

Congressional Record

SEVENTY-FIFTH CONGRESS, FIRST SESSION

Monopoly and Wealth Concentration

EXTENSION OF REMARKS

OF

HON. HENRIK SHIPSTEAD

OF MINNESOTA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 27 (legislative day of Thursday, July 22), 1937

ARTICLE BY HON. CHARLES H. MARCH, MEMBER OF THE FEDERAL TRADE COMMISSION

Mr. SHIPSTEAD. Mr. President, I ask unanimous consent to have inserted in the Appendix of the Record an article entitled "Monopoly and Wealth Concentration World Problem", by Hon. Charles H. March, a member of the Federal Trade Commission, published in the Washington Star of July 11, 1937.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sunday Star, Washington, D. C., July 11, 1937]

MONOPOLY AND WEALTH CONCENTRATION WORLD PROBLEM—CHARLES H. MARCH, FEDERAL TRADE COMMISSIONER, IS NOT SURE THAT SMALL MERCHANTS WILL CONTINUE INDEPENDENT—REVOLT AGAINST PHILOSOPHY OF UNNECESSARY SCARCITY SAID TO BE UNIVERSAL—NEW ANTIMONOPOLY LEGISLATION IS DISCUSSED

(By Lucy Salamaña)

"The important thing is not if one be Democrat or Republican, but if he be, first of all, a good citizen. There is too much talk nowadays of party. A man is placed in an office of trust primarily to serve the Nation, and political affiliations certainly should not overshadow national service. What any official, regardless of party, achieves for the good of the United States of America is the only thing that counts."

So speaks one of the most invigorating personalities in Washington today—a man who has himself been looking out for national interests for enough years to command our attention—Charles H. March, member of the Federal Trade Commission. Invigorating seems to be the word for an official in Washington today who, with fine regard for the idolatrous trend of the times and the current vogue for passionate affiliations, persists in the simple and straightforward belief that a question may have two sides, and who, aimed against monopoly, can still assert, "There is always more than one angle to every question. No just man can overlook that fact."

Appointed to the Commission on February 1, 1929, Colonel March in the years between has had ample opportunity to observe at close hand all the ups and downs of our economic progress, national trends, and industrial contributions or abuses. And he has done so from a vantage point that has provided him with a background for judgment of world conditions and possible reverberations within our own boundaries. He speaks with unquestioned authority, then, when he predicts inevitable upheavals unless steps are taken to interrupt or divert the indicated swing of the cycle. The legislation under which the Commission operates is designed to accomplish this very thing and with the recent expansion of the Commission's duties and powers, under the Robinson-Patman bill against unlawful discrimination in trade practices, and the general trend against monopoly in all quarters, this body of five Presidential appointees has become increasingly important to the maintenance of the individual citizen's rights.

About a fortnight ago, before an assemblage of retail grocers gathered in Boston, Colonel March declared: "In its broadest aspects the problem of monopoly and concentration of wealth is a world problem. It underlies the civil war in Spain, the Communist revolution in Russia, the death of democracy in other countries. It has toppled kings from their thrones. It will drive to disaster dictators, whether economic or political, who thwart the masses in their effort to achieve a better standard of living and greater economic security. The whole world is in revolt against that philosophy of unnecessary scarcity which has been the philosophy of private monopoly."

Here is an opinion that emanates from a descendant of that Hugh March who landed in Newburyport in 1635, a man who has for the greater part of his life been a representative of that class generally referred to as "wealth" and yet whose career has been distinguished by the consistent upholding of the rights of the

common man. "I was a lawyer," states Colonel March. "I wanted to do something that might be construed as national service. That's why I first came to this Commission."

He is a man of commanding physique, a fine, frank countenance, and a transient, winning smile. He speaks with conviction, but kindness, and there is in all he says the quality of impartiality—a conscious effort to be just. His are no milk-and-water opinions and his straightforward language in dealing with those questions around which any number of public officials might carefully pussy-foot, is another refreshing indication of his individuality. He does not—and we record this gratefully—"refer" one to anything; he simply answers a question in so many words.

"When the doctrine of socialism," he comments, "was spreading around this country 30 years ago, one of the most powerful arguments against it was that it would condemn a free people to be employees of the State. We were nourished by the philosophy that ability, courage, and honesty reaped the glittering prize of business independence. This prospect of freedom the American people were unwilling to exchange for any alien system of government or business that would condemn them to the bondage of a job.

"But while we were keeping a wary eye on socialism the loss of freedom came from another quarter. Today most of us in industry work not for the Government, but for entities quite as impersonal and frequently as remote. The giant monopoly has snared most of us on its pay roll and the old order of the independent proprietor is fast fading away. At the turn of the last century only 66.7 percent of all manufactured products were made by corporations. By 1919 this percentage had risen to 87 percent. Today it is in the neighborhood of 95 percent."

Colonel March is not sure that independent merchants in this country, in view of monopolistic trends, "will long continue to eat of the bread of independence."

"It may be", he asserts, "that in an economic system which seeks to develop efficiency to its maximum limits there is no place for the independent proprietor" and that within a few years most of them will either have incorporated with their neighbors or "passed through the wringer of bankruptcy and liquidation."

Emphasizing the gradual change in the American industrial scene due to the spread of the chain store, Colonel March gave some interesting figures in illustration. A study by the Federal Trade Commission, he pointed out, showed that there are in this country three national grocery chains which operate nearly 25,000 retail stores and do an annual business of \$1,600,000,000. One of these chains operates more than 15,000 stores, with total sales of more than \$1,000,000,000. Also sales by chains represent approximately 20 percent of the aggregate retail sales in the United States. In particular lines, such as groceries and drugs, the proportion of business done by chains is substantially larger than in other retail trade.

"The situation of the retailer," believes Colonel March, "simply gives us a new phase of an old problem, that of monopoly, a problem that touches at every point of our economic and social life."

Going back into history to illustrate the ancient evils of monopoly, Colonel March pointed out that price fixing and other monopolistic schemes have been familiar to men of all ages, from ancient China and Egypt, through the days of European mercantilism to the present. "And men of all ages," he comments, "have observed that the common people, caught between the jaws of their own need and the power of monopoly, have had their lives crushed and their children's children sold into slavery."

Colonel March cites Berle and Means in their book, *The Modern Corporation and Private Property*, to show that 200 giant corporations control nearly 50 percent of all corporate assets in the United States, and that if these corporations continue to grow at the average rate at which they grew from 1909 to 1929, 40 more years would find them owning American industry 100 percent. Or, if they continue to grow at the rate they increased from 1924 to 1929, these 200 corporations would own all American industry in 30 years.

With these facts before us we inquired of the Commissioner what the United States Government is doing about the situation. The most recent antimonopoly law, we learn, is the Robinson-Patman Act.

"The history of antitrust legislation and its enforcement in the United States", explains Colonel March, "contains alternating periods of activity and quiescence. Just now we seem to be on the crest of a wave of activity. The recent passage of the Utility Holding Company Act, the Robinson-Patman Act, and similar legislation, indicates that there is a decided revival of interest in the subject of monopoly. The progressive elements in both major political parties have never lost interest in it, and the platforms of both pledge a renewed attempt to enforce and strengthen the laws designed to protect the public against monopoly."

"It is one thing to inveigh against monopoly in general and quite another to attack and dissolve it in a particular case. In two

famous cases, where it was sought to dissolve the United States Steel Corporation and the International Harvester Co. as unlawful monopolies the courts refused to decree their dissolution. They held that not mere power and size but behavior is the test of unlawful monopoly. This is the familiar doctrine of good trusts versus bad trusts. Under such a doctrine it is possible for a concern to dominate an entire industry and eliminate competition, yet not to be an unlawful monopoly. The doctrine of 'good trusts' was no more than a development of the so-called rule of reason, where the Supreme Court held that not every combination in restraint of trade is a violation of law, but only those combinations which unreasonably restrain trade."

All these facts were before Congress when the Robinson-Patman Act was passed, prohibiting certain forms of price discrimination and related practices. This recent piece of legislation is essentially an amendment to a section of the Clayton Act, passed in 1914. In the words of Colonel March, "On the whole, this new law in substance applies the philosophy which the Supreme Court held to underlie the Clayton Act, namely, to prevent practices which, if not stopped, tend toward monopoly."

The Federal Trade Commission is made up of five Commissioners, appointed by the President and confirmed by the Senate, and not more than three of the Commissioners may belong to the same political party. Present membership is Charles H. March, Republican, of Minnesota, chairman; William A. Ayres, Democrat, of Kansas, vice chairman; Garland S. Ferguson, Jr., Democrat, of North Carolina; Ewin L. Davis, Democrat, of Tennessee, and Robert E. Freer, Republican, of Ohio. Each January the Commission designates one of its members to serve as chairman for the ensuing calendar year.

An administrative and quasi-judicial tribunal, the Federal Trade Commission was organized March 16, 1915, and is one of the oldest independent Government agencies. Its work, both legal and

economic, falls into several divisions. While it has the powers of general investigation its principal function is to prevent "unfair methods of competition in commerce." As the Supreme Court summed it up, "In the nature of things it was impossible to describe and define in advance just what constituted unfair competition, and in the final analysis it became a question of law after the facts were ascertained."

As a result, every case must be considered on its own facts.

"Generally speaking," explains Colonel March, "it has been our experience that unfair trade practices fall within two broad classes, first, those which involve an element of fraud or dishonesty, and second, those not inherently dishonest, but which are restrictive of fair competition within the meaning of the anti-trust laws.

"No honest businessman ever feared fair competition or asked for undue favor. The Commission subscribes to that tenet of good business and backs it to the limit of its powers. It has for its purpose the aiding of legitimate business in the establishment of standards of sound business ethics and principles. It insists that the rules of business conduct must come within the law. In the eyes of the Commission all members of a given industry are on the same basis of competitive rights and the role of the Commission is that of a disinterested and impartial umpire, who insists that the game of competition be played fairly and within the boundaries of law."

Among the acts of competition the Commission refers to as "unfair" are misrepresentation and misbranding of products, defamation of competitor and false disparagement of his products, illegal price discrimination, illegal selling below cost, commercial bribery, illegal use of loss leaders, illegal rebating, inducing breach of contract willfully to injure competitor, circulating threats of infringement suits in bad faith, full-line forcing to suppress competition, and passing off and imitation of trade-marks.