

Manufacturing Chemists' Association, Inc.

(FOUNDED 1872)

1825 Connecticut Avenue, N. W.
WASHINGTON 9, D. C.

(REVISED)

MINUTES OF MEETING
LEGAL ADVISORY COMMITTEE
MCA OFFICES
WASHINGTON, D. C.
APRIL 23, 1959

PRESENT

Henry H. Fowler, Chairman
Lawrence S. Apsey
R. C. Burroughs
John Gaston (for Lawrence A.
Coleman)
Frank Lyon
Charles Maddock
Edwin J. Putzell, Jr.
W. Frazier Scott (for Richard
Furlaud)
Arthur Tebbens (for Iver
MacDougall)
F. J. Zugehoer
General John E. Hull
Marx Leva
James F. King, Secretary

Manufacturing Chemists' Association, Inc.
Celanese Corporation of America
Olin Mathieson Chemical Corporation

Allied Chemical Corporation
Union Carbide Corporation
Hercules Powder Company, Inc.
Monsanto Chemical Company

Olin Mathieson Chemical Corporation

Stauffer Chemical Company
E. I. du Pont de Nemours & Co., Inc.
Manufacturing Chemists' Association, Inc.
Manufacturing Chemists' Association, Inc.
Manufacturing Chemists' Association, Inc.

ABSENT

Fred Bartenstein
Lawrence A. Coleman
James G. Flanagan
Richard Furlaud
Iver MacDougall

Merck & Co., Inc.
Allied Chemical Corporation
S. B. Penick & Company
Olin Mathieson Chemical Corporation
Stauffer Chemical Company

Chairman Fowler said he wanted the advice of the Legal Advisory Committee concerning what action he should recommend to the Board on S. 215, a bill introduced by Sen. O'Mahoney (D-Wyo.), which would require certain corporations to file advance notice and make public justification before increasing prices, and H. R. 6263, a bill introduced by Rep. Reuss (D-Wis.), which would amend the Employment Act of 1946 to provide that the President, directly or through any Federal agency he designates, shall hold public hearings concerning price and wage increases under certain circumstances. Mr. Fowler invited each member of the Committee to give his reactions and recommendations concerning the two bills.

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Mr. Apsey said that, in his opinion, it was important that the bills be opposed and opposed early, so that Members of Congress would not commit themselves in favor of the bills before they knew the very serious objections to this type of legislation. He said the MCA should at least file a statement with the Senate Antitrust and Monopoly Subcommittee, which is considering S. 215, and should recommend that member companies express their opposition to their Congressmen. He said there is no need for this type of legislation and the history of prices in the chemical industry proves it.

Mr. Zugehoer said he thought MCA should file a statement and be ready to testify. He said the bills constituted ill-concealed steps toward Government control of prices in peacetime.

Mr. Gaston said he questioned whether it was necessary for MCA to express its opposition. He said that MCA opposition, in the absence of favorable Committee action on S. 215, would attract undesirable attention to the chemical industry. He said that if the Committee acted favorably on S. 215, an amendment exempting the chemical industry from its provisions might be possible, in view of the fact that chemical prices had risen very little recently.

Mr. Putzell said he disagreed with Mr. Gaston. He said that chemical prices would not necessarily remain stable, and that, even so, this was a time for statesmanship by a group as big and influential as the chemical industry. He said that the surest way for the chemical industry to find itself in a hopeless legislative fight at some later date would be for the industry to lie back now and let other people take the lead in opposition to bills like these. He said that MCA ought to make itself heard and he added that the chemical industry might be all the more effective in opposition exactly because chemical prices had risen less than in some of the other industries which would be affected by the proposed legislation.

Mr. Lyon said MCA should oppose this legislation now and as strongly and effectively as it can. He said that, like Mr. Putzell, he believed it was time "We stood up and be counted."

Mr. Scott said the proposed legislation, far from contributing to lower prices, would tend to produce a rigid price structure and would, in fact, restrain trade. He favored opposing the bills now.

Mr. Maddock said he agreed with Mr. Putzell. He said that a principle was involved and that a trade association like the MCA should speak out. He said existing legislation was adequate for handling legitimate antitrust problems, and there was no need for new legislation. He said MCA should make a statement opposing the bills as constituting unwise Government interference with industry and citing as proof of

their undesirability the experience of the chemical industry in marketing at reasonable prices many materials and products made by "concentrated" portions of the industry.

Mr. Tebbens said that he and other officials of his company were strongly opposed to these two bills, but that he believed MCA should be reluctant to take a public position too soon. He said that MCA could adapt to later developments and make a more effective presentation of its views if it remained uncommitted until the present proposals had received more consideration.

[Consideration of this subject was interrupted here for a scheduled discussion with General Hull of the role of the Legal Advisory Committee, as reported in the next section of these minutes.]

At the conclusion of the discussion on the proposed price legislation, the Committee agreed on the following recommendations, as stated by Mr. Fowler:

- (1) MCA should oppose both S. 215 and H. R. 6263.
- (2) MCA should not request the opportunity to testify orally.
- (3) MCA should send to the Senate Antitrust and Monopoly Subcommittee a brief and "punchy" written statement opposing S. 215 on the general principle that such legislation would interfere unwisely with the natural functioning of our economic system and would, in fact, be likely to lead to new Government efforts to control prices in peacetime.
- (4) MCA Executive Contacts should be furnished copies of the statement sent to the Senate Subcommittee for distribution in accordance with their own judgment.

Mr. Fowler added that he believes the philosophy and motivation behind bills like S. 215 and H. R. 6263 are so strong and so widespread that the chemical industry should be prepared to react to these and other such proposals on the basis of reliable and up-to-date information. He said perhaps MCA should begin to work now on the kind of data which would be needed for possible later action on this subject. Messrs. Putzell and Lyon said their companies would be glad to contribute to costs of hiring someone to prepare such data. Mr. Fowler said that perhaps economists on the staffs of MCA member companies could advise him as to how to proceed. It was agreed that members of the Legal Advisory Committee would check with their companies to see who were the best available people to consult with Mr. Fowler for this purpose.

The Role of the Legal Advisory Committee

Chairman Fowler stated that General Hull was attending the meeting largely for the purpose of reviewing with the Committee the suggestions as to the role of the Committee which had been made by some of the members at the Committee's last meeting. Upon the invitation of the Chairman, Mr. Putzell restated his argument in favor of a wider role for the Legal Advisory Committee, and Mr. Apsey set forth his belief that the Legal Advisory Committee could usefully coordinate legislative "tactics" of MCA technical and functional committees.

Mr. Maddock said the Legal Advisory Committee could be a very active, regularly meeting unit or an ad hoc group informally available to the General Counsel whenever he wanted advice. He said he favored the latter. He pointed out that the Committee could be called to advise the General Counsel on legal as well as legislative matters.

Mr. Leva said he felt that if Mr. Putzell's recommendation as to the role of the Committee were adopted, the Committee would be in session almost constantly. He added that a larger formal role for the Legal Advisory Committee might interfere with the effective functioning of existing MCA committees. He said problems could be presented to the Legal Advisory Committee whenever it was thought necessary and, therefore, in his opinion, there was no need to assign a wider or more formalized role to the Legal Advisory Committee.

General Hull concluded the discussion. He said there had been a need for a mechanism that would permit more widespread participation by the MCA membership in the consideration of legislation like S. 11 and S. 215. He said he would like to see the Legal Advisory Committee maintained on an ad hoc or informal basis. He added that Mr. Fowler could ask for help from the Legal Advisory Committee, or from anyone else, and he did not need the approval of the Board of Directors for this. As for priorities and coordination on legislative matters, he said, "That's a function of this office with clearance, when necessary, with the Executive Committee." General Hull thanked the members of the Committee for giving him their suggestions and told them he was confident that the Legal Advisory Committee would be of great help to him and to all of MCA.


J. F. King

Minutes Approved
May 21, 1959

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