

Address of Congressman Wright Patman (Texas), Chairman of House Committee on Small Business, to be delivered in the House of Representatives May 21, 1945.

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"M O U N T A I N S O U T O F M O L E H I L L S"

Surplus Property Board using complicated and unworkable procedures to do a comparatively simple job. . . . Task admittedly involves huge amounts of surpluses, but no evidence visible that use of normal merchandising techniques being encouraged. . . . Small Business not being afforded equitable treatment yet. . . . Chains, mail order houses and large distribution outlets reportedly opposing programs which would permit small retailers to sell at same prices granted larger interests. . . . Twenty-five point program for handling surplus disposals recommended to provide equitable treatment to all types of businesses.

MR. SPEAKER:-

The disposal of surplus Government-owned property has been correctly described as "the greatest merchandising job in history". Congress, in adopting Public Law 457 (The Surplus Property Act of 1944), gave early evidence of its awareness of this job and its attendant problems.

In the debates which preceded the adoption of this law and in the terms of the Act itself Congress did at least three very constructive things:

1. It gave free rein to the composite Congressional imagination and wrote into the bill a statement of policies which showed that
 - a. It is definitely the intent of Congress to discourage unwarranted speculative activities and
 - b. It is also the intent of Congress to see to it that small businessmen, farmers, veterans, states, counties, cities, charitable institutions and the various agencies of the Federal Government are all given a fair opportunity to participate in the acquisition of this multi-billion dollar stock of merchandise.
2. It so worded the Act that it gave free rein to the ingenuity and integrity of the Members of the Surplus Property Board to see to it that procedures will be developed by that Board and its subsidiary disposal agencies which will result in the most equitable distribution to the above described group of deserving claimants.
3. By considering the subject in many separate Committees, by holding lengthy debates on the problems likely to arise, and, finally, by accepting the Congressional responsibility through the adoption of Public Law 457, Congress itself created the "goldfish bowl atmosphere" so wisely recommended by Messrs. Baruch and Hancock in the report of February, 1944.

SURPLUS PROPERTY BOARD HAS FINAL RESPONSIBILITY

However, by the very latitude allowed the Surplus Property Board in the Act, Congress definitely passed along the responsibility for the success or failure of this great task to three men, the Members of the Board. Already the terms of this Act have been publicly criticized by one of the Members of this Board as they were previously criticized by Mr. Clayton, the original Administrator.

With the arrival of V-E Day and the inevitable cutbacks in war contracts, renewed awareness of the magnitude of this great merchandising task is coming to the general public, the agencies concerned, and to the Congress. It is generally conceded, I believe, that the skill or lack of skill with which this job is administered may well affect the economic welfare of this and other nations for a number of years to come. I shall not touch upon the international aspect of this problem in these few remarks. I understand that our able colleague from Alabama (Mr. Manasco), the Chairman of the Committee which reported out this very bill, has been covering the international situation himself through a personal inspection in Europe.

His report to the House on this phase will cover that subject fully, I am sure.

My principal concern is with the question of just how is Small Business faring under this bill. As Chairman of the Small Business Committee, I have maintained a continuing interest in this particular phase of the surplus program ever since the Small Business Committee first held hearings on this subject in September, 1943.

SMALL BUSINESS UNPROTECTED UNDER PRESENT REGULATIONS

I regret to report to the Members that I am far from satisfied personally with the manner in which this program is being handled on behalf of Small Business up until this time.

My disappointment lies not so much in the fact that there have been obvious discriminations against Small Business in a number of disposals already effected because those offenses have apparently stemmed more from over-eagerness to move the goods rapidly than from deliberate disregard of the intent of Congress.

My disappointment is based primarily upon the inertia which seems to characterize the work of the top Board itself, the Surplus Property Board. Although the Board has held office for several months now, it has only just now gotten around to issuing its first regulations and I am frank to confess that these first regulations do not give me a very clear idea of just what the Board's policies and procedures are in respect to Small Business.

It may be that my own thinking on the subject of surplus disposal is not sufficiently penetrating to be of any value. It may be that I over-simplify the questions when I say that the Board is failing to see the forest for the trees. Maybe this is a complicated job beyond the comprehension of the average Congressman and that, possibly, is why we gave this Board so much latitude when we passed the Act last Fall.

JOB TREMENDOUS, BUT NOT TOO COMPLICATED

I really don't believe this disposal job is so complicated and need not become so unless the Board, through its own confusion of thinking, makes it that way.

Let us admit that it is a job on a tremendous scale, but Americans have tackled big jobs before and licked them. This war is a witness to that fact.

PRIMARILY "A MERCHANDISING JOB"

Let us admit that this is primarily a "merchandising job", one that requires the use of the best qualified merchandising talent in the country, with the Members of the Board at the top of the organization furnishing the leaven of good judgment and the minimum of directional influence in accordance with the admirable broad statement of policies laid down by Congress for the Board in the Act.

PRIORITY RATINGS MUST BE ESTABLISHED

In the beginning, I think the Board should have issued a clear-cut list of priority ratings similar to those used by the War Production Board except that these surplus priorities ratings should be issued on behalf of those groups which Congress intended should have either preferential or equal treatment instead of being issued for the war effort exclusively.

It may be that the three regulations issued by the Board to date do contain such a simple list of priority ratings, but, with all my legal experience going back many years, I am frank to confess that I cannot detect any such list in those regulations.

As I understand Public Law 457, Congress intended that Federal agencies should be the first claimants of surplus. Other political subdivisions, charitable institutions, farmers, small businessmen and veterans followed next, not necessarily in that exact order. It seems to me that it would be helpful to all concerned with this problem if the Board would record this fact through the issuance of a simple list of the groups in question, giving to each group the priority rating to which it is entitled.

It is true that no priorities should be awarded which could be abused beyond

the intent of Congress. By this statement, I mean that no priority should be given to a small businessman which would permit him to expand operations beyond his normal capacity to absorb surpluses so that he might be tempted to act as a "front man" for either large speculative or monopolistic interests. That could be avoided, however, if the proper system of merchandising controls and inspection of operations were also authorized.

SIX EXAMPLES OF INEFFICIENT MERCHANDISING

Let us review the picture as it exists today and see if the following analysis has any merit. I have no right to criticize publicly the Surplus Property Board, as I am now doing, unless I am prepared to submit for similar criticism some ideas of my own which I believe to be constructive. Therefore, I suggest the following:

I. I question the ultimate effectiveness of the present program which has resulted in the delegation of disposal responsibility to a number of separate Federal agencies. Why should footwear and small leather goods be assigned for disposal to the Department of Commerce while boot and shoe cut stock and leather is assigned to Reconstruction Finance Corporation for disposal? Why should a man interested in these related items have to visit separate and often widely-separated regional offices of separate agencies in his search for goods needed in a single purpose business? Why should not a centralized disposal agency be authorized with regional offices of the various agencies consolidated for efficiency and economy's sake? We talk about Federal economy on the one hand and we admit the need for more trained personnel for the respective disposal agencies at the same time. Could we not consolidate the work of these related agencies and procure our needed additional personnel through such a consolidation?

II. I question the wisdom of letting the armed services or the Maritime Commission sell any type of declared surplus unless it be ships and boats, even when these items have been classified by these agencies as "scrap, waste or salvage", as is permitted under the terms of the Act. When I learn, as I have just been advised, that a man can buy new, unused valves and fittings in their original packing boxes from these particular agencies at a price of 22 cents on the dollar because they have been declared excess to the needs of the agency, I wonder just what supervision the Surplus Property Board is exercising over the agencies it has delegated to act for it in this program. When I find that both R. F. C. and the Department of Commerce each have been granted authority to dispose of these same standard items, I wonder just how the small businessman or the farmer is going to go about locating such items and just what chance he has of getting them without paying three or four profits to the man who has the inside track. If this is one of the end results of Surplus Property Board Regulation No. 1 which designated the respective disposal agencies, I say that said regulation needs immediate review and tightening up.

III. I question the wisdom of selling surplus goods on such short notice as is now the custom in most instances. Too many cases have been reported to me of retailers or wholesalers who are on the mailing list to receive the Surplus Reporter, official publication of the Office of Surplus Property, Department of Commerce, where the notice of sale is received by the interested customer within less than a week before the sale is scheduled to take place. If he is interested in the goods in question, he must often travel several hundred miles to make a personal inspection and must then secure a proper bid form from the agency upon which to record his bid. The bid, in turn, is often sent to an office of the agency which is located several hundred miles from the place in which the surplus goods are stored. This arrangement is neither practical nor economical for the Government or the customer.

IV. I question the wisdom of selling any surplus goods upon which OPA has not yet placed its maximum price ceilings. I have been advised of several cases where goods were purchased in good faith on sealed bids by either retailers or wholesalers for resale only to have the OPA later come through with a price ceiling on said goods which caused the purchaser to choose between selling them at a loss or being in violation of OPA regulations.

V. I deplore the policy of the armed services which permits one of these agencies to overlook the claiming of certain surpluses such as machine tools when notice of the availability of these machines is recorded with the agency; only, later, to come in to a public sale of these same machines to which the public has been invited and they claim the same machines which were overlooked and refused in the first instance. When the small businessman, especially the manufacturer or his authorized representative, has been notified by wide-scale newspaper advertising that such and such a machine tool for which he has great need in his own manufacturing operations is to be offered

at public sale on a definite date, and when this man travels hundreds of miles to make a bid on this particular piece of equipment, it is indeed bad public relations for that man to learn upon arrival that the machine in question is not going to be offered for sale after all just because some official of the armed services overlooked claiming it when it was first offered to him in regular fashion several weeks prior. Such practices do not lend credit to the selling agency which, in all fairness in such cases, it must be admitted acted in good faith in advertising the item.

VI. I deplore the inaccuracy of description or the lack of description given to the surpluses which are offered for sale in the catalogues of the respective disposal agencies. When a qualified customer takes a chance and submits his bid to the disposal agency on the strength of the description given him by the agency and later finds that he has bought a piece of equipment that either has essential parts missing or does not conform otherwise to the description given him, I am advised that he has no recourse for his money. This is also an example of poor public relations.

There are other, possibly less important, examples which I could record to show you the reasons for my dissatisfaction with the handling of this program to date, but, as promised, I should prefer to devote the remainder of my time to offering what I believe to be a constructive program upon which I think the Surplus Property Board could well afford to act. My own program is as follows:

RECOMMENDATIONS -- 25-POINT PROGRAM TO PROVIDE EQUITABLE TREATMENT FOR ALL TYPES OF BUSINESS

- A. Surpluses, in which there is a general and continuing consumer interest, should be sold only at fixed prices.
- B. The ultimate consumer should not be prohibited from participating in any surplus sale.
- C. A fixed price should be set on merchandise sold direct to the consumer.
- D. A discount off the consumer price should be established for retailers.
- E. An additional discount should be established for wholesalers. (There should be a clear-cut definition of what constitutes a "wholesaler".)
- F. A further discount should be established for a manufacturer if the merchandise is of a sort that it must be reworked substantially before it is suitable for re-offering to the trade or the public.
- G. No concessions, other than those listed above, should be granted because of quantity purchases.
- H. When determining fixed prices, which pre-supposes different prices for the several selling levels, the percentages of the total declaration to be sold to each class of buyer should also be determined. (This could be ascertained by and predicated upon the normal pre-war methods using in merchandising each particular type of merchandise; i.e. how much was sold direct by manufacturer to ultimate consumer, how much by wholesaler, how much by retailer, how much by manufacturer to wholesaler, how much by manufacturer to retailer, etc. War Production Board and other agency files now contain essential data in this regard. In making such a determination, the role held by the disposal agency would be substituted for that held normally by the manufacturer in peacetime.)
- I. The disposal of each type of surplus property should be concentrated in a single agency.
- J. The practice of permitting the salvage officers of the Army, the Navy or the Maritime Commission to dispose of usable consumer goods, or to determine what is "waste, scrap or salvage" should be discontinued.
- K. Samples of surpluses should be made available for inspection at strategic points.
- L. More time should be allowed between issuance of notice of sale and time of sale
- M. Better descriptions of surpluses to be offered should be made available to interested purchasers.

- N. Credit departments should be established in the disposal agencies so that: (1) merchandise may be billed in the ordinary commercial manner and (2) the required time may be allowed for payment by the purchaser.
- O. A procedure should be established which would allow retailers or wholesalers to order merchandise on their own order blanks.
- P. The disposal agency should pack and ship goods bought by merchants.
- Q. No surpluses should be offered for sale upon which OPA price ceilings have not been established.
- R. The armed services should be required to exercise greater diligence in examining the lists of declared surpluses at the time this information is routed to them prior to the announcement of public sale.
- S. Consideration should be given to the use of surplus war plants as storage depots in those cases where a ready market for the plant in question does not exist.
- T. When a retailer, a wholesaler -- acting upon behalf of his small retail outlets -- or a consumer, feels that the percentage of the total declaration allocated to be sold to his class of buyer (see H, above) is unfair, or when he fears that large or monopolistic interests have been favored in such original allocation, he shall have the right to request the Smaller War Plants Corporation to review the terms of the allocation determination with a view to having the Smaller War Plants Corporation exercise the purchase powers granted it in Public Law 457 on his behalf if his claim seems justified to that agency.
- U. Before discounts are granted to any buyer, that buyer must have previously submitted evidence of a satisfactory nature to the disposal agency to warrant his being classified in the particular group whose discount privileges he is requesting.
- V. Special discounts should be granted by retailers to veterans who make purchases of surpluses for their own personal use. (It might be desirable to limit the total amount that any one veteran could purchase and still receive the discount, both as to dollars and items. The same formula might be used in the case of a veteran who desired to exercise his rights as a consumer and make direct purchase from the Government.)
- W. Consideration should be given to use of a similar formula in the case of a veteran who wished to purchase certain types of surplus durable or capital goods to establish himself in a small business, in agriculture, or in a profession. In the case of a veteran desiring to engage in business on his own account, it is assumed that he would probably prefer to do business with a wholesaler who could supply him with other items from his balanced stock, items which might not be readily available as surplus.
- X. Industry advisory committees should be established for each class of surplus property and should be consulted freely. In order to establish policy for the most equitable distribution, these committees should include representatives of retailers and wholesalers and manufacturers where manufacturer interest exists. Small business should be given an equitable representation on such committees in proportion to the role which small business normally plays in the distribution of the items in question. This type of assistance is available at no cost to Government and could include the services of the best merchandising brains in the country.
- Y. Surpluses, in which there is no general or continuing consumer interest because of prior use, military adaptability only, or general lack of salability, shall not be disposed of under the above program. These surpluses shall be held off of the market until some agency, such as the Bureau of Standards, shall have done sufficient research to determine if they could be converted to other than original intended usage, except in the case of those items for which there is an apparent ready sale for export. In the case of export, these surpluses shall not be reimported to this country. When offered at public sale these surpluses may be sold in odd lots at public auction or under a sealed bid system. They should not then be reoffered at retail or otherwise as "government surpluses".

SURPLUS PROPERTY BOARD SHOULD EITHER ADOPT SUCH A PROGRAM OR STATE WHY
IT IS NOT WORKABLE

In offering the foregoing recommendations, I do so in the sincere belief that only through the adoption of some such clear-cut program will the Surplus

Property Board be offering to Small Business the fair and equitable treatment which the Congress intends for Small Business to receive at the hands of the Government in this great task of surplus disposal. As I stated in the beginning of these remarks, this is "the greatest merchandising job in history". My program is devised to use the merchants of this nation to do this job, wherever possible. It also makes adequate provision for the use of the smaller merchants from whose shelves the customers of this nation are preponderantly served.

CHAINS AND MAIL ORDER HOUSES REPORTED SEEKING
SPECIAL PRICE CONCESSIONS. WILL BOARD RESIST THEIR PRESSURE?

It is reliably reported to me that representatives of the chains, mail order houses, and large distribution outlets are now urging upon the Surplus Board the adoption of regulations which will permit their type of concern to acquire surpluses in larger quantities at prices which will enable them to undersell the small retailers who might handle identical surplus items. Quantity discounts are permissible, under the law, only where the manufacturer can effect large savings through dealing in such a manner. There are no manufacturers involved in transactions like these and I am hopeful that the Board will not be swayed by specious arguments from this special interest group.

Congress gave the Board a mandate to protect Small Business. It will be interesting to note just how the Board carries out that mandate in the weeks to come.

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