California Corporate & Securities Law

Why Was The Office Of Commissioner of Corporations Abolished?

By Keith Paul Bishop on January 4, 2012

California's first Commissioner of Corporations, Herschel L. Carnahan, took office in 1914, the same year that the office of the Commissioner of Corporations ceased to exist. This seeming contradiction is explained by the fact that the office abolished that year belonged to a federal, not state, official who headed an agency known as the Bureau of Corporations.

In 1903, President Theodore Roosevelt pressed Congress to enact legislation creating a Bureau of Corporations as a division of the Department of Commerce and Labor. The following year, President Roosevelt described the Bureau's approach in his fourth annual message to Congress:

The policy of the Bureau is to accomplish the purposes of its creation by co-operation, not antagonism; by making constructive legislation, not destructive prosecution, the immediate object of its inquiries; by conservative investigation of law and fact, and by refusal to issue incomplete and hence necessarily inaccurate reports. Its policy being thus one of open inquiry into, and not attack upon, business, the Bureau has been able to gain not only the confidence, but, better still, the cooperation of men engaged in legitimate business.

Herbert Knox Smith, who succeeded James R. Garfield as Commissioner of Corporations, described the Bureau's publicity policy in this 1908 speech:

President Roosevelt has had to arouse, had to enlighten the public mind. This is not one man's work, but is the work of a generation. By his publicity policy, President Roosevelt has not sought to undermine business confidence, but to uplift it. Those men who complain of lack of confidence are usually found to be confidence men.

Here is the first annual report of the federal Commissioner of Corporations. In the ensuing years, the Bureau took an active role in investigating some of America's largest industries:

Between 1906 and 1913 reports were made by the Federal Bureau of Corporations of its investigations into the petroleum industry, the tobacco industry, the steel industry and the farm implement industry.

Please contact **Keith Paul Bishop** at Allen Matkins for more information kbishop@allenmatkins.com

F.T.C. v. Gratz, 253 U.S. 421, 433 (1920).

The Bureau of Corporations was abolished in 1914 when Congress created the Federal Trade Commission. The previous year, California's legislature enacted the "Investment Companies Act", Stats. 1913, ch. 353, creating the State Corporation Department headed by a Commissioner of Corporations. Apparently, the law faced significant opposition and it was submitted to the voters who approved. Governor Hiram Johnson then appointed H.L. Carnahan as the first Commissioner of Corporations.

For more on Theodore Roosevelt and the federal Bureau of Corporations, see Arthur M. Johnson, *Theodore Roosevelt and the Bureau of Corporations*, 45 The Mississippi Valley Historical Review 571 (Mar. 1959) and Marc Winerman, *The Origins of the FTC: Concentration, Cooperation, Control and Competition,* 71 Antitrust Law Journal 1 (2003).

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