

ANNUAL REPORT  
OF THE  
FEDERAL  
TRADE COMMISSION

FOR THE

FISCAL YEAR ENDED JUNE 30, 1917

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1917

FEDERAL TRADE COMMISSION.

WILLIAM J. HARRIS, *Chairman.*

JOSEPH E. DAVIES.

WILLIAM B. COLVER.

JOHN FRANKLIN FORT.

VICTOR MURDOCK.

LEONIDAS L. BRACKEN, Secretary.

WILL H. PARRY.  
Died April 21, 1917.

# ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION.

WASHINGTON, D. C., *November 15, 1917.*

*To the Senate and House of Representatives:*

In compliance with statute the Federal Trade Commission herewith submits to Congress its annual report for the fiscal year ending June 30, 1917.

The work of the Federal Trade Commission during the fiscal year ending June 30, 1917, was of increasing importance. This was due not only to the normal increase in the demands made upon it as its functions and its opportunities for public service became more widely known but also on account of the special industrial difficulties and emergencies arising out of the disturbance of economic relations caused by war throughout the world as well as the entrance of the United States into the war.

An important development occurring just at the close of the fiscal year, which has absorbed a large part of the attention of the Commission since then, is the investigation of the costs of production of various commodities necessary for the conduct of the war. This work was done by direction of the President. The information on costs and other pertinent facts so obtained have been turned over to the President or to such authorities as were designated by him to consider in connection with the, negotiation of prices with producers, or with the fixing of prices by the Government, where authorized by law.

Also, just before the close of the fiscal year here reported on Congress directed a special investigation into the food industries and made an additional appropriation therefore which became available on June 30, 1917. A comprehensive investigation is being conducted in conjunction with the Department of Agriculture and also in cooperation with the Food Administration, which includes among other things a thorough study of the meat, flour, and food-canning industries.

The number of applications for remedial procedure by the Commission on the ground of unfair methods of competition or violation of the prohibitions of the Clayton Act against price discrimination and tying, contracts showed a decrease from the preceding fiscal year. As heretofore the questions thus presented were in most cases disposed of by conference rulings and voluntary adjustments and without recourse to formal complaints and the issuance of orders by the Commission. Nevertheless, in nine cases the Commission made formal complaint during the fiscal year, and in four cases the matter was, disposed of by the issuance of orders to cease and desist. The most noteworthy instance was in the case of the Federal Trade Commission *v.* A. B. Dick Co. which involved the employment of tying

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contracts in violation of section 3 of the Clayton Act. Moreover, since the close of the fiscal year four additional complaints have been issued, one of which related to the alleged activities of the Book-print Manufacturers' Association to unlawfully enhance the prices of book-print paper.

The Commission was also consulted with regard to the legal aspects of various proposed laws, among which may be mentioned the act relating to trading with the enemy. Since the close of the fiscal year the President, in accordance with this law, has intrusted to the Commission the administration of the provisions regarding patents owned by enemy nationals.

The economic investigations of the Commission have continued to absorb a large part of its attention. Among the most important investigations which were reported on were the newsprint paper industry, gasoline prices and the anthracite and bituminous coal industries.

In the news-print paper investigation the Commission found that prices had been increased out of all proportion to the increase in costs to the great detriment of the publishing business and the injury of the reading public, and had reason to believe that this result was due in part to the deliberate attempts of the News-print Manufacturers to artificially enhance prices. An earnest effort was made by the Commission to bring about a reduction in prices. Some of the chief producers of news-print paper proposed to leave the question of prices to the arbitration of the Commission, and the members of the Commission, acting as individuals, agreed with them to undertake this task, and announced their decision. This effort failed, however, on account of the refusal of certain manufacturers to abide by the decision. Nevertheless, the Commission succeeded in procuring a distribution of a considerable quantity of paper at comparatively reasonable prices, which greatly ameliorated the situation of a large number of small newspapers, and forwarded to the Department of Justice its files and data for use in a proceeding which later resulted in the indictment of seven members of the association.

The Commission continued its efforts to bring about a better competitive condition in the paper industry and to prevent certain abuses. To this end a system of reports was inaugurated whereby the print-paper manufacturers and the public are given all helpful information heretofore collected by the manufacturers' association and serving all the useful purposes of said association, so making its continuance unnecessary.

In the gasoline investigation the Commission found that gasoline prices had increased in a greater degree than the cost of production. The gasoline market is dominated by various "Standard Oil" companies, which have divided the territory in the United States and have refrained from competing with each other. The relationship between these companies, which were separated from the Standard Oil Co. of New Jersey by judicial decree, was found to be a community of interest through the ownership of a majority of the shares of each of them by a comparatively small group of capitalists. Various methods of preventing this indirect continuation of the monopolistic power of the Standard Oil group were suggested by the Commission and are briefly noted elsewhere in this report.

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The coal investigations, which covered both anthracite and bituminous coal were originally made for different reasons, but in the case of each investigation the extraordinary price advances occurring shortly thereafter and throughout last winter and spring engaged the attention of the commission. In the case of the anthracite coal investigation, which was started first, the Commission was enabled to place a considerable check on increases in prices with the cooperation of producers, but the bituminous-coal situation was so affected by misuse of rolling stock that the Commission was not able to relieve the situation.

In recommending a schedule of anthracite prices a differential was allowed in favor of the smaller operators. This was based on the considerations, first, that for the most part the better mines have been gathered in under the control of the coal companies controlled by the railroads, and, secondly, these smaller operators, as found by the Interstate Commerce Commission (35 I. C. C., 220), had long suffered under the disadvantage of having to pay excessive freight rates and of having to compete with coal companies enjoying rebates and other preferences through their relations with the railroads.

On June 20, 1917, the Commission transmitted to the Senate its report on anthracite and bituminous coal, in which it pointed out, on page 15, as follows:

“The present production of bituminous coal the country over is about 40 per cent short of the possible maximum, and this limitation is solely to be charged, as to primary cause, to faulty rail transportation. The present demand for coal is unprecedented, but the mines now open are capable of filling this demand if adequate car supply is furnished.

“It is a fact in the bituminous industry that the capacity of a mine for production and the capacity of labor is limited absolute by the supply from day to day of coal cars for the moving of the product. Thus we have found that, with the market at unheard-of-prices, labor is often standing idle at the mines and production is as compared with the possible productive capacity.

“We find that mine labor is being disorganized by reason of irregular employment and forced idleness, and that in some fields bituminous mines are working only three or four days a week and that willing labor and willing operators are standing idle half the time.

“In other fields where there is now a more nearly adequate car supply the irregularity of car supply in months past has so disorganized and discouraged labor that these mines are not now nearly at full capacity of production. The irregularity and uncertainty of employment has caused the miners to be tempted to leave the mines and go into other employment, and, having left, it is difficult to bring them back.

“The Commission believes that there are enough coal cars in the country but that there are not enough coal cars delivered to the mines, and that an inadequate supply having been delivered to the mines and loaded, these cars are not moved to the point of consumption either with the greatest of expedition nor are they promptly discharged upon their arrival at their destination.”

Passage of time has demonstrated the correctness of the Commission's statement. The delay in the movement of coal cars--

both loaded and empty--continues to limit the output of the mines. Movements of coal cars so slow as to average only 12 or 15 miles is per day are now matters of common knowledge. No effort at stimulation, either by way of exhortation to labor or increased prices to operators, can avail against the absolute limit of production set by the misuse of coal-car equipment, of which if properly used, there is an adequate supply.

The Commission, in its report of June 20, page 16, also said:

“Experience has shown that in the United States the normal balance in transportation which brings about a maximum of production with maximum economy occurs when out of every 100 tons of originating freight approximately 56 tons are unmanufactured mineral products and 44 are manufactured products, foodstuffs, and other commodities, and when of the 56 tons of mineral products 35 tons are coal. Of these 35 tons of coal the railroads themselves consume about 12 tons.

“The present balance of transportation is a great reduction in the proportion of the cars furnished for the transportation of coal. The railroads, however, are consuming their full quota of coal, so that while under favorable and natural conditions 35 tons of coal would be moved, out of each 100 tons of freight, there is now being moved very much less coal. The entire coal shortage is thrown upon the industries of the country and the domestic users, who, instead of having a coal supply equal to two-thirds of the total coal movement, are, reduced to a small and continually diminishing ratio, and this in a time when every effort is being made to stimulate the industrial effectiveness of the Nation.

“The Commission believes that the coal industry is paralyzing the industries of the country, and that the coal industry itself is paralyzed by the failure of transportation.”

The Commission believes that subsequent events have demonstrated the correctness of this statement and that in the absence of sufficient reformation in the use of rolling stock the coal situation in this country will continue to increase in its menace to the public welfare.

In its report of June 20, the Commission also said that (p. 15) “Whatever measure of success has marked the efforts of the Commission with relation to anthracite coal has been largely because the car supply has been adequate by reason of the close corporate relation between rail transportation and anthracite production.

“Quite the contrary condition exists with relation to bituminous and rail transportation and with relation to water transportation as to both kinds of coal.”

This statement of the Commission seems to have been open to a construction that a close corporate relation between coal mining companies and transportation agencies is desirable. On the contrary, the Commission was seeking simply to show that if sufficient interest is present transportation facilities in existence can be made adequately to care for stimulated production. The speedy movement of coal by interested transportation companies was pointed out to emphasize by contrast the misuse of rolling stock by other transportation companies. The evils of a community of interest between coal-producing and coal transporting companies are fully recognized by the

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Commission. Directly as to anthracite, this is shown by the abnormal freight rates which have been secured by interested transportation companies for the movement of such coal. [35 I. C. C., 220, 232, 233, 242.] Instead of being in the public interest, this community of corporate interest therefore, makes for unduly high prices of coal to the public and has in it the making of further monopoly.

THE COMMISSION.

Since the date of the last annual report there have been several changes in the personnel of the Commission. The appointment of Commissioner George Rublee expired on May 14, 1916; Hon. John Franklin Fort, who was nominated as his successor by the President, was confirmed by the Senate, and entered upon duty March 16, 1917. Commissioner (Chairman) Edward N. Hurley resigned January 31, 1917, and was succeeded by Hon. W. B. Colver, who entered upon duty March 16, 1917. Commissioner Will H. Parry died on April 21, 1917, and was succeeded by Hon. Victor Murdock, who entered upon duty September 4, 1917.

On October 2, 1917, Commissioner Fort was nominated by the President to succeed himself, and after confirmation by the Senate was sworn in on October 4.

The death of Commissioner Parry removed from the public service a man eminently qualified for it by his disinterestedness, intelligence, and devotion to duty, and his loss is deeply regretted by all who knew him on account of his great abilities and his high personal character. He contributed much to the organization of the Commission and to outlining its policies, while his wide knowledge of the lumber and paper industries were especially valuable to the Commission in its investigations of those subjects.

LEGAL DEPARTMENT.

By the provisions of section 5 of its organic act, the Commission is required to prevent the use of unfair methods of competition in interstate commerce, and it is required to prevent certain price discriminations tying contracts, intercorporate stockholdings, and interlocking directorates, declared unlawful by sections 2, 3, 7, and 8, respectively, of the Clayton Act. Most of the work of the legal department has involved the enforcement of these statutes. During the year there have been presented to the Commission 154 applications for the issuance of complaints and for the institution of proceedings thereon. In the applications involving unfair methods of competition the practices complained of, which were alleged to be unfair methods of competition, included:

- (1) Intimidation, threats, boycotts, molestations, or obstructions.
- (2) Refusal to accept advertising.
- (3) Price cutting by way of-
  - (a) Free goods.
  - (b) Local.
  - (c) General.
  - (d) Fighting brands.
- (4) Disparagement of goods.
- (5) Disparagement of business.
- (6) False and misleading advertising.
- (7) Misbranding.

- (8) Simulation of slogans.
- (9) Use of leaders.
- (10) Use Of coupons.
- (11) Cutting off competitors' supplies and credit.
- (12) Bribery and enticement of employees.
- (13) Use of bogus independents.
- (14) Enhancing prices of raw materials.
- (15) Institution of malicious and vexatious suits.
- (16) Inducing breach of contract.
- (17) Passing off of goods.
- (18) Use of same or similar trade name.
- (19) Conspiracy to injure competitors.
- (20) Espionage.
- (21) Exclusive dealing contracts.
- (22) Defamation of name and goods.

Many of the applications for complaint require long, extensive, and painstaking investigation of the facts by the corps of examiners of the Commission who are attorneys under the immediate direction and supervision of the chief examiner. Most of such investigations develop intricate questions of law and fact, to be briefed and determined by the legal staff. After the investigation has been made the report of the investigation is presented to the board of review, consisting of two lawyers and one economist. This board reviews the entire investigation and the legal questions involved and makes its report thereon to the Commission, which then determines upon a review of the entire matter, whether the application shall be disposed of by dismissal or a formal complaint issued thereon. Upon recommendation by the Commission that a complaint be issued and a proceeding instituted, the matter is referred to the chief counsel's office for the drafting of the complaint and the institution and conduct of the proceedings.

On June 30, 1916, there were pending before the Commission 139 applications for complaint, and these, together with the 154 received up to June 30, 1917, make a total of 293 such applications. Of this number, 102 were disposed of during the fiscal year ending June 30, 1917, without formal proceedings, either by conference rulings or resolutions of the Commission, leaving undisposed of at the end of the fiscal year 191 applications, which are now under investigation.

In its last annual report the Commission undertook somewhat extensively to outline its methods of procedure in the handling of applications for complaints and the enforcement of those statutes which it is empowered to enforce. The same methods have been in the main adhered to. While it is not considered necessary to reiterate in this report what was there said in reference to methods of procedure, still in view of the fact that the Commission is a new administrative body, having important quasi-judicial powers, the methods of procedure in the exercise of its quasi-judicial powers are of special interest, and what was said thereon in the last annual report is referred to here.

A brief resume of the adversary proceedings under consideration by the Commission during the year is as follows:

#### PROCEEDINGS DISPOSED OF.

(1) Federal Trade Commission v. A. B. Dick Co., of Illinois. Proceeding was instituted to prevent the use of certain license re-

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strictions by which the purchasers of the respondent's patented machines and of its patented stencil paper were required to use these machines and paper only with supplies and machines furnished by the respondent, in violation of section 3 of the Clayton Act. The Commission completed taking the testimony in the proceeding just prior to the decision of the Supreme Court in *Motion Picture Patents Co. v. Universal Film Co.* (37 Sup. Ct. Rep., 416; 243 U. S.), which held that the patent statute did not confer any right on the patentee to impose such restriction, and that its validity must, therefore, be determined by reference to the general law. Upon the publication of this decision the A. B. Dick Co. declined to defend further in the Commission's proceeding and upon the record made up to that date findings as to the facts were made by the Commission in the proceeding and an order was issued prohibiting the respondent from selling its machines and paper upon the condition, agreement, or understanding, whether embodied in a so-called license restriction or in a contract, or otherwise, that the purchaser should not use therewith the machines or supplies of a competitor. In view of the fact that in this proceeding the first order of the Commission, requiring the party proceeded against to cease and desist from the practice complained of, was issued, and in view of the importance of the matter therein involved to trade, and of the legal propositions involved, the Commission's findings as to the facts, its conclusions of law thereon, and its order to cease and desist, are appended thereto, to be made a part of this report. It is noteworthy that the respondent was required to reform the conduct of its business to conform with the Commission's order and to report in writing the details of such reformation after the same had been accomplished. Such report has been in fact filed with the Commission. (See p. 57.)

(2) *Federal Trade Commission v. A. Theo. Abbott & Co.* The complaint in this proceeding charged the respondent with labeling and advertising certain fabrics manufactured by it as "silk" when such fabric was not silk, or did not contain silk substances, in violation of section 5 of the Federal Trade Commission act. After the issuance of the complaint the respondents took substantial steps to correct every possible confusion or deception which the practice involved, and an order was entered requiring it to cease and desist from the practices complained of.

(3) *Federal Trade Commission v. Circle Cilk Co.* The complaint in this proceeding charged the respondent with selling cotton thread under a trade name carrying the words "Circle Cilk," and "Embroidery Floss," in violation of section 5 of the Federal Trade Commission act. Proceedings were had substantially similar to the proceeding against A. Theo. Abbott & Co. with the same disposition.

(4) *Federal Trade Commission v. Goldin Bros.* The complaint in this proceeding charged the respondent with selling mercerized cotton under trade name and label carrying the words "Sewing Silk," in violation of section 5 of the Federal Trade Commission act. Proceedings were had substantially similar to the proceedings against A. Theo. Abbott & Co. with the same disposition.

PROCEEDINGS INSTITUTED SINCE JULY 1, 1916.

*Complaint No. 6.*--Federal Trade Commission v. Fleischmann Co. Cause: Stifling and suppressing competition by undue sampling, by distribution of gratuities, by making contributions to association and conventions, by extensive entertainment, by making deliveries of yeast without any immediate charge therefor, by cash payments, substituting competitors' samples and deliveries, trailing competitors' agents, misrepresenting competitors' methods, by concealing its control of a supposed independent yeast company, etc., ill violation of section 5 of the Federal Trade Commission act; and, further, attempting to create a monopoly by price fixing conditioned on the nonuse, of competitors' goods in violation of section 3 of the Clayton Act.

*Complaint No. 7.*--Federal Trade Commission v. Muenzen Specialty Co., of New York. Cause: Unfair methods of competition in connection with sale of vacuum cleaners by misrepresentation in advertising, by injurious statements relative to competitors' cleaners, and competitors' financial standing, etc., in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 8.*--Federal Trade Commission v. Victor Talking Machine Co., of New Jersey. Cause: Attempting to create a monopoly by price fixing in connection with leasing, selling, and contracting to sell talking machines, sound records. sound boxes and needles conditioned on nonuse of competitors' goods in alleged violation of section 3 of the Clayton Act.

*Complaint No. 9.*--Federal Trade Commission v. Standard Car Equipment Co., of Pennsylvania. Cause: Unfair methods of competition in connection with leasing and selling tank cars by inducing employees of competitors to leave, by making false representations that it is closely affiliated with one of its competitors, by acquiring trade secrets of competitor from former employees, etc., in alleged violation of Section 5 of the Federal Trade Commission act.

*Complaint No. 10.*--Federal Trade Commission v. National Binding Machine Co., of New York. Cause: Stifling and suppressing competition by purchasing gummed sealing tape in large quantities on condition that the manufacturers thereof do not sell to others, by interference with customers of competitors, by "license agreement," by threats of suit for infringement against users of tape on machines other than the National Binding Machine in alleged violation of section 5 of the Federal Trade Commission act; and attempting to create a monopoly in connection with leasing, sale, and contracting to sell gummed scaling tape and binding machines conditioned on nonuse of either with goods of competitors, in alleged violation of section 3 of the Clayton Act.

*Complaint No. 11.*--Federal Trade Commission v. Botsford Lumber Co., et al. Cause: Stifling and suppressing competition on the part of mail-order houses in the lumber and building material trade by bogus and spurious requests for estimates, quotations, printed matter, etc., by influencing credit reporting houses; by inducing manufactures to refrain from furnishing materials; by surreptitiously obtaining trade secrets and by trailing salesmen, ill alleged violation of section 5 of the Federal Trade Commission act.

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*Complaint No. 12.*--Federal Trade Commission v. Warren, Jones, and Gratz, et al. Cause: Discouraging and stifling competition in the sale of jute bagging by refusing to sell steel ties for binding bales of cotton unless jute bagging is ordered at the same time in alleged

*Complaint no. 13.*--Federal Trade Commission v. C. L. Colman Lumber Co. Cause: Selling and delivering lumber and building material at different prices to purchasers than those made to other purchasers in the same or other cities and communities, in alleged violation of section 2 of the Clayton Act.

*Complain No. 14.*--Federal Trade Commission v. Interior Lumber Co. Cause: Selling and delivering lumber and building material at different prices to purchasers than those made to other purchasers in the same, or other cities and communities, in alleged violation of section 2 of the Clayton Act.

The proceeding of the Commission against the Shredded Wheat Co. instituted during the previous year is awaiting the completion of the taking of the testimony. The complaint alleges unfair methods of competition in violation of the Federal Trade Commission act in (a) attempting to hinder, delay, and embarrass a competitor in equipping its plant and factory with suitable machinery; (b) espionage to procure drawings of machinery; (c) bribing an employee of a railway company to give information as to competitor's goods; (d) inducing the cancellation of sales and withdrawal of patronage of customers of its competitors; (e) instituting an unjustifiable and vexatious action against a competitor; (f) advertising such vexatious action; (g) threats to institute actions against persons who dealt with the competitor; (h) threatening to withdraw its advertising from newspapers that advertised the goods of the competitor; (i) falsely advertising that it had exclusive right to manufacture and sell its products; (j) endeavoring to induce other competitors to institute suit against the new competitor; (k) endeavoring to embarrass hinder and delay its competitor in procuring boxes in which to pack its products; (l) and generally endeavoring to prevent and destroy competition.

The formal adversary proceedings undisposed of are now either in the course of preparation for trial or hearing or the testimony is being received and the record made upon which the Commission will make its findings as to the facts.

It is apparent that several of the investigations of the applications for complaint now being conducted by the Commission will develop in a comparatively short time into formal proceedings charging unfair methods of competition. The Commission, with the circumspection that has characterized its policy from its organization, has not issued its complaints charging unfair methods of competition or violations of the sections of the Clayton Act, which it is required to enforce, until it could fairly say, from its investigation made, or the evidence in its possession, that it "has reason to believe" the charges stated in the complaint issued by it.

On account of extraordinary industrial conditions brought about by the existence of the war it might be supposed that there would be fewer charges or complaints of unfair methods of competition made

to the Commission, and that the activities of the Commission would in consequence thereof be almost wholly directed to economic investigations. While, to a considerable extent, on account of the rapidly rising prices of commodities produced by industries under investigation, the Commission has had to concentrate its activities on the extensive economic investigations undertaken by it and to enlist the services of members of the legal staff in the work of such investigations, still, the number or importance of complaints made to the Commission of unfair methods of competition has not lessened but has increased during the six months ending June 30, last, and particularly since we entered the war. The large number of industrial concerns seeking adjudication of their claims of unfair methods of competition in interstate commerce in the forum of the Federal Trade Commission now appears to justify the belief of Congress when it created the Commission that the public interest required the establishment of a tribunal for the maintenance of fair competitive conditions in industry. It is already demonstrable that the procedure of the Commission is most efficacious in a large number of cases where the concern against whom unfair methods of competition are being practiced has no remedy for the unlawful methods used against it, or is without means to enter into contest with the party practicing the same, or where the penalties or the remedies provided by the Sherman Law are inadequate. Moreover, the mere power vested in the Commission is an evident deterrent to industrial concerns from unfair competitive aggression against their weaker rivals in business.

*Miscellaneous legal work.*--In addition to the legal work involved in the enforcement of section 5 of the Federal Trade Commission act and of certain sections of the Clayton Act set forth in detail above, it has been necessary to assign attorneys to various investigations being conducted by the Commission at the direction of the President or of Congress. While statistical and economic facts, which usually form a basis of the reports on such investigations, are gathered chiefly by economists, statisticians, and accountants, still it is regarded as necessary that competent attorneys be assigned to assist in the work, in order to make certain that all facts and documentary evidence which may tend to show a violation of the Sherman Act or the laws which the Commission is charged with enforcing, are secured, if they exist, and also it is desirable that attorneys be engaged, to a large extent, in the work of such investigations either as examiners in the field or in briefing the legal propositions developed by the facts. Furthermore, where the material gathered in such investigations is carefully scrutinized by attorneys as the work progresses, the Commission is in a position to place in the hands of the Attorney General any evidence of violation of law which that officer is empowered to enforce.

In the Commission's report to Congress on the price of gasoline it made several recommendations or suggestions looking toward the prevention of control of the gasoline market being exercised through common-stock ownership. These recommendations or suggestions were, made after a thorough study of the antitrust decisions applica-

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ble and the principles of law involved and a presentation thereof to the Commission by attorneys on the legal staff.

The inordinately high prices imposed for certain commodities which were subject to investigation by the Commission led it to the inquiry as to the power of Congress, in absence of a state of war, to fix prices of necessities, with a view to making recommendations to Congress as to legislation thereon (this applies particularly to gasoline, paper, and coal) and since the commencement of the war the Commission has deemed it its duty to recommend to Congress the enactment of certain legislation for the protection of the public against exorbitant prices, and such proposed legislation was very carefully considered, and considerable the of the attorneys has been devoted to work of this character.

ECONOMIC DEPARTMENT.

The various matters which are subject to investigation by the Commission involve in most cases economic questions and therefore require consideration by the economic department.

The administrative or quasi-judicial duties of the Commission with respect to section 5 of the Trade Commission act, and to sections 2 and 3 of the Clayton Act have been discussed above in connection with the legal department and need not be particularly referred to here. It is desirable to note, however, that important economic questions are involved in the application of these provisions of law and that special investigation or consideration by the economic department is often necessary. With regard to sections 7 and 8 of the Clayton Act, also referred to above, a more particular statement is made hereafter.

The principal work of the economic department may be briefly summarized as follows:  
The Commission in its organic act, is authorized:

(1) To investigate the organization, business, conduct, etc., of corporations and to require annual and special reports from them (see. 6, pars. (a), (b), (f), and (g)).

(2) To investigate and make recommendations concerning decrees in antitrust cases, to investigate alleged violations of the antitrust laws, to recommend adjustments of corporations alleged to be violating the antitrust laws (see. 6, pars. (c), (d), and (e) ), and to recommend appropriate form of decree in antitrust cases (sec. 7).

(3) To investigate trade conditions in and with foreign countries, particularly with respect to combinations (sec. 6, par. (h) ).

The economic department, of the Commission includes among its principal duties, therefore, general surveys of industrial conditions (through corporation reports) and the investigation of particular concerns and industries. The greater part of the work hitherto done by the Commission has related to the latter, i.e., the activities of particular corporations and the economic conditions in particular industries. This has been largely in consequence of resolutions of Congress directing such specific investigations.

The activities of the economic department for the fiscal year discussed below are grouped under the headings of (1) specific investigations and (2) corporation reports.

## SPECIFIC INVESTIGATIONS.

The term "specific investigations" may be used to describe those investigations which relate to particular corporations, industries, or business problems. In general, they are similar to the investigations formerly conducted by the Bureau of Corporations, which was merged in the Trade Commission.

The chief specific investigations upon which work was done during the fiscal year ended June 30, 1917, were as follows:

- (1) News-print paper industry.
- (2) Book-print paper industry.
- (3) Petroleum industry.
- (4) Beet-sugar industry.
- (5) Flag prices.
- (6) Lumber industry.
- (7) Anthracite industry.
- (8) Bituminous-coal industry.

Of these investigations final reports were issued during the fiscal year ending June 30, 1917, on news-print paper, beet sugar, and flags, and partial or preliminary reports were made on petroleum (gasoline), book-print paper, anthracite, and bituminous coal. The final report on book-print paper was issued in October, 1917. The investigations of petroleum, lumber, anthracite and bituminous coal are being continued, but for the present in large part, alone, different lines on account of the special information required for the conduct of the war. The investigations of resale-price maintenance and of trade associations previously undertaken have been interrupted by the pressure of other work. Since the close of the fiscal year reported on, however, the Commission has held several hearings on resale-price maintenance,.

Brief statements of the nature of the specific investigations noted above and the conclusions and recommendations of the Commission are given below.

*News-print paper.*--The newsprint paper investigation was made pursuant to a resolution of the Senate, adopted April 24, 1916. (S. Res. 177, 64th Cong.) A preliminary report was submitted to the Senate on March 3, 1917, and the final report on June 13, 1917. The Commission found that prices of news-print paper had been advanced more rapidly than was justified either by the cost of manufacture or conditions of supply and demand, and also that the advance in prices was aided by the activities of the News-Print Manufacturers' Association, which included almost all of the producers on the North American continent.

The evidence collected by the Commission tending to show violations of the Sherman law by members of the News-Print Manufacturers' Association was submitted to the Department of Justice, and partly on the basis of this evidence a Federal grand jury for the southern district of New York, on April 11, 1917, brought indictments against the five members of the executive committee of the association and two other manufacturers. The trial is set for November, 1917.

The Commission investigation showed that the greatly increased prices of news-print paper were placing a burden upon newspaper

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publishers, which it was difficult for many to bear. Some were forced to suspend and others were threatened with bankruptcy. Realizing the seriousness of the situation the Commission endeavored to use its good offices to secure the adoption of some plan of affording immediate relief through the voluntary cooperation of the interested parties. In February, 1917, several manufacturers made a proposition to the Commission that it determine what was a fair and reasonable price for the sale of their output of standard newsprint paper for the six months' period beginning March 1, 1917, and agreed to abide by its decision. The Commissioners, as individuals, agreed to undertake the arbitration, and on March 3, 1917, announced the price of \$2.50 per 100 pounds for roll news in car lots and \$3.25 for sheet news in car lots. They then required the contract customers of the signatory manufacturers in return for the reduction in price to agree to release 5 percent of their contract tonnage each month, which surplus it was planned to distribute to publishers without contracts who were in need of assistance. A majority of the contract customers of the signatory manufacturers entered into this agreement.

The arbitration plan failed since several of the manufacturers withdrew from it after the above-mentioned indictments were handed down, and the reductions in price agreed upon were not made. The Federal Government, however, has obtained the news-print used in printing the OFFICIAL BULLETIN at the price so determined.

When all efforts to bring relief to the situation by the voluntary cooperation of the interested parties had failed the Commission recommended to the Congress as a war emergency measure the enactment of legislation providing for governmental supervision of the production and sale of print paper and wood pulp during the continuance of the war, and bills embodying substantially these recommendations are pending in both Houses of Congress.

Through cooperation with the Berlin Mills Co., Portland, Me., and the Northwest Paper Co., Cloquet, Minn., the Commission obtained a considerable tonnage of sheet news, while it distributed to the smaller publishers of the country at \$3.25 per 100 pounds f. o. b. mill. The paper was distributed through jobbers and representative's of publishers' associations in almost all of the States east of the Rocky Mountains. This service resulted in keeping many publishers from going out of business and exercised a controlling influence upon the market price of sheet news. In the aggregate it saved a large sum of money for the users of sheet news.

*Book-paper industry.*--The book-paper investigation was made pursuant to a resolution of the Senate dated September 7, 1916. A preliminary report was submitted to the Senate on June 13, 1917, and the final report was in process of completion at the close of the fiscal year.'

The Commission found that the prices of book paper had been advanced more rapidly than the cost of production or conditions of supply and demand justified, and that the advance in price was aided by the activities of the Bureau of Statistics, which included 23 important book-paper manufacturers. The Commission made its recommendations to the Congress on news-print paper sufficiently broad to include book paper. On August 7, 1917, proceedings were insti-

'Submitted to the Senate Aug. 21, 1917, and issued in October as a Senate document, No. 79, 65th Cong., 1st sess.

tuted by the Commission against the members of the Bureau of Statistics to cause them to cease and desist from certain practices which were instrumental in raising prices. In November the defendants signed a stipulation by which the Bureau of Statistics was dissolved.

*Petroleum industry.*--In response to resolutions of the Senate (No. 109, passed June 18, 1913 and No. 457, passed Sept. 28, 1914), a comprehensive investigation was undertaken into the production, transportation, refining, and marketing of petroleum and its products.

During the fiscal year 1917 the Commission was engaged in the completion of its report on the price of gasoline, described below. It is one of a series of reports on the petroleum industry, of which the report on pipe-line transportation of petroleum was issued in 1915. Definite plans were formulated for the issuance of two additional reports, which will complete the investigation. Considerable progress has been made in the preparation of a report on the prices of crude, oil, the methods by which such prices are fixed, and the profits secured by different companies at the different in the production and distribution of petroleum products.

In connection with the investigation of competitive conditions and inter-company relations in the oil industry, the use of unfair methods of competition in some instances has been indicated.

The investigation of the volume and cost of production of crude oil has been continued throughout the year.

An investigation of the advance in the price of gasoline which occurred in 1915 was begun toward the end of the same year and carried on during 1916. This investigation was partly in response to Senate resolutions passed on June 18, 1913, and on September 28, 1914, which directed investigations into the price of oil in Oklahoma, including a comparison of the prices with the general market level in the United States, quality and transportation considered and into the relations existing between the Standard Oil companies and other companies in the petroleum industry. It was also made in response to a large number of complaints which were directed to it from all quarters by consumers and by jobbing companies which were competing with the Standard Oil companies. The Commission's report was issued on April 11, 1917.

Gasoline is the chief product of petroleum refining, and it is with regard to this product that competitive conditions in the industry are manifested most clearly.

The report covered conditions in the entire United States during the year 1915, with respect to prices, demand and supply, cost, earnings, competitive conditions, and the position of the Standard Oil companies in the industry.

The principal conclusions of the Commission were as follows: During the second half of 1915 the price of gasoline advanced between 75 and 85 per cent in different parts of the country, while, at the same time, the quality of the product was somewhat reduced. Costs also increased, but not in proportion to prices. While this advance is partly explainable by increased costs, chiefly the cost of crude oil, and by increased consumption of gasoline, a part of the advance in certain sections at least was unnecessary and due to artificial conditions. During 1915 unusually large stocks of crude, bought at low

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prices were accumulated, thus withholding great quantities from the market and tending unreasonably to advance the price of crude oil.

The various Standard companies, moreover, occupy a dominant position in most parts of the United States and the, absence of substantial competition among these companies was an appreciable factor in causing the advance. The report points out that a group of companies which has a dominant position in the industry should act with especial care and moderation with regard to the extent to which it takes advantage of a period of scarcity to advance prices unduly above cost. The various Standard companies are subject to a community of interest, based on the fact that a majority of their stockholders are the same individuals, and this community of interest embraces not only refiners, but also oil producers and pipe lines. Under such circumstances competition can hardly be expected to work effectively and fairly or to adjust prices to cost with any reasonable precision. Several important officers of Standard companies have large holdings of stock in other Standard companies. The Standard marketing companies have divided the country into 11 distinct marketing territories following State lines and there is no substantial Competition in the sale of gasoline among them.

As remedies for the conditions which produced the artificial and unnecessary part in the advance of gasoline prices the Commission made the following suggestions as alternative courses of action:

1. To prevent the control of the market from being exercised through common ownership, five courses of possible action are suggested--

(a) Possible action by the Department of Justice in view of the facts disclosed by the Commission's investigation.

(b) An act of Congress providing, when conditions require, for the reopening of antitrust cases, on the application of the Attorney General, by a bill of review.

(c) Abolition, by legislation, in certain cases, of common stock ownership in corporations which have been members of a combination dissolved under the Sherman law.

(d) Effective limitation upon common ownership of stock in potentially competitive corporations by withdrawing the power of voting and control.

(e) Legislation which, while recognizing common ownership, would fix upon such common owners the responsibility for the acts of each of the several companies so owned, which are preventing competition.

2. In the opinion of this Commission it would in the long run be the simplest and most effective policy to segregate the ownership of the pipe lines from the other branches of the petroleum industry. This would mean that no controlling portion of the stock of any pipeline company engaged in interstate commerce should be owned by individuals, companies, or corporations that are also interested as owners in any oil-producing or refining properties, and vice versa.

3. In view of the bearing of accurate statistics upon industry and competitive conditions, it is suggested that the appropriate branch of the Federal Government should be provided with adequate means for carrying on the statistical work required.

4. It is suggested, in view of the variation in the product now sold as gasoline, that only such petroleum products as contain a certain proportion of reasonably volatile elements shall be sold in interstate commerce as "gasoline."

*Beet-sugar industry.*--An investigation of the beet-sugar industry, initiated by the Bureau of Corporations, was completed and the Commission's report was issued on May 24, 1917. This report dealt, with the costs and profits of growing sugar beets, the cost of manufacturing and marketing beet sugar, the profits in the manufacture and sale of beet sugar, and the relations between beet-sugar growers and beet-sugar manufacturers. It covered in detail the operations of all

the beet-sugar factories in the United States, except two small ones, during the five-year period ending with the business year of 1913-14.

The report also discussed in considerable detail the matter of efficiency in the beet-sugar industry, pointing out the opportunities for improvements in this respect.

The economic position of the industry was not discussed in the report. A chapter dealing with this subject was prepared, but it, together with all data collected during the investigation, has been turned over to the United States Tariff Commission.

*Prices of American flags.*--Pursuant to resolutions of the Senate and the House of Representatives, the Commission made an inquiry into the causes of the increase in the prices of American flags following the declaration of war. The records of leading flag manufacturers and dealers were searched for evidences of the use of unfair methods of competition or of unlawful combination. It was found that, because of the extraordinary public demand for flags, competition between sellers had been virtually suspended throughout the United States. Many manufacturers and dealers took advantage of the opportunity thus presented to charge exorbitant prices. The Commission, in its report on this subject, urged Congress to enact laws adequate to prevent such extortion. Complaints charging the use of unfair methods of competition were issued on September 14, 1917, against certain individuals, and the evidence of unlawful combination in the flag industry has been transmitted to the Department of Justice.

*Lumber industry.*--The general investigation of the lumber industry commenced during the fiscal year 1916 was continued, especially with respect to the fundamental conditions in private holding of timber and the manufacture of lumber and with methods of trade organization in the lumber industry. During the fiscal year 1917 the Commission has assisted the Forest Service in the preparation and publication of several numbers of its series of "Studies in the Lumber Industry." In its work on the problems of the lumber industry it has had the cooperation of the Bureau of Foreign and Domestic Commerce and the Forest Service. As a result of this joint investigation there was created in April, 1917, an advisory council on forest industries to study continuously the problems of timber-using industries and to determine a rational public policy with respect to standing timber resources. On this council are represented the Forest Service, the Bureau of Foreign and Domestic Commerce, and the Federal Trade Commission. Conferences and hearings with other Government agencies and with representatives of the industry have been continued.

*Coal industry.*--During the past fiscal year an investigation of the anthracite and bituminous coal industry was conducted by the Commission. The anthracite investigation was in answer to Senator Hitchcock's resolution, adopted June 22, 1916 (S. Res. 217, 64th Cong., 1st sess.), and pursuant to Senator Calder's resolution, adopted April 30, 1917 (S. Res. 51, 65th Cong., 1st sess.). The bituminous investigation was in response to Representative Rainey's resolution agreed to by the House of Representatives August 18, 1916 (H. Res. 352, 64th Cong., 1st sess.). The anthracite investigation was initiated to determine whether the price

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advance made by the producers on account of increase in wages to miners was reasonable, while the bituminous-coal investigation was originally directed to the question whether the producers were suffering from excessive competition, but the rapid changes which immediately developed in the coal-mining industry greatly altered the character and scope of each investigation.

*Anthracite industry.*--In the early autumn of 1916, in the course of the anthracite investigations, congested traffic conditions and frequent embargoes, together with local shortages in the consuming markets, occasioned a "buying panic" resulting in extraordinary increases in retail prices of anthracite throughout the country.

The Commission immediately centered its attention on this situation. Information was collected regarding conditions of production and distribution, and particularly with respect to the price of coal from the mouth of the mine to the ultimate consumer.

In the spring of 1917 on account of rumors in the anthracite trade that the producing companies were intending to withdraw or reduce the customary spring discounts, an open letter was sent by the Commission on March 12, 1917, to the principal operators, pointing out that any indirect increase in prices by omitting the customary spring discounts could not be justified on the basis of the figures of cost of production compiled by the Commission. Shortly afterwards the regular discounts were allowed by the companies.

On April 26, 1917, as the Commission's investigation of the wage agreement of May, 1916, was drawing to a close, a new emergency wage agreement was entered into between the operators and their miners. Before the operators announced any increase in prices as the result of increased wages granted by this agreement, retail dealers in many localities advanced their prices. The Commission in conference with the largest anthracite operating interest indicated that it considered 30 cents a ton a sufficient increase in wholesale, prices to cover the wage increase, and the decreased price announced by the larger producers was approximately of this amount.

While the conferences on this matter were in progress, an unseasonable recurrence of the buying panic of the winter developed, and the Commission, in an interim report to the Senate on May 4, 1917, end in subsequent press statements set forth the facts of the anthracite situation as it then stood.

With a view to preventing undue prices for anthracite, the Commission elaborated a system for tracing the coal from the mines through all intermediate channels to the consumer. Weekly reports were required from producers wherever needful and from jobbers. Agents of the Commission were stationed at leading points of distribution to watch the market and to secure the cooperation of producers and wholesale distributors in relieving local shortages of anthracite.

As a result of this, high premium prices for anthracite and excessive profits were largely cut out in the wholesale trade as regards domestic sizes. Dealers in many communities suffering for lack of anthracite were supplied and a fairer distribution secured.

On the steam sizes of anthracite, which are in competition with bituminous coal no effective check could be placed because of the abnormally high prices which ruled in the bituminous market up to

the time when maximum prices were fixed by the president under the powers conferred on him by section 25 of the food law, approved August 10, 1917.

In a detailed report on anthracite and bituminous coal transmitted to the Senate on June 19, 1917 (S. Doc. No. 5101 65th Cong., 1st sess.), the Commission reported, in response to the Hitchcock resolution, which inquired regarding price increases of leading producers of anthracite, and particularly whether the wage increases granted by these producers in May, 1916, justified their subsequent price increases. The Commission found that the increase in labor costs alone was less than the price increases and that the increase in total costs was also less and did not therefore justify such price increases.

In the same report, in answer to Senator Calder's resolution, the Commission presented information on the following matters:

- (1) The then existing conditions in the anthracite industry and the outlook for anthracite.
- (2) The panic conditions and prices in the anthracite trade during the fall of 1916-17;
- (3) The costs of production by the larger companies and certain of the smaller companies in 1916;
- (4) The impossibility of solving the anthracite problem without action by Congress that would at the same time cure the evil conditions then existing in the bituminous industry and in transportation;
- (5) Anthracite royalties.

In the report the Commission made the following recommendations:

- (1) That the production and distribution of coal and coke be conducted through a pool in the hands of a Government agency; that the producers of various grades of fuel be paid their full cost of production plus a uniform profit per ton (with due allowance for quality of product and efficiency of service);
- (2) That the transportation agencies of the United States, both rail and water, be similarly pooled and operated on Government account, under direction of the President, and that all such means of transportation be operated as a unit the owning corporations being paid a just and fair compensation which would cover normal net profit, upkeep, and betterments.

One Commissioner dissented from the second recommendation.

In order to be of practical service to consumers the Commission also made a series of special investigations of the local coal situation and of retailers' margins in a number of representative cities, the results being published from time to time in the form of statements to the press. While the retail margins, in some cases, were found to be reasonable, it was shown that in others the public had been charged excessive prices.

*Bituminous-coal industry.*--In the course of the Commission's investigation, under the Rainey resolution, into the production and distribution of bituminous coal, an alarming situation suddenly developed in the autumn of 1916 involving extraordinarily high prices and difficulty in maintaining production.

The Commission immediately directed special attention to the causes of this disturbance and on May 19, 1917, transmitted to the House a preliminary report on the results of its inquiry. (H. Doc. No. 152,

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65th Cong. 1st, sess.) It was pointed out that the underlying causes of the abnormal bituminous-coal situation were as follows: Increased demand for coal, shifting markets, inadequate transportation facilities, labor conditions, increased cost of production and distribution, lack of sufficient storage facilities, and speculative activities of some mine operators and brokers.

At the request of the governor of Indiana and of the Ohio State Council of Defense special investigations into the cost of production of coal in those States were made under the supervision of agents of the Commission, with the assistance of accountants placed at its disposal by the respective State authorities for this purpose. Data of a similar nature relating to coal for the United States Navy were compiled and submitted to the Secretary of the Navy at his request.

Toward the close of the fiscal year, while remedial legislation was under consideration by Congress (resulting ultimately in a provision for Government control of the coal industry, embodied in section 25 of the food law), the services of the Commission were extensively given to the respective committees of Congress.

Following the passage of the food law and the President's appointment thereunder of a Fuel Administrator the Commission has furnished to the Fuel Administrator all information available to it and has furnished data on costs of production of coal.

CORPORATION REPORTS.

The Commission, under section 6, paragraphs (a), (b), (f), and (g) of the Trade Commission act, has very broad powers to obtain and publish information regarding corporations generally.

The legislative proceedings in this connection show that it was contemplated that the Commission should use these powers in an extensive way to secure information of value to the public, including the corporations making such reports. These powers are also necessary for the effective execution of other powers reposed in the Commission. (See p. 21.)

*Promotion of uniform methods of cost accounting.*--As a fundamental basis for obtaining corporation reports in a serviceable form the Commission realized the necessity of more satisfactory accounting methods by corporations, particularly in cost accounting, and for this reason it endeavored to awaken among business men a realization of deficiencies in this matter. Considerable work in this direction was done, and a very intelligent and appreciative response was found in the business world generally. In fact, frequent demands were received by the Commission from companies and associations in various industries for advice and assistance. As the appropriations of, however, were not adequate for developing this the Commission, work on the scale desired, and as the Department of Commerce indicated a willingness to take over this promotive activity, it was arranged near the close of the fiscal year 1917 to transfer the work to that department.

*Reports by industries.*--As another step in laying the foundations for a more comprehensive plan for corporation reports an effort was made to obtain, on a voluntary basis, brief reports from manufacturing concerns classified by industries. The data requested related

chiefly to the following particulars of their business, namely: Kind of business, principal products made or sold, capital stock, bonds, surplus, net sales for year, net profit or loss from operations, depreciation provision for bad debts, etc.

It was intended after compiling these returns to send to each concern reporting a statement of the combined results of the inquiry with respect to the industry in which the reporting concern was interested.

The questions asked were such that every manufacturing concern should be able to answer them without difficulty and with little or no labor. The returns, however, were disappointing. In a large proportion of cases they were incomplete and in frequent instances of doubtful accuracy. In view of these facts the Commission felt constrained to withhold the issuance of the combined statements originally planned. Nevertheless this work proved to be of considerable value indirectly and plainly indicated the importance, and desirability of more intelligent accounting methods in business. It also proved that if the Commission attempted to organize any system of reports from corporations generally it would have to begin on a very modest scale as to the scope of information required, and that if for particular basic industries it was desired to have really comprehensive data it would be necessary to organize the world slowly and after going carefully over the whole plan with the producers themselves.

*Corporation reports.*--The desirability, however, both of a comprehensive general survey and of a more particular survey of those corporations which are engaged in the important and basic industries of the country is obvious.

With respect to a general survey of corporations it would be of great utility to the Government and to the general public, including the business world, to have a more complete record of the financial results and conditions in each industry, both generally and by the chief grand divisions of the country. Accurate data, for example, regarding the extent of investment and the average profits in the various industries would tend to prevent the undue development of those in which profits are unreasonably low and to encourage investment in those in which they are inordinately high. Such a result would be of great benefit not only to the business world, but to the public generally. At the same time data should be obtained regarding the output of each concern and its relations with other companies, through intercompany stockholding or interlocking directorates, to aid in the enforcement of the laws prescribed below.

With respect to the more particular study of the important and basic industries the experience of the Commission in several striking instances, as for example, petroleum and newsprint paper, has emphasized the necessity of more prompt and accurate information regarding the fundamental facts in the trade, such as the current output, stocks of product on hand, consumption, prices., and other factors affecting supply and demand. A system of current reports for such Industries would be of great benefit to each and consequently to the public. Sometimes this work is performed to a certain extent by trade associations, but such associations do not always include the whole industry, while the information they collect is generally not available to nonmembers or to the public. The performance of such a function

is evidently a duty of the Government, and if it fulfilled this function in an adequate manner it would obviate, many objections which now exist to the private activities of trade associations.

*Intercompany stockholding and interlocking directorates.*--The Clayton Act, in sections 7 and 8 (see pg. 37), contains certain prohibitions against intercompany stockholding and interlocking directorates, and charges the Commission with the enforcement of these provisions.

While the Commission has in some instances intervened to prevent suspected projects in violation of these provisions, it is obvious that unless some systematic investigation is made of the conditions that many violations of law will escape observation or detection. The Commission therefore directed that a preliminary investigation should be made of the general situation in so far as the available published Sources of information were concerned as a basis for a more thorough study of this matter. Comprehensive and up-to-date information on this subject is hardly attainable without a systematic requirement for corporation reports covering these relations followed by a careful study of such data to determine whether the relations so discovered bring the parties in question within the prohibitions of the statute.

In the case of intercompany stockholding, it should be noted, the prohibition applies to cases "where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce." A similar rule is made against a holding company acquiring the stock of competing corporations. With respect to interlocking directorates the prohibition applies only to certain corporations where any one of them has a capital stock, surplus, and undivided profits aggregating more than \$1,000,000, and then only in case the companies, so related "are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws."

It is evident, therefore, that in addition to a very comprehensive survey of these relations between corporations it would be necessary to examine particular cases with great care, both economically from the standpoint of their competitive situation and legally from the standpoint of the applicability of the antitrust laws under the circumstances found to exist. This work therefore is large in extent and would involve a greater expenditure than the funds, hitherto available to the Commission would make possible in view of the various other duties imposed upon it by law. Adequate provision for the enforcement of the of these provisions of law is obviously necessary. This information could be conveniently obtained in connection with general reports from corporations which have been described above.

#### FOOD INVESTIGATION.

As indicated above (see p. 3) Congress made a special appropriation on June 12, 1917, for a comprehensive food investigation, which

became available on July 1, 1917. The Department of Agriculture also received an additional appropriation on this account, and in accordance with the directions of the President is working in close cooperation with the Commission on this investigation. Only preliminary study was given to this inquiry during the fiscal year here reported on, but since that time the work has been actively prosecuted.

The work of the Commission is directed chiefly to the investigation of the preparation and marketing of meats, grain foods, and canned vegetables and fish, and also to the operations of produce exchanges, the Department of Agriculture devoting its attention chiefly to the raising of grain, vegetables, and live stock, and also to certain branches of marketing for which its organization affords special facilities. Questions of violation of the antitrust laws or of unfair methods of competition wherever found are naturally attended to by the Commission. One of the principal aims of the whole investigation, however, is to ascertain whether the existing methods of production, manufacture, and distribution are economical and efficient, and if not, what reforms or improvements could be adopted to make them more so. In this connection the Commission is also working in close cooperation with the Food Administration, which has extensive powers of regulation and can use to advantage, in its current work, the information gathered by the Commission.

#### COSTS OF PRODUCTION OF WAR MATERIAL, ETC.

The President, as already stated, just before the close of the fiscal year here reported on, called upon the Commission for assistance in ascertaining the costs of production of various materials necessary for the Government in the prosecution of the war. Only a little work on this subject was done before July 1, 1917, which was chiefly in connection with the costs of steel and lumber for shipbuilding, and of coal for the Navy. Since then the work has been greatly expanded and in many cases has been made to cover practically the whole industry, whether the producers were engaged in supplying the Government or not. This is due to the policy of the Government, in insisting on reasonable prices for its own purchases, to procure them also for the public. In the case of fuel, particularly coal, the establishment by law or agreement of a general price regulation for such commodities has made this course necessary.

In the ascertainment of costs of production of coal and with respect to other data regarding the coal industry, the Commission has worked in close cooperation with the Fuel Administration. For most products however, the prices are not fixed by law but by voluntary agreements with the producers. In respect to such products the Commission has ascertained and is continuing to ascertain costs and other data for the use of the President, but has not been changed with the duty of negotiating prices. Among the chief commodities for which cokes have been and are being currently obtained are coal and coke, iron ore, iron and steel products of numerous kinds, various petroleum products, particularly fuel oil and gasoline, lumber, especially for shipbuilding, cement, fire brick, copper, lead, zinc, aluminum, nickel, and certain other metals, or alloys, including in some

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cases finished manufactures thereof and certain food products required by the Army and Navy, especially certain canned food products.

ADMINISTRATIVE DEPARTMENT.

The principal divisions under the administrative department are the chief clerk's office, which has special charge of quarters and supplies; mail and files division; docket division, which handles the applications for complaints and the records relating thereto; disbursement and accounts division; stenographic division; publications division, which includes the various operations for the multiplication of nonprinted matter; and the library, both economic and legal.

QUARTERS.

During the fiscal year here reported on the Commission entered into an arrangement for the lease of a building to be erected on the southeast corner of Fifteenth and K Streets. It was stated by the lessors that the building would be ready for occupancy during June, 1917, but delays in construction postponed the removal of the Commission to these quarters until August, 1917. This building is 12 stories in height, and the Commission has rented all but the first floor and portions of the basement. The aggregate floor space thus obtained is about 32,500 square feet. While under normal circumstances this space would have been ample for the requirements of the Commission, the extraordinary amount of work imposed upon it, particularly by the necessity of ascertaining the costs of production of war materials, etc., made even this space insufficient. Consequently, just at the close of the fiscal year temporary additional space was secured in the Southern Building aggregating 4,833 square feet, which was later increased by 1,751 square feet. The space in the Southern Building as well as a part of the space in the Commission's building on Fifteenth and K Streets is paid from moneys furnished by the President from the national security and defense fund.

The lease of quarters by the Commission in place of the space formerly occupied in the Commerce Building has involved a considerable increase in the personnel, such as watchmen, elevator operators, charwomen, etc.

MECHANICAL EQUIPMENT AND OTHER FACILITIES.

The increasing volume of work performed by the Commission as well as the need of economy in the employment of clerical service has been met by a considerable enlargement of the mechanical equipment, such as computing machines, duplicating devices, dictaphones, and typewriters. Improved methods have also been devised in the utilization of this equipment, particularly in the case of computing machines. The depreciation in typewriter equipments has been adequately provided for.

The extraordinarily large increase in the volume, of mail matter handled by the Commission and other material going into the files has necessitated an enlargement, not only of the space but also of the facilities for this purpose.

## LIBRARY.

As the lack of specific authority in the appropriation for the purchase of books and periodicals has been remedied, it has been possible to meet nearly meet the requirements of the commission in this respect than heretofore. The acquisitions to the economic library have been small, but of a class of books which are constantly needed in the pursuit of the Commission's duties. Special pains have been taken to keep up to date the Commission's collection of trade directories. This collection is being used constantly by other Government departments. The collection of documents in antitrust cases has also been kept up to date.

During the year the law library has been greatly enlarged. It has been equipped with numerous text and reference works and the more important legal periodicals, in addition to the following sets of reports, digests, and statutes:

United States Supreme Court Reports and Digests.  
 Federal Reporter and Digests.  
 Shepard's Citations.  
 Encyclopedia of United States Supreme Court Reports.  
 Citer Digest.  
 Encyclopedia of Law and Procedure and Corpus Juris.  
 Federal Statutes Annotated.  
 Compiled Statutes of the United States.

Occasion is here taken to express appreciation of the hearty cooperation by the Library of Congress in furnishing promptly a large number of books and magazines required in the dispatch of the Commission's work.

## PUBLICATIONS.

The following publications were issued by the Commission during the fiscal year ended June 30, 1917:

Fundamentals of a Cost System for Manufacturers, July 1, 1916, 31 pages.  
 A System of Accounts for Retail Merchants, July 15, 1916. 19 pages.  
 The Fertilizer Industry, August 19, 1916, 269 pages.  
 Annual Report of the Federal Trade Commission, November 15, 1916, 63 pages.  
 Prices of American Flags, April 6, 1917, 6 pages. <sup>1</sup>  
 Price of Gasoline, April 11, 1917, 224 pages.  
 Preliminary Report on the Production and Distribution of Bituminous Coal, May 19, 1917, 8 pages.  
 The Beet-Sugar Industry in the United States, May 24, 1917, 164 pages.  
 The News-Print Paper Industry, June 13, 1917, 162 pages.  
 Preliminary Report on the Book-Paper Industry, June 14, 1917, 11 pages.  
 Anthracite and Bituminous Coal Industry, June 9, 1917. 420 pages. <sup>2</sup>

## PERSONNEL.

The following statement gives a summary of the personnel of the Commission and its staff at the close of June 30, 1917:

81 statutory employees -----	\$140, 740
112 lump-sum roll employees -----	238, 380
----	-----
193 Total -----	379,120

<sup>1</sup> Printed as Sen. Doc. No. 82, 65th Cong., 1st sess

<sup>2</sup> Also printed as Sen. Doc. No. 150, 65th Cong., 1st sess.

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A more detailed analysis of the personnel is shown in the following statement:

*Analysis of the personnel of the Federal Trade Commission and its staff at the close of June 30, 1917.*

			----- 12,600
5 commissioners, at -----	\$10,000	2 special examiners, at -	5,000
1 secretary, at -----	5,000	1 special examiner, at -	3,500
5 clerks to commissioners, at --	1,500	Do -----	3,000
1 chief clerk, at -----	2,000	Do -----	2,640
1 disbursing clerk, at -----	2,000	Do -----	2,520
4 clerks of class 4, at -----	1,800	Do -----	2,220
5 clerks of class 3, at -----	1,600		----- 23,880
9 clerks of class 2, at 1 -----	1,400	1 examiner, at -----	5,000
18 clerks of class 1, at 2 -----	1,200	Do -----	2,500
17 clerks, at -----	1,000	Do -----	2,400
8 clerks, at -----	900	2 examiners, at -----	2,100
1 messenger, at -----	840	3 examiners, at -----	2,000
1 assistant messenger, at -----	720	2 examiners, at -----	1,800
9 messenger boys, at -----	480	1 examiner, at -----	1,600
1 laborer, at -----	480	3 examiners, at -----	1,500
	----- \$146,940	2 examiners, at -----	1,380
3 special attorneys, at -----	4,750	15 examiners, at -----	1,200
1 special attorney, at -----	3,000	1 examiner, at -----	900
4 special attorneys, at -----	2,580		----- 51,460
2 special attorneys, at -----	2,100	Total, 193	
1 special attorney, at -----	1,800		
Do -----	1,200		
	----- 35,520		
1 attorney and examiner, at -----	4,750		
5 attorneys and examiners, at ---	3,000		
2 attorneys and examiners, at ---	2,750		
	----- 10,500		
1 special agent, at -----	4,000		
3 special agents, at -----	3,000		
1 special agent, at -----	2,750		
Do -----	2,500		
Do -----	2,280		
3 special agents, at -----	2,100		
2 special agents, at -----	2,100		
3 special agents, at -----	2,000		
1 special agent, at ---	\$1,980		
Do -----	1,920		
2 special agents, at ---	1,860		
7 special agents, at ---	1,800		
1 special agent, at ---	1,740		
2 special agents, at ---	1,680		
5 special agents, at ---	1,500		
1 special agent, at ---	1,440		
5 special agents, at ---	1,380		
2 special agents, at ---	1,320		
1 special agent, at ---	1,260		
Do -----	1,200		
	----- \$98,220		
1 special expert, at ---	4,800		
2 special experts, at ---	3,800		
1 special expert, at ---	1,800		

The total personnel of the Commission and its staff at the end of the fiscal year 1917 was 193, as compared with 224 at the end of the fiscal year 1916.

#### APPROPRIATIONS AND EXPENDITURES.

The appropriations of the Commission for the fiscal year ended June 30 1917, under the sundry civil appropriation act approved July 1, 1916, and the deficiency appropriation act approved April 17, 1917, were \$519,080. In addition to this amount the Commission

<sup>1</sup> Of these 9 clerks, at \$1,400, 1 was carried on lump-sum roll.

<sup>2</sup> Of these 18 clerks at \$1,200, 4 were carried on lump-sum roll.

had the sum of \$47,945.92 which was allowed by the ruling of the Comptroller of the Treasury, under the second paragraph of section 3 of the act creating the Commission. This fund consisted of the unexpended balance of the appropriations for the Bureau of Corporations for the fiscal years ended June 30, 1913 and 1914.

The expenditures of the Commission for the fiscal year ended June 30, 1917, were \$472,501.20. The appropriations and expenditures are tabulated below.

	Appropriated.	Expended.
Salaries, commissioners, secretary, ect -----	\$154,580.00	\$124,425.94
Compensation, travel expenses, and per diem in lieu of subsistence --	244,500.00	244,500.00
Compensation, travel expenses and per diem in lieu of subsistence (deficiency) -----	50,000.00	49,887.75
Contingent expenses -----	15,000.00	113,081.42
Witness fees and mileage -----	15,000.00	1,411.05
Rental of quarters -----	15,000.00	34.26
Federal Trade Commission (without year) -----	47,945.92	15,550.24
Printing and binding -----	25,000.00	23,610.54
Total -----	567,025.92	472,501.20

<sup>1</sup> Contingent expenses actually incurred during the fiscal year ended June 10, 1917, amounted to \$19, 889.51, payment for which in excess of the amount appropriated will be made from the appropriation, "Federal Trade Commission, without year," upon delivery of the goods.

A detailed analysis of the expenditures of the Commission is given in the following statement:

*Detailed statement of expenditures of Federal Trade Commission for the flscal year ended June 30, 1917.*

Annual leave -----	\$29,424.54
Sick leave -----	4,545.83
Administration, general:	
Office -----	87,482.60
Field -----	7,589.87
Disbursements and accounts -----	2,988.40
Purchases and supplies -----	2,851.73
Alails and files -----	11,431.56
Docket -----	4,024.76
Library -----	4,555.85
Contin-ent expenses -----	16,717.13
Labor (messenger service, etc.) -----	5,394.36
Rental of quarters (storage) -----	34.26
Corporation reports (office) -----	10,459.89
Trade associations (office) -----	9.59
Uniform accounting:	
Office -----	7,092.52
Field -----	1,306.39
Latin-American tariffs -----	9.51
Print paper:	
Office -----	31,984.01
Field -----	30,311.03
Coal, anthracite:	
Office -----	34,309.33
Field -----	18,394.39
Coal, bitunihious:	
Office -----	6,802.67
Field -----	2,692.98
Flags:	
Office -----	428.66
Field -----	366.11
Food:	

Office -----  
Field -----

3,275.31  
23.60

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Advice requests -----	\$4,002.16
Beet sugar (office) -----	89.43
Foreign trade (office) -----	6,246.78
Fertilizer -----	17.26
Lumber:	
Office -----	3,695.87
Field -----	1,413.07
Miscellaneous:	
Legal--	
Office -----	14,380.67
Field -----	186.68
Economic (office) -----	109.79
Oklahoma oil:	
Office -----	26,317.50
Field -----	14,906.71
Resale prices (office) -----	405.47
Trust legislation (office) -----	91.58
Informal complaints:	
Legal--	
Office -----	32,741.23
Field -----	10,779.74
Economic--	
Office -----	1,836.87
Field -----	185.45
Formal complaints:	
Legal--	
Office -----	2,963.51
Field -----	3,700.21
Economic--	
Office -----	5.82
Field -----	126.10
Details -----	181.88
Printing and binding -----	23,610.54
Total -----	472,501.20

The appropriations for the Federal Trade Commission for the fiscal year ending June 30, 1917, were as follows:

For 5 commissioners, at \$10,000 each; secretary, \$5,000; 5 clerks to commissioners, at \$1 00 each; chief clerk, \$2,000 ; disbursing clerk, \$2,000 ; clerks-four of class four, 5 of class three, 8 of class two, 15 of class one, 18 at \$1,000 each; 18 at \$900 each; messenger; 4 assistant messengers; 9 messenger boys, at \$480 each; 6 charwomen, at \$240 each; in all, \$154,580.

For compensation, travel expenses, and per diem in lieu of subsistence at the rate of \$4, of such special attorneys, special experts, special examiners, special agents, clerks, and other employees as may be necessary for the purpose of carrying on the work of said commission; the travel expenses and per diem in lieu of subsistence to the commissioners and other employees under their orders in making any investigation or upon official business in any other places than in the city of Washington; no salary shall be paid hereunder exceeding the rate of \$5,000 per annum ; \$244,500.

For contingent and miscellaneous expenses, including the purchase of professional and scientific books, law books, books of reference, periodicals, pamphlets, maps, stationery, furniture and repairs to same, carpets, matting, oilcloth, tiling cases, towels, ice, brooms, soap, sponges, fuel, lighting and heating, freight and express charges, street car tickets, postage to foreign countries, telegraph and telephone service, typewriters and calculating machines, including their exchange, and for all other necessary miscellaneous supplies not otherwise provided, \$15,000.

For rental of quarters or building, \$15,000.

For witness fees and mileage, as provided in section 9 of the Federal Trade Commission act, \$15,000.

For printing and binding, \$25,000.

In all for the Federal Trade Commission, \$519,080.

## RECOMMENDATIONS.

The regular work of the Federal Trade Commission has steadily expanded during the past

year, and with the entry of the United States into the war additional duties of great importance have been imposed upon it immediately connected therewith.

*Corporation reports.*-As already indicated in this report, it would be of great benefit to the public as well as to the business world, if

the existing powers of the Commission to obtain reports in a comprehensive way regarding business corporations in general and more particular information regarding corporations engaged in the more important and basic industries, could be put into effect by an adequate appropriation. Before the war, when the entry of the United States was imminent many requests came to this Commission for information, much of which might reasonably be inferred to be in its possession, in view of its powers, but which the Commission had been unable to collect for lack of funds. In the absence of official Government data, private, individuals and organizations attempted to supply this deficiency, and since then some of the information has been collected by the Advisory Commission of the Council of National Defense, which is a semipublic organization. This organization, however, lacks the necessary powers to collect all the information desired and to verify the reports made to it. It is not only essential that the Commission should have funds to do such work in time of war but it would be of great utility after the war, and especially during the period of reorganization immediately following it.

In this connection it would be desirable to amend the Federal Trade Commission act in paragraphs (a) and (b) of section 6, which relate to the power of the Commission to require reports, in such a manner as to make it explicit that reports may be required from individuals engaged in commerce as well as from corporations.

*Records of temporary semiofficial organizations.*--In connection with the recommendations just made, it is important to note that there are various temporary semiofficial organizations of a national character which are obtaining and filing valuable information regarding the business of the country. This information is obtained largely through the countenance and support of the Federal Government. A conspicuous example is found in the Advisory Commission of the Council of National Defense, including its various affiliated organizations. These organizations are temporary and the data obtained have been collected for public uses. It is recommended that provision be made by law for the preservation of these records, include all correspondence, in the permanent organizations of the Federal Government and that those which are peculiarly related to the work of the Federal Trade Commission, or especially useful to it, should be transferred to its possession.

*Price fixing by legal authority of prime necessities.*--The experience of this Government in the question of fixing prices is one that has been carefully followed by the Commission, which has furnished extensive data for this purpose to the Fuel Administration and to the War Industries Board. The Commission has also had under consideration the experience of other countries in this matter, and particularly England and her colonies, France, and other allies. It is convinced that price fixing, by authority of law will have to be extended to other products than food and fuel, and that such authority is preferably exercised by a temporary administrative body in particular it is of the opinion that such price-fixing power should be established and exercised with respect to the iron and steel industry, for which a bill has already been introduced in the Senate. Equally important, in its opinion, with the fixing of reasonable prices is the regulation of the distribution of the raw materials and inter-

mediate products in the industry affected and of the distribution of the final products to the consumer. In this connection also should be considered the question whether bona fide contracts made prior to the passage of a price-fixing law should be allowed to be enforced. This Commission is of the opinion that the exact merits of the proposition might differ somewhat in different industries. With respect to the iron and steel industry, however, it believes that the greatest public advantage would be attained by not allowing such contracts to be fulfilled at least over long periods of time. In the case of coal, it is the opinion of the Commission that the continued fulfillment of long-term bona fide contracts of sale made prior to the enactment of the law would militate against the most successful operation of price fixing by the Government.

*Foreign trade conditions.*--Congress has specifically placed in the jurisdiction of the Federal Trade Commission the investigation of trade conditions in and with foreign countries relating to combinations in trade and similar conditions. The war has already produced great changes in industrial organization which relate immediately to this subject, and it can not be doubted that after the war these conditions will be very different from those which preceded it. These matters are of vital public interest. They should be studied as promptly and thoroughly as circumstances permit in order that proper measures may be taken with regard to our industrial organization not only during the remainder of the war but also after the establishment of a victorious peace. The Commission needs no special authority to conduct such investigation, but it deems it important to call attention to the need of such investigation on account of vital public interest.

*Trade associations.*--The economic significance of trade associations and the correction of abuses which arise in their operations has forcibly indicated to the Commission the need of a comprehensive investigation. Certain facts have been already clearly developed from the investigations of this Commission and from those of the former Bureau of Corporations, which was merged in it, namely, that in various industries one of the chief obstacles to the normal operation of competitive forces is the lack of adequate trade information regarding supply and demand and prices; that where trade associations collect such information it generally does not become a matter of public knowledge; and that such associations are frequently tempted to extend their activities beyond the useful function of collecting the information referred to above and to engage in activities tending to artificially control prices and the channels of distribution. It is recommended as a partial remedy for these conditions that an records. Such publicity would extend the knowledge of all producers and consumers regarding conditions of supply and demand and help to prevent abnormal trade fluctuations in supply and prices. It would also tend to curb association activities of an objectionable character.

*Community of interest in the petroleum industry.*--As one result of its investigation of gasoline prices the Commission found that a community of interest existed in the petroleum industry based on the common ownership of controlling stock holdings in the former subsidiaries of the Standard Oil Co. of New Jersey, by a small

number of capitalists. In its report on gasoline prices the Commission indicated the importance of a more effective dissolution of this combination, and suggested various methods by which it is thought this result might be accomplished. The Commission recommends that Congress consider whether a legislative remedy is not desirable for this situation.

*Cooperative export associations.*--In its last annual report the Commission recommended the enactment of the Webb bill (H. R. 17350) regarding associations for export trade, and renews its recommendation at this time.

*Salary limitation.*--As in the last annual report, the Commission feels impelled by the necessities of its own work to recommend that the limitation now applying to salaries paid from its regular appropriation, namely, a maximum of \$5,000 per annum, be discontinued. Such a limitation is of grave practical inconvenience to the Commission. During the fiscal year here reported on, several members of its staff resigned to accept work with private corporations at remuneration in excess of \$5,000. The rapid increase in the cost of living is so well established that it needs no statistical demonstration. Practical considerations, therefore, as well as natural justice, suggest the importance of removing this limitation. The expense to the Government in making reasonable increases would not be much in amount, because very few employees of the Commission attain this grade.

All of which is respectfully submitted.

WILLIAM J. HARRIS, *Chairman.*

JOSEPH E. DAVIES.

WILLIAM B. COLVER.

JOHN FRANKLIN FORT.

VICTOR MURDOCK.

LEONIDAS L. BRACKEN, *Secretary.*

# EXHIBIT I.

## FEDERAL TRADE COMMISSION ACT.

AN ACT To create a Federal Trade Commission, to define its powers and duties, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the commission), which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the late of the taking effect of this act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. The commission shall choose a chairman from its own membership. No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

The commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive a salary of \$5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission.

All of the expenses of the commission, including, all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission.

Until otherwise provided by law, the commission may rent suitable offices for its use.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.

SEC. 3. That upon the organization of the commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the commission at their present grades and salaries. All records, papers, and property of the said bureau shall become

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records, papers, and property of the commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the commission in the exercise of the powers, authority, and duties conferred on it by this act. The principal office of the commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 4. That the words defined in this section shall have the following meaning when found in this act, to wit:

“Commerce” means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territories and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

“Corporation” means any company or association incorporated or unincorporated, which is organized to carry on business for profit and has shares of capital or capital stock, and any company or association, incorporated or unincorporated, without shares of capital or capital stock, except partnerships, which is organized to carry on business for its own profit or that of its members.

“Documentary evidence” means all documents, papers, and correspondence in existence at and after the passage of this act.

“Acts to regulate commerce” means the act entitled “An act to regulate commerce,” approved February fourteenth, eighteen hundred and eighty-seven, and all acts amendatory thereof and supplementary thereto.

“Antitrust acts” means the act entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” approved July second, eighteen hundred and ninety; also the sections seventy-three to seventy-seven, inclusive, of an act entitled “An act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved August twenty-seventh, eighteen hundred and ninety-four; and also the act entitled “An act to amend sections seventy-three and seventy-six of the act of August twenty-seventh, eighteen hundred and ninety-four, entitled ‘An act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February twelfth, nineteen hundred and thirteen.

SEC. 5. That unfair methods of competition in commerce are hereby declared unlawful.

The commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, and common carriers subject to the acts to regulate commerce, from using unfair methods of competition in commerce.

Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnerships or corporation a complaint starting its charges in their respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the commission, to intervene and appear in said

proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission. If upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission may at any time, upon such notice and in such manner

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as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person, partnership, or corporation fails or neglects to obey such order of the commission while this same is in effect, the commission may apply to the circuit court of appeals of the United States, within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file application transcript of the entire record in the proceeding, including all testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the fact, or make new findings, by reason of the additional evidence so threat, and it shall file such modified or new findings, which, If supported by testimony, shall be conclusive, and its recommendation, If any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission to cease and desist from using such method of competition may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission be set beside. A copy of such petition Shall be forthwith served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the record as herein-before provided. Upon the filing of the transcript the court shut have the same jurisdiction to affirm, set aside, or modify the order of the commission as in the case of an application by the commission for the enforcement of its order, and the findings of the commission as to the facts, if supported by testimony, shall in like manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission Shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or judgment of the court to enforce the same shall in anywise relieve or absolve any person, partnership, or corporation from any liability under the antitrust acts.

Complaints, orders, and other processes of the commission under this section may be served by anyone duly authorized by the commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to he Served ; or (b) by leaving a copy thereof at the principal office or place of business of such person, partnerships or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shelf be proof of the same, and the return post-office receipt for said complaint,

order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

SEC. 6. That the commission shall also have power--

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers and it subject to the act to regulate commerce, relation to other corporations and to individuals, associations, and in partnerships.

(b) To require, by general or Special orders, corporations engaged in commerce, excepting, banks, and common carriers subject to the act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the Commission may prescribe, unless additional time be granted in any case by the Commission.

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the Commission.

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make recommendation for the readjustment of the business of any corporation alleged to be violating the antitrust acts in order that the corporation may thereafter maintain its Organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this act.

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 9. That for the purposes of this act the Commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the

right to copy any documentary evidence of any corporation being investigated or proceeded against; and the Commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the Commission may sign subpoenas, and members and examiners of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the protection of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court is a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this act or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who, shall willfully refuse to submit to the

commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same,

and such future shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the Commission who shall make public any information obtained by the Commission, without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 11. Nothing contained in this act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust acts or the acts to regulate commerce, nor shall anything contained in the act be construed to, alter, modify, or repeal the said antitrust acts or the acts to regulate commerce or any part or parts thereof.

Approved, September 26, 1914.

## EXHIBIT 2.

### PROVISIONS OF THE CLAYTON ACT WHICH CONCERN THE FEDERAL TRADE COMMISSION.

“Commerce,” as used herein, means trade or commerce among the Several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That nothing in this act contained shall apply to the Philippine Islands.

The word “person” or “persons” wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

SEC. 2. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers, of commodities, on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of selling or transportation, or discrimination in price in the same or different communities made in good faith to meet competition: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

SEC. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefore or discount front, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to, create a monopoly in any line of commerce.

SEC. 7. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition maybe to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

No corporation shall acquire, directly or indirectly the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting

or granting of proxies or otherwise, may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

SEC. 8. That from and after two years from the date of the approval of this act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies and common carriers subject to the act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any crime in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

SEC. 11. That authority to enforce compliance with sections two, three, seven and eight of this act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers, in the Federal Reserve Board where applicable to banks, banking associates and trust companies, and in the Federal trade

Commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections two, three, seven and eight of this act, it shall issue and serve upon such person a complaint stating its charges in that respect, and

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containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission or board requiring such person to cease and desist from the violation of the law so charged in said complaint. Any person may make application, and upon good cause spoken may be allowed by the commission or board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission or board. If upon such hearing the commission or board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock held or rid itself of the directors chosen contrary to the provisions of sections seven and eight of this act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such notice shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission or board may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person fails or neglects to obey such order of the commission or board while the same is in effect, the commission or board may apply to the circuit Court of appeals of the United States, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding including all the testimony taken and the report and order of the commission or board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission or board. The findings of the commission or board as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission or board, the court may order such additional evidence to be taken before the Commission or Board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission or Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the Commission or Board to cease and desist from a violation charged may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the Commission or Board be set aside. A copy of such petition shall be forthwith served upon the Commission or Board, and thereupon the Commission or Board forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the finding of the commission or board as to the facts, if supported by testimony, shall in like

manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission or board shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or board or the judgment of the court to enforce the same shall in any wise relieve or absolve any person from any liability under the antitrust acts.

Complaints, orders, and other processes of tile commission or board under this section may be served by anyone duly authorized by the commission or board, either (a) by delivering a copy thereof to the person to be served. or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his principal office or place of business. The verified return by tile person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of tile service of the same.

Approved, October 15, 1914.

## EXHIBIT 3.

### RULES OF PRACTICE BEFORE THE FEDERAL TRADE COMMISSION.

#### I. SESSIONS.

The principal office of the commission at Washington, D. C., is open each business day from 9 a.m. to 4:30 p.m. The commission may meet and exercise all its powers at any other place, and may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

Sessions of the commission for hearing contested proceedings will be held as ordered by the commission.

Sessions of the commission for the purpose of making orders and for the transaction of other business, unless otherwise ordered, will be held at the office of the Commission at Washington, D. C., on each business day at 10.30 a.m. Three members of the commission shall constitute a quorum for the transaction of business.

All orders of the commission shall be signed by the Secretary.

#### II. COMPLAINTS.

Any person partnership, corporation, or association may apply to the Commission to institute a proceeding in respect to any violation of law over which the commission has jurisdiction.

Such application shall be in writing, signed by or in behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation of law and the name and address of the applicant and of the party complained of.

The Commission shall investigate the matters complained of in such application, and if upon investigation the Commission shall have reason to believe that there is a violation of law over which the Commission has jurisdiction, the Commission shall issue and serve upon the party complained of a complaint, stating its charges and containing a notice of a hearing upon a day and at a place therein fixed at least 40 days after the service of said complaint.

#### III. ANSWERS.

Within 30 days from the service of the complaint, unless such time be extended by order of the commission, the defendant shall file with the commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. It shall specifically admit or deny or explain each of the facts alleged in the complaint, unless the defendant is without knowledge, in which case he shall so state, such statement operating as a denial. Answers in typewriting must be on one side of the paper only, on paper not more than 8 ½ inches wide and not more than 11 inches long, and weighing not less than 16 pounds to the ream, folio base, 17 by 22 Inches, with left-hand margins not less than 1 ½ inches wide, or they may be printed in 10 or 12 point type on good unglazed paper 8 inches wide by 10 ½ inches long, with inside margins not less than 1 inch wide.

#### IV. SERVICE.

Complaints, orders, and other processes of the Commission may be served by anyone duly

authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer, or a director of

the corporation or association to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person, partnership, corporation, or association; or (c) by registering and mailing a copy thereof addressed to such person, partnership, corporation, or association at his or its principal office or place of business. The verified return by the person so serving said complaint, order, or other process, setting forth the manner of said service, shall be proof of the same, and the return post-office receipt for said complaint, order, or other process, registered and mailed as aforesaid, shall be proof of the service of the same.

#### V. INTERVENTION.

Any person, partnership, corporation, or association desiring to intervene in a contested proceeding shall make application in writing, setting out the grounds on which lie or it claims to be interested. The commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem just.

Applications to intervene must be on one side of the paper only, on paper not more than 8 ½ inches wide and not more than 11 inches long, and weighing not less than 16 pounds to the ream, folio base, 17 by 22 inches, with left-hand margin not less than 1 ½ inches wide, or they may be printed in 10 or 12 point type on good unglazed paper 8 inches wide by 10 ½ inches long, with inside margins not less than 1 inch wide.

#### VI. CONTINUANCES AND EXTENSIONS OF TIME.

Continuances and extensions of time will be granted at the discretion of the Commission.

#### VII. WITNESSES AND SUBPOENAS:

Witnesses shall be examined orally, except that for good and exceptional cause for departing from the general rule the Commission may permit their testimony to be taken by deposition.

Subpoenas requiring the attendance of witnesses from any place in the United States at any designated place of hearing may be issued by any member of the Commission.

Subpoenas for the production of documentary evidence (unless directed to issue by a commissioner upon his own motion) will issue only upon application in writing, which must be verified and must specify, as near as may be, the documents desired and the facts to be proved by them.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

#### VIII. TIME FOR TAKING TESTIMONY.

Upon the joining of issue in a proceeding by the Commission the examination of witnesses therein shall proceed with all reasonable diligence and with the least practicable delay. Not less than 5 nor more than 10 days' notice shall be given by the Commission to counsel or parties of the time and place of examination of witnesses before the Commission, a commissioner, or an examiner.

#### IX. OBJECTIONS TO EVIDENCE.

Objections to the evidence before the Commission, a commissioner, or an examiner shall, in any proceeding, be in short form, stating the grounds of objections relied upon, and no

transcript filed shall include argument or debate.

#### X. MOTIONS.

A motion in a proceeding by the Commission shall briefly state the nature of the order applied for, and all affidavits, records, and other papers upon which the same is founded, except such as have been previously filed or served in the same proceeding, shall be filed with such motion and plainly referred to therein.

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## XI. HEARINGS ON INVESTIGATIONS.

When a matter for investigation is referred to a single commissioner for examination or report, such commissioner may conduct or hold conferences or hearings thereon, either alone or with other commissioners who may sit with him, and reasonable notice of the time and place of such hearings shall be given to parties in interest and posted.

The general counsel or one of his assistants, or such other attorney as shall be designated by the Commission, shall attend and conduct such hearings, and such hearings may, in the discretion of the commissioner holding same, be public.

## XII. DEPOSITIONS IN CONTESTED PROCEEDINGS.

The commission may order testimony to be taken by deposition in a contested proceeding. Depositions may be taken before any person designated by the commission and having power to administer oaths.

Any party desiring to take the deposition of a witness shall make application in writing, setting out the reasons why such deposition should be taken, and stating the time when, the place where, and the name and post-office address of the person before whom it is desired the deposition be taken, the name and post-office address of the witness, and the subject matter or matters concerning which the witness is expected to testify. If good cause be shown, the commission will make and serve upon the parties of their attorneys an order wherein the commission shall name the witness whose deposition is to be taken, and specify the time when, the place where, and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is to be taken, so specified in the commission's order, may or may not be the same as those named in said application to the Commission.

The testimony of the witness shall be reduced to writing by the officer before whom the deposition is taken, or under his direction, after which the deposition shall be subscribed by the witness and certified in usual form by the officer. After the deposition has been so certified it shall, together with a copy thereof made by such officer or under his direction, be forwarded by such officer under seal in an envelope addressed to the commission at its office in Washington, D. C. Upon receipt of the deposition and copy the commission shall file in the record in said proceeding such deposition and forward the copy to the defendant or the defendant's attorney.

Such depositions shall be typewritten on one side only of the paper, which shall be not more than 8 ½ inches wide and not more than 11 inches long and weighing not less than 16 pounds to the ream, folio base, 17 by 22 inches, with left-hand margin not less than 1 ½ inches wide.

No deposition shall be taken except after at least 6 days' notice to the parties, and where the deposition is taken in a foreign country such notice shall be at least 15 days.

No deposition shall be taken either before the proceeding is at issue, or, unless under special circumstances and for good cause shown, within 10 days prior to the date of the hearing thereof assigned by the commission, and where the deposition is taken in a foreign country it shall not be taken after 30 days prior to such date of hearing.

## XIII. DOCUMENTARY EVIDENCE.

Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be put in evidence, such document will not be filed, but a copy only of such relevant and material matter shall be filed.

## XIV. BRIEFS.

Unless otherwise ordered, briefs may be filed at the close of the testimony in each contested proceeding. The presiding commissioner or examiner shall fix the time within which briefs shall be filed and service thereof shall be made upon the adverse parties.

All briefs must be filed with the secretary and be accompanied by proof of service upon the adverse parties. Fifteen copies of each brief shall be furnished for the use of the commission, unless otherwise ordered.

Application for extension of time in which to file any brief shall be by petition in writing, stating the facts upon which the application rests, which must be filed with the commission at least 5 days before the time for filing the brief.

Every brief shall contain, in the order here stated--

(1) A concise abstract, or statement of the case.

(2) A brief of the argument, exhibiting, a clear statement of the points of fact or law to be discussed, with the reference to the pages of the record and the authorities relied upon in support of each point.

Every brief of more than 10 pages shall contain on its top fly leaves a subject index with page references, the subject index to be supplemented by a list of all cases referred to, alphabetically arranged, together with references to pages where the cases are cited.

Briefs must be printed in 10 or 12 point type on good unglazed paper 8 inches by 10 1/2 inches, with inside margins not less than 1 inch wide, and with double leaded text and single-lead citations.

Oral arguments will be had only as ordered by the commission.

#### XI. ADDRESS OF THE COMMISSION.

All communications to the commission must be addressed to Federal Trade Commission, Washington, D. C., unless otherwise specifically directed.

## EXHIBIT 4.

### CONFERENCE RULINGS OF THE FEDERAL TRADE COMMISSION.

#### EXPLANATORY NOTE.

The following are rulings of the Commission in conference which are published as being of public interest. Future rulings will be announced from time to time through the public press and subsequently compiled and Issued by the Commission in successive bulletins. The rulings are published for the information of business men engaged in interstate commerce and others interested in the work of the Commission. They are not decisions in formal proceedings, but merely expressions of the opinion of the Commission on applications for the issuance of complaints and informal inquiries with regard to particular facts which involve the interpretation and construction of the Federal Trade Commission Act and of those sections of the Clayton Act with the enforcement of which the Commission is charged.

While these rulings may be regarded as precedents in so far as they are applicable in proceedings before the Commission, a more extensive presentation of facts in later cases may result in their modification, and they should not, therefore, be regarded as conclusive in the determination by the Commission of any future action.

Copies may be obtained by those interested on application to the Secretary of the Commission.

**1. Public interest--Competitive method discontinued** --On application for the issuance of a complaint, it appeared that a corporation engaged in the refining and sale of cane sugar, whose principal market is in the State in which its refinery is located, alleged that a larger corporation, having refineries located in other States and disposing of its product in interstate commerce in many states, refined and sold exclusively in the State of the applicant and in competition with it sacked sugar which is branded "pure cane fine granulated sugar." The applicant alleged that this sugar is not a standard fine granulated sugar is the branding leads consumers as well as many in true trade to believe, but what is known as "off" sugar in the manufacture of which an expensive part of the refining process which is necessary to extract the final residue of from 2 to 3 per cent of molasses is omitted; that this "off" sugar is sold to jobbers at about 10 cents per hundred pounds less than the market price for standard granulated sugar; and that by reason of the alleged false brand or label on the sacks retailers and consumers are deceived into the belief that they are buying granulated sugar equal to standard. As a result, the applicant stated, it was compelled to meet the competition of this "off" sugar in the sale of its standard fine granulated sugar, in the manufacture of which it uses the complete refining process, a part of which its competitor omits in manufacturing the "off" sugar.

Upon consideration of the above allegations, the Commission, having instituted an investigation, and shortly thereafter the corporation complained of having issued a notice to

the trade announcing that it had discontinued the sale of the "off" brand of sugar, and the applicant requesting to be permitted to withdraw its application, and the corporation complained of assuring the Commission that it had discontinued the sale of sugar branded in the manner complained of and had no intention of resuming the sale of this package: *Held*, That the method of competition complained of having been permanently discontinued, it does not appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public.

**2. Public interest--Competitive method discontinued.**--On application for the issuance of a complaint, it appeared that a manufacturer engaged in interstate commerce issued a publication in which, under the guise of trade news,

misinformation of a character unfair and detrimental to the applicant's business was circulated. Upon investigation by the Commission the applicant advised that the use of the alleged unfair method had been discontinued and the party complained of assured the Commission that its policy had changed with a change of management and no such practice would in the future be engaged in either against the applicant or any other competitor. *Held*, That the method of competition complained of having been permanently discontinued, it does not appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public.

**3. Public interest--Competitive method discontinued.**--On application for the issuance of a complaint, it appeared that a typewriter rebuilding company engaged in interstate commerce had circulated among dealers in various States a letter falsely stating that a competitor's factory in the Middle West had been removed to the East, and that for this reason many of its customers in Central and Western States would make new arrangements for obtaining typewriters. The party complained of subsequently advised the Commission that the statement when made was believed to be true. It also sent a letter of retraction to all dealers receiving the first communication, and assured the Commission of its readiness to take any further action deemed necessary. The applicant, being advised of these facts, suggested that no further action be taken. *Held*, That the method of competition complained of having been permanently discontinued, it does not appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public.

**4. Public interest--Competitive method discontinued.**--On application for the issuance of a complaint, it appeared that a manufacturer engaged in interstate commerce sent out a printed circular containing an alleged letter to it by a dissatisfied customer of the applicant, disparaging the quality of applicant's product, which letter the applicant charged was fictitious. Upon investigation, the Commission received assurances from the concern complained of that it had discontinued the publication of the circular in question, and that in future it would not in its advertising matter refer in any way to the products of its competitors. *Held*, That the method of competition complained of having been permanently discontinued, it does not appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public.

**5. Public interest--Competitive method discontinued.**--On application for the issuance of a complaint, it appeared that an association of wagon peddlers, competing with a jobber, had, by threats of boycott, prevailed on a manufacturing engaged in interstate commerce to refuse to sell to such jobber. Shortly after an investigation was started the commission was advised by the jobber that the manufacturer had resumed selling to it. Assurances were also given the Commission by the manufacturer that the jobber would not in future be denied the privilege of buying from it by reason of the threatened boycott. *Held*, That the matter having been satisfactorily adjusted as between the parties, it does not appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public.

**6. Exclusive territory--Refusal to sell.**--On application for the issuance of a complaint, it appeared that a manufacturer engaged in interstate commerce having designated an exclusive dealer in a certain local territory, refused to sell to another dealer within this territory. It further appeared that such exclusive dealer was under no obligation to refrain from dealing in the products of other manufacturers of the same commodity. *Held*, That neither the Federal Trade Commission Act nor the Clayton Act prohibits manufacturers selling their product exclusively through one dealer in a given territory. A refusal to sell others in such territory, under such circumstances, is not unlawful.

**7. Manufacturers engaged in interstate commerce, irrespective of the size of their business, and all wholesalers so engaged, subject to Clayton Act.**--On inquiry: *Held*, That all manufacturers engaged in interstate commerce, irrespective of the size of their business, and all jobbers or wholesalers thus engaged, are subject to the provision's of the Clayton Act.

**8. The right of one manufacturer engaged in interstate commerce to buy out a**

**competitor, and jurisdiction of the commission in such matters.**--On inquiry as to the right of one manufacturer to buy out a competitor in the same line of business: *Held*, That the only jurisdiction of the Commission in respect of such transactions is to enforce the provisions of section 7 of the Clayton Act prohibiting the acquisition by any corporation engaged in interstate commerce of where the tendency of such acquisition may be to substantially lessen competi-

tion between such two corporations, or to restrain interstate commerce, or to create a monopoly; and also possibly to enforce section 5 of the Federal Trade Commission Act, if such purchase either of property or of capital stock in connection with other circumstances might constitute an unfair method of competition. *Held, also*, That the mere purchase of the property of such competitor other than capital stock is not prohibited by the Clayton Act or the Federal Trade Commission Act.

As to the validity of such purchase of property or capital stock under the Sherman Act, the Commission expresses no opinion.

9. **Exclusive agency.**--On inquiry by a piano manufacturer whether the following clause in a "consignment agreement" is in contravention of the Clayton Act, to wit:

*Item 3.* The factor shall offer, sell, or lease the pianos consigned to him by the consignor only to persons residing in the counties of \_\_\_\_\_ in the State of \_\_\_\_\_, and shall not sell nor lease, during the life of this contract, any other pianos than those consigned by the said (piano manufacturer) .

*Held*, It appearing that the "consignment agreement" does not provide for a sale or lease of the goods of the principal to the person designated as "factor," but only for the establishment of an agency for the sale of the goods of the principal, therefore the use of such clause does not appear to be in violation of section 3 of the Clayton Act.

10. **Direct selling.**--On application for the issuance of a complaint, it was alleged that certain mining operators were selling their product direct to consumers at wholesale prices, and coercing retail dealers into handling their product, either by threats to sell or by temporary arrangements for selling their product direct to consumers. Upon investigation by the Commission, it appeared that the operators were in fact selling their product direct to consumers, but that this method of competition was not used for purposes of coercion but was necessary in order to keep their product on the market. *Held*, That the sale by a mining operator of his product direct to the consumer is not of itself an unfair method of competition.

11. **Practice--Information respecting alleged violation of law submitted by parties not directly interested.**--On inquiry : *Held*, That the fact that a party complaining to the Commission has no direct interest and acts without specific authority from the parties alleged to be injured will not prevent the Commission from taking action if the matter presented is one properly within Its jurisdiction. It is the evident purpose of the law that action by the Commission should be taken regardless of the source of its information when it is as reason to believe that there is a violation of a law which it is empowered to enforce and that a proceeding by it in respect thereof would be to the interest of the public.

12. **Public interest--Violation of State statutes.**--On application for the issuance of a complaint it appeared that the commissioners of a certain county had appointed an employee of a bridge company to the position of county civil engineer, and that this situation made it possible for the company to secure information respecting the letting of bridge work which was not available to competing companies. It appears that the State law prohibits such engineer from being Interested, directly or indirectly, in any contract for the construction of bridges under his supervision. *Held*, That as the condition complained of may be corrected by resort to a State statute a proceeding will not be instituted in the absence of important considerations of public interest.

13. **Exclusive territory.**--On inquiry by a manufacturer whether section 3 of the Clayton Act is violated by a contract containing the following clause:

In consideration of exclusive sale of your goods in \_\_\_\_\_ from date of this contract to March 1, 191\_\_\_\_, \_\_\_\_\_ agree to neither sell your goods outside of the territory heretofore reserved to, directly or indirectly, under penalty of paying all damages resulting from a violation of this clause and cancellation of this contract at the option of the manu-

facturer; nor to countermand this order except on payment to \_\_\_\_\_ Manufacturing Co., as liquidated damages, 20 per cent of the net amount of goods hereby purchased.

*Held*, That section 3 of the Clayton Act does not prohibit manufacturers selling their product exclusively through one dealer in a given territory and requiring the dealer not to sell their product outside of the territory assigned.

14. **Refusal to sell.**--On application for the issuance of a complaint, it appeared that certain manufacturers, pursuant to their established sales policy of selling only to local retail dealers, refused to sell to the applicant, a retail dealer doing business principally by mail, a certain commodity for shipment direct from the mills to consumers in a state where the applicant maintained no place of business. On investigation by the Commission it appeared that there was no agreement or understanding among the manufacturers complained of to prevent the applicant or others doing a similar business, by refusal to sell or otherwise, from securing this commodity, nor did it appear that such manufacturers had been coerced or intimidated by retailers affected by the competition of the applicant. *Held*, That, under the circumstances, a refusal of a manufacturer to sell to the applicant for direct shipment from the mill to territory covered by local dealers is not a violation of any law which the commission is authorized to enforce. Whether a refusal to sell under other circumstances is contrary to the provisions of the Clayton Act or the Federal Trade Commission Act the Commission does not now decide.

15. **Exclusive agency--Exclusive territory--Refusal to sell.**--On application for the issuance of a complaint, it appeared that several manufacturers, having appointed exclusive agents or distributors in a given place, refused to sell to another dealer at the same point. *Held*, That neither the Clayton Act nor the Federal Trade Commission Act prohibits manufacturers establishing exclusive agencies or assigning exclusive territory to dealers. Under such circumstances a refusal to sell to others than such agents or distributors is not unlawful under these acts.

16. **Practice--Charges not sustained on investigation.**--On application for the issuance of a complaint, it was charged by a packer of canned clams that a competitor, in order to drive the applicant out of business, bid up the price of fresh clams to such an extent as to make the business unprofitable. The applicant, when requested, failed to submit further information, and an investigation by the Commission did not substantiate the charges made. *Held*, That the Commission, having no reason to believe that the party complained of has been or is using the alleged unfair method of competition, will not proceed further.

17. **Corporate name--Private rights--Public interest.**--On application by a corporation for the issuance of a complaint, it was alleged that one of its stockholders, whose name had been adopted by the applicant as part of its corporate name, had formerly been a stockholder in a competing corporation and had then permitted the latter to use his name as part of its corporate name, but that after the withdrawal of said stockholder from the competing corporation it had, in violation of an alleged agreement between one of its officers and said stockholder, retained his name in its corporate name, to the injury of the applicant. *Held*, That as the application presents questions concerning purely private rights, in which the interest of the public is quite remote and indirect, it does not appear to the Commission that a proceeding in respect thereof would be to the interest of the public.

18. **Refusal to sell--Exclusive agency.**--On inquiry: *Held*, That the Clayton Act does not prohibit manufacturers establishing exclusive sales agencies in certain territory and selling their product in such territory only through such agencies. A refusal to sell to others in such territory, where such agency has been established, is therefore not unlawful. Whether a mere refusal to sell under any circumstances is contrary to the provisions of the Clayton Act; or the Federal Trade Commission Act the Commission does not now decide.

19. **Pipe lines jurisdiction.**--On application for the issuance of a complaint as to methods of a pipe line for the transportation of oil between the States : *Held*, That the Commission has no jurisdiction on the premises, and that the matter should be referred to the Interstate Commerce Commission.

20. **Exclusive territory--Refusal to sell.**--On application for the issuance of a complaint, it appeared that a manufacturer engaged in interstate commerce assigned exclusive territory to jobbers of his product in various States and refused to sell to the applicant, a competing jobber. *Held*, That the Federal Trade Commission Act and the Clayton Act do not prohibit

manufacturers selling their product exclusively through the dealer in a given territory. A refusal to sell to others in such territory under such circumstances is therefore not unlawful. Whether a mere refusal to sell under any circumstances or for any reasons is contrary to the provisions of the Clayton Act or the Federal Trade Commission Act the Commission does not now decide.

21. **Exclusive agency--Exclusive territory--Refusal to sell.**--On application for the issuance of a complaint, it appeared that a manufacturer, engaged in

interstate commerce, having selected an exclusive agent or distributing dealer in certain territory, refused to sell to another dealer within this territory. *Held*, That neither the Federal Trade Commission Act nor the Clayton Act prohibits manufacturers establishing exclusive agencies or assigning exclusive territory to dealers. Under these circumstances a refusal to sell to others than such agents or distributors is therefore not unlawful under these acts.

22. **Railroads--Jurisdiction.**--On application for the issuance of a complaint as to abandonment by an interstate railway company of part of a branch line and its purpose to abandon more of it: *Held*, That the Commission has no jurisdiction of the subject matter of this complaint.

23. **Interstate commerce--Jurisdiction.**--On inquiry whether a local merchant in offering an automobile free to the customer drawing a specified number is practicing an unfair method of competition: *Held*, That, as interstate commerce is not involved, the Commission has jurisdiction to determine whether or not the act complained of is unlawful.

24. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, a retail dealer alleged that a competitor, engaged in business in the same city, sold goods below the price at which the applicant could purchase them. *Held* That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

25. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it appeared that a retail dealer was selling a well-known make of underwear much below the customary price, to the injury of a jobber in the same city who sold these goods to the local retail trade. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

26. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it appeared that two competitors of the applicant, located in the same city, sold lumber below cost. The sales of all parties at interest were confined wholly within one State. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

27. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it was alleged by a retail dealer that other dealers in the community were using unfair methods in competition with him. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the methods complained of are unlawful.

28. **Bank--Jurisdiction.**--On inquiry respecting the refusal of banks to lend money on a particular kind of collateral: *Held*, That the facts do not present a case within the jurisdiction of the Commission, banks being expressly excepted from the provisions of section 5 of the Federal Trade Commission Act.

29. **Practice where suggestion of violation of decree of Federal court is made.**--On application for the issuance of a complaint, it appeared that the practice complained of might be in violation of a decree against the party charged with these practices, which decree was entered in a Federal court. *Held*, That the matter should be, in this instance, referred by the Commission to the Department of Justice. Each matter of this kind will be disposed of upon its own facts.

30. **Jurisdiction--Deprivation of rights by municipal ordinance.**--On inquiry: *Held*, That the Commission has no jurisdiction to pass upon the claim of an electrical engineer that, by town ordinance, his right there to carry on his work is unduly abridged.

31. **Interstate Commerce--Jurisdiction--Refusal to sell.**--On inquiry: *Held*, That where a jobber or manufacturer refuses to sell to retailer in the same State, and no interference with interstate commerce appears to be involved, the Commission has no jurisdiction to act in the premises.

32. **Interstate commerce--Labor unions--Jurisdiction.**--On application for the issuance of a complaint respecting tire enforcement of certain local labor-union rules: *Held*, That as the

labor union is not engaged in commerce, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

33. **Refusal to manufacture and sell--Competition--Jurisdiction.**--On application for the issuance of a complaint, it appeared that a company engaged in the manufacture of bottle crowns refused to make certain crowns for the applicant, assigning as the reason that the crowns ordered would constitute an in-

fringement of the trade-mark of another customer, a competitor of the applicant. It did not appear that the refusal complained of was induced by the competitor. *Held*, That, as the facts do not disclose a method of competition, the Commission is without jurisdiction to act in the premises.

34. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it appeared that the proprietors of certain small coal mines refused to sell to a retail dealer in the immediate vicinity except through a competing dealer and, through the purchase of other near-by mines, cut off his supply of coal. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

35. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it appeared that a retail dealer competing with the applicant, both doing business only within the State, discriminated in price between different localities in the sale of a commodity. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

36. **Procedure--Combinations in restraint of trade.**--On application for the issuance of a complaint, suggesting unlawful combinations by companies engaged in interstate commerce in restraint of such commerce, no unfair method of competition being alleged: *Held*, That the matter thus involved should be referred to the Department of Justice.

37. **Clayton Act--Section 3--Pending litigation.**--On application for the issuance of a complaint, alleging a violation of section 3 of the Clayton Act, where it appeared that the party complained of is the defendant in a suit brought by the Department of Justice, involving the same questions of law and fact: *Held*, That a proceeding by the Commission at this time would not be to the interest of the public.

38. **Interstate commerce--Jurisdiction--Competition.**--On application for the issuance of a complaint, it appeared that a retail dealer, doing business wholly within one State, advertised the product of the applicant, a manufacturer engaged in interstate commerce, at less than the price at which the latter sold it at wholesale. *Held*, That, as in this instance, the method of competition complained of is used by a concern engaged solely in intrastate commerce, and only against local competitors not engaged in interstate commerce, the Commission has no jurisdiction.

39. **Manufacture and sale of repair parts--Unpatented articles.**--On application for the issuance of a complaint, it appeared that certain foundrymen made and sold repair parts for stoves manufactured by the applicant. It was not claimed that the stoves were patented or that the foundrymen led the public to believe that the parts were made by the applicant. *Held*, That under such circumstances the making and selling of repair parts for unpatented articles, by others than the original manufacturer, is not a violation of section 5 of the Federal Trade Commission Act.

40. **Interstate commerce--Local boycott--Jurisdiction.**--On application for the issuance of a complaint, it appeared that certain advertisers in a local newspaper, and some of its subscribers, all apparently residing in the community where it was published, combined together and threatened to withdraw their patronage unless the management of the paper changed its policy. *Held*, That the facts alleged do not disclose the violation of any law which the Commission has jurisdiction to enforce.

41. **Price discrimination by absorption of freight charges--Alleged discrimination discontinued--Clayton Act.**--Upon application by a corporation engaged in the manufacture on the Pacific coast of sanitary enameled iron ware, for the issuance of a complaint for violation of section 2 of the Clayton Act, it was alleged by the applicant that a competition whose factories were located in the East, was selling certain of its goods on the Pacific coast at a lower price than it was selling the same goods in other parts of the country, cost of transportation being considered, and that this discrimination in price was made for the purpose

of, and would, if continued, have the effect of injuring or destroying the business of the applicant. Upon investigation by the Commission it appeared that, previous to the time the applicant entered into active competition with, the corporation complained of sold its products in Pacific coast territory at its eastern prices, and absorbed a portion of the freight charges, the balance of the freight charges being paid by the purchaser. After the applicant had established its business and entered into active competition with it the corporation complained of adopted the policy of selling certain

staple articles, in which there was competition from the applicant, at a delivered price, absorbing all freight charges. The effect of such freight absorption by the corporation complained of was to make the price charged by it for those staple articles, in the territory where the applicant competed with it, substantially lower than the prices charged by it for the same articles in territories where the applicant did not compete with it. Before the completion of the investigation the corporation complained of notified the Commission that it had adopted a new price list for the Pacific coast. It further appeared that, after the application was made to the Commission and while the investigation was in progress, there had been a substantial reduction in railroad rates on shipments of enameled iron ware to the Pacific coast. The new price list, considered together with this reduction in freight rates, brought the Pacific coast prices of the corporation complained of substantially to the level of the prices charged by it for the same articles in territory where the applicant did not compete with it, and, according to a statement filed with the Commission by the applicant, thereby removed its cause of complaint. *Held*, That while the Commission is authorized to issue a complaint where it shall have reason to believe that any person is violating or has violated any of the provisions of section 2 of the Clayton Act, it does not consider it necessary or advisable in the present case to issue such complaint, since the discrimination complained of has been discontinued.

42. **Refusal to sell--Adjustment between parties--Pendency of suit by Government.**--On application for the issuance of a complaint, it appeared that a corporation engaged in interstate commerce in the manufacture and sale of sirups refused to sell its products to a wholesale grocer in another State because this grocer advertised and sold these products at prices lower than those made by other jobbers, which conduct was unsatisfactory to the manufacturing company. After the Commission had instituted an investigation, but before its completion, the complaining party notified the Commission that the matter had been amicably adjusted to its entire satisfaction, and that it desired that the application should be dismissed. It also appeared that there is pending a suit filed by the Government against the manufacturing corporation, brought under the Sherman Antitrust Act. *Held*, That under all the circumstances, the matter having been thus satisfactorily adjusted as between the parties and the Government having brought suit under the Sherman Act, it does not appear to the Commission that a complaint should be issued.

43. **Price discrimination--Agency.**--On application of a jobber of iron pipe for the issuance of a complaint for violation of section 2 of the Clayton Act, it was alleged that a manufacturer of such pipe discriminates in prices of such product in favor of a certain large jobber. Upon investigation of such charges it appears that such jobber sells the product of the manufacturer at prices fixed by the manufacturer under a contract of agency on a commission basis. *Held*, That as the contract is not one of sale, but of agency, it does not come within the provisions of section 2 of the Clayton Act.

44. **Discrimination--Charges not sustained on investigation.**--On application for the issuance of a complaint, it was charged that a company engaged in the manufacture and sale in interstate commerce of paving brick discriminated in price between purchasers indifferent cities and between different purchasers in the same city. Upon investigation, the concern complained of denied the practices charged and the Commission was unable to obtain any evidence sustaining the charges. *Held*, That the Commission, having no reason to believe that the party complained of has been or is practicing the alleged discrimination, will not proceed further, and the application is therefore denied.

45. **Refusal to supply films to more than one exhibitor in same city.**--On application for the issuance of a complaint, it was alleged that a motion-picture distributing company refused to supply the applicant with films on the ground that another exhibitor in the same city has been given the exclusive right to exhibit the films of the distributing company. *Held*, That under ordinary circumstances, and in the absence of intent thus to accomplish an unlawful purpose, neither the Federal Trade Commission Act nor the Clayton Act prohibits a corporation

dealing exclusively with one firm in a given territory. Upon the facts presented a refusal to supply others in such territory is therefore not unlawful.

46. **Infringement of registered trade-mark--Public Interest.**--On application for the issuance of a complaint it was alleged that certain registered trade-marks of the applicant were being infringed. It appears that Congress has provided a special Federal remedy for the redress of alleged infringements of

registered trade-marks (sec. 17, Trade-Mark Act, 33 U. S. Stats. at Large, 775; and par. 7, sec. 24, Judiciary Act, 36 U. S. Stats. at Large, 1092), whereby unusual advantages are given a complainant by being permitted to bring suit in a Federal court irrespective of citizenship of parties or of amount of damages sought. *Held*, That where the conditions complained of involve nothing more than a question of infringing registered trade-marks, a proceeding will not be instituted in the absence of important considerations of public interest.

47. **Misbranding--Competitive method discontinued.**--On application for the issuance of a complaint, it appeared that the applicant was engaged in manufacturing an article in which deer hair is used, and selling the same in interstate commerce, and that a competitor manufactured and sold similar articles marked "100% Deer Hair," whereas in fact they contained approximately 50 per cent goat hair which was worth considerably less than deer hair. After an investigation by the Commission the company complained of discontinued the practice and assured the Commission that it would not be resumed. In view of the fact that the practice complained of has been permanently discontinued, it is *Held*, That further action by the Commission would not be to the interest of the public.

48. **Unfair competition--Refusal to sell.**--On application for the issuance of a complaint, it was alleged that a corporation engaged in the manufacture and sale of goods in interstate commerce refused to sell to the applicant certain commodities manufactured by it. It was further alleged that this refusal to sell was made at the direction of an officer of the corporation complained of, who was also the president of another corporation competing with the applicant. On investigation it appeared that the refusal to sell was made on personal grounds and was not made for the purpose, and did not have the effect, of restraining interstate commerce. *Held*, That a refusal to sell, made solely for personal reasons, without the purpose or effect of restraining interstate commerce, is not a violation of any law which the Commission is authorized to enforce.

49. **Misbranding--Misleading labeling and advertising--Competitive method discontinued.**--On application for the issuance of a complaint, it is alleged that a manufacturer labeled certain fabrics as "Oxford and Cambridge Silks," which in fact were not genuine silk, and that such manufacturer advertised and sold said fabrics under such labeling in interstate commerce.

Upon investigation, and after informal conference with the respondents, it appeared that the goods labeled as "Oxford and Cambridge Silks" in fact contained only 15 percent genuine, or cocoon, silk and 85 percent of other material, and that such manufacturer advertised and sold said fabrics generally, in interstate commerce, under such label; and

It appeared further that such practices in this industry have grown up gradually and partly through the necessity of meeting competitively like practices by others; and

It appeared further that respondents are ready and willing to cooperate with the Commission to end all such unfair methods in said industry and trade; and it appeared further that respondents have now changed their brand of such goods from "Oxford and Cambridge Silks" to "Oxford and Cambridge Drapery Fabrics," and that respondents have also taken steps permanently to discontinue all other methods of labeling and advertising used by them which may be unfair to competitors or may deceive the consuming public.

*Held*: That such practice of labeling, advertising, and selling in interstate commerce, fabrics as "Oxford and Cambridge Silks" without qualifying terms which clearly designate that class of fabrics composed partly of silk, when in fact the fabrics complained of are composed only in part of genuine, or cocoon, silk, is an unfair method of competition within the meaning of section 5 of the Federal Trade Commission Act, in that such practice is calculated to deceive the consuming public, and thereby injure others who are engaged in selling a similar class of fabrics under labels and advertisements which correctly designate their product, and also to injure those engaged in selling genuine silk fabrics: *Held further*, That respondents, having taken steps permanently to avoid all unfair competition in the matters complained of, and, to

avoid all probable deception and injury to the consuming public, it does not appear to the Commission that a proceeding by it in respect thereof would be in the interest of the public.

50. **Misbranding--Misleading labeling and advertising--Competitive method discontinued.**--On application for the issuance of a complaint, it is alleged that a manufacturer labeled certain fabrics a "St. Regis Silk" which in fact

was not genuine silk, and that such manufacturer advertised and sold said fabrics under such labeling in interstate commerce.

Upon investigation, and after informal conference with the respondents, it appeared that the goods labeled as "St. Regis Silk" in fact contained no genuine or cocoon silk, and that such manufacturer advertised and sold said fabrics generally, in interstate commerce, under such label; and

It appeared further that respondents are ready and willing to cooperate with the Commission to end all such unfair methods in said industry and trade; and

It appeared further that respondents have now discontinued the manufacture of the goods formerly labeled "St. Regis Silk," and that respondents have also taken steps permanently to discontinue all other methods of labeling and advertising used by them which may be unfair to competitors or may deceive the consuming public.

*Held:* That such practice of labeling, advertising, and selling in interstate commerce, fabrics advertised and labeled as "St. Regis Silk," when in fact the fabric the complained of contain no genuine or cocoon silk, is an unfair method of competition within the meaning of section 5 of the Federal Trade Commission act, in that such practice is calculated to deceive the consuming public, and thereby to injure others who are engaged in selling a similar class of fabrics under labels and advertisements which correctly designate their product, and also to injure those engaged in selling genuine silk fabrics: *Held further,* That respondents having taken steps permanently to avoid all unfair competition in the matters complained of, and to avoid all probable deception and injury to the consuming public, it does not appear to the Commission that a proceeding by it in respect thereof would be in the interest of the public.

**51. Misbranding--Misleading labeling and advertising--Competitive method discontinued.**--On application for the issuance of a complaint, it is alleged that a manufacturer labeled certain fabrics as "Silk Armure" and "50-inch Silk Armure," which in fact were not genuine silk, and that such manufacturer advertised and sold said fabrics under such labeling in interstate commerce.

Upon investigation, and after informal conference with the respondents, it appeared that the fabrics labeled as "Silk Armure" in fact contained only 20 per cent genuine, or cocoon, silk and 80 per cent of other material ; that the fabrics labeled "50-inch Silk Armure" contained only 22 per cent genuine, or cocoon, silk and 78 per cent of other material; and that such manufacturer advertised and sold each of said fabrics generally, in interstate commerce, under such respective labels; and

It appeared further that such practices in this industry have grown up gradually and partly through the necessity of meeting competitively like practices in others; and

It appeared further that respondents are ready and willing to cooperate with the Commission to end all such unfair methods in said industry and trade; and

It appeared further that respondents have now changed the labels of such fabrics from "Silk Armure" and "50-inch Silk Armure" to "Armure," and that respondents have also taken steps permanently to discontinue all other methods of labeling, and advertising used by them which may be unfair to competitors or may deceive the consuming public.

*Held,* That such practice of labeling, advertising, and selling in interstate commerce fabrics advertised and labeled as "Silk Armure" and "50-inch Silk Armure" without qualifying terms which clearly designate that class of fabrics composed partly of silk, when in fact the fabrics complained of are composed only in part of genuine, or cocoon, silk, is in each instance an unfair method of competition within the meaning of section 5 of the Federal Trade Commission act, in that such practice is calculated to deceive the consuming public, and thereby to injure others who are engaged in selling a similar class of fabrics trader labels and advertisements which correctly designate their product and also to injure those engaged in selling genuine silk fabrics. *Held further,* That, respondents having taken step permanently to avoid all unfair competition in the matters complained of, and to avoid all probable

reception and injury to the consuming public, it does not appear to the Commission that a proceeding by it in respect thereof would be in the interest of the public.

52. **Misbranding--Misleading labeling and advertising--Competitive method discontinued.**--On application for the issuance of a complaint, it is alleged that a manufacturer labeled certain fabrics as "Palermo Silk" and "Mantua Silk," which in fact were not genuine silk, and that such manufacturer advertised and sold said fabrics under such labeling in interstate commerce.

Upon investigation, and after informal conference with the respondents, it appeared that the goods labeled as "Palermo Silk" and "Mantua Silk" in fact contained only 28 and 23 per cent, respectively, of genuine, or cocoon, silk and 72 and 77 per cent, respectively, of other material, and that such manufacturer advertised and sold said fabrics generally, in interstate commerce, under such labels; and

It appeared further that such practices in this industry have grown up gradually and partly through the necessity of meeting competitively like practices by others; and

It appeared further that respondents were ready and willing to cooperate with the Commission to end all such unfair methods in said industry and trade; and

It appeared further that respondents have now changed the labeling of such fabrics from "Palermo Silk" to "Palermo Lining," and from "Mantua Silk" to "50-In. Mantua," and that respondents have also taken steps permanently to discontinue all other methods of labeling and advertising used by them which may be unfair to competitors or may receive the consuming public.

*Held,* That such practice of labeling, advertising, and selling in interstate commerce, fabrics, advertised, and labeled as "Palermo Silk" and "Mantua Silk" without qualifying terms which correctly designate that class of fabrics composed partly of silk, when in fact the fabrics complained of are composed only in part of genuine silk, is in each instance an unfair method of competition, within the meaning, of section 5 of the Federal Trade Commission act, in that such practice is calculated to deceive the consuming public, and thereby to injure others who are engaged in selling a similar class of fabrics under labels and advertisements which correctly designate their product, and also to injure those engaged in selling genuine silk fabrics.

*Held further,* That, respondents having taken steps permanently to avoid all unfair competition in the matters complained of and to avoid all probable deception and injury to the consuming public, it does not appear to the Commission that a proceeding by it in respect thereof would be in the interest of the public.

**53. Misbranding--Misleading labeling and advertising--Competitive method discontinued.--**On application for the issuance of a complaint, it is alleged that a manufacturer labeled certain fabrics as "Toyama silk," which, in fact, were not genuine silk, and that such manufacturer advertised and sold said fabrics generally, under such labeling in interstate commerce.

Upon investigation, and after informal conference with the respondents, it appeared that the fabrics labeled as "Toyama Silk," in fact contained only 29 per cent genuine, or cocoon, silk, and 71 per cent of other material, and that such manufacturer advertised and sold said fabrics generally, in interstate commerce, under such label; and

It appeared further that such practices in this industry have grown up gradually and partly through the necessity of meeting competitively like practices by others; and

It appeared further that respondents are ready and willing to cooperate with the Commission to end all such unfair methods in said industry and trade; and it appeared further that respondents have now changed the labeling of such fabrics so that the word "silk" is eliminated therefrom, and that respondents have also taken steps, permanently to discontinue all other methods of labeling and advertising used by them which may be unfair to competitors or may deceive the consuming public.

*Held,* That such practice of labeling, advertising, and selling in interstate commerce, fabrics as "Toyama Silk" without qualifying terms which clearly designate that class of fabrics composed partly of silk, when in fact the fabrics complained of are composed only in part of genuine silk, is an unfair method of competition within the meaning of section 5 of the Federal Trade Commission act, in that such practice is calculated to deceive the consuming public, and thereby to injure others who are engaged in selling a similar class of fabrics under labels and advertisements which correctly designate their product, and also to injure those engaged in selling genuine silk fabrics. *Held further,* That, respondents having taken steps permanently

to avoid all unfair competition in the matters complained of, and to avoid all probable deception and injury to the consuming public, it does not appear to the Commission that a proceeding by it in respect thereof would be in the interest of the public.

54. **Misbranding--Misleading labeling and advertising--Competitive method discontinued--**On application for the issuance of a complaint, it is alleged

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that selling agents labeled certain fabrics as "Savoy Washable Art Silks," which in fact were not genuine silk, and that such selling agents advertised and sold said fabrics under such labeling in interstate commerce.

Upon investigation and after informal conference with the respondents, it appeared that the goods labeled as "Savoy Washable Art Silks" in fact contained only 29 percent genuine or cocooa silk and 71 per cent of other material, and that such selling agents advertised and sold said fabrics generally in interstate commerce under such label; and

It appeared further that such practices in this industry have grown up gradually and partly through the necessity of meeting competitively like practices by others; and

It appeared further that respondents are ready and willing to cooperate with the Commission to end all such unfair methods in said industry and trade; and

It appeared further that respondents have now discontinued the use of said label, and that respondents have also taken steps permanently to discontinue all other methods of labeling and advertising used by them which may be unfair to competitors or may deceive the consuming public.

*Held*, That such practice of labeling, advertising, and selling in interstate commerce fabrics as "Savoy Washable Art Silks" without qualifying terms which clearly designate that class of fabrics composed partly of silk, when in fact the fabrics complained of are composed only in part of genuine or cocoon silk, is an unfair method of competition within the meaning of section 5 of the Federal Trade Commission act, in that such practice is calculated to deceive the consuming public, and thereby to injure others who are engaged in selling a similar class of fabrics under labels and advertisements which correctly designate their product, and also to injure those engaged in selling genuine silk fabrics: *Held further*, That respondents having taken steps permanently to avoid all unfair competition in the matters complained of and to avoid all probable deception and injury to the consigning public, it does not appear to the Commission that a proceeding by it in respect thereof would be in the interest of the public.

**55. Misbranding--Misleading labeling and advertising--Competitive method discontinued.**--On application for the issuance of a complaint, it is alleged that a manufacturer labeled certain fabrics as "Agra slide," which in fact were not genuine silk, and that such manufacturer advertised and sold said fabrics under such labeling in interstate commerce.

Upon investigation, and after informal conference with the respondents, it appeared that the goods labeled as "Agra silk" in fact contained only 15 percent genuine, or cocoon, silk and 85 percent of other material, and that such manufacturer advertised and sold said fabrics generally in interstate commerce, under such label; and

It appeared further that such practices in this industry have grown up gradually and partly through the necessity of meeting competitively like practices by others; and

It appeared further that respondents are ready and willing to cooperate with the Commission to end all such unfair methods in said industry and trade; and it appeared further that respondents have now changed their brand of such goods from "Agra silk" to "Agra cloth" and that respondents have also taken steps permanently to discontinue all other methods of labeling and advertising aimed by them which may be unfair to competitors or may deceive the consuming public: *Held*, That such practice of labeling, advertising, and selling in interstate commerce fabrics as "Agra silk" without qualifying terms which clearly designate that class of fabrics composed partly of silk, when in fact the fabrics complained of are composed only in part of genuine, or cocoon, silk is an unfair method of competition within the meaning of section 5 of the Federal Trade Commission act in that such practice is calculated to deceive the consuming public and thereby to injure others who are engaged in selling a similar class of fabrics under labels and advertisements which correctly designate their product, and also to injure those engaged in selling genuine silk fabrics: *Held further*, That respondents having taken steps permanently to avoid unfair competition in the matters complained of and to avoid

all probable deception and injury to the consuming public, it does not appear to the Commission that a proceeding by it in respect thereof would be in the interest of the public.

56. **Misbranding--Misleading labeling and advertising--Competitive method discontinued.**--On application for the issuance of a complaint, it is alleged that a manufacturer labeled certain threads, no one of which contained any silk, respectively, as follows: "Sansilk," "Silkateen," "Silkateen" darning floss,

“Silkine” crochet, and “Silkine” art thread, and that such manufacturer advertised and sold such threads under such labeling in interstate commerce.

Upon investigation, it appeared that no one of the threads labeled as “Sansilk,” “Silkateen,” “Silkateen” darning floss, “Silkine” crochet, and “Silkine” art thread in fact contained any genuine or cocoon silk, and that such manufacturer advertised and sold said threads generally in interstate commerce under such labels; and

It appeared further that such practice of using fanciful words, of which the letters s-i-l-k constituted a part, may have grown up (as alleged by respondent) as a result of the necessity of meeting competitively like practices by others; and

It appeared further that whatever possible confusion and deception resulted were without any specific intent on the part of the respondent; and

It appeared further that respondent voluntarily took steps promptly to correct every possible confusion and deception that might result from such practice; and

It appeared further that respondent has now permanently changed each of the labels complained of by placing the fanciful words within quotations and by adding thereto certain words in conspicuous lettering, as follows: From “Sansilk” to “Sansilk” mercerized crochet cotton; from “Silkateen” to “Silkateen” mercerized crochet cotton; from “Silkateen” darning floss to “Silkateen” mercerized cotton darning floss; from “Silkine” crochet to “Silkine” crochet cotton; from “Silkine” art thread to “Silkine” art thread mercerized cotton:

*Held*, That such practice of labeling, advertising, and selling in interstate commerce threads labeled as: “Sansilk,” “Silkateen,” “Silkateen” darning floss, “Silkine” crochet, and “Silkine” art thread without the use of qualifying terms which clearly indicated that such threads were not composed of silk, when in fact they contained no silk, is, even in the absence of specific intent, an unfair method of competition within the meaning of section 5 of the Federal Trade Commission act: *Held further*, That respondent having promptly and voluntarily agreed and taken steps permanently to avoid all unfair competition in the matters complained of, and to avoid all further possible deception and injury to the trade and the consuming public, it does not appear to the Commission that a proceeding by it in respect thereof would be in the interest of the public.

**57. Use of similar corporate name--Competitive method discontinued--Public interest.** -Upon application for the issuance of a complaint, it appeared that a corporation engaged in interstate commerce adopted in 1901 the corporate name “National Oil & Supply Company,” and that another corporation engaged in interstate commerce adopted in 1916 the identical name. It further appeared that, while located in different cities, these corporations were selling the same class of goods in the same markets, and the use of the identical corporate name was resulting in confusion and deception of the public. The Commission took up the subject matter of the application with the corporation last adopting the name “National Oil and Supply Company,” which voluntarily agreed to discontinue the use of the name and to adopt in lieu thereof the name “U. S. Oil and Supply Company”: *Held*, (1) The use by a corporation of a corporate name, consisting of a combination of several generic and descriptive words, in the identical form or combination previously adopted by a corporation engaged in the manufacture and sale of the same class of goods in the same market, is an unfair method of competition in that it is calculated to deceive the public and thereby result in injury to the competitor previously adopting the name. (2) The use of the name “U. S. Oil and Supply Company” does not constitute an unfair method of competition as against the *National Oil Supply Company*. (3) The practice complained of having been permanently discontinued, it does not appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public.

EXHIBIT 5.

FEDERAL TRADE COMMISSION v. A. B. DICK CO.

UNITED STATES OF AMERICA,  
*Before Federal Trade Commission, ss:*

At a regular session of the Federal Trade Commission held at its  
office in the city of Washington, D. C., the 25th day of May, A. D. 1917.

Present: William J. Harris (chairman), Joseph E. Davies, William B. Colver, J. Franklin Fort,  
Commissioners.

Federal Trade Commission v. A. B. Dick Co. of New Jersey, A. B. Dick Co. of Illinois, and the  
Neostyle Co., respondents. Docket No. 4.

The above-entitled proceeding coming on for hearing before the Commission on the  
complaint, answer, and proofs taken the 27th day of April, 1917, and the respondents having  
appeared on said day by their counsel of record herein, S. O. Edmonds, and by A. B. Dick,  
president of the respondent, A. B. Dick Co. of Illinois, and said counsel for respondents having  
announced in open session of the Commission that the respondents would not title any further  
testimony in proceeding, and said respondents having filed a statement herein to that effect,  
and the Commission having taken the proceeding under advisement for final determination,  
now, on this the 25th day of May, 1917, on the pleading and testimony, the Commission makes  
its report and findings as to the facts and conclusions of law.

FINDINGS AS TO THE FACTS.

(1) That at the time of the filing of the complaint and down to December, 1916, the  
respondent, the A. B. Dick Co. of New Jersey, owned or controlled the stock of the  
respondents, the A. B. Dick Co. of Illinois and the Neostyle Co. of New Jersey; that prior to  
said date the said A. B. Dick Co. of Illinois and the said Neostyle Co. had been directly  
engaged, and the said A. B. Dick Co. of New Jersey had been, through said other respondents,  
engaged in the manufacture of stencil duplicating machines, stencil paper, stencil ink, and other  
duplicating machine supplies in certain States and in the shipment and sale of each of such  
commodities to persons in other States and Territories of the United States and in the District  
of Columbia. That since said date the said A. B. Dick Co. of New Jersey and the said Neostyle  
Co. have been dissolved and their assets taken over by said A. B. Dick Co. of Illinois, which  
has alone continued and is now prosecuting the business above described.

(2) That the trade and commerce in stencil duplicating machines, in stencil duplicating  
paper, and in stencil duplicating ink each constitutes a substantial and increasing volume of  
trade between persons in different States in interstate commerce, which has been for several  
years last past and is now being carried on by these respondents and also by a number of other  
concerns, each of which other concerns are competitors with the others and with these  
respondents.

(3) That from a time long prior to October 15, 1914, until December, 1916, of the  
respondents have, and since said last mentioned date the respondent, A. B. Dick Co. of Illinois,  
has alone, continuously sold their stencil duplicating machines in interstate commerce for use  
or resale, on conditions and with restrictions as set forth in what is designated by respondents,  
both in the answer and in the testimony herein, variously as "license agreement," "license  
restriction," "limited license," "license plan" of marketing, "sale upon condition;" that as a  
part of their system of sale respondents caused to be inscribed upon each of their stencil  
duplicating machines sold by them a legend, notice, warning, or purported agreement, in words  
substantially as follows:

On the rotary mimeograph--

LICENSE RESTRICTION.

This machine is sold by the A. B. Dick Co. with the license restriction that it may be used only with the stencil paper, Ink, and other supplies made by A. B. Dick Co. Chicago, U.S.A.

On the rotary neostyle--

LICENSE AGREEMENT.

This machine is sold by the Neostyle Co. and purchased by the user, with the express understanding that it is licensed to be used only with stencil paper and ink (both of which are patents) made by the Neostyle Co., New York City.

(4) That with each of the various dealers who bought such stencil duplicating machines from respondents for resale the respondents have made, and the respondent A.B. Dick Co., of Illinois, is still making, agreements, a part of each of which is as follows as to the respective machines named therein:

As to mimeographs:

2. The right to use mimeographs purchased under the terms of this agreement is dependent upon the full performance of the conditions of the license restriction attached to each of said mimeographs.

3. The party of the second part covenants and agrees not to sell any of said mimeographs or mimeograph supplies outside of [here is inserted the territory]; nor to sell any supplies for use with mimeographs except those made by and procured from the party of the first part; nor to sell or otherwise dispose of any mimeograph supplies to any dealer or agent, but only to users of said mimeographs; nor to sell or otherwise dispose of any mimeograph or mimeograph supplies, either directly or indirectly, to any persons or concerns not entitled to purchase the same.

4. The party of the second part covenants and agrees \* \* \* to pay for such mimeographs and supplies as hereinabove specified, and to report in detail monthly to the party of the first part as to the names and addresses of persons or concerns to whom such mimeographs have been sold, including the consecutive numbers by which the mimeographs are recorded.

As to the neostyle:

1. The right to use neostyles purchased under the terms of this agreement is dependent upon the full performance of the conditions of the license restrictions attached

2. The party of the second part covenants and agrees \* \* \* to report in detail monthly to the party of the first part as to the names and addresses of persons or concerns to whom said rotary neostyles have been sold, including the serial numbers by which said rotary neostyles are recorded.

3. The party of the second part covenants and agrees not to sell any rotary neostyles or rotary neostyle supplies outside of [here is inserted the territory]; nor to sell any supplies for use with rotary neostyles except those made by and procured from the party of the first part; nor to sell or otherwise dispose of any of said rotary neostyle supplies to any Dealer but only to users of rotary neostyles; nor to sell or otherwise dispose of any rotary neostyles or rotary neostyle supplies, either directly or indirectly, to any person entitled to purchase the same.

(5) That from a time prior to October 15, 1914, until December, 1916, all of the respondents have, and since said last-mentioned date the respondent A. B. Dick Co., of Illinois, has alone continuously sold in interstate commerce their stencil duplicating papers, with restrictions or conditions inscribed thereon, substantially in one of the following forms, either-

This composite stencil sheet is sold by the A. B. Dick Co. with the license restriction that it may be used only on Edison's rotary mimeograph No. 75, and only with ink made by said company. \* \* \* (This stub is licensed for use only once.)

Or-

This composite stencil sheet is sold by the Neostyle Co. with the license restriction that it may be used only on rotary neostyles, and only with ink made by said company. The stub is licensed for use only once.

(6) That the respondents, on each of their cans of stencil ink sold, caused to be inscribed one of the following notices:

Notice to mimeograph users: Every mimeograph is sold with a proper license restriction covering the use of stencil paper, ink, and other supplies, and is so marked.

Notice to rotary neostyle users: The rotary neostyle is sold with a proper license restriction

covering the use of stencil paper, ink, and other supplies, and is so marked.

(7) That certain parts of certain of respondents' stencil duplicating machines and certain parts of their stencil papers were and are covered by letters patent.

(8) That the respondents' stencil duplicating machine supplies have been and are now being sold at a large profit and at prices substantially higher than the prices at which supplies of their competitors, of a character and quality satisfactory to users of mimeographs and neostyles, could have been and can at this time be purchased.

(9) That the conditions or restrictions imposed by the respondents in the sale of their stencil duplicating machines, or their plan of marketing such machines, herein found to be generally used by the respondents (a) have compelled and do compel purchasers and users of such machines to purchase stencil duplicating paper, stencil duplicating ink, and other stencil duplicating supplies exclusively from the respondents, and at prices substantially higher than prices at which supplies of competitors of these respondents, satisfactory to many of such purchasers and users, could have been and can now be purchased; (b) have prevented and do prevent competing manufacturers from selling their stencil duplicating paper, stencil duplicating ink, and other stencil duplicating supplies for use with stencil duplicating machines sold by respondents; and (c ) have prevented and do prevent dealers from selling stencil duplicating paper, stencil duplicating ink, and other stencil duplicating supplies of competitors of

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these respondents, and, in particular, have prevented and do prevent dealers from selling such supplies of competitors of respondents for use with respondents' stencil duplicating machines.

(10) That the conditions or restrictions imposed by the respondents in the sale of their stencil paper and the plan of marketing such paper (a) have compelled and may compel purchasers or users of such paper to purchase their stencil duplicating machines, stencil ink, and other stencil duplicating machine supplies from the respondents exclusively and at prices substantially higher than prices at which stencil duplicating ink and other stencil duplicating machine supplies of competitors of these respondents may be purchased and; (b) do find may prevent competing manufacturers from selling their machines, ink, and supplies for use with respondents' stencil paper.

(11) That for the year 1915 the respondents controlled, in money value of sales, approximately 85.1 per cent of the commerce in the United States in stencil duplicating machines, approximately 88.2 per cent of such commerce in stencil duplicating paper, and approximately 79.9 per cent of such commerce in stencil duplicating ink, and that such percentages represent substantially the present ratio of respondents' business to the total business and commerce done in the United States in these articles.

(12) That the respondent, A.B. Dick Co., of Illinois, is and has been aggressively seeking further to increase its interstate trade and commerce in stencil duplicating machines, stencil paper, ink, and other suppliers for such machine.

CONCLUSIONS OF LAW.

(1) That (a) the sale by the respondents of stencil duplicating machines, stencil paper, or other stencil duplicating machine supplies upon conditions as set forth in the so-called license restrictions and in the contracts herein found to be used by respondents, or under the "plan of marketing" herein described and found to be used by them, constitutes a sale upon condition, agreement, and understanding that the purchaser, if a user, shall not use the machines or supplies of a competitor or competitors of these respondents, and, if the purchaser be a dealer, that he shall not use nor sell for use with the respondents' machines or supplies the machines or supplies of a competitor or competitors of these respondents; and (b) that the effect of the condition, agreement, and understanding is such that it has substantially lessened and does and may substantially lessen competition in interstate commerce in such stencil duplicating machines and supplies therefore.

(2) That the sale by the respondents of their stencil duplicating machines and stencil paper upon the condition, agreement, or understanding herein described and found to be used by the respondents, and the plan of marketing such machines, paper, and other supplies, is in violation of section 3 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, in that the effect thereof has been, is, and may be to substantially lessen competition and tend to create a monopoly in interstate commerce in the manufacture and of such stencil duplicating machines, stencil paper, stencil ink, and other supplies.

Dated May 25, 1917.

(Signed)

WM. J. HARRIS  
JOSEPH E. DAVIES  
WILLIAM B. COLVER,  
JOHN F. FORT,

*Commissioners.*

[SEAL.]

UNITED STATES OF AMERICA,  
*Before Federal Trade Commission, ss:*

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D.C.,  
the 25th day of May, A. D. 1917.

Present: William J Harris, chairman; Joseph E. Davies, William B. Colver, John F. Fort,  
Commissioners.

Federal Trade Commission v. A.B. Dick Co. of New Jersey, A.B. Dick Co. of Illinois, and the  
Neostyle Co. Docket No. 4.

ORDER TO CEASE AND DESIST.

The above-entitled proceeding being at issue upon the complaint of the Commission and the  
answer of the respondents, and the testimony having been

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reduced to writing and filed and the Commission on the date hereof having made and filed a report containing its findings as to the facts and its conclusion that the respondents have violated, and are now violating, section 3 of the act of Congress, approved October 15, 1914 entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," which said report is hereby referred to and made a part hereof: Therefore

*It is ordered,* That the respondent, the A. B. Dick Co. of Illinois, its officers and agents, cease and desist from directly or indirectly making any sale or contract for sale in interstate commerce of its stencil duplicating machines or stencil paper on the condition, agreement, or understanding, whether embodied in contract, license restriction, notice, or in whatever manner imposed, that the purchaser or purchasers thereof shall not use therewith, or when the purchaser be a dealer, shall not use or sell for use in connection therewith, the stencil duplicating machines, stencil paper, stencil ink, or other stencil duplicating machine supplies of competitors of the respondent.

*It is further ordered,* That the respondent, the A. B. Dick Co. of Illinois, its officers and agents, cease and desist from enforcing any condition, restriction, or requirement, heretofore imposed in connection with the sale, or embodied in a contract for sale, of its stencil duplicating machines or stencil duplicating paper, that the purchaser shall not use or sell for use, with such stencil duplicating machines or stencil paper, the stencil duplicating machines, stencil duplicating ink, stencil paper, or other stencil duplicating supplies of competitors of these respondents.

*Provided,* That respondent, A. B. Dick Co. of Illinois, is hereby granted not to exceed 90 days from the date hereof within which to make such changes in its business methods as will enable it to fully comply with this order.

By the Commission.

[SEAL.]

(Signed)

LEONIDAS L. BRACKEN,

*Secretary.*

UNITED STATES OF AMERICA,

*Before Federal Trade Commission, ss:*

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., the 26th day of May, A. D. 1917.

Present: William J. Harris (chairman), Joseph E. Davies, William B. Colver, John F. Fort, Commissioners.

RESOLUTION.

Whereas on the 25th day of May, 1917, the Commission issued an order directing the A. B. Dick Company of Illinois to cease and desist from selling its stencil duplicating machines and stencil paper upon any condition, agreement, or understanding that the purchaser or user should not use therewith or supplies of competitors of the said A. B. Dick Co.; and

Whereas a period of 90 days was given the A. B. Dick Co. in which to make such changes in  
i t s m e t h o d  
of doing business as to conform to the order; and

Whereas it is desirable that the Commission know what changes the said company makes in  
i t s p l a n o f  
marketing its machines and supplies as a result of this order: Now, therefore, be it

*Resolved*, That under the authority conferred on the Commission by paragraph (b) of section 6 of “An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,” approved September 26, 1914, the said A. B. Dick Co. of Illinois be, and the same is hereby, required within 30 days after such changes in the conduct of its business have been made to make a special report to the Federal Trade Commission fully setting forth the nature of such changes and setting forth in complete detail the plan or plans adopted for the future sale of such machines and supplies, together with any contracts, agreements, or understandings, by warranty or otherwise, proposed to be attached to the future sale or contract for sale by respondent of its machines and supplies, either for resale or use of such machines or supplies.

Adopted by the Commission.

[SEAL.]

(Signed)

LEONIDAS L. BRACKEN, *Secretary*.

## EXHIBIT 6.

### INSTRUCTIONS, RULES, AND FORMS CONCERNING PATENTS, TRADE-MARKS, PRINTS, LABELS, AND COPYRIGHTS.

The act of Congress approved October 6, 1917, known as the "Trading with the enemy act," contains the following provisions concerning patents, trademarks, prints, labels, and copyrights:

SEC. 10. That nothing contained in this act shall be held to make unlawful any of the following acts:

(a) An enemy, or ally of enemy, may file and prosecute in the United State, "an application for letters patent, or for registration of trademark, print, label, or copyright, and may pay any fees therefor in accordance with and is required by the provisions of existing law and fees for attorneys or agents for filing and prosecuting such applications. Any such enemy, or ally of enemy, who is unable during war, or within six months thereafter, on account of conditions arising out of war, to file any such application, or to pay any official fee, or to take any action required by law within the period prescribed by law, may be granted an extension of time months beyond the expiration of said period, provided the nation of which the said applicant is a citizen, subject, or corporation shall extend substantially similar privileges to citizens, and corporations of the United States.

(b) Any citizen of the United States, or any corporation organized within the United States, may, when duly authorized by the President, pay to an enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of much enemy or ally of enemy nation in relation to patents and trademarks, prints, labels, and copyrights; and any such citizen or corporation may file and prosecute an application for letters patent or for registration of trademark, print, label, or copyrights in the country of an enemy, or of an ally of enemy, after first submitting such application to the President and receiving license so to file and prosecute, and to pay the fees required by law and customary agents' fees, the maximum amount of which in each case shall be subject to the control of the President.

(c) Any citizen of the United States or any corporation organized within the United States desiring to manufacture, or cause to be manufactured, a machine, manufacture, composition of matters or design, or to carry on, or to use any trademark, print, label, or cause to be carried on a process under any patent or copyrighted matter owned or controlled by an enemy or ally of enemy at any time during the existence of a state of war may apply to the President for a license; and the President is hereby authorized to grant such a license, nonexclusive or exclusive as he shall deem best, provided he shall be of the opinion that such grant is for the public welfare, and that the applicant is able and intends in good faith to manufacture, or cause to be manufactured, the machine, manufacture, composition of matter, or design, or to carry on, or cause to be carried on, the process or to use the trademark, print, label, or copyrighted matter. The President may prescribe the conditions of this license, including the fixing of prices of articles and products necessary to the health of the military and naval forces of the United States or the successful prosecution of the war, and the rules and regulations under which such license may be granted and the fee which shall be charged therefore not exceeding \$100, and not exceeding one per centum of the fund deposited as hereinafter provided. Such license shall be a complete defense to any suit at law or in equity instituted by the

enemy or ally of enemy owners of the letters patent, trade-mark, print, label, or copyright, or otherwise, against the licensee for infringement or for damages, royalty, or other money award on account of anything done by the licensee under such license, except as provided in subsection (f ) hereof.

(d) The licensee shall file with the President a full statement of the extent of the use and enjoyment of the license, and of the prices received in such form and at such stated periods (at least annually) as the President may prescribe; and the licensee shall pay at such times as many be required to the alien property custodian not to exceed five per centum of the gross sums received by the licensee from the sale of said inventions or use of the trademark, print, label, or copyrighted matter or, if the President shall so order, five per centum of the value of the use of such inventions, trademarks, prints, labels, or copyrighted matter to the licensee as established by the President; and sums so paid shall be deposited by said alien property custodian forthwith in the Treasury of the United States as a trust fund for the said licensee and for the owner of the said patent, trade-mark, print, label, or copyright registration as hereinafter provided, to be paid from the Treasury upon order of the court, as provided in subdivision (f) of this section, or upon the direction of the alien property custodian.

(e) Unless surrendered or terminated is provided in this act, any license, granted hereunder shall continue during the term fixed in the license or in the absence of any such limitation during the term of the patent, trademark, print, label, or copyright registration under which it is granted. Upon violation by the licensee of any of the provisions of this act, or of the conditions of the license, the President may, after due notice and hearing, cancel any license granted by him.

(f) The owner of any patent, trade-mark, print, label, or copyright under which a license is granted hereunder may, after the end of the war and until the expiration of one year thereafter, file a bill in equity against the licensee in the district court of the United States for the district in which the said licensee resides, or, if a corporation, in which it has its principal place of business (to which suit the Treasurer of the United States shall be made a party), for recovery from the said licensee for all use and enjoyment of the said patented invention, trade-mark, print, label, or copyrighted matter: *Provided, however,* That whenever suit is brought, as above, notice shall be filed with the alien property custodian within thirty days after date of entry of suit: *Provided further,* That the licensee may make any and all defenses which would be available were no license granted. The court on due proceedings had may adjudge and decree to the said owner payment of a reasonable royalty. The amount of said judgment and decree, when final, shall be paid on order of the court to the owner of the patent from the fund deposited by the licensee, so far as such deposit will satisfy said judgment and decree; and the said payment shall be in full or partial satisfaction of said judgment and decree, as the all such judgments and decrees, facts may appear; and if, after payment of, there shall remain any balance of said deposit, such balance shall be repaid to the licensee on order of the alien property custodian. If no suit is brought within one year after the end of the war, or no notice is filed as above required, then the licensee shall not be liable to make any further deposits, and all funds deposited by him shall be repaid to him on order of the alien property custodian. Upon entry of suit and notice filed as above required, or upon repayment of funds as above provided, the liability of the licensee to make further reports to the President shall cease.

If suit is brought, as above provided, the court may, at any time, terminate the license, and may, in such event, issue an injunction to restrain the licensee from infringement thereafter, or

the court, in case the licensee, prior to suit, shall have made investment of capital based on possession of the license, may continue the license for such period and upon such terms and with such royalties as it shall find to be just and reasonable.

(g) Any enemy, or ally of enemy, may institute and prosecute suits in equity against any person other than a licensee under this act to enjoin infringement of letter patent, trade-mark, print label, and copyrights in the United States, owned or controlled by said enemy or ally of enemy in the same manner and to the extent that he would be entitled so to do if the United States was not at war: *Provided*, That no final judgment or decree shall be entered in favor of such enemy or ally of enemy by any court except after thirty days' notice to the alien property custodian. Such notice shall be in writing and shall be served in the same manner as civil process of Federal courts.

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(h) All powers of attorney Heretofore or hereafter granted by an enemy or ally of enemy to any person within the United States, in so far as they may be requisite to the performance of acts authorized in subsections (a) and (g) of this section, shall be valid.

(i) Whenever the publication of an invention by the granting of a patent may, in the opinion of the President, be detrimental to the public safety or defense, or may assist the enemy or endanger the successful prosecution of the war, he may order that the invention be kept secret and withhold the grant of a patent until the end of the war: *Provided*, That the invention disclosed in the application for said patent may be held abandoned upon it being established before or by the Commissioner of Patents that, in violation of said order, said invention has been published or that, in application for a patent therefor has been filed in any other country, by the inventor or his assigns or legal representatives without the consent or approval of the commissioner or under a license of the President.

When an applicant whose patent is withheld as herein provided, and who faithfully obeys the order of the President above referred to shall tender his invention to the Government of the United States for its use, he shall, if the ultimately receives a patent, have the right to sue for compensation in the Court of Claims, such right to compensation to begin from the date of the use of the invention by the Government.

EXECUTIVE ORDER VESTING POWER AND AUTHORITY IN DESIGNATED  
O F F I C E R S A N D  
MAKING RULES AND REGULATIONS UNDER TRADING-WITH-THE-ENEMY ACT  
A N D  
TITLE VII OF THE ACT APPROVED JUNE 15, 1917. (OCT. 12, 1917.)  
\* \* \* \*

FEDERAL TRADE COMMISSION.

XVII. I further hereby vest in the Federal Trade Commission the power and authority to issue licenses under such terms and conditions as are not inconsistent with law or to withhold or refuse the same, to any citizen of the United States or any corporation organized within the United States to file and prosecute applications in the country of an enemy or ally of enemy for letters patent or for registration of trademark, print, label, or copyright, and to pay the fees required by law and the customary agents' fees, the maximum amount of which in each case shall be subject to the control of such commission; or to pay to any enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally of enemy nation in relation to patents, trademarks, prints, labels, and copyrights.

XVIII. I hereby vest in the Federal Trade Commission the power and authority to issue, pursuant to the provisions of section 10 (c) of the trading-with-the-enemy act, upon such terms and conditions as are not inconsistent with law, or to withhold or refuse a license to any citizen of the United States or any corporation organized within the United States, to manufacture or cause to be manufactured a machine, manufacture, composition of matter, or design, or to carry on or cause to be carried on a process under any patent, or to use any trade-mark, print, label, or copyrighted matter owned or controlled by all enemy or ally of enemy, at any time during the present war; and also to fix the prices of articles and products manufactured under such licenses necessary to the health of the military and the naval forces of the United States, or the successful prosecution of the war; and to prescribe the fee which may be charged for such license, not exceeding \$100 and not exceeding 1 percent of the fund deposited by the licensee

with the alien property custodian as provided by law.

XIX. I hereby further vest in the said Federal Trade Commission the executive administration of the provisions of section 10 (d) of the trading-with-the-enemy act, the power and authority to prescribe the form of, and time and manner of filing statements of the extent of the use and enjoyment of the license and of the prices received and the times at which the licensee shall make payments to the alien property custodian, and the amounts of said payments, in accordance with the trading-with-the-enemy act.

XX. I further hereby vest in the Federal Trade Commission the power and authority, whenever in its opinion the publication of an invention or the granting of a patent may be detrimental to the public safety or defense or may assist the enemy, or endanger the successful prosecuting of the war, to order that the

invention be kept secret and the grant letters patent withheld until the end of the war.

XXI. The said Federal Trade Commission is hereby authorized to take all such measures as may be necessary or expedient to administer the powers hereby conferred.

PAYMENT OF PATENT, TRADE-MARK, AND COPYRIGHT TAXES, ANNUITIES AND FEES IN ENEMY COUNTRIES AND FILING AND PROSECUTING APPLICATIONS THEREIN.

Applicants for licenses must submit, in the English language,<sup>1</sup> to the Federal Trade Commission every application for letters patent, for the registration of trade-mark, print, label, or copyright which they desire to file in the country of an enemy or ally of enemy, every amendment, power of attorney, letter, or communication with respect thereto, and every drawing, electro, or other cut or reproduction, specimen, facsimile copy, or model, together with any check, draft, or other form of remittance for any tax, annuity, or fee, and agents' or attorneys' fees or compensation proposed to be sent, directly or indirectly, to any country of an enemy or ally of an enemy. In the case of chemical compounds or compositions of matter there shall also be submitted samples of the article or preparation, or samples of the ingredients, if any; and in the case of coloring matters prepared from tar, a sample of the dyeing of wool, silk, or cotton, and any statement, description, and directions in respect thereto, if and as required by the foreign law, and any and all other samples, specimens, descriptions, statements, and directions proposed to be forwarded.

There shall also be submitted at the same time the envelope or other cover, stamped with sufficient postage and addressed, in which the matters herein mentioned are proposed to be forwarded.

The intention is to have submitted to the Federal Trade Commission every enclosure and cover concerning every application for patent, trade-mark, print, label, or copyright and their prosecution, desired to be forwarded, directly or indirectly, to an enemy country or to the country of an ally of an enemy.

Everything (except remittance) is required to be furnished to the Federal Trade Commission in duplicate. One copy will be retained in the files of the Commission.

Each application for a license shall be accompanied by the affidavit of the applicant, his solicitor, or patent agent that nothing contained in any of the material submitted will give any information detrimental to the public safety or defense or which may assist the enemy or endanger the successful prosecution of the war, and that the amount of money, if any, proposed to be transmitted is the correct tax, annuity, or fee and the customary agents' fee, and such affidavit shall also state what portion of the remittance is to be applied to taxes, fees, or annuities and what portion to agents' fees.

It is unlawful and punishable by fine and imprisonment for anyone without first obtaining a license to forward applications for letters patent or for the registration of trade-mark, print, label, or copy-

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<sup>1</sup> In exceptional cases and for good cause shown, applications and other communications may be submitted in German, but only when accompanied by a verified English translation.

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right in an enemy or ally of enemy nation indirectly through correspondence or agents in any foreign country. 1

## APPLICATIONS FOR LICENSES UNDER PATENTS AND COPYRIGHTS OWNED OR CONTROLLED BY AN ENEMY OR ALLY OF ENEMY.

Applicants for a license under patents or copyrights owned or controlled by an enemy or an ally of an enemy are required to file a verified statement with the Federal Trade Commission in concise and nontechnical language, covering the following points, stating in each instance the facts upon which any conclusion may be based:

(a) If an individual, that he is a citizen of the United States. If a corporation, that it is organized within the United States.

(b) That the patent or copyright desired to be licensed is owned or controlled by an enemy or an ally of an enemy. (For definitions of "enemy" and "ally of an enemy," see footnote.)

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'Attention is called to the following provisions of sec. 3 of the trading-with-the-enemy act: "\* \* \* and it shall be unlawful \* \* \* for any person to send, take, or transmit out of the United States any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message or any other form of communication intended for or to be delivered, directly or indirectly, to the enemy or ally of an enemy: *Provided, however,* That any person may send, take, or transmit out of the United States anything herein forbidden if he shall first submit the same to the President or to such officer as the President may direct and shall obtain the license or consent of the President, and under such rules and regulations and with such exemptions as shall be prescribed by the President.'

Violation of any of the provisions of the act or of any license, rule, or regulation issued thereunder is punishable by a fine of not more than \$10,000 or imprisonment for not more than 10 years or both.

### FOOTNOTE.--DEFINITIONS OF "ENEMY" AND "ALLY OF ENEMY."

SEC. 2. That the word "enemy" as, used herein shall be deemed to mean, for the purpose of such traditions and of this act--

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by their military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official, agent, or agency thereof.

(c) Such other individual, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy."

The words "ally of enemy," as used herein, shall be deemed to mean--

(a) Any individual, partnership, or other body of individuals of any nationality, resident

within the territory (including that occupied by the military and naval forces) of any nation which is an ally of a nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of such ally nation, or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation which is ally of a nation with which the United States is at war, or any political or municipal subdivision of such ally nation, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals as may be natives, citizens, or subjects of any nation which is an ally of a nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation include within the term "ally of the enemy."

If it is claimed that the patent or copyright is controlled by an, enemy or ally of an enemy, the nature and origin of the control should be plainly stated, whether by contract, agency, stock ownership, or otherwise.

(c) There shall be attached to the application a Patent Office copy of the patent and a certified abstract of title to it, or a specimen of the copyrighted article and a certified copy of the copyright entries and, in the case of a patent, of a certified copy of the petition and all powers of attorney in the file of the application.

(d) That licensing the applicant is for the public welfare. Specifically, that there is a demand for the patented or copyrighted article or the product of the patented process which is not being met.

(e) That the applicant is able to make or cause to be made the patented or copyrighted article or exercise the patented process. Specifically, that the applicant is technically and otherwise, equipped to undertake or procure the manufacture or operate the process and is in fact able to do so.

(f) That the applicant intends to do so in good faith.

(g) The application must be verified by the person applying for the license, and in the case of a corporation by an officer thereof acquainted with the facts recited.

Each application shall be accompanied with a remittance of one hundred dollars.

A suggested form of application is appended.

A separate application is required for each patent or copyright.

The application should be prepared in duplicate and, for convenience in filing, on good unglazed paper 8 inches by 10 ½ inches, directed to the Federal Trade Commission, Patent, Trade-mark, and Copyright Division, and may be transmitted by mail or delivered personally. Personal attendance at the outset is not necessary. If any hearings are desired, notice of them will be given.

In every case where practicable notice of applications for license will be given to the attorney of the patentee or copyright proprietor whose name appears in the file of the application in the Patent Office. or the office of the Register of Copyrights.

*The burden of establishing affirmatively the facts upon which under the terms of the act, license may be granted is placed upon the applicant for license.*

#### THE TERMS OF THE LICENSE.

The act provides and the Executive order vests in the Federal Trade Commission the duty of prescribing the conditions of the license.

The form of licenses proposed to be issued is appended.

Only nonexclusive licenses will be issued unless the public interest shall otherwise require.

#### DURATION OF LICENSE.

The act provides (sec. 10 (e)) that licenses shall continue during the terms fixed in the license, or, in the absence of any such limitation, during the term of the patent or copyright registration under which it is granted, and that upon violation by the licensee of any of the provisions of the act, or of the conditions of the license, after due notice and hearing, the license may be canceled.

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## LICENSES UNDER TRADE-MARKS, PRINTS AND LABELS OWNED OR CONTROLLED BY AN ENEMY OR ALLY OF AN ENEMY.

Licenses for the use, of trade-marks, prints, and labels will be granted only under exceptional circumstances. Applications for licenses under the following conditions will be entertained:

- (1) Where the alleged trademark is the name of a patented or copyrighted article and a license is granted under the patent or copyright.
- (2) Where the alleged trade-mark is the name of an article manufactured under an expired patent or copyright.

## THE LICENSE FEE.

The act provides that the license fee shall not exceed \$100, and not exceeding 1 per cent of the sum deposited with the alien property custodian. This fund is an amount not to exceed (a) 5 per cent of the gross sums received by the licensee from the sale of the licensed subject matter, or (b) 5 per cent of the value of the use of the licensed subject matter as established by the Federal Trade Commission.

## ACCOUNTING AND PAYMENT TO THE ALIEN PROPERTY CUSTODIAN.

The licensee shall file with the Federal Trade Commission, semiannually on January 1 and July 1 of each year and oftener if required, a full statement of the extent of the use and enjoyment of the license, and of the prices received from the sale or use of the subject matter of it, and within 30 days thereafter the licensee shall pay to the alien property custodian not to exceed 5 per cent of the gross sums received from the sale of the licensed subject matter, or if the Federal Trade Commission so order not to exceed 5 per cent of the value of the use of the licensed subject matter as established by the Federal Trade Commission.

## SUGGESIVED FORM OF APPLICATION TO THE FEDERAL TRADE COMMISSION FOR A LICENSE.

### TRADING WITH THE ENEMY ACT.

To the FEDERAL TRADE COMMISSION:

Application of \_\_\_\_\_ for a license under patent to \_\_\_\_\_, date \_\_\_\_\_ No. \_\_\_\_\_.

(If under copyright, state title of work, name of copyright proprietor, and date of copyright registration.)

The undersigned, for the purpose of securing a license, represents to the Federal Trade Commission as follows:

(a) The undersigned is a citizen of the United States, residing at street, in the city of \_\_\_\_\_, State of \_\_\_\_\_, United States of America. (If a corporation, state under the laws of what State it is organized; the location of its corporate offices, its business offices, and plants or factories.)

(b) The undersigned is desirous of being licensed hinder the patent (or copyright) above United, which is owned or controlled by a citizen or subject of \_\_\_\_\_. (State the enemy country or the ally of the enemy of which the patentee or copyright proprietor is a citizen or subject, or if a corporation where it is incorporated. and if the patent or copyright is not owned but is claimed to be controlled state fully the facts which establish the nature and origin of the enemy or ally of enemy control, wether it is means of an agency, by contract, by stock ownership in corporations, or otherwise.)

(c) Attached here is a Patent copy of the letters patent and a certified abstract of its title, from the Patent Office and a certified copy of the petition and all powers of attorney in the file of the application (or, in the case of a copyright, a specimen of the copyrighted work, and a certified copy of the copyright entries from the office of the Register of Copyrights).

(d) It is for the public welfare that the license applied for be granted because--(Here state briefly but completely and in nontechnical language the reason why it is for the public benefit that the license be granted and specifically the demand for the article prior to the war, the demand for the article at the present time whether or not this demand is being met or can be met, prices obtained prior to the war and prices at the present time.)

(e) Applicant is able to make or cause to be made the patented or copyrighted article because (Here state specifically the applicant's experience in the production of articles of the kind covered by the patent or copyright, his technical equipment for manufacturing and selling such articles and his ability to do so, the estimated cost of manufacture and price proposed to be charged if the license is granted.)

(If the applicant does not intend to manufacture but to procure the manufacture of the article, state specifically what arrangements have been made or proposed to this end and their terms and conditional. State the name and address of the manufacturer proposed to be employed and his technical equipment, etc., and attach copies of any contracts or proposals.)

(f) The license desired is exclusive or nonexclusive for the following reasons:(Here state reasons why, in the opinion of the applicants the license be exclusive or nonexclusive.)

(g) The license is desired--

(1) For the term of the patent or copyright, (2) the duration of the war, or (3) any other period, stating reasons in each case.

(h) The application is also to contain the following: "The undersigned intends in good faith to manufacture or cause to be manufactured the article licensed and understands that the license, if granted, may not be assigned and may be canceled by the Federal Trade Commission, after due notice of hearing upon violation by the undermined of any of the provisions of the 'Trading with the enemy act' or of any of the conditions of the license."

(Signed) \_\_\_\_\_,

*Applicant.*

OATH FOR AN INDIVIDUAL.

STATE OF \_\_\_\_\_

County of \_\_\_\_\_, ss:

\_\_\_\_\_, being duly sworn, deposes and states that he is the same person whose name is signed to the foregoing statement; that he has read this statement and knows and understands its contents; and that it is true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 191\_\_.

\_\_\_\_\_  
Notary Public.

OATH FOR A CORPORATION.

STATE OF \_\_\_\_\_

County of \_\_\_\_\_, ss:

\_\_\_\_\_, being duly sworn, deposes and states that he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation whose

name is signed to the foregoing statement; that he is duly authorized to swear to such statement on behalf of such corporation; that he has read this statement and knows and understands its contents; and that it is true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
*Notary Public.*

## FORM OF LICENSE UNDER PATENT.

Patent licenses issued by the Federal Trade Commission under the provisions of the "Trading with the enemy act" will be in substantially the following form:

Patent No -----, dated ----- to ----- for -----.

The Federal Trade Commission, under the authority of and in conformity with the "Trading with the enemy act," and of the Executive order of October 12, 1917, hereby licenses ----- to make, use, and vend within the United States the invention described and claimed in United States letters patent to ----- No ----- dated ----- (copy annexed hereto) for the period of ----- unless sooner terminated.

The licensee during the continuance of this license shall pay to the alien property custodian, semiannually, within 30 days after the 1st day of January and the 1st day of July, respectively, of each year, a royalty at the rate of ----- per cent of the gross sums received by the licensee from the sale of the invention so herein licensed (or ----- per cent of the value of the use thereof to the licensee as established by the Federal Trade Commission).

The licensee shall, during the continuance of this license, keep proper accounts and separate books containing full particulars of:

- (a) All articles made or caused to be made by the licensee under the said letters patent and of the price or prices charged therefore;
- (b) All items of cost incurred in the use of such invention and the manufacture and sale of articles inside thereunder; and
- (c) All other matters and things which in the opinion of the Federal Trade Commission may be material for the purpose of showing the amounts from time to time payable by the licensee concerning such royalty and what is a fair and reasonable price to the public for such article.

The licensee shall, within 10 days after each of the semiannual days aforesaid, deliver a sworn statement to the Federal Trade Commission in writing showing the aforesaid particulars.

The licensee shall, during the continuance of this license, give all such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee under this license, the cost of the use of such invention, the cost of producing and the price or prices charged by the licensee for the said article, and for that purpose shall, if requested by the Federal Trade Commission, permit such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business of the licensee in which the use of the said invention or the manufacture of the said article shall be carried on and all books, papers, and documents of such licensee relating to such use, manufacture, and sale.

If any payment under this license shall not be made, within one month after the same shall have become due under the provisions herein contained (whether demand therefor shall have been made or not), or if the licensee shall or shall attempt to assign or part with the benefit of or grant any sublicense under this license, or shall make default in the performance or observance of any obligations on his part herein contained, or shall have violated any of the conditions of this license or any of the provisions of the statute under which it is granted, and if, after 10 days' notice in writing, shall have failed to comply with the aforesaid, then the Federal Trade Commission may, by notice in writing, and after a hearing, cancel and terminate this license as from the date of such notice, but without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

If in the opinion of the Federal Trade Commission the licensee has failed to use this license so as to satisfy the reasonable requirement of the public with regard to the subject matter thereof; or

If in the opinion of the Federal Trade Commission the licensee has failed to supply to the public the articles made under this license at reasonable prices; or if in the opinion of the Federal Trade Commission the licensee has charged unreasonable or excessive prices for articles made under this license; or

If in the opinion of the Federal Trade Commission the articles made under this license are of unsatisfactory quality (and the licensee shall furnish to the Federal Trade Commission in the manner prescribed by it and when and as often as required, samples and specimens for inspection, analysis, and test); or

Circumstances have arisen which, in the opinion of the Federal Trade Commission, make it just and equitable that this license be canceled in whole or in part;

The Federal Trade Commission may, in its discretion, give notice in writing to the licensee to terminate and cancel this license in whole or in part, and, if canceled and terminated, the same shall be without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

Any sums which may at any time be payable by the licensee under the provisions of this license shall be a debt due from the licensee to the people of the United States and shall be recovered in an appropriate action in the name of the people of the United States against the licensee.

Dated \_\_\_\_\_ 191\_\_

Accepted and agreed to.

\_\_\_\_\_,  
*Licensee.*

A copy of the patent is to be attached.

If the licensee is not to be the actual manufacturer, the licensee will be held accountable to the Federal Trade Commission for the observance of the terms of his license by the actual manufacturer of the article, and the license will contain the following addendum, naming the actual manufacturer who shall sign:

\_\_\_\_\_, manufacturer for \_\_\_\_\_, the licensee \_\_\_\_\_ of the article herein licensed, separately agrees to keep separate books containing full particulars of all articles manufactured, and the cost thereof, sold to \_\_\_\_\_ the licensee, and the price or prices charged therefore and his books and plant shall be open to inspection in the same manner as provided for the licensee. The licensee and the undersigned, during the continuance of the license, shall furnish or procure to be furnished all such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee, the cost of producing or procuring the patented article, the price or prices charged for said article, and shall permit or procure permission to be given to such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business in which the manufacture of the patented article shall be carried on by the undersigned for the licensee, and all books, papers, and documents relating to such manufacture and sale.

The undersigned, manufacturer, is not authorized to make, use, or vend the invention of the patent except for \_\_\_\_\_, the licensee, and not further or otherwise, and the undersigned undertakes to observe and perform the terms and conditions of the license to \_\_\_\_\_ to which this is attached.

Dated \_\_\_\_\_, 191\_\_

Accepted and agreed to.

\_\_\_\_\_,  
*Manufacturer.*

#### FORM OF LICENSE UNDER COPYRIGHT.

Copyright licenses issued by the Federal Trade Commission under the provisions of the "Trading with the enemy act" will be in substantially the following form:

Copyright No. \_\_\_\_\_, dated \_\_\_\_\_ to \_\_\_\_\_ for the (book, etc., as the case may be; see copyright act of March 4, 1909, sec. 5, for classification) entitled (Insert title of work).

The Federal Trade Commission, under the authority of and in conformity with the "Trading with the enemy act" and of the Executive order of October

12, 1917, hereby licenses \_\_\_\_\_ to exercise within the United States all the rights created by the copyright laws of the United States of America, being the act of March 4, 1909, as amended with respect to the subject matter of copyright to \_\_\_\_\_, No. \_\_\_\_\_, dated \_\_\_\_\_ for the (book, etc., as the case may be; see copyright act of March 4, 1909, sec. 5, for classification) entitled (insert title of work), a copy of which is annexed hereto, for the period of \_\_\_\_\_, unless sooner terminated.

The licensee, during the continuance of this license, shall pay to the alien property custodian, semiannually, within 30 days after the 1st day of January, and the 1st day of July, respectively, of each year, a royalty at the rate of \_\_\_ per cent of the gross sums received by the licensee front the sale of the copyright work so herein licensed (or \_\_\_ per cent of the value of the use thereof to the licensee as established by the Federal Trade Commission).

The licensee shall, during the continuance of this license, keep proper accounts and separate books containing full particulars of--

(a) All copies of said copyright work made or caused to be inside by the licensee under the said copyright and of the price or prices charged therefor;

(b) All items of cost incurred in the use of said copyright work and in the manufacture and sale of such copyright work; and

(c) All other matters and things which, in the opinion of the Federal Trade Commission, may be material for the purpose of showing the amounts from time to time payable by the licensee concerning such royalty and what is a fair and reasonable price to the public for such copyright work.

The licensee shall, within 10 days after each of the semiannual days aforesaid, deliver a sworn statement to the Federal Trade Commission in writing showing the aforesaid particulars.

The licensee shall the continuance of this license give all such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee under this license, the cost of producing, and the price or prices charged by the licensee for the said copyright work, and for that purpose shall, if requested by the Federal Trade Commission, permit such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business of the licensee in which the use or manufacture of the said copyright work shall be carried on, and all books, papers, and documents of such licensee relating to such use, manufacture, and sale.

If any payment under this license shall not be made within one month after the same shall have become due under the provisions herein contained (whether demand therefor shall have been made or not), or if the licensee shall or shall attempt to assign or part with the benefit of or grant any sublicense under this license, or shall make default in the performance or observance of any obligation on his part herein continued, or shall have violated any of the conditions of this license or any of the provisions of the statute under which it is granted, and if after 10 days' notice, in writing, shall have failed to comply with the aforesaid, then the Federal Trade Commission may, by notice in writing, and after a hearing, cancel, and terminate this license as from the date of such notice, but without prejudice to and so as not in any manner to affect any liability hereunder on part of the licensee which may be subsisting of have accrued.

If in the opinion of the Federal Trade Commission the licensee has failed to use this license so as to satisfy the reasonable requirement of the public with regard to the copyright work; or

If in the opinion of the Federal Trade Commission the licensee has failed to supply to the public the copyright work at reasonable prices; or if in the opinion of the Federal Trade Commission the licensee has charged unreasonable or excessive prices for said copyright work; or

Circumstances have arisen which in the opinion of the Federal Trade Commission make it just and equitable that this license be canceled in whole or in part;

The Federal Trade Commission may, in its discretion, give notice in writing to the licensee to terminate this license in whole or in part, and if canceled and terminated the same shall be

without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

Any sums which may at any time be payable by the licensee under the provisions of this license shall be a debt due from the licensee to the people of the United States and shall be recovered in an appropriate action in the name of the people of the United States against the licensee.

Dated \_\_\_\_\_, 191\_\_

Accepted and agreed to.

\_\_\_\_\_,  
*Licensee.*

If the licensee is not to be the actual manufacturer or producer of the copyright work, the licensee will be held accountable to the Federal Trade Commission for the observance of the terms of his license by the actual manufacturer or producer of the article, and the license will contain the following addendum, naming the actual manufacturer or producer of the article, who shall sign:

\_\_\_\_\_, the manufacturer for \_\_\_\_\_ the licensee of the copyright work herein licensed, separately agrees to keep separate books containing full particulars of all of such copyright works manufactured and the cost thereof, sold to \_\_\_\_\_, the licensee, and the price or prices charged therefor, and his books and plant shall be open to inspection in the same manner as provided for the licensee. The licensee and the undersigned, during the continuance of the license, shall furnish or procure to be furnished till such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee, the cost of producing or procuring the copyright work, the price or prices charged therefor, and shall permit or procure permission to be given to such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business in which the manufacture of the copyright work shall be carried on by the undersigned for the licensee, and all books, papers, and documents relating to such manufacture and sale.

The undersigned, manufacturer, is not authorized to exercise any right conferred by the copyright statutes with respect to the copyright work here involved except for \_\_\_\_\_, the licensee, and not further or otherwise, and the undersigned undertakes to observe and perform the terms and conditions of the license to \_\_\_\_\_ to which this is attached.

Dated \_\_\_\_\_, 191\_\_.

Accepted and agreed to.

\_\_\_\_\_,  
*Manufacturer.*

A surety company bond may be required of the licensee, if, in the opinion of the Federal Trade Commission, it is necessary to safeguard the public interest.