

Reform of the antitrust laws

Kennedy sponsors 'legal' onslaught against U.S. industry

In January, the President's Commission for the Review of Antitrust Law and Procedures issued its report and recommendations for reform of the antitrust law. Legislation to implement the commission's procedural proposals was immediately introduced by Sen. Howard Metzenbaum (D-Ohio). Hearings are now being held in the Senate.

The report itself has left corporate attorneys and anyone else who has assessed its implications reeling. The commission went far beyond any mere procedural review of the difficulties of antitrust litigation and enforcement. Major changes were proposed in the very nature of the antitrust law as it was enacted in the Sherman Act of 1890.

If the recommendations become law, there would be a vast and radical reorganization of the American economy — a result largely predicated on Louis Brandeis's 60-year-old vision of the world as a collection of small villages, "freely interacting." The American industrial capacity would be decentralized, the ability of major corporations to generate and concentrate capital for investment would be vastly limited, forcing their reliance upon an increasingly centralized banking

system — the British model. In fact, current trends in banking would indicate that such a centralized credit system *would be* dominated by British and Canadian banking institutions.

Needless to say, such a result would, for all intents and purposes, return the United States to its pre-1776 status as a British colony — a result supported only by a handful of radical environmentalists and the City of London. But various stages in the step-by-step process embodied by the commission report have far broader support. As Senator Edward Kennedy, Chairman of the Senate Judiciary Committee presiding over the implementation of the commission recommendations, announced at the August convention of the American Bar Association, he has welded together a coalition of liberals and conservatives, based on a commitment to "free enterprise," to back the recommendations of the committee. The Senator's staff told the *Executive Intelligence Review* last June that "divestiture is a growing trend."

The most solid evidence of the strength of this peculiar Kennedy "coalition" was an August report of the prestigious American Bar Association Committee

Who joined Kennedy on the National Commission

Almost 10 years in the making, the National Commission was established by President Carter six months ago without any input from Senator Kennedy's antitrust subcommittee. But Kennedy wasted no time to meet with Carter and muscle his way onto the commission. He helped to stack the deck with structural antitrust reformers:

- Senator Howard Metzenbaum, who, with Kennedy, is on the Senate Judiciary Committee.
- Senator Jacob Javits of the Joint Economic Committee.
- Rep. Peter Rodino of the House Judiciary Committee.
- Rep. Barbara Jordan also of the House Judiciary Committee.

- G. Michael Pertschuk, a Federal Trade Commissioner and a former close associate of Ralph Nader's Raiders.
- Maxwell Blecher, a Los Angeles attorney.
- Warren Sullivan, a University of California at Berkeley law professor.
- Eleanor Fox, a New York University law professor.
- John Shenefield, the Assistant Attorney General in the Antitrust Division of the Justice Department.

"Even if they had considered the other side of the question," one attorney has commented, "they wouldn't have had the votes on the commission to put it through."