Nor does a mere recital of the good performance of the economy in the immediate past prove that the performance might not have been better under other conditions.

It is a measure of the difference between the Lilienthal and Galbraith books that Mr. Galbraith assumes, for his starting point, that the performance has been good. But, he says, this performance has taken place under conditions which are characterized as monopoly in our economic theory. We not only have few sellers and differentiated products in most markets, we also have a convention against price competition. Theoretically, then, we should have monopoly performance—that is, high prices, excessive profits, and a misallocation of resources. But apparently we do not. Hence, he concludes, there must be something missing in the theory. "Countervailing power" is his attempt to supply the missing element.

Mr. Galbraith defines countervailing power as market power
exerted, not by competitors, but by those on the opposite side of
the market. He urges that competition is not the only market
control over monopoly in the sale of products (or in the purchase
of factors). The use of countervailing power by the buyer (or
seller), he says, will prevent the monopoly seller from utilizing his
monopoly position to the detriment of the community. It is asserted,
although not proven, that the existence of monopoly power tends to
create countervailing power, although it is also recognized that
where countervailing power is not automatically created, the state
may intervene to assist in its creation.

One of the conclusions which necessarily derives from the theory
is that the power of the state, as expressed in the antitrust law,
should be used only in the case of imbalance in the economic power
of buyers and sellers in any particular market. Where sellers hold
a monopoly position, organizations of buyers to countervail that
power should not be prosecuted, nor should organizations of sellers
to countervail the economic power of buyers. The antitrust law
should not be used, in short, simply to destroy or weaken market
power without reference to the existence or strength of such power
on the other side of the particular market.

That this conclusion is sound cannot be doubted. The labor
market provides a superb example. The classical economic model
presumes, among other things, a number of buyers and sellers large
enough so that no single buyer or seller can materially influence
the price established by the market. While this premise may have
been an approximation of the truth for some commodities at some
periods of history, it has never been true, even approximately, with
respect to the industrial labor market. The worker has always been
at a disadvantage as compared with the employer. As an individual
economic entity, he is unable to withhold his labor, he has the most
imperfect knowledge of possible alternative employment, and he
is highly immobile. The single employer who dealt with thousands
of individual employees was obviously in a position to take extra-
ordinary advantage of those employees.

The organization of the labor union is thus an example of an
attempt to balance the imperfections of the labor market. By join-
ing together, individual workers could achieve a measure of eco-
nomic power which would approach equality with the economic
power of the employer. Today, in non-economic discussion, this
power is called "bargaining" power. The very term itself, of course,
recognizes that the price of labor is not set automatically by market
forces, as in the classic competitive model, but is an administered
price, determined by bargaining within limits established by the
economic system.
It is important to recognize that the bargaining power which unions thus achieve in the market for labor is just an answer to the virtual monopoly which employers already hold in the purchase of labor at any particular plant. As I have pointed out elsewhere, it is always appropriate to ask those who cry "labor monopoly" and demand that labor unions be subjected to the antitrust laws whether they are seeking to establish competition in place of the monopoly they decry, and if so, competition between whom? The theoretical economist would presumably urge that any labor union is monopolistic if it destroys the competition between working men for jobs. If they believed that competition should be legally required in this market, they would theoretically, therefore, urge the abolition of all labor unions. The politicians who, more typically than the economists, urge application of the antitrust laws to labor, have so far not openly expressed themselves as having this objective. I have yet to meet a politician who follows his assertion that labor unions are monopolistic with a statement that what he desires is the return of competition among workers for available jobs, with vacancies going to those who are willing to work for the lowest wages.

The real question, with respect to labor unions, is not whether competition should be restored in the labor market. When such competition does exist, in the absence of a labor organization, it is altogether one-sided and works only to the advantage of employers. Anglo-American law has recognized this consistently during the past few centuries, and the mere combination of employees has never been held, in modern times, to be a monopoly or restraint of trade. Once this is conceded, the application of the antitrust laws to labor unions makes no sense at all.

The real issue, of course, is not whether competition should be restored to the labor market, but whether the bargaining power of unions in the administered price market, which the labor market is, is stronger than that of the employers. Those who say they wish to subject labor unions to the antitrust laws in reality desire merely to weaken unions because they presumably believe that the unions are too strong. I submit that, once the issue is viewed in this light, and without the value judgments which are implied in the misleading comparison of unions with productive enterprises, the honest answer must be that there is no evidence that the bargaining power of labor unions is superior to that of employers, or that

the terms of the bargains which have been reached during the past
decade or so between employers and unions have given rise to an
unjustly high distribution of wages to workers as against the
distribution of profits to industry.

The concept of countervailing power is, then, an acceptable way
of describing the phenomenon, typically represented by labor unions,
of organization on one side of a particular market to meet a
monopoly position on the other. But this is a long way from being
a general economic principle which will explain the satisfactory
operation of our economy. Indeed, I think Mr. Galbraith’s attempt
to expand his great insight into particular phenomena into a broad
theory of economic behaviour detracts, rather than adds, to the
undoubted value of his book.

A simple example of the error to which this attempt to generalize
leads is found in Mr. Galbraith’s implied thesis that, since labor
unions exercise a countervailing power to that of monopoly capital,
unions are strong in those industries where an element of monopoly
power is exercised by employers in the sale of their products and
weak where no such employer power exists. Labor unions operate
in the labor market, not in the steel market or clothing market or
in any other market for the sale of a commodity. Any attempt by
unions to regulate the conditions of sale of the employer’s products
should, under Mr. Galbraith’s own thesis, be regarded as an im-
proper exercise of economic power.\(^3\)

The error thus made in generalizing the concept of countervailing
power is, I think, the root of Mr. Galbraith’s further generalization
that countervailing power tends to perform its function less ef-
eectively in periods of inflation. I fail to see how the existence or
non-existence of a union can affect the market power of the em-
ployer to raise his prices and increase his revenues. That power
depends on the state of competition (or countervailing power) in
the market for the product he sells. It is not increased or decreased
by a collective bargaining agreement on wages. Certainly it has
not been my experience that, in periods of inflation, union and
industry leaders gang up to suppress competition in the sale of
products. Nor do I think that any study has shown that in periods
of inflation price increases tend to be greater in unionized rather
than non-unionized industries.\(^4\)


\(^4\) That wage increases in certain industries are often followed, in magnified
form, by price increases may result, I think, from the ability which the wage
increase gives to the producers to justify the price increase to the public. If the
fear of public reaction is the “countervailing power” which restrains price increases,
then, of course, the measure of the relaxation of that power, in the case of a wage
increase, is not the amount of the wage increase itself but the amount which the
public, and the customers, can be persuaded is due to the wage increase. The latter
is often double the former.
Other examples of the error of lumping together dissimilar phenomena under the label of countervailing power abound. One such example is the case of the A. & P. Company and cornflakes, which Mr. Galbraith regards as a typical example of the use of countervailing power. Cornflakes were being sold by three companies. A survey by A. & P. indicated that, for an investment of $175,000, A. & P. could supply itself with cornflakes and, at the price then charged for this delicacy, it could earn 68 percent on the outlay. Armed with this information, A. & P. had no difficulty in bringing down the price of cornflakes by approximately 10 percent.

While this is set forth as an example of countervailing power, it seems clearly to be just an example of threatened competition. What may, perhaps, be indicated by the example is the point, made by Mr. Lilienthal, that, although freedom of entry by new competitors is greatly restricted in our economy, this may be balanced by the increased threat of competition through the "integration" of erstwhile purchasers. But, surely, nothing is gained by lumping it, together with labor unions, as an example of countervailing power; and I doubt whether any justification can be made for the proposition that this form of countervailing power is less effective in periods of inflation than in other periods.

Similarly, the case of agriculture seems to me to be theoretically quite distinct. It is true, of course, that the treatment of agriculture does present an example of community action to aid a segment of the economic community which, absent such aid, seems to be at a disadvantage. But what has actually happened in agriculture is, of course, totally different from the use of buying power in any market to neutralize the monopolistic position of sellers by threatening to compete, or the threat of withholding, as in the case of labor, to force a higher wage. What we have in agriculture is a true example of Classic Competition, with great freedom of entry, operating in an economy which is otherwise highly noncompetitive in the classical sense. The result, as Mr. Galbraith notes, is manifestly unfair to the farmer. It leads not only to lower returns to the farmer, but also to an unbalanced allocation of productive resources. Hence, the community, through Government action, imposes restraints upon the free operation of the agricultural market which, it is hoped, will equalize the position of agriculture with that of the non-competitive segments of the economy, both by raising returns and by restricting production.

By urging that the various phenomena which Mr. Galbraith lumps together as countervailing power are dissimilar, I do not mean at all to suggest that they do not have some common characteristics. I urge simply that it is inappropriate to classify these
various phenomena as examples of a single economic force called countervailing power, having a conceptual unity similar to that of the idea of competition. The examples do illustrate what I believe is a very significant principle, but that principle is not an economic theory in the same sense as the theory of perfect competition, but rather a social and political concept. Stated affirmatively, that concept is that our economy operates within the framework of a social organization which will not tolerate obvious inequities in its economic system. Wherever the operation of purely economic forces would tend to create obvious distortions in what the community regards as an appropriate distribution of the economic product, there will be community action, or the threat of such action, through the state, to redress the balance. The economy can be said, in this broader sense, to be a self-regulating one. That is, state action, or the threat of state action, will tend to minimize the distortions in production and distribution which might occur if the sole consideration governing economic action were short run calculations of profit and loss.

A simple example, not cited by either Mr. Lilienthal or Mr. Galbraith, serves to highlight my point. During the war there were, of course, price controls on steel. There was also, I suppose, a black market in which steel was sold illegally at higher than ceiling prices. Such a phenomenon is explainable under the conventional hypotheses as to economic behaviour. But after price controls were removed, the quoted market price for steel did not immediately move up to the level necessary to equate supply and demand. There remained, for a considerable period, a "gray market," in which steel was bought and sold above the quoted market price. This was obviously a "monopoly" phenomenon; in a free market the price would have risen sufficiently to avoid any possibility of "gray market" operations. But, how is one to explain a monopoly that keeps prices lower than they would be in a free market? Mr. Lilienthal would perhaps suggest that the phenomenon resulted from an acute sense of social responsibility on the part of the corporate managements of the steel companies. My experience with the industry would make me doubt that this sense of responsibility, which does exist, goes to the point of deliberate self-sacrifice of profits in peacetime. It seems to me that the real reason for the failure of the steel companies to charge what the market would bear was the well-founded apprehension that any attempt to do so would raise an immediate danger of government intervention.

Both political intervention and the threat of political intervention, then, operate as very real governors in our economy. They are, of course, not the only limitations upon monopoly, as the classical
It seems to me that a reasonable case can be made out for the fact that the classical economic model of competition becomes progressively less applicable to an economic society as that society progresses beyond the bare subsistence level. Price competition among producers in undifferentiated products is much more likely to occur in a simple society than in one in which consumer desires are far above the bare subsistence level. I think that it can be assumed that as the community's wealth increases the incidence of quasi-monopoly—by which I mean the emergence of a small number of producers and the absence of price competition among them—increases. But I wonder whether it is not also true that exactly the same forces which lead to this result also lead to a much greater competition between producers in terms of product differentiation and also to a vast increase in the degree of substitution as between different products. In a subsistence level community, it may be extremely important that producers of any basic commodity such as food or clothing or shelter be in perfect competition with each other, since there is virtually no possibility of substituting one of these basic commodities for the other. But at higher income levels the consumer's choice is not only between one producer or another of a basic commodity, nor even between one variety of a basic commodity as against another. At higher income levels, the consumer's choice may be between a new automobile, a new house, an overcoat, or a refrigerator. An increase in the price of one of these may cause a deflection of demand to another. Hence, although the number of producers of any particular commodity may materially shrink, the number of producers who are in competition for the same consumer dollar substantially increases.

Summing up, we say that the power of a monopoly, or an oligopoly which acts like a monopoly, in any market in which it sells (or buys) is subject to a kind of competition which is different from the impersonal price dictation of the market which is specified in the classical model, but which is real, nonetheless. Instead of a large number of producers selling an undifferentiated product, we have, typically, a small number of producers selling a highly differentiated product. Instead of competition among producers, we have competition in product variation and, in part because of the tremendous variation in products, a high degree of product substitution. Instead of freedom of entry by outsiders as an ever-
present source of potential competition, we have the possibility of vertical integration by purchasers who will undertake to supply their own needs.

On top of all this we have a Government which will interfere in any situation in which the existence of too much economic power is clear. The ever-present threat of such action by the state exerts a powerful force restraining the monopolistic elements in the economy from pursuing the course which, in the economists' model, they would presumably pursue.

In laying the groundwork for future development of this conception Mr. Galbraith has made a substantial contribution to our thinking. While I see no future for the theory of countervailing power as such, I do think it important to recognize that Classic Competition exists in virtually no segment of our economy. We do have competition of a different sort and in varying degrees in most segments of our economy. Where the degree of competition is slight and the result is a socially undesirable excess of power, the community should, and does, act to redress the balance, either by eliminating or hampering the effect of market forces, as in agriculture, or by giving its sanction and encouragement to the elimination of competition among those who must bargain with the monopolist, as in the elimination of wage competition. Mr. Galbraith's perception of this fundamental social truth and of the total inadequacy of an approach which establishes competition as the sole ideal, to be pursued in all sectors of the economy without discrimination, constitutes a substantial contribution.

Joseph C. O'Mahoney* 

It detracts nothing from the professional stature of David E. Lilienthal or John Kenneth Galbraith nor from the high standard of their respective contributions to an understanding of the modern politico-economic problem to say that neither Big Business: A New Era, written by the former nor American Capitalism, The Concept of Countervailing Power, the work of the latter, presents a blueprint for action. It can, however, be said that both books reveal the need of what may be called an economic constitution to gear free Government to the world of modern trade and commerce.

Mr. Lilienthal sees "the new dream; a world of great machines, with man in control, devising and making use of these inanimate creatures to build a new kind of independence, a new awareness of beauty, a new spirit of brotherliness," but he does not tell us how the "man in control" is going to gain that position of power nor, 

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having gained such control, how he will use it to direct this new world of robots. With clarity and vivid detail, he draws the picture of the expansion and achievements of Big Business, but he gives only the vaguest outline of the new "basic economic law" he proposes to substitute for the Sherman Act and other antitrust laws he believes to be outmoded. Neither does he give any hint of the form or character of the "new kind of independence" the machines are to build for mankind. Economic independence is our goal, but it may be doubted whether the machines are equal to the task. Certainly, therefore, we must know more about the authority proposed to be vested in the "man in control."

Doctor Galbraith seems to believe that American capitalism, that is to say the system of private property, can be preserved, with a minimum of government intervention, by the action and reaction on the economy of the various groups which constitute modern society. In his view, the classic idea of competition is in fact an economic doctrine of the dead past for which there has already been substituted the "countervailing power" he has described in his book. It is, he suggests, a self-generating economic regulator just as Adam Smith conceived competition to be.

Under the ideal competitive system, prices to the consumer could not be fixed by private power because individual producers, vying with one another, would hold prices down without the aid of government. The theory of countervailing power seems merely to substitute groups in the whole economy for individuals within a given industry. The individual worker, who can no longer deal equitably with his employer because the employer has become an organization instead of an individual, seeks his salvation in a union. Thus, in the labor market, Big Business and Big Labor, by their interaction, determine the levels of wages and prices. Again, in the market of supply and distribution, chain stores and mail-order houses, co-ops and the like, exercise a pressure upon manufacturers which tends to control the economy without the intervention of managerial power by government.

More important perhaps is Dr. Galbraith's thought that countervailing power will support the antitrust laws at their most vulnerable point which he implies is their inadequacy to deal with "single-firm control of an industry" (p. 151). Price competition has gone into the discard, he correctly tells us, in the industries dominated by a few firms, adding: "One can hardly doubt that, in general, it will be much easier for countervailing power to break into a position of market strength maintained by an imperfect coalition of three, four or a dozen firms than into a position held by one firm" (p. 151).
Mr. Lilienthal agrees that price competition has really disappeared and tells us we must look for competitive effort nowadays in "management techniques," "better personnel practices," and "the new technological developments," all of which he believes to be almost inseparable from Bigness (p. 51). Dr. Galbraith notes that the application of the Robinson-Patman Act can result in depriving consumers of lower prices in the retail field resulting from the vigorous bargaining power of size. The New Competition of Lilienthal and the Countervailing Power of Galbraith may, in fact, be the same idea and maybe after all they are merely telling us that times have changed and business operates with a much larger radius than formerly. It is just a different way of saying that modern business is carried on primarily by organizations rather than by individuals. When all is said and done, both the new competition and the countervailing power are subject to abuse just as Adam Smith's concept of individual competition was. No one knew better than he the strong human tendency for competitors to do their best to eliminate all but the appearance of competition.

The history of the last twenty years has been the history of changing conditions which have altered the nature and the field of economic organization as well as the manner in which the powers of Government have been exercised. With the progress of science and technology the economy steadily became less local and more national in nature, less individual and more corporate, less amenable to local and more in need of national regulation to safeguard the public interest. The Sherman Act was nothing more nor less than the application to national commerce of a rule which had always applied in local commerce with respect to conspiracies in restraint of trade. Mr. Lilienthal is altogether right when he talks about the need of "Big Business for a Big Country," but certainly he cannot be presumed to contend that conspiracies in restraint of trade by Big Business operating throughout the Big Country are less to be feared than were the conspiracies of smaller businesses in the time of Senator Sherman. These conspiracies are not confined to price fixing alone. They frequently involve agreements to allocate territory, to control production, to exclude newcomers to the industry by devious means, indeed, to resort to one or more of the infinite variety of methods used by cartels to monopolize or restrain large and even small parts of trade and commerce. The overall objective of antitrust legislation has been to suppress such practices and to retain in private hands the power of decision with Government standing by primarily as a policeman to prevent abuse.
There have, of course, been exceptions, as in the fields of communication and aviation where broad grants of discretionary power have been made to Government commissions. A result of this has been the open and covert campaigns of private interests to influence the appointment of the commissioners and thus try to shape the decisions to be made. This is a well known and extremely dangerous evil inherent in the grant of discretionary authority to Government boards.

The exceptions would also include the TVA of which Mr. Lilienthal was a managerial genius and which, at a recent press conference, in response to a correspondent’s inquiry, President Eisenhower cited as an example of “creeping socialism.” This characterization of TVA has been repeatedly repudiated by Mr. Lilienthal and the Tennessee Valley Authority. It prefers to be known as a democratic achievement through which the people of the Tennessee Valley “have begun to make good use of the new tools provided for them through the development of Government projects.”

TVA has accomplished much good by providing new opportunities for local capital. While a member of the Senate I never hesitated to support it, for I knew that no private corporation was capable of making the investment necessary to build it or willing to give priority to the public interest in its management. That, however, did not prevent me from saying in the report of the Temporary National Economic Committee as long ago as 1941 that TVA was an outstanding example of Big Government, carrying within itself the seeds of authoritarianism. In fact, I compared it to the Bituminous Coal Administration, saying in effect that the former was an example of Government intervention on behalf of the “have nots” and the latter an intervention of Government on behalf of the “haves,” that is to say, the owners of coal deposits, with incidental benefits to the workers. Both TVA and the Bituminous Coal Administration acted for but not by the people most intimately affected by their decisions. Only the fact that each was in a sense responsible to Congress made them preferable in a democratic sense to irresponsible private economic management provided by the characteristic Big Business corporation on the one hand, and the arbitrary management provided by a totalitarian state on the other.

It is possible to acknowledge everything that Mr. Lilienthal has said to prove that big industrial organization is essential in our time, that it has been productive of great benefits to the people as a whole, that it has not been accompanied during the last twenty years by the degree of concentration feared by Berle and Means and other analysts about the time of the 1929 depression
and that it has been accompanied by the development of new competitive industries. It would also be possible, if space permitted, to document an argument to support the essential truth of Mr. Galbraith's statement, which Mr. Lilienthal denies, that "in an established industry where the scale of production is considerable, there is no such thing as freedom of entry." Much could be written, also, in rebuttal of Mr. Lilienthal's assumption that criticism of Big Business is primarily based on size alone.

All this, however, is beside the point. There were more billion dollar corporations in 1952, to be sure, than there were in 1932. Some which were among the giants two decades ago may have fallen from that high estate. There are, of course, many more shareholders now than formerly, but the authority of the small stockholder is still non-existent. Indeed, the larger the number of the five and ten share stockholders, the greater the power of the expert corporate management despite such occasional proxy battles as that of the New York Central. Big business is still the "economic state" Woodrow Wilson called it and it is still a threat to the economic independence of the individual, to say nothing about political states and local sub-divisions, because it has now become a "collectivist economic state."

The essential question to be answered, if the system of private property is to be preserved, is how and in what form public authority may be exercised over the social action of the organized industrial society in which we live, without destroying economic freedom through too much government monopoly or too much private monopoly. This is really the central issue of our time, namely, how to make effective the authority of the people as individuals over the policies of the Big Business organizations which the modern world requires. Failure to settle this issue with a democratic formula is the reason why Communist and Fascist dictatorships dominate so large an area of the world. In self-defense the free world must produce the formula or the struggle to escape the authoritarian state will be futile.

It is to be earnestly hoped that the Lilienthal and Galbraith books will be widely read, for they will be a definite stimulus to public thinking and thus assist in the formulation of a democratic rule of order for the establishment and stabilization of a really free economy.

It is not enough to praise the virtues and efficiency of Big Business organization. It is not enough to hope that the reaction of large groups in the economy upon one another will result in a balance under which all can reasonably struggle along together. The first alternative would result initially in strengthening the
power of business management to govern the economy. The latter would only postpone the inevitable day of decision. The longer the drafting of a basic economic law is postponed, the greater the danger will be of a deepening struggle for power over government by pressures from both the right and the left.

Mr. Lilienthal tells us, and I think quite correctly, that "we can meet both domestic and international demands upon our productive capacity if we make full use of our talent for large scale organization and administration of industry, research, distribution, credit, conservation of resources" (pp. 10-11). In this achievement, however, we cannot exclude government, as Mr. Lilienthal himself clearly recognizes when he asserts that a new "basic economic law" must be written. Our society has taken so long to write this law that it now sounds as though it were a new idea. As long ago as the administration of President Taft, members of both the legislative and executive branches of the Government were trying their hands at the job. Senator John Sharp Williams of Mississippi introduced a bill to license corporations engaged in interstate commerce. The President himself thought the matter so important that he had his Attorney General, George Wickersham, draw a bill to provide for the issuance of federal charters to interstate corporations. Woodrow Wilson, in his campaign of 1912, gave much attention to the problem and after his inauguration became a source of great disappointment to Senator Williams when he advocated the creation of the Federal Trade Commission instead of endorsing the Williams bill. Incidentally, by that act, President Wilson took the step which set the pattern for many years for boards and commissions with more or less discretionary power. Curiously enough this idea was not objectionable to Judge Gary of the United States Steel Corporation, who, at that time, felt that businesses ought to be able to secure advance approval from some federal agency for the programs they contemplated for the expansion of organizations engaged in interstate commerce. President Taft made a notable record of antitrust enforcement, although Theodore Roosevelt was called the "trust buster." Under President Franklin D. Roosevelt we swung between the two extremes of so-called "business self-government" from NRA codes, on the one hand, to the extremely successful antitrust law enforcement under Assistant Attorney General Thurman Arnold.

The search for a new law to prescribe the rules for modern business organization has been a long and puzzling story. We shall be notably nearer the end of the trail if it is recognized that we are in search of an economic formula. It is a distinct gain that Mr. Lilienthal proclaims the importance of this objective (p. 185).
He himself provides, however, the apt illustrations of how easy it is to confuse the problem when he criticizes the Sherman Act as a “double negative” forbidding restraint of trade (p. 185) and then proposes a “broad declaration of public policy that the prime concern of Congress is not with competition per se nor with competitors, but with productivity and the promotion of an ethical and economic distribution of this productivity.” There is no double negative in the Sherman Act, which merely declares that “every contract . . . in restraint of trade . . . is declared to be illegal;” that “every person who shall monopolize or attempt to monopolize, or combine or conspire . . . shall be deemed guilty of a misdemeanor;” and that “every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade . . . is declared illegal.” A new economic law which would transform these simple declarations of illegality and guilt into affirmations of legality and innocence of such conspiracies and such restraints would make it altogether impossible to secure anything remotely resembling an ethical or economic distribution of the vast productivity of this nation. If it is not the prime concern of Congress to deal with competition per se or with competitors, as Mr. Lilienthal says, then certainly we may be permitted to ask, in whom will the power be reposed to fix the standards of production and distribution in the new economy?

If it is to be placed in the hands of Big Business management then clearly the power of the Congress, in the words of the Constitution “to regulate commerce with foreign nations and among the several states” will have been seriously curtailed. Indeed, it will have been transferred to the management of Big Business. The economy of the country, the system by which the people provide their own livelihood, will have passed from their control to the control of private managers.

This is the danger of size which Mr. Lilienthal discounts and the evidence concerning which he ignores. Limitations on productivity to hold prices up, the raising of barriers against new producers, and other predatory practices which are the mark of the cartel system are much more easily made effective when the managers of a few big units have the power of decision. It is only a short step from this to the authoritarian socialist state.

It would be far better to endure continued delay in the formulation of the needed new law and to continue to rely upon the concept of countervailing economic power until Congress acts.

It must be remembered, however, that Dr. Galbraith frankly acknowledges (p. 196) that his theory breaks down under inflation. Moreover, it must be clear that the theory affords the
public no protection against the combination of countervailing
groups unless it be in the antitrust laws. Here it must be pointed
out that the Sherman Act is vastly different from the Clayton
Act and the Robinson-Patman Act. One must realize that the
problem of prices, administered or otherwise, is very different
from conspiracies in restraint of trade. The latter must not be
made legal because it may be desirable to change the former.

It is essential to the preservation of economic freedom that
the individual shall be the source and not the mere subject of the
authority to be exercised over him. Otherwise the principle on
which this nation was founded cannot be preserved. There are
three main goals of a free society: first, freedom for the individual;
second, social justice; third, efficiency and profitability through
the techniques of production and distribution. They are stated
in the order of priority. If that order is reversed, the result is
the subordination of freedom to the power of wealth. All through
history men have preferred the moral values of freedom to the
ease and benefits of efficiency.

The fight against Communism is a fight for these moral values.
It is easy to use stock phrases about the dignity of man and the
freedom of the human soul, but these are all empty words unless
they are alive with the understanding that freedom exists only
in a society in which the individuals themselves make the economic
as well as the political laws to which they must adhere. There is
much evidence that this principle is now far better understood by
the executives of business organization than it was a generation
ago. Surely business, big and little, has a far better understanding
of the social responsibilities of economic organization. We have
had substantial progress during this century. Nevertheless, eco-
nomic theorizing of all kinds must be subjected to the closest
scrutiny lest we lose sight of the basic fact that what mankind
has been seeking to do in this turbulent century is to make certain
that the collectivist society which research and invention have
produced can be operated according to the democratic-republican
principles upon which this Government was founded.

It is idle to debate the degree of economic concentration or
whether it has fluctuated in the last twenty years. Whatever
these fluctuations may have been, it remains true that less than
one-tenth of all the business firms operating in this country employ
approximately 40 percent of all the workers. Congress may debate
modifications of the Taft-Hartley Act, but all must agree that
it is a law, like the Wagner Act which it amends, to provide for
collective bargaining. It still remains essentially true, as it was
when Berle and Means wrote their book on the modern corpora-
tion, that the large units of the industrial world are owned by thousands of small stockholders who exercise only the vaguest theoretical control over their property. Stockholders and workers in this country exercise political authority to be sure, but precious little economic authority. The owners of Big Business delegate their economic power over their property to employed managers, while Congress, which long ago began delegating its legislative power to boards and commissions, is now delegating it to the executive. The Constitution gave the President veto power over the acts of Congress, but nowadays Congress, in the various reorganization acts, delegates the legislative authority to the President while retaining only a flimsy veto power over him.

Thus is the very form of democratic government being altered under the impact of changing economic organization. Dictatorial governments, whether of the Communist or Fascist variety, are the products of the ignorance, confusion and uncertainty with which we have approached the drafting of a new economic Constitution to fit the times in which we live and above all to establish the standards of conduct, authority, and responsibility for the corporate economic agencies this era needs to guarantee to all of the people an expanding share of the benefits large-scale operations can bring.

Wendell Berge*

Both Big Business: A New Era, written by David E. Lilienthal, and American Capitalism, The Concept of Countervailing Power, written by John Kenneth Galbraith, contain provocative discussions of a basic problem which modern capitalism faces today. The problem concerns the consequences of the increasing concentration of economic power, and what, if anything, should be done about it.

Mr. Lilienthal's primary thesis is that in the modern world bigness in business is essential (bigness is printed with a capital "B" throughout the book), and that we should frankly recognize that big business provides the means for the greater enrichment of the lives of the people. The development of technology by big business has provided greater opportunity, a higher standard of living, and the means for a better expression of individualism than could have been possible in a system where only small units were permitted to exist. Mr. Lilienthal sincerely believes that bigness should be encouraged by law and public policy. He thinks that present laws and prevailing attitudes tend to hamstring the true potential of big

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business to expand the material and spiritual possibilities of modern life.

At the same time, Mr. Lilienthal recognizes that big business is not necessarily more efficient than small business, and that big business may become so large as to jeopardize efficiency and lead to sterility. He unhesitatingly agrees that the predatory practices of big business should be checked by governmental action, and in this area he appears to have no quarrel with the antitrust laws (p. 169). His concern, rather, seems to be that legal impediments, and the climate of public opinion, hamper the full realization of the power of big business to make its most effective contribution to the nation's welfare.

Dr. Galbraith has written an admirable historical account of the development of our views and practices concerning competition. Adam Smith distinguished competition from monopoly by its consequences, saying: "The price of monopoly is upon every occasion the highest which can be got. . . . The price of free competition, on the contrary, is the lowest which can be taken, not upon every occasion indeed, but for any considerable time together" (p. 15). Dr. Galbraith observes that "toward the end of the nineteenth century, writers began to make explicit what had previously been implied; namely, that competition required that there be a considerable number of sellers in any trade or industry in informed communication with each other. In more recent times this has been crystallized into the notion of many sellers doing business with many buyers" (p. 15). Thus, the thought developed that the price system, as a self-regulator of business, will fulfill its function only if no buyer or seller is large enough to control or exercise an appreciable influence on the common price.

But with the tendency toward concentration and the narrowing of the number of sellers in many important fields of industry, the concept of competition just noted was, according to Dr. Galbraith, no longer applicable. Today in many markets there are in fact only a few sellers, and they are in a position to exercise great power over the market. Dr. Galbraith then develops his theory of countervailing power whereby the power of big sellers is in a measure offset by big purchasing and distributing organizations, big labor and farm organizations, and other dominant groups. Thus, a measure of balance in the economy is attained (pp. 115-139). Instead of competition among individuals or small businesses, we have competition among giants.

Both books develop the changing concepts and practices of American business during the last seventy-five years, and also the evolution that has occurred in the relation of Government to busi-
ness. Mr. Lilienthal begins by stating that "Big Business" is basic to the very life of this country, and yet many people have a deep-seated fear and emotional repugnance to it. He quite frankly wants to dispel this fear and repugnance and replace them with fond admiration. "It is toward a change in our feeling about Bigness and a resolution of this contradiction that this book is directed," he states (p. 3). Mr. Lilienthal then spends many pages in developing his view that modern technology and other factors have revolutionized the economic life of this country so that beliefs which were valid at the time the Sherman Act was passed have no relevance today. Only the big corporation can meet the needs of a big country that has assumed the enormous responsibility of supplying not only most of its own needs, but those of much of the free world as well.

According to Mr. Lilienthal, if big business has largely made price competition obsolete, a new type of competition has replaced it—the competition between different ways of meeting the same or a similar need or demand for goods or service (p. 58). Thus, we have many different products competing because they all supply essentially the same end need. Examples of this type of competition would be that of copper and aluminum; also, coal, oil, gas, and electricity; also, cotton and wool, and many new man-made fibres (pp. 59-61). Much of this new competition has come about through the technological development which big business has made possible. And in Mr. Lilienthal’s view, this new competition saves us from the evils of monopoly. He endeavors to show that under the conditions of the new competition, the policies of Government toward business, and the everyday enforcement of the antitrust laws, are based “upon an antiquarian’s portrait of another America.” Thus, he concludes that on the whole, trust-busting does not make sense today because he thinks that, as the antitrust laws are now construed, “the very Bigness upon which we are now dependent may be illegal” (p. 167).

It is suggested that Mr. Lilienthal’s fears about the illegality of big business as such are quite unwarranted. There has never yet been an antitrust action seeking dissolution or divestiture based upon size alone. Indeed, throughout the history of the Sherman Act there have been relatively few cases instituted which sought dissolution or divestiture. Among those which were successfully maintained the courts always found that there were present predatory practices of a sort which Mr. Lilienthal would not condone.

The anxiety which Mr. Lilienthal and others have felt seems to stem from language in United States v. Aluminum Company of
America\textsuperscript{1} and American Tobacco Co. v. United States,\textsuperscript{2} indicating that the power to exclude competitors from a market, when accompanied by an intention to exercise such power, constitutes illegal monopoly (pp. 175-176). Mr. Lilienthal infers that this is a recent and dangerous trend, but he, like other critics of recent antitrust decisions, implies that mere power to exclude competitors which may have been acquired through normal growth and efficiency is now in the twilight zone of illegality (p. 167).

Careful study of recent court decisions does not bear this out. Indeed, in the Aluminum case Judge Hand conceded that a single company might legally possess one hundred per cent control of manufacture in an industry which could not economically support more than one factory. Moreover, Mr. Lilienthal, like others who are currently disturbed, overlooks the fact that in the Aluminum and Tobacco cases it was held that the intent to exclude other competitors must be present as well as the power. This exonerates the big businesses whose size results from superior efficiency. Business which has become big through superior efficiency and the ability to meet national needs without wilfully excluding competitors has nothing to fear under the antitrust laws as presently interpreted.

In enforcing the anti-monopoly provisions of the antitrust laws the Government and the courts are concerned with market dominance, with the power and intent to exclude competitors, rather than with bigness as such. Much of what Mr. Lilienthal has said about the efficiency of some of our larger corporations is true. I have not seen any evidence that the Government is out to destroy the large private research organizations through antitrust enforcement.

Indeed, many of the recent antitrust suits have been based upon restrictions on technological development imposed by agreements among nominally competing corporations. A great deal of evidence of private restrictions on invention and development has been laid before Congressional investigating committees. Sometimes the motivation was to preserve investment in existing methods and technologies which would have been rendered obsolete if certain research had been permitted to go on. Other times it was just not thought profitable to press the development. Notwithstanding the valuable contributions of large private research organizations, there is often not the incentive for a large corporation to encourage particular research projects, because they may compete with products or processes which the same company already is profitably utilizing. Investigation has shown that a great deal of valuable invention still

\textsuperscript{1} 148 F.2d 416 (1945).
\textsuperscript{2} 328 U.S. 781 (1946).
stems from the activities of individual inventors or small research laboratories.

And although Mr. Lilienthal’s book throughout extolls the virtues of bigness, at no place does he undertake to define what constitutes a big business. Obviously, tests of bigness based on dollar volume of business, size of investment, percentage of output in relation to industry, etc., are not in themselves of much significance. Thus, for example, when Mr. Lilienthal refers to du Pont as having spent $27,000,000 over a period of years before a bolt of nylon could be sold (p. 69), he in effect says nothing more than that it takes a great deal of money to engage in certain lines of research. Obviously, the development of nylon and many other new products requires a substantial investment of time and money.

But it is difficult to see the relevance of generalization about bigness to the question of whether the antitrust approach is outmoded and should be changed. Mr. Lilienthal, of course, does not contend that the antitrust laws hampered the development of nylon nor, so far as I recall, does he show any evidence that any of the scientific developments of “Big Business” have been interfered with by antitrust activity. Without a more precise definition of the “Bigness” which he favors, or of the “small business” to which he thinks our attention has been too much devoted, Mr. Lilienthal’s arguments seem to lose much of their force.

If big business is not bad per se, it does not follow that it is good per se. And, yet, Mr. Lilienthal’s enthusiasm for bigness at times carries the connotation that bigness is good per se. I submit that big business is neither good nor bad per se, but that any business must be appraised on the basis of its performance in the public interest. Thus, I think that Mr. Lilienthal fails to demonstrate any basic unsoundness in the anti-monopoly provisions of present law.

Dr. Galbraith does not seem to share Mr. Lilienthal’s fear that the very existence of big business is threatened by new interpretations of the antitrust laws. Indeed, he says that “No fundamental change in the American economy could or is likely to result from these demands for antitrust enforcement. Thus the businessman has no reason to be alarmed . . .” (p. 63). And he notes that American courts have been notably cautious in the remedies that have been invoked under antitrust laws. “Decrees dissolving existing companies or forcing them to divest themselves of subsidiaries have been exceedingly and increasingly rare.” He adds that “However revolutions are brought about, it is not by litigation” (p. 58). Thus, Dr. Galbraith is disrespectful of the effectiveness of the antitrust laws, but since the object of those laws was not to break up corporations which were performing in the public
interest, Dr. Galbraith's objection, however intended, does not necessarily mean that the antitrust laws are a failure.

Indeed, many of the large industries in which the number of companies competing with each other has increased in recent years and in which there has been a deconcentration of economic power are industries in which there have been frequent antitrust actions. This is true, for instance, in aluminum, petroleum, electrical products, and motion pictures, to name only a few. But the suits in these industries were not aimed at the bigness as such of any of the company defendants but rather at their misuse of economic power and their dominance in the industry which actually, or potentially, excluded competitors.

Dr. Galbraith has developed in an interesting manner his theory of countervailing power in which the power of big consumers, big unions, big organizations of farmers, and the like, is developed to offset the concentration of power of the big manufacturers. The measure of balance in the economy which would result from this clash of the giants would substitute for older methods of competition as the regulator of our economy. It would also substitute for government regulation. It seems to follow that only the unorganized would be hurt in this struggle of the powerful; presumably small business would decline or disappear altogether.

There is not much of an argument to be made against this approach if the major premise is granted, namely, that monopolistic business is here to stay in the production industries and we can not do much about it except to build countervailing monopolies among other groups in the economy.

Admittedly, countervailing power would operate as an effective restraint on the power of big business only when there is a relative scarcity of demand. Thus, the market must be of sufficient importance to the seller so that there is some compulsion to comply with the buyers' demand (p. 136). Dr. Galbraith flatly states that countervailing power "does not function at all as a restraint on market power when there is inflation or inflationary pressures on the market" (p. 138).

Countervailing power also could not operate in a market dominated by a single seller. There must be alternative sources to which the organized buyers could go. The climate most favorable to the operation of countervailing power would be a market where there are sufficient buyers and sellers so that the buyers may play off sellers against each other, and vice versa. Countervailing power also could not effectively operate in industries which are integrated vertically. Dr. Galbraith believes, however, that his theory of countervailing power "comes to the defense of the antitrust laws
at what has been a very vulnerable point. Efforts to prevent or to disperse single-firm control of an industry can be defended for the greater opening they provide for the exercise of countervailing power. Similar and equally good reasons exist for resisting mergers. Those who have always believed there was something uniquely evil about monopoly are at least partly redeemed by the theory of countervailing power" (p. 151).

Both of these books are well worth reading by those who have an interest in the developing pattern of business activity in this country and the function of government toward regulating it. I agree with Senator O'Mahony that neither of these books "presents a blueprint for action." Nor do I think that either of them presents an effective case for abolition or drastic revision of the antitrust laws, although there are a number of ideas advanced by both authors which are worthy of serious consideration in shaping and developing our Government's antitrust enforcement policies.