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TRADING WITH THE ENEMY.

Report to the President of the Board of Trade
by the Committee appointed to advise the
Board of Trade on matters arising under the
Trading with the Enemy Amendment Act,
1916.

Presented to Parliament by Command of His Majesty.



LONDON:
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1918.

[Cd. 9059.]

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TRADING WITH THE ENEMY.

Report to the President of the Board of Trade by the Committee appointed to advise the Board of Trade on matters arising under the Trading with the Enemy Amendment Act, 1916.

The Advisory Committee to the Board of Trade under the Enemy Trading Amendment Act, 1916, was appointed on the 9th February, 1916.

The members of the Committee were Mr. Ernest Moon, C.B., K.C., Counsel to the Speaker, Chairman, The Hon. J. D. Fitzgerald, K.C., Sir George Croydon Marks, M.P., and Mr. Gershom Stewart, M.P. Sir G. C. Marks, however, resigned shortly after the sittings of the Committee commenced, finding that the time occupied by the business of the Committee would interfere with the discharge of other public duties, and Sir Edwin Cornwall, M.P., took his place. On the 1st June, 1916, Mr. A. A. Allen, M.P., was appointed in the place of Sir Edwin Cornwall, who found that other duties interfered with regular attendance at the meetings of the Committee.

In some important cases, in which complicated questions of law and fact had to be determined, Sir Robert Younger, who was appointed by the Lord Chancellor to deal with the winding up of Companies under the Trading with the Enemy Amendment Act, 1916, S. 1. s. s. 7, was good enough to attend the Committee, and the Committee wish to express their appreciation of the assistance they derived from his great experience and of the pains which he took to help them to unravel the complicated issues presented to them. The Hon. Evelyn Hubbard also assisted the Committee with his advice in a case which involved intricate financial considerations affecting Russian interests.

When the Committee was appointed, the Board of Trade had cognisance of over 500 cases which fell to be considered under the Act of 1916. Additional cases were being constantly reported to them and the Committee at once determined that their consideration of them must proceed as rapidly as the staff at their disposal and the necessary notices and enquiries permitted. The first sitting was held on the 22nd February, 1916, and sittings were held continuously during the time that Parliament was in session until the arrears of business were overtaken. The Committee have now held 139 sittings at which persons interested were heard and 960 separate cases have been dealt with. Cases are still being discovered and brought up for their consideration, but their number is not considerable.

The procedure to be adopted on the hearing was left by the Board of Trade to be decided by the Committee. They decided to give seven days' notice of the day on which the hearing was appointed to take place and that the parties interested might be heard by Counsel by the Committee's permission. In a considerable number of cases this permission was applied for and the Committee did not in any instance find it expedient to refuse their permission. Many of the well-known Counsel at the Bar appeared before them. When no Counsel or Solicitor was employed, the parties affected were given all facilities for stating their case in accordance with the established principles of the administration of justice in this country, and the Committee took care that in all cases a fair hearing should be given. In some instances persons were heard who had made complaints against the business which was being considered, but the Committee did not allow cross-examination by parties. In all cases the statements made were tested by the Committee themselves with the aid of the correspondence, Police reports and other documents in their possession, especially the reports of the Supervisors and Inspectors appointed by the Board of Trade. They generally found the facts in these reports to be fairly and accurately stated, and the reports were of great assistance to the Committee.

In considering the advice which should be given to the Board the Committee acted on the principle expressed in the Act that the presumption in all businesses which were found to come within Section 1 of the Act was that it should be put into operation, and in determining what constituted a special reason which would be sufficient to exempt the business under consideration from the operation of the Act the Committee were mainly guided by the speech of Sir G. Cave when he was Solicitor-General in moving the second reading of the Bill which subsequently became the Act of 1916. But the Committee almost immediately were convinced that, in cases in which businesses formerly carried on mainly for the benefit or under the control of enemy subjects were useful and successful businesses, it was more in the national interest to transform them into British businesses than to wind them up, and accordingly, after consulting the Custodian, they have on many occasions recommended that the enemy subject interests should be vested in him as the Custodian for sale. In this way a number of useful businesses are now carried on in British hands, which were formerly largely or wholly in the hands of enemy subjects. The Committee, however, only took this course if it appeared probable that a sale would eventuate, and when it seemed doubtful whether the enemy subject interest could be sold or not, they recommended a winding up Order in the event of no sale being found possible within a reasonable time. When the business did not appear to the Committee to be of sufficient trade importance to make it expedient to vest in the Custodian, so as to avoid a winding up Order, they recommended winding up. Some of these businesses have also passed into British hands by sale in the winding up proceedings. Sanatogen (Wulffing & Co.) is an illustration of the businesses last referred to. The object of the Committee in recommending vesting useful businesses in the Custodian instead of a winding up Order resulting in a sale was to avoid the discredit which would have attached to the businesses if a winding up Order had been gazetted.

In dealing with small retail businesses which was one of the categories of cases which Sir G. Cave included among those in which it would be inexpedient to order a winding up the Committee have been

