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no. 47

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"WORLD WAR ACTIVITIES OF THE FEDERAL TRADE COMMISSION"

Before the

International and Comparative Laws
Section of the American Bar Association

Arts Club, Philadelphia, Pa.

September 10, 1940,
9:45 A. M. E.S.T. (10:45 A.M. D.S.T.)

By

Hon. R. E. Freer,

Member of the Federal Trade Commission

"WORLD WAR ACTIVITIES OF THE FEDERAL TRADE COMMISSION"

The Federal Trade Commission is an administrative agency of the Federal Government, charged with enforcement of a number of the anti-trust laws. Its regular duties consist largely of prevention of unfair and monopolistic business practices both in domestic and in foreign trade. It is not of these regular duties but of certain of its special emergency duties performed during the World War that I shall speak today in response to the invitation of your Chairman.

The Commission was organized only a very few years before this country entered the World War. While at that time interpretations of basic law and policy as well as the organization of the Commission's staff were in a formative stage, this did not prevent the Commission from undertaking numerous special duties related to the conduct of the war.

Two months before entry of this country into the war, President Wilson wrote to the Commission regarding the necessity of maintaining adequate supplies of food and related commodities, and directed it to investigate and report upon the production, ownership, storage and distribution of foodstuffs. This the Commission did, submitting numerous reports upon the meat packing industry, the grain trade, canned foods, flour and other products, concerned largely with the immediate objective of protecting the nation's food supplies during the emergency. These studies had a lasting utility, moreover, since they provided the groundwork for later Federal legislation such as the Grain Futures and Packers and Stockyards Acts.

Shortly after our entry into the war, the President directed the Commission to find the costs of production of various raw materials and manufactured products, specifically petroleum, coal, coke, iron ore, pig iron and iron products, steel and steel products, copper, zinc, lead, aluminum, cement and lumber. The President stated in his letter that in the future all such cost determinations were to be made by the Commission, in order that a uniform method might be established.

The volume of this work, handled by the Commission in addition to its regular duties, was enormous. The Army and the Navy purchased huge quantities of supplies upon a cost-plus-profit basis, and the Commission was called upon to make cost determinations for such contracts. The War Industries Board formed a price fixing committee for the purpose of controlling runaway prices. The then Chairman of the Commission was designated by the President as a member of this committee and the basis of control of prices was, of course, cost of production, which the Commission was called upon to determine. Similar work was performed for the Fuel Administration and the Food Administrator. It has been calculated that during the war period the Commission furnished cost sheets on a volume of business aggregating more than thirty billion dollars.

In the course of its investigations of this nature, many instances of profiteering were discovered and exposed. At the request of the President and of the Food Administrator, the Commission maintained constant vigilance for profiteering in food and other essentials, and proceeded expeditiously and vigorously against all parties engaged in any unfair methods of competition tending to increase prices.

At the outbreak of the World War, this country was almost entirely dependent upon the enemy for its supply of a number of essential materials, particularly coal tar dyes and certain drug products. In view of this situation, the Trading with the Enemy Act authorized the President of the United States to license citizens and corporations of this country to make, use and vend any machine, manufacture, process, trade-mark or copyright owned or controlled by an enemy or ally of an enemy. The President was authorized also to license citizens and corporations of the United States to file and prosecute in enemy countries applications for patents or registration of trade-marks or copyrights, or to pay taxes or fees relating thereto. These powers the President delegated to the Federal Trade Commission.

The Commission did not deal with many licenses for prosecution of such patent applications before it became aware that despite careful scrutiny of such material by the Commission and the War Trade Board, the transmission to enemy countries of these applications and documents in support thereof presented a means of transmitting valuable information to the enemy.

For this reason and for the further one that the legal status of such applications was highly uncertain, it was recommended to the President that this authority be revoked and that no more licenses to prosecute patent applications in enemy countries be granted. The President issued an executive order in April, 1918, in accordance with the recommendation, and no further licenses were issued to correspond in any way whatever with enemy countries with regard to patents, trade-marks or copyrights.

As previously stated, the fact that certain drug products and dyes, as well as other commodities, were almost wholly produced under enemy patents caused considerable hardship in the early stages of the last war. Supplies of such drugs as salvarsan, novocaine, veronal and atophan were practically exhausted, and prices skyrocketed to such an extent as to be prohibitive. Licenses were granted to a number of domestic concerns to manufacture these products.

Similar shortage obtained with reference to coal tar dyes, causing serious difficulties, particularly in the textile industry, and our present day production of coal tar dyes stems from the experience gained during the war period, when their domestic manufacture was licensed by the Commission.

Production was licensed also for the manufacture of other products, including processes of sewage disposal and treatment of lumber; production of sandblasting machines; parts for dictating machines; "sparkling metal" for use in star shells, cigar lighters, etc.; flashlight batteries; and embroidering machines.

A third power delegated to the Commission by the President under the Trading with the Enemy Act authorized the injunction of secrecy in connection with such applications for American patents as might, by their publication, transmit valuable information to the enemy. Nearly two thousand inventions disclosed in American patent applications were enjoined from publication by the Commission during the war period.

Considerable work also was done by the Commission during the World War to uncover what would now be known as "fifth column" activities, and particularly enemy ownership or control of supposedly domestic corporations.

Inquiry was made into the affairs of more than 500 corporations, and their stockholders, and over 100 corporations, some of them of primary importance, were found to be enemy owned or controlled. All information of such control was transmitted to the Alien Property Custodian, while details regarding individuals connected with enemy-controlled enterprises were turned over to the intelligence units of the military organizations.

In addition to performing directly these emergency duties through the regular and special divisions of the Commission, the Commission contributed the services of its members and staff to various of the emergency agencies. For example, the Chairman of the Commission was designated by the President to serve on a price fixing committee of the War Industries Board. A member of the Commission served on a committee appointed by the President to consider a revision of the methods of regulating the meat packing industry. A member of the Commission was appointed by the President to a committee to consider the revision of the regulation of flour millers' profits. A member of the Commission served on a committee acting for the War and Navy Departments and the Food Administration in the determination of the purchase prices of various food products for the Army and Navy and the Allies. The individual members of the Commission acted as an arbitration board to fix the price of newsprint paper for certain manufacturers. A member of the Commission organized the Paper Section of the War Industries Board and a member was selected to act on a priorities committee which initiated the system of preference in transportation.

The Commission still has on its staff economists, accountants and attorneys who engaged in the work of the Commission during this period.

While these emergency activities of the Commission during the World War were of great moment in an hour of grave crisis, and while events in other lands have made it a matter of current interest to recount them here today, I sincerely trust that there will be no American engagement in another World War to necessitate their repetition.

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