

THE UNITED STATES
TARIFF COMMISSION

AT THE outset of its career the United States Tariff Commission, which is now performing useful services, was a fraud upon the public and the Treasury, especially immediately after 1922 when, with much fanfare of trumpets, there was injected into the original legislation of September 8, 1916, the so-called "flexible tariff provision." This was heralded as certain to end all unfairnesses and to put the tariff making process upon a "scientific basis." The allegedly unbiased and nonpartisan Commission would thereafter, it was declared, report any needed changes to the President and the Congress which would then promptly raise or lower the duties in question to the extent that was necessary to equalize "the differences of the cost of production in the United States and the principal competing countries"—a perfectly impossible undertaking. This was positively guaranteed to take the tariff "out of politics" and to prevent the swinish rush upon Congress for wholesale tariff revisions. The fact that the six members of the Commission were divided between both parties was offered as further proof that the administration and alteration of the tariffs would be beyond partisan control and action.

Nothing like this happened. "Take the tariff out of politics!" exclaimed the senior Senator LaFollette in a great speech on September 25, 1929, reviewing the whole history of the Commission in the seven years that had elapsed since the flexible tariff idea was put into the law. "Why, Mr. President, the conferring of this power upon the Tariff Commis-

sion has plunged the Commission into a very maelstrom of politics and intrigue." The flexible provision, he said, has "destroyed its usefulness." "The moment," he also declared, "you give this great power to raise or lower the tariffs to a commission subservient to the President you subject that commission to the same kind of pressure to which every member of Congress is subjected when a tariff is under consideration. There is this great difference, however: The Tariff Commission conducts its work behind closed doors; it is responsible alone to the Chief Executive. At least when Congress considers a tariff bill it must be considered in the open. . . . To repose in the President and his Tariff Commission the powers to raise and lower duties is to place in his hands a political influence beyond estimation. That it has been used politically I think I have demonstrated in my address here this afternoon."

The truth of this charge was amply borne out, not only by Senator LaFollette, but also by the testimony of a number of the Commissioners, of whom one, Edward P. Costigan, later United States Senator from Colorado, was forced to leave the Commission to save his self-respect. Up to that time the records show that two Presidents of the United States had been willing to abase their offices in order to dictate and delay the work of the Commission, to sidetrack reports showing shocking abuses and demanding revision of rates, and in more than one case to appoint obviously unfit men to the Commission. Both Mr. Harding and Mr. Coolidge were determined that the Commission should in nowise bother the tariff grabbers, and in its early days the Commission took very much the same attitude. Thus, up to March, 1928, there had been reductions of the tariff *in only five cases*. Their importance speaks for itself: mill-feed, bob-white quail, paint-brush handles, fenol, and cresylic acid! That naturally shook the whole tariff structure. In eighteen other cases, some of

which affected articles of importance, the Presidents had proclaimed substantial or maximum increases in duty, and there were then pending other important cases in which demands for maximum rates were being pressed by strongly entrenched industrial groups. In two dubious instances, taximeters and certain rugs, President Coolidge by resorting to American valuation increased the rate to approximately a hundred per cent or more of the foreign value.

In his remarkable letter resigning from the Tariff Commission which Senator Costigan sent to Senator Joseph T. Robinson of Arkansas, the Chairman of the Senate Investigating Committee which had been for two years fruitlessly studying the actions of the Tariff Commission, Mr. Costigan pointed out on March 14, 1928, that President Coolidge had declined to act on decisive evidence that the tariff should be substantially lowered on sugar, linseed oil and halibut. The President had been holding *for four years* the Commission's report recommending a 50 per cent decrease in the sugar tariff which would have saved American consumers \$40,000,000, at least, a year. The linseed oil report had been held for three years, yet if it had been accepted, it would have paved the way for lower prices on paints, "especially important to American farmers, by reducing the excessive subsidies then and continuously since enjoyed under the tariff by linseed oil crushers." These facts tabulate all the achievements worth mentioning of the Tariff Commission from its inception until 1929.

As for the assertion that the Commission could establish the exact difference in the cost of production of goods made abroad and similar ones created here, this has been proved completely unfounded. Tariff revision has not been and cannot be put on a scientific basis, and the whole idea of a flexible tariff has been proved impossible of achievement. As Professor Fetter has written, the idea that a tariff can be

"taken out of politics is a political goldbrick," and he properly added that the only way it could be so taken out would be by a complete victory for free trade or else by an embargo on all foreign trade conducted under the United States flag. President Coolidge himself became an expert witness as to this when he wrote, in commenting on the Tariff Commission's report on sugar, that "it is also possible to arrive at different conclusions based on whether we compare costs of different regions during the time of production or during the time of marketing the products." He next pointed out that "it is also possible to vary conclusions by the different methods of interpretation involved in advantages and disadvantages in competition." A third point he made was this: "Further, as the beet sugar industry is the one for which we must have utmost solicitude, it is possible to vary conclusions by the adoption of that industry as the standard or by the inclusion of all other forms of domestic and insular production." Finally, Mr. Coolidge pointed out that the Tariff Commission could reach varying conclusions were it to base its decision upon the costs of the beet sugar industry in particular States.

The testimony to this effect of many other important witnesses could be cited. Thus Thomas Walker Page, a chairman of the Tariff Commission, said that "the conclusion cannot be escaped that it is rarely possible to ascertain the difference in cost of production at home and abroad." The late Professor Frank W. Taussig, also a chairman of the Tariff Commission and a distinguished economist, said that "even the most competent and impartial tariff commissioner will often have to confess that there is no one figure that can be unqualifiedly said to be the accurate one." Writing on August 28, 1910, President Taft declared that "the precise difference in the cost of production sought for is not capable of definite ascertainment. All that even the most scientific

person can do in his investigation is, after consideration of many facts which he learns, to use his best judgment in reaching a conclusion." Mr. Page in testifying in January, 1933,¹ before the House Ways and Means Committee, stated that: "there is no standard by which you can get costs of production." He pointed out that investment, depreciation, obsolescence, variations in cost from plant to plant, etc., all have to be considered and can be judged only by common sense. There is no scientific yardstick that can be applied. The truth is that the price at which articles sell in free and competitive markets is all that is needed for purposes of comparison. But, as one cynic remarks, "how could you then employ two hundred persons in comparing a hat wholesaling in New York for seven dollars with one costing four dollars in Brussels?"

It was Professor Taussig who also pointed out² that if the much paraded "true principle" of obtaining the difference in the cost of production should be applied unflinchingly it would mean that "the production of everything is to be encouraged—not only encouraged but enabled to hold its own. If the article is tea in South Carolina, for example, ascertain how much more expensive it is to grow the trees and prepare the leaves than it is in Ceylon and put on a high enough duty to offset it It is one thing to apply the principle irregularly by the use of pressure in particular cases and quite another to establish it as decisive and make it the ground of an indefeasible claim. The attempt actually to do that in good faith, so far from saving protectionism, would prove to be just that last straw which would break its back." He reiterated that "as a demand of right, a duty equal to the dif-

¹See House Ways and Means Committee report, 72nd Congress, 2nd session (January 26-30 and February 1-3, 1933), p. 483.

²"Some Aspects of the Tariff Question," by F. W. Taussig, *Harvard Economic Studies*, third edition (1931).

ference in cost of production should be dismissed as absurd; as a maximum which shall in no instance be surpassed, that difference may well be appealed to as decisive." He hoped that the facts as to monopolistic or quasi-monopolistic industries and their undue tariff gains would lead to reforms and would be "of great value to those desiring to deal fairly and intelligently with the situation as it stands." This was, of course, a ridiculous hope. The tariff was in politics then, and it was after this appeal for justice and a scientific approach that the Hawley-Smoot tariff, with all its stupidities, selfishness and blundering, was enacted.

How far the Tariff Commission went at one time in seeking to ascertain comparative costs is illustrated by the case of casein, a by-product of skimmed milk, one of the nineteen different uses to which milk may be put, and in a sense an accidental usefulness. If a farmer when driving to town finds that he has room in his truck for a barrel of skimmed milk that he does not need on the farm, he takes it to the casein factory. If he forgets to do so it does not worry him because the cost of production is so small. None the less, the Tariff Commission sent investigators equipped with comptometers and other devices to find out from the farmer how much the occasional barrel of skimmed milk cost him and, of course, the factory was likewise investigated. At the same time, the Tariff Commission's experts in South America, accompanied by translators, visited haciendas to ascertain the same thing. Actually the common sense procedure would have been to obtain the price of casein in Minneapolis and the cost of the same in Buenos Aires, but common sense did not rule in such matters at that time.

During the WPA era the Commission gathered from all our custom houses their reports as to tourists' exemptions under the hundred dollar clause permitting each traveller to bring in that amount of goods free, and these reports were

all tabulated by commodities, price zones, etc. "It is fair to add," an expert writes, "that this work was stopped after the war came on, but it was only part of a purposed waste of government funds under the WPA of little value to anybody." Another waste was the expenditure of \$250,000 under the authority of an item that Senator Smoot, the high protectionist of Utah, had inserted in an appropriation bill, in the preparation of a series of books in which every specific duty was translated into ad valorem for every commodity in every city and in every month of the year. The books show that if a man buys shoes for ten dollars on which there is a tariff of one dollar that amounts to an increased cost of 10 per cent, whereas if you pay twelve dollars for the shoes, the tariff cost will amount only to $8\frac{1}{3}$ per cent—a very valuable bit of arithmetic to keep a large staff employed.

During this bad period of the Commission's existence, it deliberately shirked its statutory duty to write regular reports on the effect of our tariffs "upon the industries and labor of the country." Mr. Costigan, in his letter of resignation in commenting on this delinquency of the Commission, said:

An open-minded performance of this task by the Commission would have disclosed the use of various tariff fallacies to mislead farmers and industrial workers in the United States. If the Commission had been properly constituted, long before now it would have clearly pointed out the limited benefits derived by farmers from many agricultural tariff rates. For example, the Commission would have convincingly dealt with the unimportance of the tariff for most wheat growers in the United States. It might at this hour be reporting on the question—What does the forty-two cents per bushel tariff on wheat—which was lifted to that level because of Canadian competition—have to do with the fact that the American hard spring wheat of the Northwest has lately been selling at prices about ten cents less per bushel than Canadian hard spring

wheat? And the public would already be advised that an increased tariff on corn, for which appeals have been pouring into Washington, offers little hope for the distressed farmers in the corn belt, who justly seek to escape from their tragic burdens even if nothing is offered but an unlikely miracle.

As for the appointments made by Presidents Harding and Coolidge, and even later, to the Tariff Commission, they were frequently a disgrace to the Chief Executives. It will be remembered that three were to represent the Republicans and three the Democrats, and all were to be wise, judicial, and absolutely nonpartisan, unmoved by any personal considerations, predilections, or previously held prejudices. Instead, the Commission was constantly made up in part of avowed protectionists some of whom had been for years engaged by big tariff interests to lobby in Washington. So shameless was President Coolidge's packing of the Commission that in one instance Congress itself intervened and made it impossible for Commissioner Glassie to persist in participating in the sugar investigation because his immediate family had "a special, direct, substantial, and financial interest in the sugar industry." President Coolidge refused to disqualify this Commissioner, despite protests from various persons and a considerable portion of the press, and insisted that although Mr. Glassie's wife and other members of her family held stock in a sugar company, he was entirely fit to sit in this case. From the beginning Mr. Glassie had done everything in his power first to prevent a report on sugar and then to delay its appearance.

In this Mr. Glassie was backed by Commissioners Marvin and Burgess, the former "a tireless and fanatical protectionist, known in Washington as a tariff lobbyist for New England protected interests." Mr. Burgess had long been similarly known in Congress for his tariff lobbying, notably for the pottery industry. These three men stood together and so

the Commission was evenly divided on the sugar question. Commissioner Culbertson, who agreed with Mr. Costigan and Commissioner Lewis in favor of the report, suddenly found that he was to be appointed to the Federal Trade Commission, which appointment he promptly declined. The White House then discovered that Mr. Culbertson had been guilty of a technical violation of the law which provides that no tariff commissioner shall engage in any other activity or employment, in that he had taken fees for delivering lectures at Georgetown University and Williams College. Mr. Coolidge's Attorney-General having given an opinion unfavorable to the Commissioner, the President took advantage of this to urge Mr. Culbertson to use his influence to delay sending the sugar report, which called for a reduction in the tariff, to the White House for action.

Next Mr. Coolidge moved against Commissioner Lewis, the end of whose term of service was in sight. When, on September 8, 1924, his term expired, Mr. Lewis was summoned and told that he must leave at the White House a blanket letter of resignation dictated by Mr. Coolidge himself so that the President could use it whenever he desired. Mr. Lewis refusing, the President temporarily appointed him until March, 1925, when a protectionist Democrat was selected to take his place. Two months later the President appointed Mr. Culbertson to be Minister to Rumania, and Mr. Culbertson's virtue did not meet this test. Thus Mr. Coolidge got rid of two of the Commissioners who had done their duty in the sugar investigation, and on June 15, 1924, announced his refusal to make any change in the sugar tariff. To cite Mr. Costigan once more, in this way "a major report of the Commission was ignored and a Commission investigation of the first order, which had engaged the services of an expert staff for nearly two years and cost the government many thousands of dollars, was thrown overboard, follow-

ing an unprecedented series of lobbying drives and political maneuvers.”

This shocking story has been recorded here as evidence of the bad faith with which the Commission was manned and administered during its early years, and as proof that if there should be any return to the old conditions of protectionism and tariff isolationism, it could again be made the vehicle of maladministration in the interest of powerful tariff barons. It has always been a top-heavy organization, there being no need for six commissioners, especially when the pretense of an equal division between the Republicans and Democrats was being maintained to deceive the public. In all those years of the political degradation of Washington, the Commission, it must be repeated, was nothing else than a fraud upon the American people. The last thing that it had in mind was to put the tariff upon a “scientific basis,” except in the case of the commissioners already mentioned who refused to bow down to the protectionist idols.

Today the story is, fortunately, a pleasant one to record. Of late years the Commission has shown that it can give expert advice in the making of tariff bills and is ready to do so. Indeed, it now bears full responsibility for the preparation of the import schedule for trade agreements. It gathers all information and submits the recommendations on the imports to be discussed by the representatives of the Department of State and other bureaus of the government in the making of reciprocal trade treaties with foreign countries. What is the more remarkable is that under the guidance of capable commissioners (there is one exception) the Tariff Commission has led the fight for tariff reform under the Hull-Roosevelt trade agreements policy, and it is credited with having created one of the finest pieces of interdepartmental administrative machinery. Of the American delegation of sixty-five officials who have taken part in the Interna-

tional Trade Organization Conference at Geneva, twenty were either then members or former members of the Tariff Commission's staff, and six of them, as heads of Country Committees, were principal negotiators.

During the Second World War the Commission served many war agencies and was relied upon for important surveys because of its research facilities and trained personnel. Thus it furnished important reports to the WPB, BEW, FEA, and the War Department, among them being treatises on "Latin-America as a Source of Strategic Materials," "War and Its Effect on United States Imports," "Relation of Japanese Imports to the Defense Program," "The Possibilities of Producing Rubber in the United States," etc. At the request of Congress the Commission has published a series of twenty-one studies under the title of "The War Changes in Industries." A thirteen-hundred page report on "Post-War Imports and Domestic Production of Major Commodities," published in 1945, was produced in response to Senate Resolution 341 and it is declared that nothing like it is to be found in any language anywhere else. The Commission, thus turning its back completely on its inglorious past, has brought out a series on trade between the United States and every Latin-American country. This was begun in 1934 and there have been similar studies of our trade relations with Japan, Norway, Sweden, England, etc., while at present there are being produced reports on the special problems of each Latin-American country. At the request of the Senate Commerce Committee, it has made a special investigation of Free Ports in the United States.

Finally, under an executive order of February 25, 1947, the Tariff Commission is made the central government agency on trade agreements and trade matters with full powers of investigation. Of course the Commission has possessed this power which was bestowed upon it by the earlier acts, but

the important point of the Truman order is that it makes of the Commission the channel through which the public can present its position and exert its influence upon tariff policies. This is of very great importance if it is utilized by the public, by those genuinely interested in tariff policies as well as those having direct personal interest in the tariff rates. It is a purpose of this book to show how directly the tariff affects everyone and stress is therefore laid upon this new status of the Tariff Commission. One of the reasons, already stated, why the individual American has felt so helpless in the face of the tariff robberies has been his belief that it was impossible for him to do anything, that he could not take the time, or, if he did have the time, could not influence the responsible committees of Congress, especially in view of the long lapse of late years between any general tariff revision. Individuals and organizations now have the opportunity to make their influence felt at all times. The main objective must be, however, to aim at the eventual disbandment of the Tariff Commission because of the abolition of all duties. The control of the Commission was never a power which should have been granted to the President in the manner that it was.