

The original documents are located in Box 3, folder “Antitrust - Mail from Businessmen: Edward Schmults File (9)” of the John Marsh Files at the Gerald R. Ford Presidential Library.

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September 24, 1976

Dear Mr. Wells:

Just a short note to thank you for sending me a copy of your letter to the President concerning the anti-trust legislation.

I have taken the liberty of sharing this letter with those here at the White House working on this matter.

We greatly appreciate your taking the time to give us the benefit of your views on this important issue.

Sincerely,

John O. Marsh, Jr.
Counsellor to the President

Mr. Douglas B. Wells
President
Libby, McNeill & Libby
200 South Michigan Avenue
Chicago, Illinois 60604

✓ cc: Ed Schmults

dl



president

Libby
Libby
Libby

DOUGLAS B. WELLS

August 31, 1976

The President
The White House
Washington, DC 20500

Dear Mr. President:

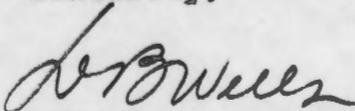
This letter respectfully requests that you veto Senate Bill S. 1284 and House Bill H.R. 8532, which have been joined for conference committee action. These two bills contain a provision for authorizing parens patriae action, which is of deep concern to me not only as a company official, but as a consumer.

With such a law in effect, business will be cast into an atmosphere of "forced" settlements for economic reasons leading directly to increased business expense as well as adding to the tax burden to support an already overcrowded court system. Such a provision, with its resultant unwarranted and unnecessary costs, if it is permitted to become law, can only also result in increased consumer prices.

Unfortunately, conference committee rules prohibit the removal of the objectionable parens patriae feature from the bills. Hence, your Office as President is the resort of last appeal to bar this feature from becoming law.

Again, Mr. President, I respectfully request that you veto the conference bill with the parens patriae provision to eliminate the inevitable result I have expressed. Further, a veto would also avoid the potential impact of an extension of the antitrust laws as publicly reflected by Attorney General Levi when he expressed the thought that the next step after a parens patriae law may be the creation of a special government agency to authenticate the reasonableness of the prices that are charged in the marketplace, which I think we all would recognize as an unnecessary extension of government into the business sector.

Sincerely,



DBW:al

Inc.



Libby's
Libby's
Libby's

Libby, McNeill & Libby, Inc.
200 south michigan avenue
chicago, illinois 60604



The Honorable
John O. Marsh, Jr.
Counsellor to the President
The White House
Washington, DC 20500

office of the president



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September 24, 1976

The President
The White House
Washington, D. C. 20500

Mr. President:

After careful study, I firmly believe parens patriae legislation is not in the best interest of the American consumer nor American business in general.

I therefore urge that you veto any legislation with a parens patriae section in it.

Respectfully yours,

J. A. WRIGHT & CO.

John M. Wright
President

JMW:mlm

cc: The Honorable Philip W. Buchen ✓
The Honorable John O. Marsh, Jr.
The Honorable John J. Rhodes
The Honorable Hugh Scott



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PHILLIP W BUCHER
COUNCIL TO THE PRESIDENT
WASHINGTON DC 20500

DEAR SIR

AS A KEY ADVISOR TO PRESIDENT FORD ON PENDING LEGISLATION, SEEK YOUR SUPPORT IN ADVISING PRESIDENT FORD TO VETO THE CURRENT ANTITRUST PACKAGE THAT THE HOUSE OF REPRESENTATIVES HAS JUST PASSED. I FEEL THIS LEGISLATION WITH THE PARENS PATRIAE CLAUSE CAN DO IRREPARABLE HARM TO THIS COUNTRYS ECONOMY. IN MY OPINION, THE POTENTIAL FOR BLACK MAIL LAW SUITS IS EXTREMELY HIGH AND THE OPPORTUNITY FOR POLITICAL MISUSE OF THIS BILL IS EVEN GREATER.

THE 2 KEY POINTS THAT WERE COMPROMISED OUT OF THE LEGISLATION, A BAN ON THE CONTINGENCY ARRANGEMENTS WITH PRIVATE LAWYERS HIRED BY THE STATES ATTORNEYS GENERAL TO BRING PARENS PATRIAE SUITS, AND THE REDUCTION OF THE MANDATORY TREMBLE DAMAGES OR SINGLE DAMAGES WHEN GOOD FAITH WAS SHOWN, HAS DRASTICALLY ALTERED THIS LEGISLATION.

THE OTHER 2 PROVISIONS THAT THIS BILL IS INVOLVED WITH, THE CIVIL INVESTIGATIVE DEMAND AUTHORITY OF THE JUSTICE DEPARTMENT AND THE PRE-MERGER NOTIFICATION, ARE CURRENTLY BEFORE THE SENATE. THESE COULD BE PASSED AND SIGNED BY PRESIDENT FORD THUS ASSURING RESPONSIBLE LEGISLATION IN THE AREA BUT I STRONGLY URGE THAT YOU RECOMMEND THAT THE PARENS PATRIAE CLAUSE IN THE CURRENT LEGISLATION BEFFORE THE PRESIDENT BE VETOED.

JOHN P BISHOP
PRESIDENT

16:14 EST

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005 NEL YORK SEPTEMBER 24

THE HON. PHILIP W. BUCHEN,
COUNSEL TO THE PRESIDENT
THE WHITE HOUSE
1600 PENNSYLVANIA AVENUE, N.W.
WASHINGTON D C 20500

DEAR SIR:
CONGRESS HAS SENT TO THE PRESIDENT H.R. 8532, THE ANTITRUST
AMENDMENTS BILL. THE PARENS PATRIAE PROVISION WOULD PLACE
AN UNNECESSARY BURDEN ON BUSINESS. WE URGE THAT THE
PRESIDENT VETO THIS BILL.

CHARLES F. HAGAN
GENERAL COUNSEL
AMERICAN HOME PRODUCTS CORP.

09:32 EST

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The White House
Washington

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PMS HON. PHILIP W. BUCHEN

COUNSEL TO THE PRESIDENT

THE WHITE HOUSE

WASHINGTON, D.C. 20500

PLEASE URGE THE PRESIDENT TO VETO THE SO-CALLED ANTITRUST
IMPROVEMENT ACT OF 1976 (HR 8532). PARENS PATRIAE PROVISIONS
WILL LEAD TO UNWARRANTED SUITS AGAINST INDUSTRY. PRE-MERGER
NOTIFICATION PROVISIONS ARE UNNECESSARY IN VIEW OF EXISTING
REQUIREMENTS. CIVIL INVESTIGATIVE DEMAND PROVISIONS ARE
UNREASONABLE AND PERHAPS UNCONSTITUTIONAL.

J.B. LANTERMAN

CHAIRMAN

ANSTED INDUSTRIES INCORPORATED



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The White House
Washington



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PMS HON. PHILIP W. BUCHEN

COUNSEL TO THE PRESIDENT

THE WHITE HOUSE

WASHINGTON, D.C. 20500

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The White House
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9 PHILIP W. BUCHEN
10 COUNSEL TO THE PRESIDENT
11 THE WHITE HOUSE
12 WASHINGTON, D.C.



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14 I STRONGLY URGE VETO OF ANTITRUST REFORM LEGISLATION (H.R. 8532).
15
16 I RESPECTFULLY SUGGEST THAT ADEQUATE AUTHORITY NOW EXISTS TO
17 ENFORCE THE ANTITRUST LAWS AND THE MERITORIOUS PARTS OF THIS BILL
18 ARE NOT SUFFICIENTLY URGENT TO WARRANT ALLOWING THE DANGEROUS AND
19 UNJUSTIFIED PROVISIONS TO BECOME LAW. PARTICULAR REFERENCE IS MADE
20 TO THE PARENS PATRIAE AUTHORITY WHICH WOULD PROVIDE UNWARRANTED
21 OPPORTUNITY FOR ABUSE BY POLITICAL OPPORTUNISTS. NEITHER EMPLOYEES,
22 STOCKHOLDERS, OR CONSUMERS CAN AFFORD THE HIGH COST OF DEFENSE OF
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2 IONABLE BENEFITS WHICH MIGHT RESULT AND FOR WHICH REMEDIES ALREADY
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7 ENFORCEMENT OF FEDERAL ANTITRUST LAWS.

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10 CC: PHILIP W. BUCHEN

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12 RICHARD B. CHENEY

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14 ALAN GREENSPAN

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16 JAMES T. LYNN

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18 L. WILLIAM SEIDMAN

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20 WILLIAM E. SIMON

21 EDWARD W. DUFFY

22 PRESIDENT & CHIEF

23 OPERATING OFFICER

24 UNITED STATES GYPSUM COMPANY
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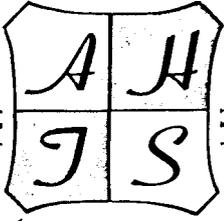


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CC: PHILIP W. BUCHEN
RICHARD B. CHENEY
ALAN GREENSPAN
JAMES T. LYNN
L. WILLIAM SEIDMAN
WILLIAM E. SIMON
EDWARD W. DUFFY
PRESIDENT & CHIEF
OPERATING OFFICER
UNITED STATES GYPSUM COMPANY





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September 27, 1976

President Gerald Ford
The White House
Washington, D. C. 20500

Dear Mr. President:

It has been brought to our attention that the Senate has passed a Comprehensive Anti-Trust Bill, which if not vetoed, will enact parens patriae legislation.

Parens Patriae authority will, in our opinion, serve no good purpose and certainly be damaging to our free enterprise system.

We would very much appreciate your reconsideration to vetoing any bill which comes to you with parens patriae as part of it.

Very truly yours,

Bill J. Burgess,
Chairman,
Republican Central Committee
Henry County, Missouri

BJB/clt

cc: Gordon T. Beaham, III

The Honorable Philip W. Buchen
The Honorable John O. Marsh, Jr.
The Honorable John J. Rhodes
The Honorable Hugh Scott

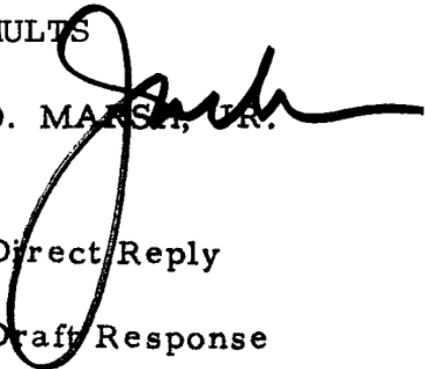


September 27

THE WHITE HOUSE
WASHINGTON

TO: ED SCHMULTS

FROM: JOHN O. MARSH, JR.



_____ For Direct Reply

_____ For Draft Response

XX _____ For Your Information

_____ Please Advise



September 27, 1976

Dear Mr. Smythe:

Just a short note to thank you for sending me a copy of your recent letter to the President concerning the antitrust legislation.

I have taken the liberty of sharing this letter with those here at the White House working on this matter.

We greatly appreciate your taking the time to give us the benefit of your views on this important issue.

Sincerely,

John O. Marsh, Jr.
Counsellor to the President

Mr. Kelvin J. Smythe
President
OIL MOP, Inc.
Post Office Drawer P
Belle Chasse, Louisiana 70037

cc: Ed Schmults

dl



Plant Address:
Engineers Road
Belle Chasse, La. 70037 U.S.A.



SEP 27 1976

Mailing Address:
P. O. Drawer P
Belle Chasse, La. 70037 U.S.A.

OIL MOP, INC.

NEW ORLEANS, LOUISIANA

24 Hr. Phone (504) 394-6110

Telex 587-486

September 23, 1976

The President
The White House
Washington, D. C. 20500

Re: Parens Patriae Legislation

Dear Mr. President:

I strongly urge you to veto any bill which comes to you with a parens patriae section in it. I refer to recent legislation passed in the Senate forming part of a comprehensive anti trust bill. It is my understanding that the bill has been cleared to conference along with three corresponding House bills for review.

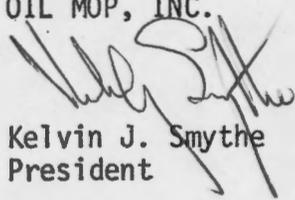
I am deeply concerned over the possible ramifications that this form of legislation could produce under our free enterprise system. While this type of legislation might be beneficial to private attorneys, and would place enormous authority with the fifty State Attorneys General, I do believe that the end result will be disastrous. This form of legislation can only serve to increase consumer costs and clog court rooms with a myriad of lawsuits alledging price fixing or anti trust violations.

Again, I urge you to veto any such legislation which would, in effect, stifle the free enterprise system as we know it.

Trusting in your judgement, I remain,

Very truly yours,

OIL MOP, INC.


Kelvin J. Smythe
President



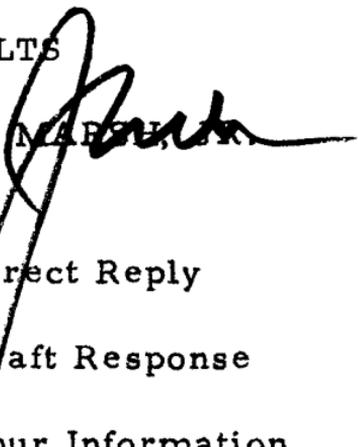
KJS/lws

CC: The Honorables: Philip W. Buchen
John O. Marsh, Jr. ✓
John J. Rhodes
Hugh Scott

September 27

THE WHITE HOUSE
WASHINGTON

TO: ED SCHMULTS

FROM: JOHN O. MARSH, JR. 

_____ For Direct Reply

_____ For Draft Response

XX _____ For Your Information

_____ Please Advise



September 27, 1976

Dear Mr. Wright:

Just a short note to thank you for sending me a copy of your letter to the President concerning the antitrust legislation.

I have taken the liberty of sharing this letter with those here at the White House working on this matter.

We greatly appreciate your giving us the benefit of your views on this important issue.

Sincerely,

John O. Marsh, Jr.
Counsellor to the President

Mr. John M. Wright
President
J. A. Wright & Co.
60 Dunbat Street
Keene, New Hampshire 03431

cc: Ed Schmults

dl





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September 24, 1976

The President
The White House
Washington, D. C. 20500

Mr. President:

After careful study, I firmly believe parens patriae legislation is not in the best interest of the American consumer nor American business in general.

I therefore urge that you veto any legislation with a parens patriae section in it.

Respectfully yours,

J. A. WRIGHT & CO.

John M. Wright
President

JMW:mlm

cc: The Honorable Philip W. Buchen
The Honorable John O. Marsh, Jr. ✓
The Honorable John J. Rhodes
The Honorable Hugh Scott



Makers of famous Wright's Silver Cream

THE WHITE HOUSE
WASHINGTON

DATE: Sept. 28, 1976

TO: ED SCHMULTS

FROM: JIM CAVANAUGH

SUBJ: H.R. 8532

FYI X

ACTION





THE PROPRIETARY ASSOCIATION

1700 Pennsylvania Avenue, N.W./Washington, D.C. 20006/Phone (202) 223-5866

September 24, 1976

James H. Cavanaugh, Ph.D.
Deputy to White House Chief of Staff
The White House
Washington, D.C. 20500

Re: Veto of H.R. 8532 ("Parens Patriae Antitrust Bill")

Dear Dr. Cavanaugh:

I am writing to express the hope of the members of The Proprietary Association that the President will veto the "Parens Patriae Antitrust Bill" (H.R. 8532). Our members strongly believe that any public benefits in this bill are strongly outweighed by the dangerous potential of the parens patriae portion. We are particularly concerned about the following aspects of this provision:

- The legislation does not require lawyers bringing suits against business to prove claims of individual consumers; rather these lawyers can simply use statistical sampling and mere estimates of losses to force businesses to defend these suits; moreover, any money obtained through this procedure would not necessarily be used to compensate consumers;
- The legislation provides, contrary to the original House-passed version, that state attorneys general can "farm out" cases against business to private lawyers on a contingency fee basis, thereby further permitting a further dilution of the money obtained from business ostensibly on behalf of consumers; and

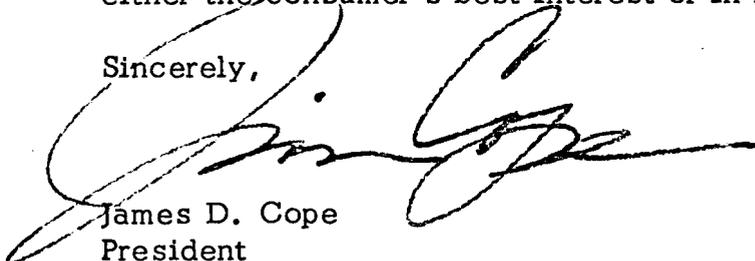


James H. Cavanaugh, Ph.D.
September 24, 1976
Page Two

-- Whereas the original House-passed version of this bill once contained a reasonable safeguard whereby businesses violating the antitrust laws in good faith would only have to pay actual damages, the legislation now penalizes even these companies by requiring them to pay triple damages.

We believe that this bill is an example of good legislation "gone bad" and hope that the President will veto the parens patriae bill as not being in either the consumer's best interest or in business' best interest.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Jim Cope".

James D. Cope
President

JDC:bws



The White House
Washington

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8 PMS PHILIP W BUCHEN ESQ COUNSEL TO THE PRESIDENT

9 WHITE HOUSE WASHINGTON DC

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12 COUNTRY IF PRESIDENT FORD WOULD VETO THE RECENTLY ENACTED PARENS
13 PATRIAE ANTITRUST LEGISLATION I BELIEVE THE CONCEPT IS UNWISE AT
14 BEST WITHOUT THE SAFEQUARKDS ORIGINALLY PROVIDED AND EXCLUDED
15 FROM THE FINAL BILL IT MAY BE DISASTROUS TO BUSINESS I STRONGLY
16 URGE YOU TO COUNSEL THE PRESIDENT TO VETO THE BILL

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18 GEORGE A LEONARD KDE-0'46

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20 VICE PRESIDENT, SECRETARY AND GENERAL COUNSEL

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22 THE KROGER CO

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White House
Washington

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WHITE HOUSE WASHINGTON DC

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GEORGE A LEONARD KDE-0'46

VICE PRESIDENT, SECRETARY AND GENERAL COUNSEL

THE KROGER CO



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SCM CORPORATION
299 PARK AVENUE NEW YORK, N.Y. 10017

E. S.
P. M. B.

RICHARD SEXTON
VICE PRESIDENT
AND GENERAL COUNSEL

(212) 752 2700

September 29, 1976

Philip W. Buchen, Counsel to the President
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D. C. 20500

Dear Mr. Buchen:

Enclosed is my letter of today's date to the President urging that he veto H.R. 8532. A copy of this letter was sent directly to the President by mailgram yesterday.

I hope these ideas will be of some use to you in your consideration of this difficult decision.

Sincerely yours,

Richard Sexton
Vice President and General Counsel
SCM Corporation





SCM CORPORATION
299 PARK AVENUE NEW YORK, N.Y. 10017

RICHARD SEXTON
VICE PRESIDENT
AND GENERAL COUNSEL

(212) 752-2700

September 29, 1976

President Gerald R. Ford
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D. C. 20500

Dear Mr. President:

I respectfully urge that you veto H.R. 8532.

H.R. 8532 is bad law. It is not bad because it will be burdensome for Big Business. It won't. It is bad law because there was no proof of any real need for such legislation, giving, as it does, still more power to Government. Contrary to the simplistic political p.r. claims of its proponents, the Bill does nothing about inflation or unemployment or the complex problems of today's economy.

(1) The new CID provisions in H.R. 8532 were intentionally kept out of the CID statute passed in 1962 because of concern that the prosecutor would have too much power and concern that the provisions might be unconstitutional.

Except for passing reference to the 1967 Union Oil case (a Circuit Court decision on the scope of the existing CID law which the Justice Department did not even appeal), there was no showing by the Bill's proponents that the lack of the additional powers had seriously handicapped the Justice Department in any particular antitrust investigation.

The existing CID law and the ability to use generally successful informal letter requests for information, already puts the Justice Department far ahead of private civil litigants. It is significant that some of the most important recent anti-trust cases have been instituted by private litigants without any of the Departments extensive pre-complaint powers.



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(2) The merger notice provisions of H.R. 8532 are innocuous. But, as a practical matter, no merger of any significant size and no merger posing any serious antitrust problem would be carried out (and assets scrambled) where the Justice Department or the FTC has suggested possible objections.

What is needed is not more laws, but more effective and prompt enforcement of Section 7 by the Justice Department--which in recent years has been handicapped by institutional inertia and a lack of aggressive trial lawyers who might be less cautious and more willing to move quickly for a prompt resolution of cases. The present approach seems to be characterized by a bureaucratic attitude that a case which is not tried is a case which is not lost. In a word, the Antitrust Division has no Stanley Sporkin.

(3) It is ludicrous to suggest, as the Bill's proponents do, that the States can only proceed, in effect, "in forma pauperis" and so must be allowed to employ private counsel on a contingent fee basis.

If there were in fact serious matters of State concern in this area, the States themselves would presumably proceed under their own laws with their own attorneys, to take care of them. But the reality has been, and will be, that the impetus for consumer class actions and "parens patriae" actions is from millionaire antitrust plaintiff lawyers who handle such claims on a mass production basis and who are able to appeal to State attorneys general with nice prospects for local patronage and political p.r.

The antitrust laws are Federal laws; and if it is thought that still more punitive relief is needed to deter violations--that is, more than the increased criminal penalties enacted a little over a year ago in the Tunney Bill--that determination ought to be a matter of Federal policy rather than being left up to State-employed private lawyers for whom the threat of single damages is obviously less lucrative than the threat of treble damages.

As Professor Handler has pointed out in his April 1976 Yale Law Journal article, not one consumer antitrust class action has ever been taken through a full trial. It is inevitable that parens patriae suits will also end in settlements, usually with half being paid for by the taxpayers (as tax deductible expenses).

As Professor Handler also points out, based on an analysis of the Justice Department's antitrust lawsuits for the past 5 years, very few cases involve sales directly by the alleged violator to



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consumers, and those involve such defendants as local real estate boards and dairies, cases in which the States could move directly, without invoking Federal law.

It is ironic that on the day the Senate first passed the Hart-Scott predecessor to H.R. 8532, they also passed, almost unanimously, the Javits Bill which provided for a study of how the antitrust laws are working. This was putting the horse behind the cart. What really ought to be done is to do such a study first to determine what is actually needed. This is particularly so in light of the lack of proof of any real need for H.R. 8532--the lack of any need, that is, for more of the same, for more endless and fruitless litigation.

Very respectfully yours,

Richard Sexton

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299 Park Avenue
New York, New York 10017

Philip W. Buchen, Counsel to the President
Executive Office of the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D. C. 20500

WHITE HOUST
POST # B-4

SEP 29 1976

Processed by

Rgn

Robert Linder

THE WHITE HOUSE
WASHINGTON



MR PRESIDENT:

The attached is for your information.
It will be handled in a routine manner
unless you indicate otherwise.

Jim Connor

A handwritten signature in cursive script, appearing to read "Jim Connor".

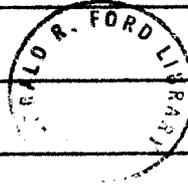
ORIGINAL RETIRED FOR PRESERVATION

THE WHITE HOUSE
WASHINGTON

9/30/76

TO: JIM CONNOR

For the President's FYI file.




Robert D. Linder

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THE PRESIDENT HAS SEEN...

The White House
Washington

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7 PMS THE PRESIDENT (TODAY SURE)

8 THE WHITE HOUSE

9 WASHINGTON DC

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11
12 I HAVE BEEN ADVISED THAT YOU ARE RECONSIDERING THE QUESTION
13 OF VETOING THE HART-SCOTT-RODINO BILL RECENTLY PASSED BY
14 CONGRESS. I STRONGLY URGE YOU TO VETO THIS UNFORTUNATE
15 LEGISLATION. THE PARENS PATRIAE PROVISION OF THIS BILL
16 WOULD AUTHORIZE STATE OFFICIALS TO SUE ON BEHALF OF THEIR
17 RESIDENTS AND COLLECT TREBLE DAMAGES WITHOUT ANY PROOF OF
18 SPECIFIC DAMAGES BY THESE RESIDENTS. AS THE ATTORNEY
19 GENERAL HAS POINTED OUT, THESE PUNITIVE PROVISIONS COULD
20 FORCE BUSINESSES INTO BLACKMAIL SETTLEMENTS. THE GRANT OF
21 THIS AUTHORITY WILL INCREASE GREATLY THE ALREADY





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STAGGERING LOAD OF LITIGATION FACING BUSINESS AND THE COURTS
AND COULD HAVE GRAVE POTENTIAL CONSEQUENCES FOR THE BUSINESS
COMMUNITY WITHOUT ANY REAL BENEFIT FOR THE CONSUMER

HENRY FORD II

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