

FEDERAL TRADE COMMISSION  
WASHINGTON

December 10, 1936.

Hon. William E. Borah,  
Senate Office Building,  
Washington, D. C.

Dear Senator:

What I wanted to discuss with you, briefly, was the possibility of including matter in substance like the enclosed in your S. 579. Please understand that I am speaking, personally, as a citizen, and not as a representative of the Federal Trade Commission or expressing its views, but as I am leaving the city on the trial of cases and will not be back until after January 1, 1937, I am sending it to you for your consideration.

The theory is that the Supreme Court has upheld laws passed in aid of, and not in interference with, state statutes, and that whenever the states would enact valid laws on labor conditions, this will stand as an aid to make those laws effective.

I quite appreciate that your bill is complete as it is and seems to me solidly foundationed.

As to the incorporation of the material in your bill, if you consider the proposition favorably, it seems to me it might be done as a second condition under Sub-section C of Section 3, or by making the part which is now Section 4, Section 4(a) and inserting after the word "thereunder" in line 2 of page 5 the following:

“, or has engaged in unfair methods of competition as stated in (b) hereof;”

and then add the proposal as (b) of Section 4.

The matter on the second sheet as to taxation is an independent consideration, and I believe follows generally the philosophy of Justice Brandeis, that much may be accomplished through taxation.

I am sorry not to have the opportunity to sit down, personally, and discuss it with you briefly.

Two other points: ought not "corporation" to be defined in your Bill, so to include the various forms of associations, voluntary trusts, etc., and likewise the word "person" because of its use in line 19 of page 4?

Very truly yours,  
Wm. T. Chantland

The transportation of any article or articles from one state to any other state of the United States for sale or resale in competition with articles not produced under conditions stated in (a) or (b) shall be unlawful, as an unfair method of competition in commerce, whenever such article or articles have been produced,

(a) under conditions inimical to the public health.

(b) under conditions of labor less favorable to the labor employed in the production thereof, in either wages, days or hours, or working conditions, than those fixed by the law of the state into which said article or articles are transported.

In determining (b), a fair and equitable allowance shall be made by the Commission for any existing differences in the cost of living and of productivity of labor similarly engaged.

All findings of fact, as to matters herein, made by the Commission, shall be conclusive when supported by evidence.

Whenever it has been determined by the Commission that there has been unfair competition as to articles transported as above stated, the Commission in addition to its other duties in the premises, shall forthwith report such determination to the Secretary of the Treasury who shall thereupon give notice of a levy of a tax which is hereby made against the consignor and the consignee, of a sum equal to \_\_\_\_\_ per centum of the value of such article or articles. Said tax shall be payable within ninety days of the notice of such levy and the Secretary of the Treasury shall collect same in accordance with such rules and regulations as he may prescribe. The payment of said tax by or for either the consignor or consignee shall be in full discharge of the other.

## NOTES

1. A provision for suspension of license until the conditions are remedied should go in, and possibly a provision for revocation of license in aggravated cases.
2. Define “conditions inimical to the public health”
3. The principle under which the percentage of the tax is to be arrived at is intended to be such that the tax shall be not more than the average difference in the production costs, and hearings should be held to determine such average, so that it could not be said to be an arbitrary figure, and so as to avoid a construction by the Courts that the tax is a penalty and not a fair exercise of the taxing power.