number of separate banks in New York from 71 to 70. (I should add that in the four years since the merger the number of *branch* bank offices in New York City had *increased* from 645 to 698.) The court agreed with the bank's lawyers that "the general public and small business have benefited" from bank mergers in the city. Nevertheless, the court continued, "practices harmless in themselves, or even those conferring benefits upon the community, cannot be tolerated when they tend to create a monopoly; those which restrict competition are unlawful no matter how beneficent they may be."

It is a strange thing, incidentally, that though politicians and the courts think it necessary to forbid an existing merger in order to increase the number of banks in a city from 70 to 71, they have no such insistence on big numbers in competition when it comes to political parties. The dominant American theory is that just two political parties are enough to give the American voter a real choice; that when there are more than this it merely causes confusion, and the people are not really served. There is this much truth in this political theory as applied in the economic realm. If they are really competing, only two firms in an industry are enough to create effective competition.

Monopolistic Pricing

The real problem is not whether or not there is "monopoly" in a market, but whether there is monopolistic pricing. A monopoly price can arise when the responsiveness of demand is such that the monopolist can obtain a higher net income by selling a smaller quantity of his product at a higher price than by selling a larger quantity at a lower price. It is assumed that in this way the monopolist can realize a higher price than would have prevailed under "pure competition."

The theory that there can be such a thing as a monopoly price, higher than a competitive price would have been, is certainly valid. The real question is, how *useful* is this theory either to the supposed monopolist in deciding his price policies or to the legislator, prosecutor, or court in framing antimonopoly policies? The monopolist, to be able to exploit his position, must know what the "demand curve" *is* for his product. He does not know; he can only guess; he must try to find out by trial and error. And it is not merely the unemotional price response of the consumers that the monopolist must keep in mind; it is what the effect of his pricing policies will probably be in gaining the goodwill or arousing the resentment of the consumer. More

importantly, the monopolist must consider the effect of his pricing policies in either encouraging or discouraging the entrance of competitors into the field. He may actually decide that his wisest policy in the long run would be to fix a price no higher than he thinks pure competition would set, and perhaps even a little lower.

In any case, in the absence of competition, no one *knows* what the "competitive" price would be if it existed. Therefore, no one knows exactly how much higher an existing "monopoly" price is than a "competitive" price would be, and no one can be sure whether it is higher at all!

Yet antitrust policy, in the United States, at least, assumes that the courts can know how much an alleged monopoly or "conspiracy" price is above the competitive price that might-have-been. For when there is an alleged conspiracy to fix prices, purchasers are encouraged to sue to recover three times the amount they were allegedly forced to "overpay."

Avoid Price-Fixing

Our analysis leads us to the conclusion that governments should refrain, wherever possible, from trying to fix either maximum or minimum prices for anything. Where they have nationalized any service – the post office or the railroads, the telephone or electric power – they will of course have to establish pricing policies. And where they have granted monopolistic franchises – for subways, railroads, telephone or power companies – they will of course have to consider what price restrictions they will impose.

As to antimonopoly policy, whatever the present condition may be in other countries, I can testify that in the United States this policy shows hardly a trace of consistency. It is uncertain, discriminatory, retroactive, capricious, and shot through with contradictions. No company today, even a moderate sized company, can know when it will be held to have violated the antitrust laws, or why. It all depends on the economic bias of a particular court or judge.

There is immense hypocrisy about the subject. Politicians make eloquent speeches against "monopoly." Then they will impose tariffs and import quotas intended to protect monopoly and keep out competition; they will grant monopolistic franchises to bus companies or telephone companies; they will approve monopolistic patents and copyrights; they will try to control agricultural production to permit monopolistic farm prices. Above all, they will not only permit but impose labor monopolies on employers, and legally com-