

Address of

HON. HUSTON THOMPSON,

Chairman of the Federal Trade Commission,

before the forum of the

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When the Federal Trade Commissionⁱⁿ, the long dim, distant past, and in the days of William Colver, was standing in the arena of business and staggering from the jolts which it had received, we invariably heard the voice of Mrs. Costigan* and others of the League of Women Voters, calling through the ropes to us, "Go at 'em."

Previous to my coming to the Federal Trade Commission on January 17, 1919, I had had some five years' experience in the Department of Justice. That's a calm, cool place compared with the Federal Trade Commission. In the Department of Justice your cases are all prepared in a way that takes most of the life out of them, and you appear before the courts in a very formal way. The dignity of the whole thing is so different from the condition which I found in the Federal Trade Commission that I must confess I was completely astounded. Now, I heard when I was in the Department of Justice, frequently, that in becoming a member of the Federal Trade Commission I was going over to a board of anarchists, and it was with some trepidation that I went.

*Mrs. Edward P. Costigan, former Chairman of the Committee on Living Costs of the National League of Women Voters, who was presiding.

In introducing Mr. Thompson to the Forum, Mrs. Costigan had just said:

"When the report of the Federal Trade Commission on the Meat Packing Industry came out in 1918 the women of the country realized that here was a federal agency created to discover and prevent unfair trade practices which tend to foster speculation, hoarding and monopoly. We saw that it was actually doing this useful job. We knew that the members of that Commission were militant crusaders in the cause of the common man.

"We are proud of the fact that women accepted the challenge of this fundamental problem and joined forces with them. Each year efforts are made to curtail the work of the Federal Trade Commission, but each year groups of farmers, laborers, and consumers come to its support. At every convention of the National League of Women Voters since its organization four years ago a resolution endorsing and supporting the work of the Federal Trade Commission has been adopted and at every convention of the National Consumers' League since that time similar action has been taken. The Federal Trade Commission must not be injured or destroyed. It is a people's commission. It works for us and the people of this country must be among its defenders and supporters."

I had gotten the idea, after talking to a number of the business men, that the main thing in Government was to be able to take the business interests by the hand and lead them, and that they would of course, follow. So with that idea I went over there, and on my first experience--perhaps the first day, I struck oil.

A representative of the Petroleum Institute appeared and asked me if I would not go up to the top of the Davidson Building--we were then in the Davidson Building-- and sit in with a group of oil men on matters pertaining to the Petroleum Institute. And I said, "Why, what can a government official do with regard to the Petroleum Institute? That is a private organization and I don't see what we can do."

However, they were persistent, and finally I yielded. On the way I picked up our Chief Counsel, John Walsh, saying, "You had better come along with me, I don't know exactly what the situation is."

When there I was placed at the head of a long table around which were the twenty leading representatives of the oil industry of the United States, with Mr. Walsh sitting on my left. There was a cursory conversation for a few moments in regard to the Petroleum Institute, when suddenly one of the representatives of the Standard Oil group arose and said, "Well, I've got a proposition to make with regard to the situation ~~ont~~ in Tennessee, where we are having this fight on oil and where the price has gone down to nine cents a gallon."

Then he began to present his proposition. He was aiming at one of the leading independents who was present. In a few moments, to my utter astonishment, I found myself in the presence of a debate of those who were going to settle a price war. I turned to Walsh and said, "John, it seems to me they are trying to fix prices right under my nose."

He said, "It looks that way to me."

So I arose and said, "I thought I was brought here to sit with you people and discuss the Petroleum Institute. I now find that you are trying to settle some sort of price war. I suggest to you that the Sherman Act is still in existence and so is the Federal Trade Commission Act. Good day."

I went downstairs, and in a short time several of the independents came down to me and said, "Well, now this whole situation is all wrong. We were invited to a meeting at the Williard Hotel last night, and we were told that this was the thing to do and we came up here. We find we have gotten ourselves in wrong, and we beg of you that you will blot this proceeding out of your mind."

That was the end of a perfect day, my first in the Federal Trade Commission.

That naturally leads me up to the situation which we find in what I call the market place of today. But before I take you with the Federal Trade Commission into the market place, I want to tell you a little about the market place. There are heroes in the market place that are just as great heroes as we will find anywhere in any walk of life. I am mindful of one today. The Federal Trade Commission put him on a roll of honor and sent his name in a report up to Congress.

I refer to Mr. Reynolds, of the Reynolds Tobacco Company, because of the resistance of his company against price fixing and the force of a combination. I would like to see the Federal Trade Commission, as a matter of fact, put everyone who stands up for the law in the business world, on a roll of honor and publish their names abroad.

I don't think that more than five per cent of the business world is wrong in essence, but that five per cent can set the whole thing in commotion, cause confusion and chaos, and start many others to doing wrong. But there are two problems which we are meeting today in the market place.

HOW MONOPOLY WORKS TODAY.

One is this thing which we call "monopoly," and by monopoly I mean a group formed together in one great organization which becomes a dominant organization, so dominant that it can name and control the price of an article in the market place. In almost every industry today we have that economic situation. Now they don't name, or fix, a set price. They fix a minimum price. Just bear with me for a minute till I explain what this means. The minimum price which they name is high enough to cover their highest-cost plants. It is high enough to take care of a sufficient number of independents and their high-cost plants, so that there will be a scenery behind the monopoly, or the dominating interest, if you wish to call it that, sufficient to make a pretense of competition. They have no objection to the independent going above this minimum price. The independent can go just as high as he wants, above that price, but when he goes below that deadline, they don't have any dinners and call him in--at least I don't know of any that they have. I don't even know that they have any direct communication with him, but they can have an indirect communication. They can give an interview out in the papers, for example, and say: The fair price of this article is so much, and anybody who tries to sell below that price will certainly suffer; and then if you will watch the papers you will see the man who has gone below come right back up. That is the method pursued unless there is a buyers' strike, where the whole market has collapsed, and then of course, in order to keep the scenery still in the background, the monopoly must let the independent have a part of the business. Otherwise the independent would go out, and the monopoly stand stark naked before the public.

But you can see that in a situation of that kind there is no such thing as the working of the law of supply and demand.

PRICE FIXING BY JOBBERS.

Now there is still another group who block the market place. It is composed of jobbers' organizations. With them you have price fixing going on--literally price fixing. They were operating a short time ago, under the "open-price" associations, when the Federal Trade Commission began an insistent and persistent attack on them, with the purpose of breaking up their system so that there would be some sort of competition in the market place. I say to you that so far as my

experience dates back in the Federal Trade Commission, there is more price fixing and price control going on in the market today than at any other time that I have known.

Unless we are willing to deflate the business world thru the revival of the competitive system, we will rise to the point of buyers' strikes and fall back again, repeat the same thing until we finally have a collapse that will finally wipe out the business structure and compel us to start all over.

This is what occurred after the Civil War, and we will repeat the economic war that followed that conflict and ended in the panic of 1873, unless we change our ways.

THE FARMER'S DILEMMA

Now when you have a situation of this kind, what happens? Your farmer comes in and attempts to sell and gets in return 70 cents on the dollar. Then he turns around and buys and pays one hundred cents or more on the dollar. What is the use of loaning money to that farmer, to mortgage himself and his property, and then force him to go into an artificial price-rigged market when he buys? Next year he will be around in the same fix. Hence, I say to you that the essential thing in this country is to deflate these artificial high prices by the competitive system in our market place. This we must do before we can help the farmer.

SWEDEN IN BEST CONDITION.

You will find that there is a propoganda going on all the time to keep up this idea of an artificial price-rigged market.

I visited fifteen countries of Europe last summer for the purpose of studying economic conditions--particularly those resulting from the application of co-operative systems. I found that the country apparently going along the best of all had absolutely deflated, not alone in farming but in every line of business. That was Sweden. Sweden's money had a higher value than ours last summer. I have since been watching the situation, through our Commerce Department reports. While Norway is in trouble, while the business interests of Denmark, one of the most thriving countries in the world, are in trouble, there can nothing happen to Sweden, because she has absolutely deflated and her farmer is on a parity with the business men of the city.

How is the Federal Trade Commission to meet this price fixing situation. Of course, you all know that the Sherman Act was put in existence in 1890, due to an insistent demand on the part of the people as registered in Congress that there should be some way of stopping the combinations which were then coming together. It is a strange and interesting thing that that statute was really fathered by men in Congress who were ultraconservatives. After the Sherman Act, everyone thought the situation was settled. It, of course, will never be settled until we can get a public sentiment that understands that this thing called monopoly is a far more dangerous thing than individual crime.

MUST BEGIN IN THE SCHOOLS.

The only way that we can ever create a public atmosphere in which the Federal Trade Commission or the Department of Justice or the Government can successfully attack this disease, will be by starting in the primary schools and teaching that a crime of a monopolistic combination is far worse than a single isolated individual crime.

In order to meet monopoly President Roosevelt became the impulse behind the creation of the Bureau of Corporations. That bureau he thought would solve the question, because it would have the power to go into monopolistic industries, make investigations and report the results, and then the publicity of the situation would cure it. But we went on to 1912 and found that the cancer had not been cured. So the Wilson administration came in and built up on the Bureau of Corporations the Federal Trade Commission, adding to that Bureau an additional power.

UNFAIR METHODS MADE "UNLAWFUL".

The idea was that if you catch ^{could} monopoly in its inception, in other words, when a corporation was practicing an unfair method of competition, you could stop this movement toward sinister congregation of business interests. Thus the Federal Trade Commission was created, with a statute the substantive part of which is only eleven words: "Unfair methods of competition in commerce are hereby declared unlawful." Those eleven words have certainly stirred up the business world and agitated a great many minds. Is it not a strange thing that they have? We of the Federal Trade Commission can't send anybody to jail; we can't fine anybody; we can't deprive them of any of their rights; the only thing that we can do is to put upon them a negative order that they shant continue to do certain wrong things.

AN UMPIRE.

Harking back to football days, I have said the Commission is really in the position of an umpire in the business world. If you recall your football, the umpire only has powers to give penalties when an infraction of the rules has been committed. The rules of the business game have been placed in our hands by Congress, and very brief they are, namely, that we are only to act when we find that someone has transgressed. As in football the umpire does not suggest the signals or plays, so we do not tell men how to run their business. Those who sit in the grandstand of the business arena, the consuming public, are similar to those who sit in the grandstand of a football game, and if the umpire interferes too much, of course that will be the finish of the umpire, as you well know.

We have two functions; one of them is this power to investigate business conditions, corporations, etc., and make reports from time to time to the public, if we think it is wise; to Congress if Congress calls upon us by resolution; to the President if the President calls upon us, or to the Attorney-General. When we

make those reports, if it is requested that we give our idea of how a situation shall be cured, we do so. I think this, is one of the most valuable functions in Government, and today, while we are stopped by injunction--and I am making no criticism because we are stopped by injunction for that is a question of law--nevertheless I believe that this Government and this people have come to the time where they have got to exercise this function--to have information with regard to the complexities of the market place--or we can't continue as a Government.

THE COAL INVESTIGATION.

Let me give you an illustration of what we did. When Mr. Colver was Chairman the Federal Trade Commission, immediately after the war, we were called up to Congress to tell what we thought was the cause of the high cost of living. We said in a very modest way, "We don't know whether there is a high cost of living. The first thing is to find out. If you will give us \$150,000 for expenses, we will try to get the facts."

Upon the consent of Congress and with a fund of \$150,000 we began work. We set up the machinery to try to get current reports on coal--especially the cost of production. We intended to go ahead on steel, oil, wire and lumber and the necessities of life, and our idea was that if every thirty days we could produce a picture, by districts, of production, of price, of the amount of stocks on hand, which we could give to the public, it would quiet the public so far as a rising market was concerned,--and eliminate an artificial market, if you please,--or we might use that information in the case of impending labor troubles.

In an impending strike we could put our data on the table between employer and employe and there would be the informative facts upon which the public could determine which side to support. Sometime, previous to our beginning this work, the National Coal Association had written a brief in which it said that we had the jurisdiction to do such work. We were very thankful to the National Coal Association for that brief. But suddenly we got into the coal district down in West Virginia and were beginning to find the facts, the cost of production of coal at the mine being \$4.50 including a profit. At the same time we got word from Admiral Benson of the Shipping Board that he was compelled to pay \$22 a ton, at tidewater, and he asked, "What is the cause for the difference here?"

STOPPED BY AN INJUNCTION.

We were close to the facts, when suddenly this National Coal Association, through a certain corporation, brought injunction proceedings to stop us, and I may say to you that the joke in this thing is that we introduced their brief in support of our position. I don't think they saw the humor in it. But nevertheless, as you know, we have been tied up in an injunction. There is a great legal question involved here and that legal question will be decided sometime in the near future.

I am not commenting one way or another in regard to it. I am simply saying this, that the public has reached a point where if, under present existing laws it hasn't the power, it must be given the power by constitutional enactment to get such information.

THE HIGH COST OF OIL.

I have in mind a situation that has been thrust upon us recently by the President's order to investigate the cause of the sudden rise of the price of oil in the Middle West. Telegrams came to him calling for attention. He asked us to act. If we had had in our possession compiled facts and figures up to the present day we could have given him a report in forty-eight hours. Now we have had to send some fifteen men out into the field all over the Middle West with the utmost expedition. We can't get through under several months, and probably not then. And then we will make a report. The least that we can estimate that it will cost for a couple of months' work will be \$45,000, and if we make a complete investigation of the whole situation the figure will be \$100,000. Supposing that we had had those facts and could present them to him at once. We could have shown that there was a shortage of crude oil or that there was plenty on hand, and could have sent the data to the President of the United States, who could long ere this have given out the information.

"PITTSBURGH - PLUS"

We have what is called Section Five, and under Section Five come the tremendously important cases that are before the Federal Trade Commission. We have the case which involves what is known as the "Pittsburgh Base Plus." In that case testimony is now being taken. The facts in that case affect a great many people. I am not contending for or against either side of the question. The Commission itself has been divided on the case. The problem before us is briefly this: A certain price per ton of steel is fixed in Pittsburgh. Some companies having plants in Pittsburgh also have them in Chicago. Let us say that the price at the Pittsburgh plant is \$50 a ton. Let us say also for the purpose of illustration that the fabricator in Chicago is desirous of making steel parts for construction of buildings. He purchases his rolled steel from the Chicago plant belonging to the same Pittsburgh company. He is obliged to pay for this rolled steel, which he will afterwards fabricate into shapes to be used in this building, the price which is fixed for the steel at Pittsburgh, to wit: \$50, as well as an equivalent to the freight rate of to wit; \$7.50. per ton from Pittsburgh to Chicago, notwithstanding the fact that the steel which he purchases from the Chicago manufacturer has never been transported on a railway.

The contention on the part of the Government is that this is handicapping the whole Middle West district so that when its manufacturers attempt to come back east with their product the imaginary freights of let us say \$7.50 a ton are such a handicap that they cannot get into the Pittsburgh market, or further east than Indiana. On the other hand, the proponents of this position say that the Pittsburgh district produces more steel than any other district, that the Chicago district does not produce a sufficient amount of rolled steel for its own use, and hence that the last ton of steel produced by the Pittsburgh district determines the price. And therein they say that the law of supply and demand determines the

price. The Government does not admit that the Chicago district manufactured less than it needs in many kinds of fabricated steel. In this case, we have taken 18,000 pages of testimony. We have approximately 11,000 exhibits, so that we have an enormous record. In June, I presume, the case will have its final hearing.

THE FARMERS WHEAT MARKET.

Another case which has come up to us is the Minneapolis Chamber of Commerce case. There a majority of the Federal Trade Commission took the position that a certain attack had been made, according to the evidence and the findings, upon the farming group known as the Equity Co-operative Society of the Northwest. Very briefly the story was this: The farmers were attempting to get their wheat into the Minneapolis market. They met in conflict with the Minneapolis Chamber of Commerce, which is the wheat exchange. The Commission found certain facts, namely, that the Minneapolis Chamber of Commerce had, by attacks, supported a continuous warfare, if you may call it that, against the farmers' organization; that they had prevented the Western Union from sending its messages or quotations to the farmers' organization; that they had taken possession of a magazine with the misleading cooperative title and under the guise of a co-operative magazine had inserted various attacks upon the Equity Society; that they had attacked the cooperative organization's banking interests, so that they sent a tremor through its whole financial fabric.

Along that line, if you will pardon me for doing something which I have never done before, I would like to read a letter from the findings of that Minneapolis Chamber of Commerce case. It suggests practices which will show you better than I can, what the situation was which produced four Senators in the United States Senate from that Northwestern country.

The letter is dated August 17, 1904, and was written by J. M. Withrow, an attorney for the respondent Chamber, to P. L. Howe, at that time a member of the said Chamber. Here it is:

"The information which I am receiving at present tends to show" (this is from the attorney for the Chamber of Commerce) "that the Farmers' Elevators which have previously given them" (that is, the Equity Society) "accommodation notes are becoming alarmed over them and the credits which they thus created, and I am of the opinion that if inquiries were made by a number of banks at the terminals of some of the local banks where these elevators were located asking whether the elevator companies were good for obligations for specific sums of from Five Thousand to Ten Thousand Dollars that the officers of these banks would be very likely to let the information leak around as to inquiries being made, more particularly would that be true in cases where the local officers are Scandinavians, and they would undoubtedly begin to worry as to the reasons why such inquiries were being made and anxious to secure the return of their obligations. If the same thing were done with reference to the individuals who signed the Fifty Thousand Dollar guarantee which Loftus (their manager) is using as a basis of credit, I think you will find that these men would be anxious to get out from under.

"My private advice is that this is the present condition with Mr. Leum, of Maysville, who, I understand, has the best financial rating of anyone on that particular guarantee. My understanding is that his business competitor and associates have joshed him so much about it that he is very much worried over the matter and a few inquiries to his bank would, I think, tend to increase his anxiety.....

"I am writing this matter very fully to you because I consider it advisable not to communicate with any other associative parties at present besides I know that you will understand how to handle the information."

There is your picture. I say that that situation is repeated in other letters which are in this case.

Let me give you another picture. Several years ago we made an investigation of a certain industry in this country. There was a nation-wide investigation. The price of the article of this industry had gone down almost to the vanishing point, so far as the farmer was concerned. The jobbers had fixed prices on the article manufactured from the farmers' product in various cities, and we reported this to Congress. The jobbers were joined by the manufacturers, who helped them to keep the prices up. The manufacturers, however, did not let it be known when they went into the market place, where they, the great manufacturers, were buying, because the psychology of the thing would have been to have raised the price. They bought under the name of a small concern and they bought only what they absolutely needed. The latter act was right and proper, but they would not permit their own names to be used when going into the market place. The result was a complete depression in that industry. The farmers fought back. Today they have two tremendous cooperative organizations, and they have raised the price of that article from 13 to 50 cents a pound.

THE RISE OF CO-OPERATION.

That is similar to the situation which I have seen in fifteen countries of Europe and throughout the United States. I asked this question wherever I went in Europe: What caused your consumers' cooperative organization to come into existence? What caused your farmers' cooperative organization? And I got the same answer, without any prompting, voluntarily and right off the bat: "Monopoly and the usurer." I say to you today that once we stop the goods of the farmers from going into the market place, or try to control them after they get in, we will kill the goose that lays the golden egg. We will either ruin the farmer or he will fight back with his co-operative organization, and the city consumer will do likewise.

WHAT'S TO BE DONE?

I have been asked to say what I thought we could do in the present situation. I say this, that we must get the public first of all to understand what we are driving at. We must get juries to understand, for they do not understand. I say this with respect to the Department of Justice, that the hardest kind of a propo-

sition to put before a jury in a Sherman Act case and it is difficult to get a criminal conviction. If we can have a sufficient organization in the Federal Trade Commission so that we can get these current reports to which I have referred, from month to month, we'll first of all stabilize the market. We will not have this pyramiding of prices, which is revealed in the thousands of letters which we have from the files of the various industries, that have come up to the breaking point, where the public refuses to buy. We can avoid violent fluctuations if we can have some centralized Governmental place where we can get this information, classify and analyze it, and give it out to the public, so that the public, when it goes into the market place, can be on an equality with the one who sells. We can use this information to settle the troubles which may arise between capital and labor.

WE CAN CATCH MONOPOLY.

We can catch monopoly in its inception and thus reduce it to a minimum. That will not mean that monopoly or selfishness is going to stop. It has always been in every market in the history of the world. We can encourage the honest business men by giving them the facts, letting them be free to profit by the sale of the kind of article which they can produce and the service which they render, so that the efficient one will rise and the inefficient one will go out of business; in other words, that the law of supply and demand will function. When it does function there will not be the sudden rises, the congestions in the market place, the dissatisfaction and suffering of the people, the necessity for a lot of legislation, and a paternal or bureaucratic form of government.

When we have reached the stage where we can function in that way I feel sure that we will not need as many Government officials as we have. But if monopoly is going to force Government into business by compelling it to be paternal, by compelling it by the natural courses of events, to become bureaucratic, you may depend upon it that the number of officials and employes of the Government will continue to increase. Therefore I say that the work of the Federal Trade Commission to prevent monopoly, if it is properly understood, is the greatest work in this whole Government. It touches the very pocket nerve of the whole economic system. I am proud to be one of the humble members of that organization, despite the fact that we have been up against constant criticism. I welcome criticism when it is not the mouthing of special interests and when it is constructive, and I think it is a good thing for a Government official, because it keeps him alive and on his toes.

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