

ANNUAL REPORT  
OF THE  
FEDERAL  
TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30  
1937

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON: 1937

For sale by the Superintendent of Documents, Washington, D. C., - - - Price 25 cent. (Paper cover)

## FEDERAL TRADE COMMISSION

WILLIAM A. AYRES, *Chairman*<sup>1</sup>  
GARLAND S. FERGUSON, *Vice Chairman*  
CHARLES H. MARCH  
EWIN L. DAVIS  
ROBERT E. FREER,  
OTIS B. JOHNSON, *Secretary*

### FEDERAL TRADE COMMISSIONERS--1915-37

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar. 16, 1915-Mar. 18, 1918.
Edward N. Hurley	Illinois	Mar. 16, 1915-Jan. 31, 1917.
William J. Harris	Georgia	Mar. 16, 1915-May 31, 1918.
Will H. Parry	Washington	Mar. 16, 1915-Apr. 21, 1917.
George Rublee	New Hampshire	Mar. 16, 1915-May 14, 1916.
William B. Colver	Minnesota	Mar. 16, 1917-Sept. 25, 1920.
John Franklin Fort	New Jersey	Mar. 16, 1917-Nov. 30, 1919.
Victor Murdock	Kansas	Sept. 4, 1917-Jan. 31, 1924.
Huston Thompson	Colorado	Jan. 17, 1919-Sept. 25, 1926.
Nelson B. Gaskill	New Jersey	Feb. 1, 1921-Feb. 24, 1925.
John Garland Pollard	Virginia	Mar. 6, 1920-Sept. 25, 1921.
John F. Nugent	Idaho	Jan. 15, 1921-Sept. 25, 1927.
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926.
Charles W. Hunt	Iowa	June 16, 1924-Sept. 25, 1932.
William E. Humphrey	Washington	Feb. 25, 1925-Oct. 7, 1933.
Abram F. Myers	Iowa	Aug. 2, 1925-Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb. 11, 1927-Jan. 23, 1933.
Garland S. Ferguson	North Carolina	Nov. 14, 1927.
Charles H. March	Minnesota	Feb. 1, 1929.
Ewin L. Davis	Tennessee	May 26, 1933.
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25, 1933.
James M. Landis	Massachusetts	Oct. 10, 1933-June 30, 1934.
George C. Mathews	Wisconsin	Oct. 27, 1933-June 30, 1934.
William A. Ayres	Kansas	Aug. 23, 1934.
Robert E. Freer	Ohio	Aug. 27, 1935.

### EXECUTIVE OFFICES OF THE COMMISSION

Constitution Avenue at 6th Street,  
Washington, D. C.

### BRANCH OFFICES

45 Broadway, New York                      544 Federal Office Building, San Francisco  
483 West Van Buren Street, Chicago      801 Federal Building, Seattle

<sup>1</sup> Chairmanship rotates annually. Commissioner Ferguson will become chairman in January 1938.



## LETTER OF SUBMITTAL

*To the Congress of the United States:*

I have the honor to submit herewith the Twenty-fifth Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1939.

By direction of the Commission.

WILLIAM A. AYRES, *Chairman*

# CONTENTS

## INTRODUCTION

	Page
Powers and duties of the Commission	3
General legal activities	4
Robinson-Patman Anti-Price Discrimination Act	6
Trade-practice conferences	8
General investigations	9
Commissioners and their duties	10
How Commission work is handled	11
Publications of the Commission	13
President lays cornerstone of new Commission building	14
Recommendations	15

## PART I. GENERAL INVESTIGATIONS

Agricultural income	19
Fresh fruits and vegetables	23
Milk and dairy products	26
Farm implements and machinery	29
Textile industries	31
Petroleum decree	33

## PART II. GENERAL LEGAL WORK

Description of procedure	37
Chart Facing page	37
Legal investigation	40
Consolidations and mergers	41
Disposition of cases by stipulation	42
Representative complaints	43
Orders to cease and desist	52
Types of unfair competition	65
Cases in the Federal courts	68
Tabular summary of legal work	79

## PART III. TRADE-PRACTICE CONFERENCES

Activities under trade conference procedure	93
Sales of industries concerned exceeds billion dollars	93
Benefits derived from trade practice rules	94
History and purpose of procedure	94
Outline of trade conference procedure	95
Group I and group II rules	97

## PART IV. SPECIAL PROCEDURE IN CERTAIN TYPES OF ADVERTISING CASES

Newspaper, magazine and radio advertising	101
---	-----

## PART V. FOREIGN-TRADE WORK

	Page
Administration of Export Trade Act (Webb-Pomerene law)	109
Association exports increase in 1936	109
Associations operating under the act	110
Advantages obtained by exporters in 1936	111
Trust laws and unfair competition abroad	112

## FISCAL AFFAIRS

Appropriation acts providing funds for Commission work	123
Appropriations and expenditures	124

## APPENDIXES

Federal Trade Commission Act	129
Clayton Act	135
Robinson-Patman Anti-Price Discrimination Act	138
Export Trade Act	140
Sherman Act	141
Tydings-Miller Act	142
Rules of practice	143
Investigations, 1915-1937	149
Index	169

## **INTRODUCTION**

POWERS AND DUTIES OF THE COMMISSION

GENERAL LEGAL ACTIVITIES

ROBINSON-PATMAN ANTI-PRICE DISCRIMINATION ACT

TRADE PRACTICE CONFERENCES

GENERAL INVESTIGATIONS

COMMISSIONERS AND THEIR DUTIES

HOW COMMISSION WORK IS HANDLED

PUBLICATIONS OF THE COMMISSION

PRESIDENT LAYS CORNERSTONE OF NEW BUILDING

RECOMMENDATIONS

ANNUAL REPORT  
OF THE  
FEDERAL TRADE COMMISSION

**INTRODUCTION**

**POWERS AND DUTIES OF THE COMMISSION**

The Federal Trade Commission herewith submits its report for the fiscal year 1936-37. Organized March 16, 1915, under the Federal Trade Commission Act, approved September 26, 1914, the Commission is an administrative body exercising quasi-judicial functions. These functions are chiefly: (1) to prevent unfair methods of competition in interstate commerce; (2) to make investigations at the direction of Congress, the President, the Attorney General, or upon its own initiative; (3) to report facts in regard to alleged violations of the anti-trust laws; (4) to prevent discriminations in price and other forms of discrimination in violation of the Robinson-Patman Act amending the Clayton Act; (5) to prevent exclusive dealing contracts, capital stock acquisitions, and interlocking directorates in violation of the Clayton Act, and (6) to administer the Webb-Pomerene or Export Trade Act, aimed at promotion of foreign trade by permitting the organization of associations to engage exclusively in export trade.

In performing these functions, the Commission's duties fall into two categories, namely, (1) legal activities in connection with prevention of unfair practices prohibited by the acts it administers, and (2) general investigations of economic conditions in certain industries or commercial groups.

Legal activities have to do with (1) prevention and correction of unfair methods of competition in accordance with section 5 of the Federal Trade Commission Act, in which it is declared that unfair methods of competition in commerce are unlawful; (2) administration of section 2 of the Clayton Act prohibiting unlawful price discriminations, as amended by the Robinson-Patman Act, and sections 3, 7 and 8 of the Clayton Act dealing, respectively, with unlawful "tying" contracts, unlawful stock acquisitions, and unlawful interlocking directorates, and (3) administration of the Webb-Pomerene Export Trade Act.

In connection with its foreign-trade work, the Commission has the power under section 6 (h) of the Federal Trade Commission Act,

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.

The general investigational and economic work of the Commission arises chiefly under section 6 (a), (b), and (d) of the Federal Trade Commission Act, giving the Commission 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 its relation to other corporations and to individuals, associations, and 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, \* \* \* 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. \* \* \*

(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.<sup>1</sup>

### GENERAL LEGAL ACTIVITIES

Upon authority of the acts which it administers, the Commission, during the last fiscal year, has continued to direct its efforts toward the correction and elimination of unfair methods of competition and other unlawful practices.

*Cases before the Commission.*--During the fiscal year, the Commission made approximately 2,100 investigations in cases which were in a preliminary stage or had not progressed to the status of formal complaint or stipulation. These cases were disposed of either by progression to the status of formal complaint, by stipulation, or by closing. The number of such informal cases investigated in the preceding fiscal year was approximately the same.

During the year, the Commission approved a total of 624 stipulations to cease and desist, executed by parties against whom proceedings had been instituted. Of these, 364 were cases in which false and misleading advertising in newspapers, magazines, or by radio broadcast, was involved. The total number of stipulations to cease and desist approved in the last preceding fiscal year was 890.

<sup>1</sup> Public, No.78, 73d Cong., approved June 16, 1933, making appropriations for the fiscal year ending June 30, 1934, for the "Executive Office and Sundry Independent Executive Bureaus, Boards, Commissions" etc., made the appropriation for the Commission contingent upon the provision (48 stat. 291, 15 U. S.C. A., sec. 46a) that hereafter no new investigations shall be initiated by the Commission as the result of a legislative resolution, except the same be a concurrent resolution of the two Houses of Congress."

The stipulation procedure is usually employed in cases where the methods of competition complained of are not so fraudulent or vicious that protection of the public interest requires observance of the procedure of formal complaint and issuance of a cease and desist order. The stipulation procedure in such cases provides opportunity for a prospective respondent to enter into a written agreement to cease and desist from the unfair methods set forth therein.

During the last fiscal year, the Commission issued 294 complaints against companies, associations and individuals, alleging various forms of unfair competition or other practices. These included 10 cases of alleged combination or conspiracy in restraint of trade through price fixing and other unlawful agreements, and 23 complaints charging violation of Section 2 of the Clayton Act as amended by the Robinson-Patman Anti-Price Discrimination Act. The number of complaints issued in the preceding year was 386. In 296 cases, the Commission served upon respondents its orders to cease and desist from unfair practices which had been alleged in complaints and which were found to have been engaged in by the respondents. This was an increase of 135 or 84 percent over the number issued during the last preceding year. Representative cases are described at pages 43 and 52.

*Cases before the courts.*--During the year, the Commission was sustained in 18 cases before various Federal Courts, and was reversed in none. Seventeen of the affirming decisions were in the United States Circuit Courts of Appeals, and 1 was in a mandamus proceeding before a United States District Court. Of these 18 cases, 15 embraced formal affirmances of the Commission's orders to cease and desist; one involved a contempt proceeding for violation of a decree affirming an order of the Commission, in which instance the respondents were fined \$10,000; one had to do with a Court dismissal of an application by the Commission for enforcement of its order, the dismissal having been granted on joint motion of the Commission and the respondents, because the latter stipulated they would obey the Commission's order; the third case, in a district court, was a successful attempt by the Commission to compel a corporation to supply information needed for use in the Commission's general investigation of agricultural income.<sup>2</sup>

In the Supreme Court of the United States there were no decisions on the merits in Federal Trade Commission cases. However, 7 petitioners, who had failed in attempts to nullify in the United States Circuit Courts of Appeals Commission orders to cease and desist, were likewise unsuccessful in their petitions to the Supreme Court for writs of certiorari. The Commission petitioned for and obtained a writ of certiorari in one case.

*Foreign Trade work.*--Three American associations engaged solely in export trade were organized during the fiscal year, under the

<sup>2</sup> National Biscuit Co., p.75,

Webb-Pomerene Export Trade Act. They filed with the Commission statements required by the act, thereby becoming entitled to the benefits and exemptions provided therein. The total number of associations filing papers is now 45. They are discussed under Part V of this report, which also contains a review of trust law developments abroad.

*Misleading advertising.*--For handling certain types of false and misleading advertising cases, the Commission has set up a special board of investigation, consisting of three attorneys. Through this special board and its staff, the Commission examines the advertising columns of newspapers and magazines and commercial advertising continuities broadcast by radio, noting misleading representations appearing therein. Complaints against advertisers are also received from the public and are given careful consideration. Misleading representations in advertising are often corrected through the advertiser's agreement by stipulation to cease and desist from such mis-representations, although some of the cases before this board result in the issuance of formal complaints and orders to cease and desist.

#### **ROBINSON-PATMAN ANTI-PRICE DISCRIMINATION ACT**

Section 2 of the Clayton Act was amended, effective June 19, 1936, by Public 692, Seventy-fourth Congress, generally known as the Robinson-Patman Act.

The act had been in effect approximately one year at the close of the fiscal year. No additional appropriation to cover the expense of the work occasioned by the duty of enforcing the new act was available to the Commission until May 14, 1937. During this interval, however, the Commission administered the act as vigorously as the funds and personnel available permitted. In this period (the working period was actually much less than 1 year because of delays necessarily incident to beginning work under a new statute), the Commission instituted field investigations in 306 cases, each case involving alleged violation of the act by from 1 to as many as several hundred concerns. Of these field investigations, 169 were completed, although the number of cases in process of investigation steadily increased.

Commission complaints involving alleged violation of Section 2 of the Clayton Act as amended by the Robinson-Patman Act were issued in 23 cases during the last fiscal year, and, shortly following the close of that year, the first order to cease and desist was entered under the act. (See p.48.)

*New act changed law substantially.*--The Robinson-Patman Act made substantial changes in the law through a restatement of the basic principle of prohibiting sellers from engaging in price discrimination which injuriously affects competition. It extended the applicability of the law to recently evolving conditions in trade and commerce and broadened its scope to include certain forms of discrimination not

directly connected with price discrimination. Administrative and enforcement processes were also facilitated by a provision of the amending act that upon showing of a discrimination in price or in services or facilities furnished, a prima facie case is made out and the burden of rebutting it and of justifying the discrimination shall be upon the alleged violator.

In cases of price discrimination where quantity differentials, although justifiable under other provisions of the act, are found to be “unjustly discriminatory or promotive of monopoly in any line of commerce” because the “available purchasers in greater quantities are so few”, the Commission may, after investigation and hearing of all interested parties “fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities.”

Section 3 of the amending act makes it a criminal offense, subject to fine or imprisonment, to be a party to or assist in a sale or contract to sell which discriminates to the knowledge of such party against competitors of the purchaser for the purpose of destroying competition or eliminating a competitor, or to sell or contract to sell goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

Authority to enforce the amended act, except as to criminal proceedings and suits for damages, is vested concurrently in the Commission and the Department of Justice, except as to common carriers subject to the Interstate Commerce Act, as amended, to common carriers engaged in wire or radio communication, or radio transmission of energy, or to banks, banking associations and trust companies. As to these exceptions authority is vested in other agencies of the Government. Jurisdiction to enforce the criminal sections is conferred exclusively on the Department of Justice.

*Investigations touch various commodities.*--The commodities in connection with the sale of which investigations have been made, have included many phases of production and distribution, at least some of which touch the life of every citizen. The number of investigations by general commodity classifications was: Groceries, 60; building materials, 38; toiletries, 26; drugs, 17; petroleum products, 15; tobacco, 12; furniture and household supplies, 11; automobile accessories, 11; dairy products, 10; leather goods, beverages and seed inoculants, 6 each; machinery, optical goods, china and glassware, 5 each; steel, millinery, confectionery and sporting goods, 4 each; coal, fertilizer, stationery and office supplies, 3 each; plumbing and heating supplies, electrical supplies, feed, textiles, sanitary supplies, book paper, merchandise and clothing, 2 each; and a miscellaneous group including cast iron pipe, tin plate, tin cans, metal fittings, chemicals, books, hides, serum, jewelry, film, sand for use in making glass, shoes, school supplies, plate glass, buttons, playing cards, shoe

polish, drinking straws, wooden ware, can openers, fly paper, baby chicks, ice cream cones, wooden crates, advertising space and services. The data obtained and the knowledge of current practices pertinent to the prohibitions of the act acquired in study of the many producing and distributing industries, necessarily provide the Commission with valuable sign posts for the future administration of the act.

*Business men seek advice.*--In addition to the field investigations mentioned, hundreds of business men or their attorneys have called at the Commission's offices and discussed the application of the new law to their business practices for the purpose of acquainting themselves with its provisions. In some instances, entire industries have, pursuant to such conferences, revised general practices which appeared to be in conflict with the law. Thousands of letters respecting the new law and its application in particular circumstances have been received and answered.

The contacts of the Commission and its staff with business indicate an interest in and increasing approval of the amended act. The public reaction since June 19, 1936, is indicated by enactment of legislation with respect to price discrimination by at least eleven States. In 3 States the new statutes are, with necessary modifications, substantially identical with the amended Section 2 of the Clayton Act, and in the remaining 8 States the new laws include, in each instance, at least the substance of some of the provisions of Section 2.

*Economic and accounting aspects.*--One feature of the Robinson-Patman Act, more or less characteristic of several of the laws regarding competition and monopoly, is the accounting examination and economic analysis involved in its administration. The average cost for each investigation is higher than in cases instituted under the other acts which the Commission administers. The Commission foresaw this situation and from the beginning prepared its plans accordingly, as far as circumstances regarding appropriations permitted.

Practices forbidden by the Act are defined primarily with respect to their effects on competition, monopoly, cost of production and distribution, and sales prices. The determination of some of these questions requires the use of technical experts. Fortunately, the Commission had, in addition to its legal staff, a group of economists and accountants of exceptional experience in this field of work, who were assigned to assist the legal staff.

### TRADE PRACTICE CONFERENCES

An important phase of the Commission's activities during the last year has been its trade practice conference work, which was instituted in 1919.

Under this procedure, a means is afforded whereby members of an industry may voluntarily cooperate with the Commission in the establishment of a code of fair trade practices, the purpose of which is the wholesale elimination of unfair methods of competition, trade abuses, and trade evils.

This work is performed under authority of the Federal Trade Commission Act, and other laws administered by the Commission, whereby the Commission is empowered and directed to prevent the use of unfair methods of competition or other illegal practices in commerce.

Since the inauguration of this work, approximately 200 industries have undertaken the establishment of trade practice rules under the Commission's auspices. These industries are varied in character, with memberships ranging from several hundred to many thousands.

### GENERAL INVESTIGATIONS

Under authority of section 6 of the Federal Trade Commission Act, the Commission may gather information concerning corporations and investigate their organization and operations and may, at the request of the President, the Congress, the Attorney General, or upon its own initiative, conduct general investigations of alleged violations of the antitrust laws. It also may make reports in aid of legislation.

More than 100 general inquiries or studies have been conducted during the Commission's existence, most of them in pursuance of Congressional resolutions, although many have been conducted pursuant to Presidential orders and others on the Commission's initiative.<sup>3</sup> Many of these inquiries have supplied not only valuable information bearing on conditions, developments and trends in interstate trade and industrial development, but have thrown light on the need for and wisdom of legislation for corrective action. The public need for such fact-finding studies in this increasingly complex economic era grows greater, irrespective of different economic and political philosophies.

The status of each investigation in progress during or at the close of the fiscal year is described as follows:

*Agricultural income.*--This investigation was directed by resolution of Congress. The Commission's report to the Congress, with conclusions and recommendations, was submitted March 2, 1937. It contained a study of the decline in income of producers of principal farm products as compared to the increases or decreases in income of the principal sellers, manufacturers and handlers of such products. It showed the degree of control exercised by the principal companies in respect to various principal farm products or manufactures thereof;

<sup>3</sup> A list of these investigations, and brief descriptions, begin at p. 147.

the division of the consumers' dollar among producers, manufacturers and distributors of such commodities; and the costs, profits and rates of return of the principal companies.

*Fresh fruits and vegetables.*--Final report on this inquiry was made to Congress June 10, 1937. The scope of investigation was similar to that of the agricultural income inquiry. The report contained the Commission's conclusions and recommendations.

*Milk and dairy products.*--Investigation of alleged monopolistic conditions in the milk and dairy products industry, under a House Concurrent Resolution, was completed and a final report, summarizing principal facts, with conclusions and recommendations, was submitted to Congress, January 4, 1937.

*Farm implements and machinery.*--Undertaken pursuant to a Joint Congressional Resolution, approved June 24, 1936, this inquiry is pending. The resolution authorized the Commission to investigate certain financial practices of corporations "engaged in the manufacture, sale or distribution of agricultural implements and machinery, of whatever kind and description \* \* \*"

*Textile industries* --This inquiry, undertaken pursuant to Executive Order, to ascertain the facts regarding labor costs, rates of return and investments of companies in the textile industry, was concluded with a report made February 11, 1937.

*Petroleum decree investigation.*--The Commission, on April 2, 1937, transmitted to the Attorney General a report of its investigation of the manner in which a consent decree entered in the case of the Government against certain Pacific Coast oil companies has been or is being executed. This investigation was requested by the Attorney General and was conducted pursuant to duty imposed upon and power granted to the Commission under Section 6 (c) of the Federal Trade Commission Act.

### THE COMMISSIONERS AND THEIR DUTIES

The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate. Not more than three of the Commissioners may belong to the same political party.

The term of office of a Commissioner is 7 years, as provided in the Federal Trade Commission Act. The term of a Commissioner dates from the 26th of September last preceding his appointment (September 26 marking the anniversary of the approval of the act in 1914), except when he succeeds a Commissioner who relinquishes office prior to expiration of his term, in which case, under the act, the new member "shall be appointed only for the unexpired term of the Commissioner whom he shall succeed."

At the close of the fiscal year, June 30, 1937, the Commission was composed of the following members: William A. Ayres, Democrat,

of Kansas, chairman; Garland S. Ferguson, Democrat, of North Carolina, vice-chairman; Charles H. March, Republican, of Minnesota; Ewin L. Davis, Democrat, of Tennessee; and Robert E. Freer, Republican, of Ohio.

Each January the Commission designates one of its members to serve as chairman during the ensuing calendar year. Commissioner Ayres was chosen chairman for the calendar year 1937, succeeding Commissioner March. The chairmanship rotates, so that each Commissioner serves as chairman at least once during his term of office. The chairman presides at meetings of the Commission, supervises its activities, and signs the more important official papers and reports at the direction of the Commission.

In addition to the general duties of the Commissioners, in administering the statutes, the enforcement of which is committed to the Commission, each Commissioner has supervisory charge of a division of the Commission's work. Chairman Ayres has supervisory charge of the administrative division; Commissioner Ferguson of the chief trial examiner's division and the trade practice conference division; Commissioner March of the chief examiner's division; Commissioner Davis of the chief counsel's division and the special board of investigation; and Commissioner Freer of the economic division. Every case that is to come before the Commission is first examined by a Commissioner and then reported on to the Commission, but all matters under the jurisdiction of the Commission are acted upon by the Commission as a whole.

The Commission meets regularly for the transaction of business every business day at its offices in Washington. The Commissioners hear final arguments in the cases before the Commission, as well as arguments on motions of counsel for the Commission or respondents.

The Commissioners usually preside individually at trade-practice conferences held for industries in various parts of the country, and also have numerous administrative duties incident to their position.

The secretary of the Commission is its administrative officer.

At the close of the fiscal year the Commission had a total personnel of 577, including the Commissioners.

#### **HOW THE COMMISSION'S WORK IS HANDLED**

The work of the Federal Trade Commission may be divided broadly into the following general groups: Legal, economic, and administrative.

The legal work of the Commission is under the direction of the chief counsel, the chief examiner, and the chief trial examiner.

The chief counsel acts as legal adviser to the Commission, and supervises legal proceedings against respondents charged with violations of the acts administered by the Commission, and has charge of the trial of cases before the Commission and in the courts.

The chief examiner has charge of legal investigations of applications for complaint alleging violations of the laws over which the Commission has jurisdiction. When the Commission undertakes investigations in response to Congressional Resolutions, or under section 6 of the Federal Trade Commission Act, the chief examiner supervises such parts of such investigations as may be assigned to his division by the Commission.

Members of the chief trial examiner's division are appointed to preside at the trial of formal complaints and at the taking of testimony in investigations conducted by Executive direction, pursuant to Congressional Resolutions, upon the Commission's own initiative, or at the request of the Attorney General. They also arrange settlement by stipulation of applications for complaint, subject to the approval of the Commission.

There are also the division of trade practice conferences, the special board of investigation for cases involving false and misleading advertising, and the export trade section of the chief counsel's division for handling foreign trade work under the Export Trade Act and section 6 (h) of the Federal Trade Commission Act.

The economic division, under the chief economist, conducts certain of the general inquires of the Commission, such as those covering farm implements, the textile industry, and fresh fruits and vegetables.

The economic division and the chief examiner's division, jointly, have conducted the milk investigation and the agricultural income inquiry. The chief examiner's division had charge of the petroleum decree investigation.

Responsible directly to the assistant secretary of the Commission, the administrative division conducts the business affairs of the Commission and is made up of units such as are usually found in Government establishments, the functions of such units being covered largely by general statutes. These units are as follows: Accounts and personnel, disbursing office, docket section, publications, library, mails and files, supplies, stenographic and hospital.

The Commission has a public relations and editorial service for the distribution of information, for the preparation and editing of reports; and the answering of inquiries relative to the Commission's work. This division is under the supervision of the assistant to the chairman.

The Commission has access to the laboratories, libraries and other facilities of various agencies of the Federal Government, including the National Bureau of Standards, the Public Health Service, and the Food and Drug Administration, to any of which it may refer matters for scientific opinions or information. With these agencies effective cooperation continued throughout the fiscal year. The Commission also obtains, when necessary certain medical and other scientific in-

formation and opinions from non-government hospitals, clinics and laboratories.

### PUBLICATIONS OF THE COMMISSION

Publications of the Commission, reflecting the character and scope of its work; vary in content and treatment from year to year, especially documents relating to general business and industrial inquiries.<sup>4</sup> Such studies are illustrated by appropriate charts, tables, and statistics. These fact-finding studies, reports, and recommendations deal not only with current developments, possible abuses, and trends in an industry, but contain scientific and historical background. Considered as a whole, they have supplied economists and students of business and government, the Congress, and the public with information not only of general interest but of great value as respects the need or wisdom of new and important legislation, to which they have frequently led, as well as corrective action by the Department of Justice and private interests affected. The Supreme Court has at times had recourse to them, and many of them have been designated for reading in connection with university and college courses in economics and law.

Findings and orders of the Commission, as published, contain interesting and important material regarding business and industry. They tell, case by case, the story of unfair competition, exclusive-dealing contracts, price discriminations, and capital-stock acquisitions in violation of the statutes which the Commission administers, and of the measures taken by the Commission to prevent such violations of law.

The Commission's decisions are printed first in the form of advance sheets with permanent volume number and pagination, and later as bound volumes.

Regarding the Commission's publications, the Federal Trade Commission Act; section 6 (f), says the Commission shall have power 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.

Publications issued by the Commission during the fiscal year were:

*Report of the Federal Trade Commission on the Sale and Distribution of Milk and Milk Products, New York Milk Sales Area.* House Document No.95 (75/1).<sup>5</sup>

*Summary Report on Conditions with Respect to Sale and Distribution of Milk and Dairy Products.* House Document No.94 (75/1).

*Fruits and Vegetables-Agricultural Income Inquiry* (Interim Report). Senate Document No.17 (75/1).

<sup>4</sup> These investigations are listed and briefly described beginning at p 147. <sup>5</sup> symbol for Seventy-fifth Congress, first session.

*Principal Farm Products-Agricultural Income Inquiry. Volume I. Summary.* (Summary and Conclusions and Recommendations Only). Senate Document No.54 (75/1).

*Data Compiled from Public Sources of Information and Reproduced by the Commission in Connection with its Administration of the Robinson-Patman Act of June 19, 1936, Public, 692, amending Section 2 of the Clayton Act.*

*Decisions; Volume 20.* December 3, 1934 to June 24, 1935.

*Injunctions in Cases Involving Acts of Congress.* Senate Document No.33 (75/1).

*Legalization of Contracts for Minimum Resale Prices.* Senate Document No.58 (75/1).

*Textile Industries in the First Half of 1935:*

*Part 2. The Woolen and Worsted Textile Industry.*

*Part 3 The Silk and Rayon Textile Industry.*

*Textile Industries in the last Half of 1935:*

*Part 1. The Cotton Textile Industry, including Thread, Cordage and Twine.*

*Part 2. The Woolen and Worsted Textile Industry.*

*Part 3. The Silk and Rayon Textile Industry.*

*Textile Industries in the First Half of 1936:*

*Part 1. The Cotton Textile Industry, including Thread, Cordage and Twine.*

*Part 2. The Woolen and Worsted Textile Industry.*

*Part 3, The Silk and Rayon Textile Industry.*

### **PRESIDENT LAYS CORNERSTONE OF NEW COMMISSION BUILDING**

Late in 1936, contract was awarded for construction of a permanent home for the Commission, at the apex of the Government building triangle between Constitution and Pennsylvania Avenues. Construction work was started a few weeks later, and the cornerstone of the new building was laid by President Roosevelt on July 12 of this year. During his memorable address on that occasion, the President said, in part:

All of the fine things achieved in the interest of fair trade practice since the approval by President Wilson in September 1914, of the original Federal Trade Commission Act justify the event for which we are assembled here today: The laying of the cornerstone of a new home for the Commission. The record of accomplishments in the interest of fair competition, in prosperous times and when evil days were upon the land, warrants that this body shall have a habitation adequate to its needs and in keeping with the importance of the tasks which it has accomplished and will continue to perform in the protection of American trade. \* \* \*

The dangers to the country growing out of monopoly and use of unfair methods of competition still exist and still call for action. They make the work of the Federal Trade Commission of vital importance in our economic life. We must not be lulled by any sense of false security. Eternal vigilance is the price of opportunity for honest business. It is the price we must pay if business is to be

allowed to remain honest and to carry on under fair competitive conditions, protected from the sharp or shady practices of the unscrupulous.

The Commission expects to occupy its new building early in 1938. It will be the first time since its organization that the Commission and its staff will have been housed in a permanent home, adequate to its needs.

### RECOMMENDATIONS

*Amendments to Federal Trade Commission Act.* For several years the Commission has made recommendations in its annual reports and in reports on particular investigations, to the effect that Section 5 of its organic act be so amended as to declare unlawful, not only "unfair methods of competition" as the present law declares, but also "unfair or deceptive acts and practices." The reason for the recommended amendment is that there are some unfair or deceptive commercial practices which primarily injure the public rather than competitors and in such cases it is difficult to show the latter type of injury which the courts have held necessary under the present law.

The Commission has also recommended amendments which would make its orders final and conclusive if and when respondents do not apply for court review within 60 days, which would make it unnecessary to establish violation of an order before the Commission can apply for court affirmance, and which would direct the courts upon such affirmance to incorporate the affirmed order in a court decree

In renewing these recommendations, the Commission is gratified to note that in substance, they have been incorporated in a bill, S. 1077, which passed the Senate during the first session of the Seventy-fifth Congress and in a bill which has been favorably reported by the Interstate and Foreign Commerce Committee of the House of Representatives.

*Amendments to Section 7 of the Clayton Act.* On a number of occasions the Commission has called attention to the fact that while this section now declares unlawful the acquisition by one corporation of the capital stock of a competing corporation where certain monopolistic tendencies and conditions may result, it does not purport to declare unlawful the acquisition of physical assets where similar tendencies and conditions may result. The Commission has also pointed out that this unforbidden method of accomplishing these similar results has been increasingly employed by corporations engaged in interstate commerce, thereby evading said section 7. The Commission has therefore recommended in earlier annual reports and upon other occasions and now renews its recommendation that the acquisition of assets be declared unlawful under the same circumstances that the acquisition of stock is already so declared.

In its recent report on Agricultural Income, pursuant to Joint Resolution of the Senate and House of Representatives (Senate Document No.54, Seventy-fifth Congress, first session) the Commission amplified the foregoing recommendation so as to preclude the acquisition of assets where the combined assets would exceed an amount to be specified by Congress. This would have the advantage of a positive

legislative standard, defining the limit at which corporate accretions in size and power shall be halted in order to prevent monopoly. The Commission now renews that recommendation.

**PART I. GENERAL INVESTIGATIONS**

AGRICULTURAL INCOME

FRESH FRUITS AND VEGETABLES

MILK AND DAIRY PRODUCTS

FARM IMPLEMENTS AND MACHINERY

TEXTILE INDUSTRIES

PETROLEUM DECREE

## **PART I. GENERAL INVESTIGATIONS**

### **AGRICULTURAL INCOME**

#### **FINAL REPORT ON INQUIRY SUBMITTED TO CONGRESS**

This inquiry was made by direction of Congress under Public Resolution No.61, Seventy-fourth Congress, first session, approved August 27, 1935, and amended by Public Resolution No.86, Seventy-fourth Congress, second session, approved May 1, 1936. The resolution, as amended, authorized and directed the Federal Trade Commission to investigate and report the extent of decline in agricultural income in recent years; the increase or decrease for the same years of the income of the principal corporations or other principal sellers engaged in handling or processing certain essential farm commodities; the distribution of the consumer's dollar paid for those commodities, as between farmers, processors and distributors; the growth of capitalization and assets of principal corporations and their costs, profits, investments and rates of return; the avoidance of taxes by such corporation or their officers; the extent of control or monopoly in the handling or processing of those commodities and the methods and devices used for obtaining and maintaining such control or monopoly; the extent to which any fraudulent, dishonest, unfair and indirect methods are employed in the grading, warehousing and transportation of those commodities, and the prevalence of producer-cooperative organizations and their effects on producer and consumer. The Commission was also directed to report its conclusions and recommendations owing out of the inquiry.

An interim report was made on December 26, 1935, and printed as House Document No.380, Seventy-fourth Congress, second session, and the final report, *Principal Farm Products--Agricultural Income Inquiry*, was submitted to the Congress March 2, 1937. The summary and conclusions and recommendations of the final report were printed as Senate Document No.54, Seventy-fifth Congress, First Session.

*Principal farm products covered.*--Principal farm products covered in the investigation were wheat, cotton, tobacco, potatoes, livestock and milk. Wheat reflected the greatest decline in gross income to farmers from 1929 to 1932. In 1932, gross income from wheat amounted to only about 29 percent of the gross income of 1929. Milk showed the smallest decline, but the gross income of farmers from that commodity in 1932 was only 54.3 percent of that in 1929.

The sharpest recovery in the gross income of farmers from the low year of 1932 was in tobacco. By 1934, the income from tobacco production aggregated 78.5 percent of that in 1929.

Generally speaking, the gross income represented by sales by the principal manufactures, processors and distributors of these products fell off less than the gross income of farmers from their production, and the recovery from the low point of the period by the manufacturers, processors and distributors reached a higher percentage of the 1929 figure than was true of the gross income of the farmer-producers of these products.

*Division of the consumer's dollar.*--The report shows how the consumer's dollar was divided between distributor, processor and farmer in the prices paid for butter, fluid milk, wheat flour, wheat bread, cigarettes, beef, veal and pork during the period covered by the inquiry. Butter, as contrasted with bread, a product involving relatively large processing costs, showed a high percentage of the consumer's dollar going to the farmer. In 1934 in 51 cities the weighted average retail price of butter, graded 92 score or better, was 31.5 cents per pound. Of this retail price, wholesale and retail distributors received a combined average gross margin of about 25 percent, manufacturers about 16 percent, and producers about 59 percent. In 1935 in 51 cities the weighted average retail price of white wheat flour bread was 8.3 cents per pound. Retail distributors received about 19 percent of this price as their average gross margin, bakeries 56 percent, flour millers 7 percent, wheat middlemen and transportation agencies 5 percent, and gross proceeds of wheat farmers were about 13 percent.

*Tobacco group's concentration of control.*--The inquiry disclosed that thirteen tobacco manufacturers sold in one year more than 97 percent of the cigarettes, more than 90 percent of the smoking tobacco, upward of 75 percent of the chewing tobacco and in excess of 98 percent of the snuff produced in the United States in 1934. The report discusses methods by which the larger companies obtained commanding positions in their respective industries, which were shown to have been by acquisition of competing firms, or by expansion, or by both.

*Rates of return on investment.*--Rates of return on investment for the period covered, 1929 to 1935, inclusive, earned by the reporting tobacco manufacturers, the biscuit and cracker companies and the chain grocery companies, are shown in the report. The annual averages were 15.8 percent for tobacco manufacturers, 14.6 percent for biscuit and cracker companies, and 16.4 percent for chain groceries. Milk processors and distributors, wholesale baking companies and wheat middlemen showed higher rates of return during the first three years of the period than for the last three years. Average annual returns for the entire period were 9.57 percent for the milk companies,

8.76 percent for the bakers and 10.59 percent for the wheat middle-men. Returns to wheat processors, wholesale flour distributors and chain drug store companies (large distributors of tobacco products) were substantial for all years except 1932 and averaged 7.76 percent, 9.61 percent and 8.29 percent for these respective groups. Reporting meat packers had an average rate of return of 4.28 percent; shoe manufacturers, 4.77 percent; leaf tobacco middlemen, 7.44 percent; tobacco wholesalers and jobbers, 4.43 percent; cotton processors, 1.52 percent, with losses in some individual years. Tanning and leather companies sustained a loss, averaging for the period 1.89 annually, and chain tobacco stores a loss averaging 1.37 percent annually.

*Conditions in terminal grain markets.*--Inquiry made into conditions of merchandising grain in the terminal markets showed that many of the practices which were the subject of criticism by the Commission in earlier investigations of terminal grain markets still existed. One of these is the control of railroad-owned terminal elevators, leased by large merchandisers of grain at low rentals, giving the lessees an undue competitive advantage over other grain merchandisers in the purchase and handling of grain, with the result that such large merchandisers practically dominate both the cash and futures markets.

### RECOMMENDATIONS OF THE COMMISSION

In its conclusions and recommendations with respect to the grain trade, the report said that correction of conditions described therein could not be left to the trade itself, and that Federal legislation should be enacted providing, among other things:

1. That all deliveries of grain on futures contracts shall be made from public warehouses:
  - a. Licensed by federal authority;
  - b. Subject to federal regulation;
  - c. Not owned, operated, or controlled, directly or indirectly by any person, firm, or any other organization directly or indirectly dealing in grain.
2. That all deliveries of grain on any futures contracts shall be subject to:
  - a. Federal grading and inspection;
  - b. Federal regulation of the delivery of grain on such contracts.

In respect to cotton merchandising, the report, after showing that cotton merchants and spinners generally regard the operations of the futures market under southern deliveries with satisfaction, recommended further study of the system of southern deliveries to ascertain whether legislation should be enacted providing for making the contract more merchantable.

The report cited the unbalanced relations between industry and agriculture and suggested that making available to the public of

reliable and adequate information concerning the large industrial corporations would constitute an important step toward correcting this condition.

Concerning the value of cooperative associations, the report explained that although an exact measure of their value in dollars and cents would be difficult to obtain, the Commission desired to add to the vast body of opinion its own conclusion that true cooperative associations have been of great value to the producers of farm products, and that such cooperatives have significantly increased the bargaining strength of producers and reduced the spread between producers' and consumers' prices.

The inquiry disclosed, in several of the industries, a high degree of monopolistic control, frequently due to methods contrary to the letter or spirit of the law. In this connection, the Commission, in its report, renewed its recommendation for amendment of Section 7 of the Clayton Act, which now prohibits the acquisition by one corporation engaged in commerce of stock in a competing corporation so engaged where the effect may be to substantially lessen competition between such corporations. The Commission recommended an amendment to prohibit acquisition of assets, not only indirectly through use of stock unlawfully acquired, but also direct acquisition of assets independently of stock acquisition. Under a decision of the Supreme Court, the Commission cannot effect the separation of units acquired through purchase of capital stock if, following the stock acquisition, but prior to service of the Commission's formal complaint, assets of the companies whose stock has been acquired are merged.

Additional recommendations were made by the Commission as a further check to monopolistic tendencies.

#### **LEGAL STUDIES OF TOBACCO AND POTATO MARKETING**

Legal studies of the extent of possible concentration of control and of monopoly, and of any methods and devices used to gain such control, were made with regard to tobacco and potatoes.

*Tobacco.*--The investigation failed to disclose that any one company had a monopoly in the manufacturing, processing, warehousing, distribution or marketing of leaf tobacco or tobacco products. Considerable concentration of control was found, however. Five buyers of leaf tobacco, two of which primarily represent English companies, generally purchase about 75 percent of the total domestic production and their purchases are largely concentrated in the auction belts. Three companies, and, to a less extent, a fourth, substantially control the manufacture of cigarettes of the most popular price class, and are also important factors in the manufacture of smoking and chewing tobacco. Three other companies control about 97 percent of the total snuff business.

No substantial price fixing or price agreements in the marketing of leaf tobacco were found except in the minimum sale prices established for dealers in Connecticut shade-grown tobacco pursuant to an Agricultural Adjustment Administration marketing agreement.

Information obtained during the inquiry indicated that competition in the cigarette industry might be increased by popular cigarettes selling in various price ranges and that new or more important competition in manufacturing would result in increased competition in the purchase of leaf tobacco. The opinion was expressed that the uniform internal revenue tax of \$3 per thousand on small cigarettes has tended to restrict the manufacture and sale of 10-cent cigarettes, the most active and substantial new competition that has manifested itself in the industry in many years. The Commission therefore recommended that Congress consider the advisability of levying a graduated tax on cigarettes in lieu of the present uniform tax.

*Potatoes.*--Processing of potatoes is so limited in volume as to be of little consequence. No close approach to monopoly was found in their warehousing, distribution or marketing. Excessive production financing charges and local marketing fees are exacted in certain instances, but remedies are available to the majority of growers affected through production credit associations organized pursuant to the Farm Credit Act of 1933, and by collective action among producers.

## FRESH FRUITS AND VEGETABLES

### REPORTS TO CONGRESS CONTAIN COMMISSION'S RECOMMENDATIONS

Public Resolution No.61, amended by Public Resolution No.112, Seventy-fourth Congress, second session, approved June 20, 1936, authorized and directed the Commission to make further investigation with respect to agricultural income from table and juice grapes, fresh fruits and vegetables, and to make both interim and final reports. The interim report was submitted February 1, 1937, and printed as Senate Document No.17, Seventy-fifth Congress, first session, and the final report was submitted June 10, 1937

Under the resolution, the scope of this investigation was generally the same as that of agricultural income.

*Decline in farmers' gross income.* --The Commission's final report shows that the farmers' gross income from the production of fruits and vegetables declined in 1932 to 51.84 percent of the 1929 gross income. This was the lowest point reached during the seven-year period, 1929 to 1935, inclusive. By 1935 it had recovered to 70.02 percent of the 1929 level. The sales of no group of the reporting processors and distributors of fruits and vegetables, either fresh or processed, fell during the seven-year period to as low a percentage of its 1929 sales as did the farmers' gross income in relation to its 1929 level, nor failed to

exceed the percentage of recovery reached by the gross income of the farmer.<sup>1</sup>

*Monopoly and control.*--In the matter of monopoly and control, the *inquiry* on fruits and vegetables disclosed significant proportions of the national production of certain kinds of fruits and vegetables handled by only a few of the large corporations and cooperative associations, such as the California Fruit Growers' Exchange, Florida Citrus Exchange, Mutual Orange Distributors, and Lake Wales Citrus Growers' Association. The most important chain store System in the distribution of fresh fruits and vegetables is The Great Atlantic & Pacific Tea Co.

*Distribution of the consumer's dollar.*--The distribution of the consumer's dollar paid for five fresh fruits and five fresh vegetables handled by chain grocery stores is shown in the report. The fruits are (1) table grapes, (2) Florida and California oranges, (3) Florida grape-fruit, (4) Pacific Northwest apples, and (5) Georgia and Carolina peaches. The vegetables are (1) Maine, Virginia, Maryland and Idaho, potatoes, (2) Texas onions, (3) Texas and Florida cabbage, (4) Florida and California tomatoes, and (5) Iceberg lettuce from the Pacific coast. Of the consumer's dollar paid for the five fresh fruits combined, for those markets and producing areas for which the information was obtained, the growers' proceeds were 29.4 cents, distributors' gross margins were 35.33 cents, and transportation and all other costs, including packing and loading, absorbed the remainder of the dollar. The retail margin alone amounted to 31.14 cents and transportation costs, including icing and heating, to 20.21 cents. For the five fresh vegetables, growers' proceeds were 34.78 cents, distributors' margins, 32.10 cents, and transportation and all other costs, 33.12 cents. The retail margin alone was 27.26 cents and transportation was 22.82 cents.

*Rates of return on investments.*--For all groups of companies comprising the processors and wholesale distributors, the rates of return on investment were lowest in 1932, and for the groups comprising the chain store distributors they were lowest in 1935. Relatively high rates of return, however, were earned by chain store distributors.

*Producer cooperative groups.*--Producers' marketing cooperative associations are important in the distribution of some fresh fruits. In 1934, they marketed almost 62 percent of the total cranberry production of the United States, 57 percent of all citrus fruits, 28 percent of the dried prunes, 16 percent of the grapes and 7.5 percent of the apples. For some vegetables, the percentages are substantial and for particular commercial producing areas for both fruits and vegetables, the proportions are large. Processing and bargaining cooper-

<sup>1</sup> Sales of industrial concerns were compared with gross cash incomes of farmers because the net incomes of farmers from production of fruits and vegetables are not computed by the Department of Agriculture and therefore could not be compared with net operating profit of manufacturers, processors and distributors.

atives are of less importance in the fruit and vegetable industry. Marketing cooperatives were found to be most successful for products having relatively long marketing seasons, making possible the permanent employment of skilled marketing personnel, and for products, the commercial production of which is largely concentrated in, at most, a few highly specialized producing areas.

Many aspects of the marketing of fresh fruits and vegetables are discussed in the report, including marketing by large organizations, production financing, shipping by truck, character and adequacy of terminal market facilities, terminal market inspection, terminal market cartage, loss and damage claims and sale of fruits at auction.

*Racketeering practices in terminal markets.*--The report shows that monopolistic and racketeering practices in the carting of fruits and vegetables exist in several of the larger terminal markets, particularly in New York, Philadelphia and Chicago. An analysis of the facilities and conditions existing in a limited number of the larger terminal markets shows that although many of the facilities have been modernized, there has been a marked lack of scientific planning. Many unfair practices have developed in the terminal inspection service in recent years, particularly as it affects loss and damage claims.

*Large marketing organizations.*--Five concerns, other than cooperative associations, distribute fresh fruits and vegetables on a national or very wide scale. Three of these, the Atlantic Commission Co., Wesco Foods Co. and Tri-Way Produce Co., are subsidiaries of chain grocery stores while the other two, American Fruit Growers, Inc., and Nash-Finch Co., are independently owned. The subsidiaries of the chain store companies follow substantially identical methods in the purchase of fruits and vegetables. They buy from growers and shippers as well as from terminal market receivers and distribute some tonnage to the independent trade in addition to that sold to their parent' companies. Prior to the passage of the Robinson-Patman Act in 1936, chain buying subsidiaries customarily obtained a brokerage, or its equivalent in the form of a price reduction, from their principal shippers. This practice has been discontinued, but each of these companies, to a greater or lesser extent, receives discounts or price reductions in lieu of brokerage in purchases from principal shipping connections.

## CONCLUSIONS AND RECOMMENDATIONS

In the Commission's conclusions, it was set forth that certain practices in the carting of agricultural products in New York, Chicago and Philadelphia amount to illegal agreements in restraint of trade and in violation of the antitrust acts; and that the activities of the agents of the teamsters' union in Chicago, Cleveland and Philadelphia in interfering with outside trucks were in violation of the Federal

Anti-Racketeering Act. As to these practices, the Commission has made its evidence available to the Department of Justice.

The report recommended that the Perishable Agricultural Commodities Act be amended to authorize and direct the Secretary of Agriculture to make complete condition inspections for the purpose of determining the extent of damage and insofar as practicable the cause of such damage on all cars of the more perishable commodities arriving in the principal terminal markets.

It also recommended that the Interstate Commerce Commission be authorized and directed to require the claim division of the Association of American Railroads to furnish periodically, for the information of all interested persons, certain data concerning tonnage or number of carloads of each kind of fresh fruits and vegetables and of melons delivered by each railroad to each of the principal terminal markets, and the average amount of claims paid by each of these railroads per carload of each of these perishable commodities delivered in the various terminal markets.

Amendment of the Interstate Commerce Act was also recommended to empower the Interstate Commerce Commission to prescribe certain rules and regulations governing the filing, investigation and payment of all loss and damage claims in the shipment of perishable commodities.

## **MILK AND DAIRY PRODUCTS**

### **INVESTIGATION COMPLETED AND SUMMARY REPORT SUBMITTED TO CONGRESS**

Investigation of conditions with respect to sale and distribution of milk and other dairy products, made pursuant to House Concurrent Resolution No. 32, Seventy third Congress, second session, was concluded and a final report, summarizing the principal facts with conclusions and recommendations, was submitted to Congress on January 4, 1937.

Under the resolution, the Commission was directed to make the investigation with a view to determining particularly whether any person or organization:

is operating within any milkshed in the United States in such a manner as to substantially lessen competition or tend to create a monopoly in the sale or distribution of such dairy products, or is a party to any conspiracy in restraint of trade or commerce in any such dairy products, or is in any way monopolizing or attempting to monopolize such trade or commerce within the United States or any part thereof, or is using any unfair methods of competition in connection with the sale or distribution of any such dairy products, or is in any way operating to depress the price of milk sold by producers.

The Commission was directed to report to the House of Representatives "the result of its investigations together with its recommendations, if any, for necessary remedial legislation."

The *Summary Report of Conditions with Respect to the Sale and Distribution of Milk and Dairy Products*, as sent to the Congress, January 4, 1937, summarized the six reports previously sent to the Congress dealing with milk and milk products and distribution problems, and also presented conclusions and recommendations based upon the factual data obtained during the investigation. The six reports were entitled:

*Report of the Federal Trade Commission on:*

1. *Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds*, April 5, 1935;
2. *Sale and Distribution of Milk and Milk Products, Philadelphia and Connecticut Milksheds*, December 31, 1935;
3. *Sale and Distribution of Milk and Milk Products, Chicago Sales Area*, April 15, 1936;
4. *Distribution and Sale of Milk and Milk Products, Boston, Baltimore, Cincinnati, and St. Louis*, June 4, 1936;
5. *Sale and Distribution of Milk and Milk Products, Twin Cities Sales Area*, June 13, 1936;
6. *Sale and Distribution of Milk and Milk Products, New York Milk Sales Area*, September 30, 1936.

#### **REPORT ON NEW YORK MILK SALES AREA**

All of these reports, except the last named covering the New York area, have been summarized in earlier annual reports of the Commission. The last named report, submitted in the fiscal period covered by this annual report, embraces the operations of large dairy farmers' cooperative organizations in the New York milkshed and the operations of two nation-wide distributors and processors of milk and milk products with headquarters in New York City. This report also discusses health regulations and the development of cooperative marketing laws.

The New York metropolitan area, with a population of more than 10,000,000 people consuming approximately 4,000,000 quarts of fluid milk daily, is supplied with fluid milk and cream by the New York milkshed comprising all of the State of New York, and parts of Vermont, New Jersey and Pennsylvania.

Dairyman's League Cooperative Association, Inc., is the largest milk producers association in the New York milkshed, representing about 37,500 active dairy farmers. The Sheffield Producers' Cooperative Association is the second largest dairy cooperative Organization in the New York milkshed

*Health regulations in different markets.*--Local authorities in each of the markets investigated by the Commission have endeavored to see that the consuming public was supplied with wholesome milk produced, handled and delivered under sanitary conditions. Health regulations

in the several markets sometimes differ widely, and some are more strict in their sanitary requirements than others. The United States Public Health Service has prepared a standard milk ordinance and code which has been adopted by many states and municipalities throughout the country.

The *National Dairy Products Corporation*, largest milk distributor in the United States, has acquired either directly or indirectly the capital stock or assets of 358 individuals, firms, or corporations engaged in practically all branches of the dairy industry. Throughout the period of the depression, National Dairy Products Corporation made profits on its entire operations after paying large salaries to its officers and employees. The Borden Co., originally organized as a condensed milk manufacturer, is the second largest milk distributor and dairy products company in the United States. The company has acquired directly or indirectly the capital stock or assets of approximately 200 companies and is an important distributor in both the New York and Chicago scales areas. Throughout the period of the depression, The Borden Co. consistently made profits after paying large salaries to its officers and employees.

#### SUMMARY REPORT ON THE MILK INVESTIGATION

In its Summary Report of Conditions With Respect to the Sale and Distribution of Milk and Milk Products, submitted January 4, 1937, the Commission recommended that dairy farmers exercise the right and authority given them by Federal and State laws to organize cooperative associations financed, managed and controlled exclusively by farmers for collectively marketing and disposing of their milk and milk products.

It was also suggested that milk producer cooperative organizations in the several milksheds give careful consideration to the plan of organizing common sales agencies to handle interstate and intermilkshed sales of milk and cream with a view to more effectively controlling the sale and transfer of milk and cream from one producing area to another and thus preventing to some extent distributors in any one market from importing milk from other producing areas, thereby creating a surplus and depressing prices paid local producers.

The Commission called the attention of the Congress to the fact that companies engaged in large scale distribution of milk and milk products have been built up through the acquisition and consolidation of established business concerns, many of which were competitors prior to the acquisitions. These acquisitions were often accomplished by such methods that it was doubtful if they violated the antitrust laws. It was also pointed out to the Congress that conditions existing in the milk industry like those in other industries investigated by the Commission emphasize the necessity of amending Section 7 of the

Clayton Act as recommended in the Commission's Agricultural Income report, discussed elsewhere in this volume.

The milk inquiry disclosed trade practices which may amount to unfair methods of competition. However, such practices usually occurred in local transactions, and although in some instances they may have affected interstate commerce, they probably did not constitute unfair methods of competition in commerce within the meaning of Section 5 of the Federal Trade Commission Act.

The report called attention to certain features in the milk trade where a particular market may be supplied in part with milk produced in that State and in part with milk produced in other States. In such markets, the efforts of the authorities in a particular State to regulate the sale and distribution of milk within its borders may be frustrated by the importation of milk from another State because of the inter state character of the transaction. It was suggested that such situations may be met by negotiating compacts and agreements between or among the States interested, with the consent of Congress, whereby the sale and distribution of milk both in interstate and intrastate commerce may be regulated in the public interest. To this end it was recommended that legislation be enacted empowering an appropriate Federal authority to confer with and advise State authorities regarding the regulation of the production, sale, and distribution of milk products, and to assist in the negotiation of such compacts.

It was also recommended that the Federal authority be authorized and directed to prepare and recommend for consideration by the several States, uniform laws relating to the regulation of the milk industry, including the classification of milk as to uses, health and sanitary regulations, inspection rules, and other matters.

It was further recommended that the Federal authority "be directed to intensely study the problems and observe the operations of the dairy industry and to report any violations of law to an appropriate tribunal."

## **FARM IMPLEMENTS AND MACHINERY**

### **INVESTIGATION REQUESTED IN PUBLIC RESOLUTION IS IN PROGRESS**

Public Resolution No.130, approved by the President June 24, 1936, directed the Federal Trade Commission to investigate corporations "engaged in the manufacture, sale, or distribution of agricultural implements and machinery, of whatever kind and description \* \* \*."

The resolution directed the Commission to ascertain: (1) the costs, selling prices, profits and distribution methods of manufacturers; (2) the distributors' costs, selling prices, profits, and margins entering into the prices paid by farmers; (3) the facts relative to price movements of farm implements and machines since 1914; to make (4)  
a

comparison between the price movement of farm implements and machinery and the price movement of implements and machinery of somewhat comparable material and labor; to inquire into (5) the extent and basis of concentration of control of manufacture and distribution of farm implements and machines in the hands of particular manufacturers, and (6) any developments and tendencies in the direction of monopoly and concentration of ownership or control of the means of manufacture, sale, or distribution.

The resolution also called for (7) all of the facts, for the three years preceding the adoption of the resolution, regarding violations of the antitrust laws, including the nature, extent and effects thereof; the existence and effect of any contract, agreement, combination or unlawful restraint of trade and the existence of any unfair methods of trade or competition; the existence and extent of any unlawful methods of price fixing, price maintenance, or price discrimination; the existence of any combination to restrict or control the manufacture or supply of agricultural implements or machinery or to raise or control the price thereof, or to restrict credit in the sale thereof; whether and to what extent present prices are due to violation of the antitrust laws; whether and to what extent the profits of any corporation engaged in any branch of the industry have been affected, enhanced or maintained by unlawful combinations or understandings and whether and to what extent the costs or profits of any corporation have been misstated or misrepresented, to conceal or promote violations of the antitrust laws.

Due to the lack of an appropriation for this investigation and the pressure of work on other inquiries, only a limited number of the Commission's staff could be assigned to the farm machinery inquiry during the fiscal year ending June 30, 1937. In order to expedite the inquiry and assure the maximum amount of information possible with the limited funds and personnel available, five sets of comprehensive report forms were prepared covering (1) manufacturers, two report forms, (2) wholesale dealers, (3) retail dealers, and (4) farmers.

*Report forms sent to manufacturers, dealers and farm leaders.*--Report forms were sent to approximately 250 manufacturers of farm implements calling for the necessary detailed information. The first report forms of manufacturers called for information concerning their officers, directors and stockholders. The second report forms required (1) balance sheets, (2) income statements in sufficient detail to show the nature of the operations; (3) details of sales and costs of sales, and (4) the manufacturing cost of the principal farm implements and the average actual selling prices thereof. Information as to the cost of manufacture was called for in sufficient detail to show the cost of raw material, labor, taxes, depreciation and overhead expenses.

Manufacturers of farm machinery have furnished excellent cooperation in this inquiry. As of June 30, 1937, Commission accountants were at work in the offices of four of the larger manufacturers, checking and studying financial statements, cost statements and selling prices of these companies.

Retail distribution of farm machinery is accomplished primarily by independent retail dealers, although some of the large manufacturers operate retail stores. Report forms were sent to approximately 6,500 independent retail dealers and 250 retail dealers affiliated with manufacturers. Wholesale distribution of farm machinery is accomplished principally through branch houses by the major manufacturers, although in the South and far West there are a few important independent jobbers engaged in distributing farm machinery for the smaller manufacturers. Approximately 200 report forms were sent to independent jobbers. Mail order houses also distribute farm machinery, generally of their own manufacture, through their retail outlets.

Report forms were sent to almost 16,000 representative farmers and farm leaders located in all parts of the country asking for reports of prices paid, credit terms, indications of unfair competitive practices and general information applicable to the farm implement and machinery business.

Examiners of the Commission were engaged in checking and studying the reports received from retail dealers, jobbers and farmers. However, many of these reports are lacking in information on important items and the selling prices of specific implements are not always properly identified, and considerable checking will be necessary before the data can be tabulated.

An engineering study is being made to cover manufacturing methods, changes in designs, improvements in the quality of machines and other engineering problems.

## **TEXTILE INDUSTRIES**

### **DATA SHOWS LABOR COSTS, RATES OF RETURN AND INVESTMENTS**

This inquiry was conducted pursuant to an Executive Order of September 26, 1934, and supplemental authorization, directing the Commission to ascertain the facts and to prepare reports covering labor costs, rates of return and investments of companies in the textile industries. This information was sought in order to determine what effect increased wages or shorter hours of labor might have on the textile industries. The inquiry was concluded with a report made February 11, 1937.

The Commission obtained data from cotton, woolen, silk and rayon textile manufacturing, and dyeing and finishing companies, covering seven six-month periods from January 1, 1933, through June 30, 1936.

The data for each of the first four six-month periods from January 1, 1933, to December 31, 1934, were issued in four separate parts by classes of products manufactured. Each succeeding report included data showing rates of return, costs and profits for each of the preceding periods.

During the fiscal year ended June 30, 1937, the following reports were issued: *Textile Industries in the Last Half of 1935: Part I, The Cotton Textile Industry, Including Thread, Cordage and Twine*, November 20, 1936; *Part II, The Woolen and Worsted Textile Industry*, December 21, 1936; *Part III, The Silk and Rayon Textile Industry*, January 6, 1937; *Textile Industries in the First Half of 1936: Part I, The Cotton Textile Industry, Including Thread, Cordage and Twine*, January 21, 1937; *Part II, The Woolen and Worsted Textile Industry*, January 29, 1937; *Part III, The Silk and Rayon Textile Industry*, February 11, 1937. A complete list of all reports issued under the textile industries inquiry may be found on pp. 163-164.

In addition to the usual statistical data shown in the reports covering the four six-month periods, January 1, 1933, to December 31, 1934, the reports embracing the three six-month periods between January 1, 1935, and June 30, 1936, contain detailed analyses of operations per unit of goods sold, showing separately the cost of raw material, labor, fuel and power, dyes and chemicals, property taxes, depreciation, gain or loss on commodity exchange futures, processing tax, cost of selling and bad debts, payments to officers and directors, and other general and administrative expenses. These unit costs could be shown only for a limited number of companies because the majority of textile manufacturers produce two or more types of products, in which event the costs of particular types are not available.

The appendix tables of these reports contain extensive detailed statistics on investments, costs, expenses, and profit or loss on sales for companies grouped by size of textile investment, rates of return on textile investment, and profit or loss on sales. This information is shown separately for each type of operation, i.e., spinning, weaving, combined spinning and weaving, dyeing and finishing (divided into companies performing these operations on a commission basis and those operating on their own goods), and companies manufacturing thread, finishing and spooling thread, and manufacturing cordage and twine.

The cooperation of the industry with the Commission was excellent, a large proportion of the reporting companies having furnished their reports with exceptional promptness.

Throughout the textile inquiry, the reports of the Commission were forwarded promptly to the President; the Cabinet Committee on Textiles, consisting of Honorable Cordell Hull, Secretary of State; Honorable Henry A. Wallace, Secretary of Agriculture; Honorable Daniel C. Roper, Secretary of Commerce; Honorable Frances Perkins,

Secretary of Labor; the Labor Advisory Board; other interested Government officials; textile trade associations; labor executives and to the general public. Each report was presented as a factual study. No recommendations or conclusions were called for in the Executive Order.

These reports of the Commission apparently proved of much value to the industry, to the individual manufacturer and to the general public. They made it possible for individual manufacturers to compare their costs with those of the entire industry or with important divisions thereof, and were of value in the adjustment of labor controversies.

## **PETROLEUM DECREE**

### **REPORT ON INVESTIGATION TRANSMITTED TO THE ATTORNEY GENERAL**

Pursuant to duty imposed upon and the power granted to it under Section 6 (c) of the Federal Trade Commission Act, and at the request of the Attorney General made April 16, 1936, the Commission conducted an investigation for the purpose of determining the manner in which a consent decree entered in the case of United States against Standard Oil Company of California, Inc., and others, has been or is being observed.

The decree in question was entered under date of September 15, 1930, perpetually enjoining and restraining seven major oil companies, twelve independent oil companies and one individual, operating primarily on the Pacific Coast, from conspiring to monopolize and restrain interstate trade and commerce in the manufacture, transportation or sale of gasoline in violation of the Sherman Antitrust Act.

A staff of attorneys and accountants was assigned to the task of developing the facts and gathering information with respect to the activities and practices of the concerns involved.

The investigation was commenced June 29, 1936, and was terminated on December 31, 1936. From field offices in Los Angeles the inquiry extended throughout the principal marketing centers of the States of California, Washington, Oregon, Arizona and Nevada.

The Commission transmitted its report to the Attorney-General on April 2, 1937. It was not made public by the Commission.

## **PART II. GENERAL LEGAL WORK**

DESCRIPTION OF PROCEDURE

LEGAL INVESTIGATION

CONSOLIDATIONS AND MERGERS

DISPOSITION OF CASES BY STIPULATION

REPRESENTATIVE COMPLAINTS

ORDERS TO CEASE AND DESIST

TYPES OF UNFAIR COMPETITION

CASES IN THE FEDERAL COURTS

TABULAR SUMMARY OF LEGAL WORK

## **PART II. GENERAL LEGAL WORK**

### **DESCRIPTION OF PROCEDURE**

A case before the Federal Trade Commission may originate in any one of several ways. The most common origin is through complaint by a consumer, a competitor, or from public sources other than the Commission itself. However, the Commission may initiate an investigation to determine if the laws administered by it are being violated.

No formality is required for anyone to make application for complaint. A letter setting forth the facts in detail is sufficient, but it should be accompanied by all evidence in possession of the complaining party in support of the charges made.

### **INFORMAL PROCEDURE**

When an application for complaint is received, the Commission, through its chief examiner, considers the essential jurisdictional elements. Under Section 5 of the Federal Trade Commission Act it must be shown that a proceeding involves the use of an unfair method of competition in commerce and that such proceeding “would be to the interest of the public.” The provisions of Section 5 are also extended to foreign trade of American exporters by the Export Trade Act. Section 2 of the Clayton Act, as amended (See Robinson-Patman Anti-Price Discrimination Act) and Sections 3, 7, and 8 of the Clayton Act make unlawful, under the circumstances therein set forth, price discrimination (providing under specific conditions for fixing quantity limits not to be exceeded in the allowance of price differentials) and certain other forms of discrimination, tying and exclusive-dealing contracts, agreements, or understandings, corporate acquisitions of stock in competing companies, and interlocking directorates. The Federal Trade Commission, the Interstate Commerce Commission, the Federal Communications Commission, and the Federal Reserve Board are empowered to enforce compliance with such sections in their respective fields.

It must also appear that the practice complained of is one over which the Federal Trade Commission has jurisdiction. Frequently it is necessary to obtain additional data by further correspondence or by a preliminary field investigation before deciding whether to docket an application for complaint.

When an application for complaint has been docketed, it is assigned by the chief examiner to an attorney for investigation, in which the facts regarding the matter are developed. The attorney to whom the

application is assigned interviews the party complained against, advising of the charges, and requesting the submission of such evidence as may be desired in defense or in justification. In making such investigation, it is not the policy of the Commission to disclose the identity of the complainant. If necessary, competitors of the respondent are interviewed to determine the effect of the practice from a competitive viewpoint. It is often desirable to interview consumers to assist in determining whether the practice alleged constitutes an unfair method of competition and also to establish the requisite public interest.

After developing the facts from all available sources, the examining attorney summarizes the evidence in a report, reviews the law applicable thereto, and makes recommendations as to what action the Commission should take.

The record is then reviewed by the Chief Examiner, and, if found to be complete, is submitted, with a brief statement of facts, with conclusions and recommendations, to the Commission for its consideration. The Chief Examiner may recommend: (1) that the case be closed without further action because of lack of evidence in support of the charge or for the reason that the practice does not violate any law over which the Commission has jurisdiction, (2) closing of the application upon the signing by the respondent of a stipulation of the facts and an agreement to cease and desist from the unlawful practice as charged, or (3) issuance of formal complaint.

If, after consideration of the Chief Examiner's recommendation, the Commission decides that formal complaint should issue, the case is referred to the Chief Counsel for preparation of formal complaint and trial of the case. Or, if the Commission should permit stipulation, the case is referred to the chief trial examiner for its negotiation.

Cases involving unfair methods of competition are, in some instances, referred to the director of trade practice conferences for report in lieu of formal complaint if they relate to an industry which has had or which contemplates having a trade practice conference for consideration of the unfair practices involved.

All proceedings prior to issuance of formal complaint or publication of a stipulation are confidential.

### **FORMAL PROCEDURE**

Only after careful consideration of the facts and evidence developed by the investigation does the Commission issue a complaint. The complaint and the answer of respondent thereto and subsequent proceedings are a public record.

A complaint is issued in the name of the Commission acting in the public interest. It names a respondent and charges a violation of law, with a statement of the charges. The party complaining to the Com-

mission is not a party to the formal complaint issued by the Commission, nor does the complaint seek to adjust matters between parties; rather, the prime purpose of the proceedings is to prevent, for the protection of the public, those unfair methods of competition forbidden by the Federal Trade Commission Act and those practices prohibited by the Clayton, Robinson-Patman, and Export Trade Acts.

The Commission's rules of practice and procedure provide that in case the respondent desires to contest the proceedings he shall, within 20 days from service of the complaint, file answer thereto with the Commission. The rules of practice also specify a form of answer for use should the respondent decide to waive hearing on the charges and not contest the proceeding.

Under the rules of practice, "failure of the respondent to file answer within the time \* \* \* provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint, and to make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist."

In a contested case the matter is set down for taking of testimony before a trial examiner. This may occupy varying lengths of time, according to the nature of the charge or the availability and number of witnesses to be examined. Hearings are held before a member of the Commission's staff of trial examiners, who may sit anywhere in the country, the Commission and the respondents being represented by their respective attorneys.

After the taking of testimony and the submission of evidence on behalf of the Commission in support of the complaint, and then on behalf of the respondent, the trial examiner prepares a report of the facts for the information of the Commission, counsel for the Commission, and counsel for the respondent. Exceptions to the trial examiners report may be taken by counsel for either side.

Within a stated time after the trial examiner's report is made, briefs are filed, and the case is set for final argument before the Commission. Thereafter the Commission reaches a decision sustaining the charges made in the complaint, or dismissing the complaint, or closing the case.

If the complaint is sustained, the Commission states its findings as to the facts and conclusion that the law has been violated, and thereupon an order is issued requiring the respondent to cease and desist from such violation.

If the complaint is dismissed or closed, an appropriate order is entered.

An order to cease and desist is the Commission's final step in its legal procedure, except in cases which are taken to court.

### CASES MAY BE TAKEN TO FEDERAL COURTS

No penalty is attached to an order to cease and desist as such, but a respondent against whom it is directed is required within a specified time, usually 60 days, to report in writing the manner in which the order is being obeyed. If the respondent fails to obey an order, the Commission may apply to a United States Circuit Court of Appeals for enforcement of its order, and failure to obey the court's decree affirming the Commission's order results in the respondent being held for contempt of court and subjected to the consequent penalty of fine or imprisonment, or both. Also the respondent may petition for review. The statute provides that "such proceedings in the Circuit Court of Appeals shall be given precedence over other cases pending therein, and shall be in every way expedited." The Circuit Court has power to affirm, modify, or set aside an order of the Commission, but either party may apply to the United States Supreme Court for a writ of certiorari, through which, if granted, there may be obtained a review of the decision and judgment of the court of appeals and final adjudication of the matter at issue.

## LEGAL INVESTIGATION

### INQUIRIES PRIOR TO FORMAL COMPLAINT OR STIPULATION

The legal investigational work of the Commission includes the investigation of applications for complaint preliminary to formal action for the correction of unfair methods of competition or other practices violative of the laws administered by the Commission. This work is directed and supervised by the chief examiner.

Preliminary investigations also are conducted by the special board of investigation in cases which involve allegations of false and misleading advertising, and are handled through a special procedure more fully described beginning at p.101.

At the beginning of the fiscal year, July 1, 1936, there were pending for investigation by the chief examiner's staff, 324 applications for complaint in preliminary or undocketed cases. During the fiscal year, 627 additional applications of this character were received, making a total of 951, of which 631 were investigated during the year. As a result, 211 of such investigated cases were docketed and transmitted to the Commission for action and 420 were closed without docketing because of lack of jurisdiction or other deficiencies. This left 320 preliminary cases of this type pending for investigation at the end of the fiscal year, June 30, 1937.

Two hundred eighty-three applications for complaint which had been docketed without preliminary investigation, were pending for regular investigation at the beginning of the fiscal year. During the year, 827 additional cases of this type were received for investigation, making a total of 1,110 such cases docketed for investigation. Of

these cases, 663 were investigated and transmitted to the Commission for action, leaving 447 cases of this character still pending for investigation at the end of the fiscal year.

Thus the chief examiner's division, during the fiscal year, completed 1,294 investigations of preliminary and docketed applications for complaint.

Several attorneys ordinarily assigned to legal investigational work were engaged during the year on the investigations of milk and dairy products, agricultural income, and petroleum decree, all of which inquiries are described in Part II, General Investigations.

The chief examiner conducts supplemental investigations (1) in matters originating with the Special Board of Investigation (relating to false and misleading advertising); (2) where additional evidence is necessary in connection with formal complaints; (3) where it appears or is charged that cease-and-desist orders of the Commission are being violated, and (4) where it appears or is charged that a stipulation entered into between a respondent and the Commission, wherein the respondent agreed to cease and desist from certain unfair competitive practices, is not being observed in good faith.

The legal investigational work of the Commission is directed from its central office in Washington and conducted through that office and four branch offices, located at 45 Broadway, New York City; 433 West Van Buren Street, Chicago; 544 Market Street, San Francisco; and 801 Federal Building, Seattle.

## **CONSOLIDATIONS AND MERGERS**

### **CASES ARISING UNDER SECTION 7 OF THE CLAYTON ACT**

Section 7 of the Clayton Act in substance declares it to be unlawful for a corporation, engaged in interstate commerce, to acquire directly or indirectly the capital stock or other share capital of another corporation also engaged in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporations involved, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce. It also declares it to be unlawful for a corporation or a holding company to acquire capital stock or other share capital or two or more corporations engaged in commerce where the effect of such acquisition also may be as aforementioned.

At the beginning of the fiscal year there were pending in the Commission 12 preliminary matters involving acquisitions, consolidations and mergers, while 18 new inquiries were instituted during the year. Of these 30 cases, at the close of the year, 1 was pending, 1 had been docketed as an application for complaint, and 28 had been closed without action, of which 2 had been referred to the Department of Justice for consideration under the Sherman Act.

One formal complaint alleging violation of Section 7 of the Clayton Act, was issued against Schenley Distillers Corporation of New York City. The corporation allegedly acquired capital stock of the Bernheim Distilling Company, Louisville, Ky., a competing corporation. This complaint was pending at the close of the year.

A formal complaint against Sterling Products, Inc., of New York City, pending before the Commission at the beginning of the year, was later dismissed. It had charged unlawful acquisition of the capital stock of The R. L. Watkins Company, Inc., dealer in proprietary medicines and pharmaceutical preparations.

There was also pending at the close of the year an order of divestiture issued in 1934 against Vanadium-Alloys Steel Co., of Latrobe, Pa., because of its unlawful acquisition of the capital stock of Colonial Steel Company. The time fixed for the sale of such capital stock has been extended from time to time by the Commission because of the respondent company's alleged inability to satisfactorily dispose of the stock or property of the acquired corporation.

## **DISPOSITION OF CASES BY STIPULATION**

### **PROCEDURE AFFORDS OPPORTUNITY TO AVOID FORMAL COMPLAINT IN CERTAIN INSTANCES**

In addition to disposing of cases by formal complaint and trial, the Commission in certain circumstances, affords a respondent the privilege of disposing of a case by signing a statement of fact and agreement to discontinue the alleged unfair method of competition.

The Commission determines the form and subject matter of all stipulations which are prepared in accordance with the facts as disclosed by the investigation. If a respondent alleges the facts to be other than the investigation discloses, then the matter is not subject to stipulation and the proper and only procedure is to try the issue in order to develop the true facts.

In those classes of cases in which the Commission affords the respondent an opportunity to dispose of a matter by stipulation, that procedure accomplishes economically and expeditiously the same result as a complaint and order to cease and desist. It also simplifies the Commission's legal procedure and saves both the Government and the respondent the expense incident to trial of the complaint.

Often it appears that a violation occurs through ignorance, or misunderstanding, and that the attention of the offender has only to be called to the fact to induce discontinuance of the practice. In such an instance, the Commission, instead of issuing a formal complaint, grants the respondent an opportunity to sign a statement of facts disclosed by the investigation and agreement to cease and desist from the practices charged. If such stipulation is signed, further action is

suspended; if it is not signed, the case goes to trial. But, if the practice is fraudulent or especially malicious and of serious injury to the public, a stipulation is not permitted.

All Stipulations are for the public record.

### **CASES AFFECT WIDE VARIETY OF BUSINESSES**

Unfair trade practices discontinued as a result of stipulations comprise a wide variety of misleading misrepresentations affecting a large number of businesses. These practices are usually of a type that can be readily corrected through this procedure.

The range of commodities involved in the disposition of cases by stipulation embraces practically all types of products sold in interstate commerce.

### **TOTAL NUMBER OF STIPULATIONS**

Stipulations in which various individuals, firms and corporations agreed to cease and desist from the unlawful practices as set forth therein and which were approved by the Commission during the fiscal year ended June 30, 1937, included 260 cases in addition to 364 cases of a special class which were limited largely to false and misleading advertisements and were disposed of through a special procedure for this purpose. A total of 624 cases were thus approved and accepted during the year.

At the end of the fiscal year, the procedure of disposition of cases by stipulation had been in effect about 11 ½ years. During this period a total of 3,811 stipulations had been approved and accepted by the Commission, of which number 2,015 were of the general class and 1,796 were of the special class limited largely to misleading advertising matter.

### **REPRESENTATIVE COMPLAINTS**

#### **ALLEGED VIOLATIONS OF FEDERAL TRADE COMMISSION, CLAYTON AND ROBINSON-PATMAN ACTS**

During the fiscal year ended June 30, 1937, the Commission issued 294 complaints as compared with 386 issued during the last preceding fiscal year.

Two hundred seventy-seven of these complaints charged violation of Section 5 of the Federal Trade Commission Act prohibiting unfair methods of competition in commerce, while 7 of this number also charged violation of Section 2 of the Clayton Act as amended by the Robinson-Patman Anti-Price Discrimination Act, and 2 charged violation of Section 3, the exclusive dealing section of the Clayton Act.

Seventeen of the 294 complaints alleged practices other than violation of the Federal Trade Commission Act. Of these, 16 charged

violation of Section 2 of the Clayton Act as amended by the Robinson-Patman Act and 1 alleged violation of Section 7 of the Clayton Act prohibiting unlawful stock acquisitions.

The total number of complaints issued charging violation of the Clayton Act was 26, of which 23 alleged violation of Section 2 of that act as amended by the Robinson-Patman Act.

## **I. COMPLAINTS UNDER THE FEDERAL TRADE COMMISSION ACT**

### **A. SUPPRESSION OF PRICE COMPETITION AND OTHER ALLIED RESTRAINTS**

#### **ON TRADE**

##### **1. COMBINATIONS TO FIX AND MAINTAIN PRICES**

Ten complaints were issued charging combination and conspiracy in restraint of trade through price fixing and other similar agreements. The agreements were entered into mostly among members of and within certain industries, who were alleged to have combined to fix minimum prices at which their products were to be sold, or to fix uniform prices and discounts among the members, all in violation of Section 5 of the Federal Trade Commission Act. Allegedly, the agents for establishing and making these combinations effective were usually trade associations. The following cases are representative:

*Association of rice millers.*--An association of rice millers and eight association members were charged with unlawfully restricting the sale of milled rice through fixing and maintaining uniform prices. The alleged combination and conspiracy was enforced, it was charged, through a marketing board and a crop board organized within the association.

*Metal window products manufacturers.*--Nineteen manufacturers of metal window products, all members of an association, were charged with using common basic price books and formulas for determining the price for every product in the industry and with maintaining a schedule of uniform prices and discounts. In furtherance of this purpose, they were alleged to have submitted all estimates of bids on a project in a given area to one of their clearing bureaus located at strategic points throughout the United States, which bureau was designated by the association as the place to clear bids or prices for that particular area for the purpose of obtaining identical gross or net price estimates which they allegedly used in bidding on the project in question.

*Chalk and crayon manufacturers.*--Fourteen leading manufacturers of chalk, wax crayons, water colors, tempera colors and other school supplies were charged with maintaining and enforcing fixed prices with resultant enhancement of prices for school supplies.

*Blue print and tracing paper manufacturers.*--A complaint charged eleven manufacturers of blue print, tracing and other reproduction papers and cloths, and their trade association, with fixing and maintaining uniform prices by combination and

conspiracy among themselves.

*Industrial rivet makers* .-- A similar complaint was issued against thirteen Companies manufacturing industrial rivets, and their trade association, alleging the existence of a combination and conspiracy through which uniform prices were fixed and maintained.

*Automobile parts and accessories associations.*--Five trade associations composed of manufacturers and distributors of automobile parts and accessories were charged with forming a combination to control the market in, and to fix and maintain the resale prices of, such products throughout the United States. Under the agreements, the complaint charged, manufacturer members fixed uniform and substantially identical prices for their products to jobbers, as well as uniform and substantially identical resale prices at which jobbers should resell such products. The complaint alleged that the association and its members furthered the conspiracy and combination by attempting to monopolize in the hands of jobbers the distribution of automobile parts, accessories, and shop equipment.

*Turbine generator and condenser manufacturers.*--A complaint alleging collusive bidding, and fixing and maintaining uniform prices, was issued against nine companies engaged in the manufacture and sale of turbine generators and condensers and against their trade association. The principal purchasers of turbine generators and condensers are public utilities, and municipal, State and Federal Governments. (See General Electric Co., and others, order to cease and desist, p.58.)

*Water gate valve and hydrant manufacturers.*--Thirty-four manufacturers of water gate valves, hydrants, fittings and similar articles used for water supply systems, and their trade association, selling their products chiefly to municipalities and to divisions of municipal, State and Federal Governments, were charged with engaging in price fixing practices which prevented price competition and resulted in restraining trade, increasing prices of their respective products and creating in themselves a monopoly in the sale of their products. (See Water Works Valve and Hydrant Group, order to cease and desist, p.58.)

*Cast iron soil pipe producers--Use of basing point system.*--The Commission issued a complaint on March 26, 1937, against an association, its officers, and 35 corporations producing cast iron soil pipe, charging that the respondents had entered into a combination substantially lessening competition in interstate commerce and discriminating in price among their customers in such commerce. The principal vehicle for this combination was alleged to be the use of a single basing point system on the part of producers in all parts of the country based upon Birmingham, Ala. It was charged that the respondents had thus violated the Federal Trade Commission Act and Section 2 of the Clayton Act as amended by the Robinson-Patman Act. Answers to the complaint were filed on June 23, 1937, on the part of all respondents.

*Window glass manufacturers.*--A complaint charging practically all manufacturers and distributors of window glass in the country, with a conspiracy to fix prices, control sources of supply and the channels of distribution of their products, and with putting into practice a system of discriminatory prices, is described on p.49 under the Robinson-Patman Act cases. Violation of both the Federal Trade Commission and Robinson-Patman Acts was alleged.

*Golf ball manufacturers.*--Violation of both the Federal Trade Commission and Robinson-Patman Acts was alleged in a complaint issued against certain members of the golf ball industry. The complaint is described on p.49 under the Robinson-Patman Act cases. Under the Federal Trade Commission Act, the respondents were charged with monopolistic practices in the establishment of a uniform price-fixing policy on the part of leading manufacturers in concert with influential retailers.

## 2. RESALE PRICE MAINTENANCE

Seven complaints alleging unlawful resale price maintenance through agreements between manufacturers and various distributors, wholesalers and retail dealers, were issued during the fiscal year. Six of these cases were against liquor distillers and distributors and involved alleged resale price maintenance in connection with the sale of liquors and whiskies. Associations of retail liquor dealers whose members were alleged to have cooperated with the distillers and distributors in effecting price fixing merchandising policies, were also named respondents.

The complaints charged that the distillers and distributors fixed and observed uniform resale prices and discounts and obtained the active cooperation of wholesalers and retailers in maintaining the prices and discounts through unlawful agreements and understandings. The respondents were charged with blacklisting and boycotting all wholesalers and retailers who did not execute the price-fixing agreements into which they entered.

## 3. MISCELLANEOUS

Seven complaints alleged other combinations and conspiracies in restraint of trade through attempts to control and restrict channels of distribution, through curtailment of production, submission of identical bids, boycott and similar practices. The commodities involved were candy, concrete pipe, lumber and other building materials, women's apparel, sponges, hot air furnaces and heating supplies.

### **B. FALSE ADVERTISING AND MISREPRESENTATION**

A total of 178 complaints issued during the fiscal year charged false and misleading representations in advertisements, on labels and otherwise. These may be classified as follows:

Forty-six complaints involved alleged false and misleading advertising and misrepresentation as to therapeutic value of various medicinal preparations and devices.

Forty-four complaints charged misrepresentations as to nature, quality, character, and prices of various products or of the ingredients entering into their manufacture.

Twenty-eight complaints alleged fictitious retail price marking, false claims of distributors as being manufacturers, or false representation as to quality, nature and place of origin of ingredients. Some of these cases allegedly involved false claims as to beneficial therapeutic value of various toilet preparations and cosmetics.

Sixteen complaints charged false representations in the sale of books, encyclopedias, and home-study courses, ten of these complaints allegedly having to do with false representations by correspondence schools as to the nature and character of the schools and their courses of study, the availability of positions and earning capacity of students.

Thirteen complaints alleged false representation as to place of origin of such products as toys, candy, hams, chinaware, flavoring compounds, razor blades, and gloves.

Thirteen complaints alleged false representation in connection with the sale of automobiles and products for use in connection with their operation, eight of these cases allegedly involving misrepresentation as to the rate of interest on deferred balances on installment purchase contracts, and five allegedly embracing false representations as to the nature and effectiveness of motor compounds, anti-freeze solution and lubrication oil.

Eleven complaints (in addition to those otherwise listed which include a similar charge) alleged false representations as to a company or individual being the manufacturer or producer of such products as eye-glasses, adding machines, smoking pipes, nursery products, hosiery, blankets, ribbons, whiskies and other spirituous beverages.

Seven complaints alleged false representations in the sale of dog food, baby chicks, and medicinal products for animals.

### C. MISCELLANEOUS CASES

*Lotteries or gift enterprises.*--Forty-seven complaints charged manufacturers of and dealers in candy, clocks, blankets and bed-spreads, ice cream cones, hosiery, luggage and other miscellaneous products, with using schemes involving an element of chance or lottery in the sale of such products to the ultimate consumer. Thirty-one of these cases were against candy manufacturers and dealers.

*False disparagement of competitors, and other practices.*--Seven complaints alleged false disparagement of competitors or their products and 7 charged the respective respondents with misrepresentation as to the earning capacity of their sales agents. Five complaints charged imitation of competitor's products and the passing off of certain articles as the products of competitors.

## II. COMPLAINTS UNDER THE CLAYTON ACT

### A. COMPLAINTS CHARGING VIOLATION OF SECTION 2 OF THE CLAYTON ACT

#### AS AMENDED BY THE ROBINSON-PATMAN ACT <sup>1</sup>

##### 1. ALLEGED PRICE DISCRIMINATIONS

*Two complaints against large yeast distributors.*--Two complaints alleged that certain large yeast distributor corporations, maintaining similar discount schedules, were unlawfully discriminating in price between different purchasers and that the effect was substantially to lessen or to injure, destroy or prevent competition in the manufacture, sale, and distribution of bread and allied products in which yeast is used. It was also alleged that the discriminatory prices had a tendency to create a monopoly in favored customers of the corporations.

*Cheese distributors.*--In two complaints, simultaneously issued, the Commission charged the Kraft-Phoenix Cheese Corporation, Chicago (complaint dismissed July 17, 1937), and a second cheese distributing corporation (complaint pending at the close of the fiscal year), with unlawfully discriminating in price to retailers. Both corporations were alleged to have sold at similar prices. It was charged that the general effect of the systematic discriminations in price was to substantially lessen or to injure, destroy or prevent competition, in the Sale and distribution of cheese, cheese products and salad products, between the respondents and other manufacturers and distributors of similar products engaged in interstate commerce, and also between the favored customers and unfavored competing purchasers of cheese. It was further charged that the effect of the discriminations had been a tendency to create a monopoly in the respondents and also in the favored purchasers.

*Millinery distributor.*--Hollywood Hat Co., Inc., New York (against which the Commission issued an order to cease and desist, July 17, 1937), was charged in the complaint with discriminating in price in favor of certain retailers, particularly one retailer operating stores in 3 California cities, by giving them a lower price than that charged competing retailers. The alleged effect of such discrimination was to lessen or to injure, destroy or prevent competition in the sale and distribution of women's hats between those of the respondent's customers who received the benefit of such discriminatory lower prices and competing customers who did not receive such benefit and were charged higher prices.

*Manufacturer of glazed tile .*--The Commission charged a manufacturer and distributor of glazed tile with allowing a 15 percent discount,

<sup>1</sup> One of the cases described hereunder was closed prior to the end of the fiscal year, while two were disposed of by orders to cease and desist and two by orders of dismissal, shortly after the close of the fiscal year. These cases, respectively, are: (1) Procon Grocery service Co., Inc.; (2) Hollywood Hat Co., Inc.; (3) Biddle Purchasing Co.; (4) Bird & Son, Inc., Bird Floor Covering sales Corporation, and Montgomery Ward & Co., Inc., and (5) Krafaft Phoenix Cheese Corporation. In the remaining complaints,

pending at the close of the year, the respondents are not identified hereunder.

regardless of quantities sold, to so-called wholesalers, which discount allegedly was denied to the contractors. It was charged that the effect of such discrimination had been or might have been substantially to lessen competition or to injure, destroy or prevent competition in the distribution of tile, particularly between wholesalers and the contractors.

*Floor covering companies and a mail order house.*--Bird & Son, Inc., a manufacturer, and Bird Floor Covering Sales Corporation, a distributor of floor covering, both of East Walpole, Mass., were charged with selling to Montgomery Ward & Co., Chicago, at a lower price than to competing retailers. Montgomery Ward & Co., was also made a respondent. (Complaint against these respondents dismissed July 17, 1937.)

*Dealer in bank and trust company supplies.*--A corporation engaged in the sale of pass books, account books and other paraphernalia for use by banks and trust companies, was charged with discriminating in price between different purchasers where the effect might have been substantially to lessen competition or tend to create a monopoly in interstate commerce in such goods or to injure, destroy or prevent competition with the respondent in their distribution.

*Window glass manufacturers.*--One complaint charged practically all manufacturers and distributors of window glass in the country, and two trade associations, also their officers and employees, with a conspiracy to fix prices, and control sources of supply and the channels of distribution of their product. The respondents were also charged with making effective a policy and system whereby the respondent manufacturers discriminated in price between different purchasers of window glass. The effect of the discrimination allegedly was to lessen competition, tend to create a monopoly, and to injure, destroy and prevent competition between and among certain so-called "quantity buyers", who allegedly were given a 7 ½ percent differential, and certain other buyers designated as "carload lot buyers", who allegedly were required and compelled to purchase window glass from the so called "quantity buyers" at 7 ½ percent more than the price quoted to and paid by the quantity buyers. It was also charged that a similar effect was produced upon competition between and among the customers of these classes of buyers purchasing window glass for resale to consumers.

*Golf ball manufacturers.*--Violation of both the Robinson-Patman and the Federal Trade Commission Acts was alleged in one complaint issued against certain members of the golf ball industry. Under the Robinson-Patman Act, it was alleged that certain manufacturers of golf balls were alleged to have sold these balls to members of a professional golfers association at a discount or a rebate on the purchase price quoted to the retail trade on golf balls of like grade and quality

but which did not have imprinted on them the initials of the association. It was further alleged that members of the association knowingly induced the manufacturers to discriminate in price and the general effect of the discrimination had been substantially to lessen competition and tend to create a monopoly in the manufacture, sale and distribution of golf balls, and to injure, destroy and prevent competition between and among manufacturers, wholesalers and retailers of golf balls. Under the Federal Trade Commission Act, the complaint charged monopolistic practices through a uniform price fixing policy on the part of leading manufacturers in concert with influential retailers.

*Cast iron soil pipe producers.*--A complaint charging an association, its officers, and 35 corporations producing cast iron soil pipe, with price discrimination, is described on p.45 under the Federal Trade Commission Act cases. The complaint alleged violation of both the Federal Trade Commission Act, Section 5, and the Clayton Act, Section 2, as amended by the Robinson-Patman Act.

## 2. ALLEGED VIOLATION OF BROKERAGE SECTION

Under subsection 2 (c) of the Clayton Act, as amended by the Robinson-Patman Act, relating particularly to brokerage and so-called "dummy" brokerage houses, the Commission issued five complaints which are more fully discussed hereunder.

*Large grocery chain store system.*--A large corporate chain of retail grocery stores, operating more than 14,000 retail stores, was charged with purchasing in interstate commerce goods on which it received and accepted from the sellers certain allowances or discounts in lieu of brokerage. It was further alleged that no services whatsoever had at any time been performed by this large food chain for which allowances and discounts were received. Testimony in this case was taken in many parts of the country, including New York, California, Wisconsin and Texas.

*A wholesale grocer, a broker, and sellers* --A corporation generally referred to as a wholesale grocery house, a brokerage company affiliated with and purchasing chiefly for the wholesale house, and several manufacturers and sellers of food products, were charged with the illegal receipt and payment of brokerage. It was alleged that the so-called broker was acting in fact for, in behalf of and subject to the control of the wholesale corporation and that in connection with sales to the wholesale corporation, no services were rendered the sellers for which the brokerage company could lawfully be reimbursed. It was alleged that the brokerage company and the wholesale company occupied and used one office and that the same employees served both companies.

*Market information and purchasing services.*--Two complaints related to the business of corporations operating market information

and purchasing services, and of companies engaged either in buying or selling foodstuffs and groceries through the companies operating the market information and purchasing services. The complaints designated certain companies as buyers and others as sellers.

According to the complaints, the companies operating the market information and purchasing services received orders from members of the group of buyers to purchase commodities, and transmitted such orders to companies of the selling group for execution. In the course of the transactions, the complaints alleged, the sellers paid the market information and purchasing service companies so-called brokerage fees or commissions, which the latter in turn paid over to the buyers. The complaint further charged that the fees or commissions were not retained by the market information and purchasing service companies as payment for any services rendered by them to the sellers and were not paid to the buyers for any services they rendered. In one of these complaints the respondents were Biddle Purchasing Co., New York, and others, against which the Commission issued an order to cease and desist, July 17, 1937. The complaint in the other case was pending at the close of the fiscal year.

*Chain store purchasing agents.*--Procon Grocery Service Co., Inc., and certain large chain store buyers were also charged with violation of the brokerage section. This complaint is more fully discussed under the heading of "Descriptions of Outstanding Cases", p.58.

### 3. MISCELLANEOUS

*Cosmetics manufacturers.*--Seven complaints were directed against manufacturing distributors of cosmetics, with slight variation in that allegations of violations of all sections were not charged against each respondent. The charges generally were that Section 2 (a) was violated in the granting of discounts based on annual volume of purchases with the effect of injuring competitors. The paying or contracting for payment of certain sums of money to or for the benefit of certain customers in consideration for advertising services furnished by them in connection with the sale of the manufacturer's products, without making such payments or allowances available on proportionally equal terms to all customers competing in the distribution of the product, was alleged to be in violation of Section 2 (d). It was further alleged that Section 2 (e) was violated in that certain customers were furnished with demonstrators, whereas other customers were discriminated against by not being furnished similar services on proportionally equal terms.

#### **B. COMPLAINTS CHARGING VIOLATION OF SECTION 3 OF THE CLAYTON ACT**

*Petroleum products and automobile accessories.*--One complaint charging violation of Section 3, the exclusive dealing section of the Clayton Act, was issued against a corporation engaged in the pro-

duction of petroleum products and in the sale and distribution of such products and automobile accessories, such as automobile tires and tubes, batteries, spark plugs, window shield wipers, oil filters, and auto light bulbs. It was charged that the respondent forced and coerced service station operators dealing in its petroleum products to deal also in specific automobile accessories named by it and, in connection with the resale of which, it received certain commissions or profits. The complaint also alleged that service station operators were induced not to deal in any competitive automobile accessories made by manufacturers other than those named by the respondent.

*Automobile manufacturers.*--Violation of Section 3 of the Clayton Act as well as of Section 5 of the Federal Trade Commission Act, was charged in a complaint issued against a manufacturer of automobiles and its sales subsidiary. The respondent manufacturer, with the cooperation of its subsidiary, was alleged to have coerced and compelled dealers in makes of automobiles manufactured by the respondent company, to purchase accessories and supplies for use thereon only from it or from the concerns affiliated with it. The complaint also alleged that the manufacturer and its sales subsidiary made sales and contracts of sale of automobile parts upon the expressed condition, agreement and understanding that the purchasers thereof were not to deal in automobile parts manufactured by a competitor.

### **C. COMPLAINT CHARGING VIOLATION OF SECTION 7 OF THE CLAYTON ACT**

*Liquor distilling company.*--A complaint under Section 7 of the Clayton Act charged a distilling company with having acquired all of the capital stock of a competing distilling company, the alleged acquisition having had the effect, it was charged, of ending competition between the two corporations.

## **ORDERS TO CEASE AND DESIST**

### **UNFAIR TRADE PRACTICES PROHIBITED IN 296 CASES**

The Commission issued 295 orders to cease and desist from the use unfair methods of competition and other violations of law during the fiscal year, which was an increase of 135 over the number of orders issued during, the last preceding fiscal year. However, two of the 296 orders issued have been rescinded, leaving a net total of 294 orders to cease and desist entered during the fiscal year.

### **LIST OF RESPONDENTS**

<i>Respondent</i>	<i>Location</i>
A. F. of L. Trade Union Committee for Unemployment Insurance and Relief, and others	New York, N.Y.
Aborn Hat Manufacturing Company	Chicago, Ill.
Acme Distilleries, Inc.	Baltimore, Md.

Afta Solvents Corporation

New York, N.Y.

<i>Respondent</i>	<i>Location</i>
Allen's Cut-Rate Shops, and others	New Haven, Conn.
Allura, Inc	Sacramento, Calif.
Alvita Products Company	Pasadena, Calif.
Ambur Distilleries, Inc	Milwaukee, Wis.
American Bank Machinery Company	Philadelphia, Pa.
American Candy Co	Milwaukee, Wis.
American, Grain Distillers, Inc	Detroit, Mich.
American Mint Corporation, and others	New York, N.Y.
American Remedy Co	Philadelphia; Pa.
American Tap Bush Co	Detroit, Mich.
Ardelle, Inc., Helen	Seattle, Wash.
Army and Navy Supply Co., and others	Richmond, Va.
Arrow Distilleries, Inc	Peoria, Ill.
Atlantic Coast Oil Co. of New York, Inc	New York, N. Y.
Atlas Products Co	Newark, N.J.
Atz's Hatchery, and others	Milltown, Ind.
Avery Salt Co	Scranton, Pa.
Banner Distilling Co	Chicago, Ill.
Barage-Webster Co	Eau Claire, Wis.
Barletta Manufacturing & Packing Co., and others	New York, N. Y.
Barth Laboratories, Hec., and others	Chicago, Ill.
Bear Mill Manufacturing Co., Inc	New York, N. Y.
Becker, Inc., M. & J	Brooklyn, N. Y.
Beich Co., Paul F	Bloomington, Ill.
Beverly Products Co	Springfield; Mass.
Blackwell Journal Publishing Co	Blackwell, Okla.
Bonomo Candy and Nut Corporation	Brooklyn, N. Y.
Boston Sportswear Co., and others	Boston, Mass.
Boyd Business University	Washington, D. C.
Brecht Candy Co	Denver, Cob.
Brier & Co., Samuel, and others	Philadelphia.
British American Toffee Co	New Raven, Conn.
Brown&Haley	Tacoma, Wash
Buno Co.,	Philadelphia
Calafo Co	Los Angeles
California Packing Corporation, and others	San Francisco.
Campbell Distilleries, Inc.	Camden, N J
Cap Association of the United States, Inc., and others	New York City
Carey Salt Co	Hutchinson, Kans.
Casey Co., J H	Portland, Ore.
Casterline Brothers	Chicago.
Cataldo, Angelo, and others	Boston.
Cauk Co. L. D	Milford, Del.
Champion Co.	Springfield, Ohio
Charles of the Ritz Distributors Corporation	New York City
Chase Candy Co.	St. Joseph, Mo.
Chesapeake Distilling and Distributing Co	Baltimore
Claeys, J C	South Bend, Ind.
Clark Distilling Corporation, James, and others	Jersey city, N.J.
Clark Grave Vault Co	Columbus, Ohio.
Clopay Corporation	Cincinnati.
Close Co., George	Cambridge, Mass.
Colonial Distilling and Distributing Corporation	New York City.

<i>Respondent</i>	<i>Location</i>
Columbia Distilling Co., and others	San Francisco.
Conde Nast Publications, Inc	New York City.
Consolidated Distillers Corporation	Baltimore.
Cosner Candy Co	Denver.
Crystallone Radio Corporation, and others	New York City.
Cushing Refining and Gasoline Co	Cushing, Okla.
Diamond Knitting Mills	New York City.
Distillers Exchange, Inc	Do.
Dockman & Son, Inc., John H	Baltimore.
Dollar Crystal Co	Omaha, Nebr.
Dominion Distilleries, Inc	New York City.
Duncombe Research Laboratory	Highland Park, Mich.
Durant Motor Car Co	Detroit.
Eagle Spice Co	Brooklyn, N. Y.
Eastern Art Co., and others	Providence, RI.
Edison-Bell Co., Inc., and others	New York City.
Eldeen Spice Co	Do.
Elders, H. Will St.	Joseph, Mo.
Electro Thermal Co	Steubenville, Ohio.
Elisco, Charles, and others	Maywood, Ill.
Esbeco Distilling Corporation	Stamford, Conn.
Eucathol Co., Inc	Shawnee, Okla.
Euclid Candy Co	San Francisco.
Fabrikant Co., Louis	New York City.
Fall River Wholesale Grocers' Association, and others	Fall River, Mass.
Federal Distillers Corporation	Detroit.
Federal Institute of Meats and Marketing	Marinette, Wis.
Fine-Reding Candy Manufacturing Co., Inc	Oklahoma City, Okla.
Finishing Products Co., Inc	Indianapolis.
Foley Co., M. F	Boston.
Food Display Machine Corporation	Chicago.
Fort Clark Distilleries, Inc	Peoria, Ill.
Foster-Milburn Co	Buffalo, N. Y.
Frank & Co., Inc., S. M	New York City.
Galion Metallic Vault Co	Galion, Ohio.
Garten Table Pad Co., Inc	Philadelphia.
General Distillers, Ltd	San Francisco.
General Electric Co., and others	Schenectady, N. Y.
Germania Tea Co., and others	Minneapolis.
Gibbs & Son, Inc., W. A	Chester, Pa.
Gibson, L. W	Chicago.
Glade Candy Co	Salt Lake City, Utah.
Glenn Laboratories, Inc	New York City.
Gold Seal Distillers, Inc	Chicago.
Granite Arts, Inc	Omaha, Nebr.
Griffith Piano Co	Newark, N.J.
Gulf Coast Oil Co. of Mississippi, Inc., and others	New Orleans.
Gynex Corporation, and others	New York City.
Haddorff Piano Co	Rockford, Ill.
Hauer Distilling Co	Cincinnati.
Havana Flonda Cigar Co., Inc	Quincy, Fla.
Heininger, Dr. S. B	Chicago.
Helmco, Inc	Do.

<i>Respondent</i>	<i>Location</i>
Herba Medicinal Laboratory	New York City.
Hercules Products and Distilling Corporation	Brooklyn N. Y.
Heusner & Son, H. N	Hanover, Pa.
Hewitt Soap Co., Inc. and others	Dayton, Ohio
Hirsch Distilling Co	Kansas City, Mo.
Hodgdon, Daniel R., and others	New York City
Hollywood Mask, Inc	Chicago
Hollywood Shirt Co	New York City
Holmes, Inc., Robert, and others	Jersey City, N.J.
Holst Publishing Co., and others	Boone, Iowa
Hughes Co., Inc., Henry L., and others	New York City
Humania Hair & Specialty Manufacturing Co	Do.
Hynd Corporation, A. C	Buffalo, N. Y.
I.S. U. Rank and File Group, and others	New York City.
I.T. S. Co., and others	Elyria, Ohio
Imperial Distillers Co	Detroit
Imperial Distillers Corporation	Los Angeles
International China Co., and others	Salisbury, N. C.
International Distilling and Distributing Corporation	Washington, D. C.
Interstate Distillers, Inc	Baltimore
Iokelp Co	San Diego, Calif.
Irish Hills Distilleries, Inc	Detroit
Italian-American Spice Co	New York City
Jenner Manufacturing Co., and others	Pontiac, Mich.
Johnson, Charles L., and others	Evanston, Ill.
Kalo Inoculant Co	Quincy, Ill.
Kienzler Distilling Corporation	New York City
Kimball Co., A., and others	Do.
King Trading Corporation, and others	Do.
Kleinert Rubber Co., I. B	Do.
Knight Electric Co., Inc., and others	Do.
Kolynos Co	New Haven, Conn.
Kroekel-Oetinger, Inc	Philadelphia
Krueger, Inc., B. H., and others	New York City
Landon & Warner	Chicago
La Salle Distillery, Inc	Stamford, Conn.
La Salle Extension University	Chicago
Lawrence Blanket Mills	Worcester, Mass.
Leader Novelty Candy Co., Inc	Brooklyn, N. Y.
Leeve-No-Ring Chemical Co	New York City
Lefebvre & Co., Ltd., P A., and others	Malone, N. Y.
Leonard, Inc., A. O	New York City
Leyden, Martin J	Seattle, Wash.
Liberty Distilleries, Inc	Baltimore
Licht's Fur Factory	New York City
Lindholm Co., Inc., G.	Brooklyn, N. Y.
Loft, Inc., and others	Long Island City, N. Y.
Luce & Co	Jersey City, N.J.
Luden's, Inc	Reading, Pa.
Lumber Mills Co	Chicago
M & M Bag and Suit Case Co	New York City
Malestic Distilling Co	Baltimore
Majestic Laboratories	Richmond Hill, Long

Island, N. Y.

<i>Respondent</i>	<i>Location</i>
Maple City Candy Co	La Porte, Ind.
Marconi Radio Corporation, and others	New York City
Margarella, Pasquale	Do.
Marion Vault Manufacturing Co	Marion, Ohio
Martel, Gus	Danbury, Conn.
McCann Co., John J	Burlington, N.J.
McDonald Chocolate Co., J G	Salt Lake City, Utah
McWethy, F. L	Marshall, Mich.
Med-Dental Systems Co	Cincinnati
Menasha Wooden Ware Corporation, and others	Menasha, Wis.
Metropolitan Surgical Instrument Council, Inc., and others	New York City
Miller and Co., Inc., George C	Boston
Miller, Bain, Beyer & Co	Philadelphia
Miller Co., Charles N	Boston
Millinery Quality Guild, Inc., and others	New York City
Mills Sales Co	Do.
Mills Sales Co. of New York, Inc., and others	Do.
Montebello Distillers, Inc	Baltimore
Morgen Distilling Corporation	New York City
Morici and G. Matalone Co., A	Chicago
Morris Candies, Inc., Miss	Minneapolis
Mount Rose Distilling Co	Trenton, N.J.
Mushroom Growers of America	Chicago
Musil Distilling Co., L	Racine, Wis.
Mutual Stores, Inc	Washington, D. C.
National Civil Service Training Bureau	Los Angeles
National Electrical Manufacturers Association, and others	New York City
National Grave Vault Co	Galion, Ohio
National Kream Co., Inc., and others	Brooklyn, N. Y.
National Salesmen's Training Association	Chicago
National Silver Co	New York City
Neet, Inc	Chicago
Neway Manufacturing Co	Do.
North American Clothes Co., and others	New York City
Novelty Sweets Co	Philadelphia
Old Colonel Distillery, Inc., and others	Louisville, Ky.
Old Gold Distillers, Inc	Chicago.
Old Rose Distilling Co	Do.
Olson Rug Co	Do.
Ostler Candy Co	Salt Lake City, Utah
Ostrucon Distilled Products Co., Inc	New York City
Paramount Distillers	Cleveland
Pedodyne Co., Inc., and others	Chicago
Pepsotalis Co	Morgantown, W. Va.
Perfect Manufacturing Co	Cincinnati
Perfection Burial Vault Co	Galion, Ohio
Pike-Hansen, Inc	Chicago
Piuma, Joseph A	Los Angeles
Plantation Chocolate Co., Inc	Philadelphia
Plough, Inc	Memphis, Tenn.
Potomac Distilling Corporation	Baltimore

<i>Respondent</i>	<i>Location</i>
Pratt Food Co	Philadelphia
Premier Peat Moss Corporation	New York City
Provincial Distilleries, Ltd., Inc	Brooklyn, N. Y.
Quaker City Chocolate and Confectionery Co	Philadelphia
Quality Distillers, Inc	Los Angeles
Quality Products Co., Inc	Brooklyn, N. Y.
Queen Anne Candy Co	Seattle, Wash.
Radumac Mineral Co., and others	Los Angeles
Raladam Co	Detroit
Rango Tablet Co., and others	Los Angeles
Raritan Distillers Corporation	Perth Amboy, N.J.
Reo Distillers, Inc	Newark, N. J
Repair Parts and Replacement Co., Inc	Chicago
Retail Furniture Dealers' Association of others	St. Louis,
Rex Distilling Co	Providence, R. I.
Rieser Co., Inc	New York City
Rittenhouse Candy Co	Philadelphia
Rosecrest Distillers	Paterson, N. J
Ross Knitting Mills, Inc., and others	New York City
Rubinstein, Inc., Helena	Do.
Russek's Fifth Avenue, Inc	Do.
Saffan, Inc., Erna, and others	Chicago
Sanderson Adjustment Bureau, Inc., and others	Atlanta, Ga.
Saretsky, Charles A	New York City
Savage Candy Co	Denver, Colo.
Schainuck and Son, Inc., Jonas	Washington, D. C.
Schwabacher Brothers & Co., Inc	Seattle, Wash.
Seld Leather Co	Gloversville, N. Y.
Sendol Co	Kansas City, Mo.
Service Products, Inc., and others	New York City
Shupe-Williams Candy Co	Ogden, Utah
Sorenson-Beales Candy Co	Sioux City, Iowa
South Bend Distributing Co., Inc	South Bend, Ind.
Spanish Diamond Co., and others	Wheeling, W. Va.
Springfield Metallic Casket Co	Springfield, Ohio
Standard Distributors, Inc., and others	New York City
Stanley Store	Collingswood, N.J.
Startup Candy Co	Provo, Utah
Stayton, G Fred, and others	Des Moines, Iowa
Sterling Co., and others	Do.
Sun Radio Service and Supply Corporation	Washington, D. C.
Sunlife Chlorophyllian Laboratories, Ltd	Los Angeles
Sunrise Distilling Corporation	Chicago
Sunset Distilling Co	Do.
Sutton Laboratories, Inc	Chapel Hill, N. C.
Sweet Candy Co	Salt Lake City
Tarzana Mineral Water Co	Hollywood, Calif.
Taylor Distributing Co., C. O	Chicago
Trieste Importing Co	New York City
Ucanco Candy Co. Inc	Davenport, Iowa
Udga, Incorporated, and others	St. Paul, Minn.
Unique Novelties; Inc	Brooklyn, N. Y.

<i>Respondent</i>	<i>Location</i>
United Distillers and Winers, Inc	Detroit
United Distillers Corporation	Providence, R. I.
United Silk Co	Dallas, Tex.
United States School of Music	New York City
Utilities Engineering Institute, Inc	Chicago
Valley Springs Distillery, Inc	Do.
Van Dissen Distilling Co., James	Los Angeles
Vivadou Co., Jean	New York City
Voneiff-Drayer Co	Baltimore
Water Works Valve and Hydrant Group of the Valve and Fittings Institute, and others	New York City
Wearwell Knitting Mills	Do.
Welsh Foundation Pacific	Palisades, Calif.
West Coast Distilleries Co	San Francisco
Western American Distillers Corporation	Do.
Western Reserve Distilling Co	Cincinnati
White & Co., Vernon, and others	Chicago
Williams-Crahan Co	Oklahoma City, Okla.
Wilson Chemical Co., Inc	Tyrone, Pa.
Winthrop Novelty Co., Inc	Brooklyn, N. Y.
Wolf Creek Soap Co	Dayton, Ohio
Wolverine Gum, Inc	Detroit
Woody Candy Co	Oklahoma City, Okla.
World Library Guild, Inc	New York City
York Caramel Co	York, Pa.
Zellers Laboratories	Reading, Pa.
Zion Holy Spiritual Mission, and others	Chicago

### **DESCRIPTIONS OF OUTSTANDING CASES DECIDED**

Illustrative of the orders to cease and desist issued during the fiscal year are the cases described as follows:

#### **COMBINATIONS TO FIX PRICES AND RESTRAIN TRADE**

*Water Works Valve and Hydrant Group of the Valve and Fittings Institute, New York, and others*--An order to cease and desist was issued against the valve and hydrant group, its governing committee, its officers and 33 member companies. It restrained them from entering into and executing any agreement, combination, understanding or conspiracy to fix and maintain uniform delivered prices for water gate valves, hydrants, fittings and similar products. The respondents were specifically prohibited from entering into such an agreement involving the division of the United States into zones and the fixing and maintaining of uniform delivered prices in such zones. The order also barred agreements under which the respondents fixed uniform discounts and refused to continue selling to jobbers and distributors who declined to resell at the uniform delivered prices fixed by the respondents.

*General Electric Co., Schenectady, N. Y., and others*--An order to cease and desist was issued against General Electric Co., Westinghouse

Electric & Manufacturing Co., Elliott Co. and Allis-Chalmers Manufacturing Co., restraining them from entering into or maintaining any conspiracy to (1) fix and maintain uniform delivered prices in the sale of turbine generators; (2) to sell turbine generators upon uniform performance guarantees where the guarantees were not based upon actual performance; (3) to use the pricing sheets of any of the companies as the pricing sheets of any of the others, and (4) to submit uniform bids.

In the same proceeding, Westinghouse Electric & Manufacturing Co., Allis-Chalmers Manufacturing Co., Elliott Co., Worthington Pump & Machinery Corporation, Foster-Wheeler Corporation, C. H. Wheeler Manufacturing Co., Ingersoll-Rand Co., and Ross Heater & Manufacturing Co., were restrained from entering into and executing a similar conspiracy with respect to the sale of condensers, which were sold chiefly to Federal, State and Municipal Governments and public utilities.

*National Electrical Manufacturers' Association and others, New York.*--This association and sixteen member manufacturers of power cable and wire, were directed to cease and desist from the maintenance of uniform selling prices held to have been performed under an illegal agreement, combination and conspiracy. The respondents manufacture impregnated paper cable, varnished cambric cable, parkway cable and rubber power cable. The largest consumers of the respondents' commodities were found to have been public utilities, Municipal, State and Federal Governments and large industrial plants and office buildings.

The respondent manufacturers were found to have had an understanding and agreement that no customer should be allowed to purchase except on a delivered price basis. As a result; these respondents habitually and systematically discriminated in price among the various customers after making due allowance for cost of transportation, exacting higher prices from customers having little or no transportation expense and accepting lower prices from those having heavy transportation expense, according to findings. The order specifically prohibited the fixing, maintaining, or enhancing of prices, special charges, discounts, transportation charges, or any terms or conditions of sale which constituted a substantial element in competition, by agreement or understanding.

*Menasha Wooden Ware Corporation, Menasha, Wis., and others.*--An order to cease and desist was issued against Menasha Wooden Ware Corporation, Menasha, Wis., The Creamery Package Mfg. Co., Chicago, Elgin Butter Tub Co., Elgin, Ill., Wisconsin Butter Tub Co., Marshfield, Wis., Bousfield Wooden Ware Co., Minneapolis, and Storey City Butter Tub Co., Storey City, Iowa. These Middle Western manufacturers are said to sell more than 90 percent of the total volume of new butter tubs produced in the United States.

Their trade association, the Butter Tub Manufacturers' council, was also made a respondent. The six manufacturers were directed to cease and desist from entering into combinations, conspiracies or agreements, either directly or through their trade association, to restrict, restrain and suppress competition by one or more of the following specific methods:

Jointly or cooperatively (1) fixing, adopting and quoting uniform prices, terms and discounts for the sale of butter tubs to creameries and other customers; (2) enforcing and maintaining such fixed prices, terms and discounts by exchanging information through the trade association; (3) exchanging with each other, directly or through the medium of the trade association or any other medium, information as to future prices in advance of the actual adoption, quotation, or effective date of such prices; (4) adopting special price lists of preferred customers to whom to allow extra discounts on butter tubs; (5) discriminating against Land O' Lakes Creameries, Inc., Minneapolis, a large Minnesota cooperative association, or any other purchaser of butter tubs in interstate commerce, and (6) exchanging with each other, directly, or through the trade association or any other medium, future sales price information, including lists of preferred customers, jobbers or brokers, and reports as to sales of butter tubs together with prices, discounts and terms at which they are sold.

*Millinery Quality Guild, Inc., and others, New York* --An order to cease and desist was issued against Millinery Quality Guild, Inc. and its members who are manufacturers of ladies' hats. The order restrained them from soliciting or obtaining from retail dealers in women's hats any agreement or understanding whereby the retailers would undertake or agree to refrain from purchasing from manufacturers women's hats which were, or were claimed to be, copies of designs originated and manufactured by the respondents. The order also restrained the respondents from failing or refusing to sell their products to retail dealers for the reason that such dealers purchased from manufacturers hats alleged by the respondents to be copies of hats, the designs of which were originated by them. The respondents were also prohibited from expelling from membership in the guild any member for the reason that it had sold women's hats to retailers who refused to enter into the agreement with respect to protection against design piracy.

*Conde Nast Publications, Inc., New York*.--Conde Nast Publications, Inc., publisher of Vogue magazine, was served with an order requiring it to cease and desist from entering into contracts, agreements or understandings with retail dealers in women's garments, specifying that the retailers shall observe and maintain retail prices quoted, by it with respect to certain garments pictured in the magazine. The respondent was also directed to cease entering into contracts with manufacturers of women's garments requiring a manufacturer

to limit the number of retail dealers to whom it will sell and ship such garments in each locality. The order also prohibited the respondent from using and carrying out a plan whereby, pursuant to contracts with selected manufacturers of women's garments, it selects models of such manufacturers' garments, pictures the same in its magazine, selects and publishes the names of retailers who have such garments for sale and requires the manufacturers to refrain from selling such garments pictured to any retailers except those selected by the respondent.

*California Packing Corporation, and others, San Francisco.*-California Packing Corporation and Alaska Packers Association, packers and distributors of food products, such as dried fruits, canned fruits, canned vegetables, canned fish, canned pineapple and canned coffee, were required to cease and desist from inducing, coercing or compelling the routing of shipments of commodities purchased or sold by concerns which wore, in competition with them to or through Encinal Terminals at Alameda, Calif., or through any other terminals owned or controlled by them. Among other practices prohibited in connection with the routing of shipments through such terminals was the pursuance of a plan or policy of using the tonnage of freight shipped or received by the respondent corporations, or their buying power, to induce, coerce, or compel steamship companies or industrial concerns to route tonnage to or through Encinal Terminals or any subsidiary terminal or to use the facilities thereof in violation of the order, through threats of withdrawing or diminishing, or promises of making or increasing purchases or shipments by the respondents.

#### **FALSE DISPARAGEMENT OF COMPETITORS' PRODUCTS**

*Loft, Inc., Long island City, N. Y.*, manufacturer and distributor of candy and confection products, was directed to stop representing that glucose, whether in commercial or in any other form, as now produced and used or contained in candy products, was impure, harmful to health, unwholesome, dangerous or unsafe. The respondent was also prohibited from representing that candy products made with or containing glucose were impure, harmful to health, unwholesome, dangerous and unsafe, and inferior in quality to and less pure than the candy products of the respondent. The order also prohibits the representation that Loft candies are made without, or do not in fact, contain glucose.

#### **IMITATION OF NATIONALLY KNOWN RADIO BRANDS**

*Marconi Radio Corporation, New York, and others*, in connection with the sale of radio sets, were directed to cease and desist from using such well-known and long established trade-marks, names and symbols, as "Edison", "Bell", "EB", "Marconi", "Majestic", "Victor",

“Brunswick”, “General Electric”, “GE” in a circle with scroll-like interior decorations, “Radio Corporation of America”, and colorable imitations and simulations thereof, and from representing that their products so branded were manufactured, endorsed, sponsored or approved by any of the concerns whose trade-marks, names and symbols were as above set out, contrary to the facts, and when the use thereof was without the knowledge and consent of the lawful powers of these trade-marks, names and symbols.

#### **FALSELY REPRESENTING CUTLERY TO BE STAINLESS STEEL**

*National Silver Company, New York*, in connection with the inter state sale of flatware cutlery made of carbon steel and thinly plated with nickel and chromium, was ordered to cease and desist from representing, contrary to the facts; that the cutlery was stainless. The respondent company was directed to cease using the word “Stainless” as a trade name, brand, stamp, or label for knives and flatware cutlery unless made of steel containing chromium and carbon in certain proportions which represent and correspond to the specifications for cutlery made from stainless steel. It was further ordered that the respondent company cease similarly using the word “Stainpruf” or like words indicating that the chromium-plated knives and flatware cutlery in question were in fact stain proof.

#### **MISREPRESENTATIONS AS TO PROPRIETARY PRODUCT**

*Tyrell H. Duncombe, Highland Park, Mich.*, trading as Duncombe Research Laboratory, sold the preparation “Germex” directly to physicians, hospitals, laboratories and individuals.

The Commission found that the respondent had represented this product as a safe, harmless antiseptic, suitable even for intravenous use, and as capable of destroying disease-bearing germs, bacteria and parasites; and that it was a cure for cancer, syphilis, arthritis, pernicious anemia, gangrene and tuberculosis; that it gave notable results in such diseases or ailments as sinusitis, catarrh, trench mouth and stomach ulcers; and was successfully used in the treatment of diphtheria, scarlet fever, septicemia, fistula and rheumatics fever.

The Commission found that the respondent was not a doctor, although he had prescribed for patients, and that “Germex” was not sterile but contained living microorganisms; that “Germex” was an aqueous solution, the drug extractives of which were identical with those of the echinacea root; that it contained no therapeutic ingredients which would be helpful in the treatment or cure of any of the diseases enumerated by the respondent, and that the respondent’s representations in respect to the preparation were false and misleading in their entirety.

The Commission's order required the respondent to cease representing that "Germex" was sterile or antiseptic in its action, would kill or drive out disease-forming bacteria; could be taken safely, externally, internally or intravenously; or was a cure or remedy for, or would relieve pain in connection with, or produce any beneficial results in the treatment of the diseases or ailments mentioned, or any other diseases or ailments to which human beings are subject.

**MISREPRESENTATION OF CORRESPONDENCE SCHOOL AS AN EXTENSION UNIVERSITY**

*LaSalle Extension University, Chicago*, conducting courses principally in law, accountancy and business subjects, was ordered to cease and desist from representing, directly or indirectly, through use of the term "Extension University" or the word "University", in its corporate name or in any other manner, that it was or that it conducted a university or an extension university.

The Commission found that the word "Extension" preceding the word "University" as used in the respondent's advertising did not change or limit in this case the characteristics and attributes generally understood as necessary to entitle an institution to be designated as a university. In fact, this usage was found to indicate a broadening and enlargement of the scope of activities of even an institution recognized as a university. Under these circumstances, it was found that use of the word "Extension" means bringing to the public outside the walls of a university the advantages which it ordinarily would offer only to resident students.

From the testimony of noted and outstanding educators, it was found that while many of the respondent's courses of instruction were of college grade, the institution itself was not a university and did not possess the qualities and attributes considered by educators and the public generally as requisites necessary to be possessed by an institution to make it a university or to entitle it to be designated as such.

**CANDY LOTTERY**

*Queen Anne Candy Company, Seattle, Wash.*, was ordered to cease selling to wholesale dealers and jobbers, for resale to dealers, candy so packed and assembled that sales to the public were or might be made, by means of a lottery, gaming device or gift enterprise; and to discontinue supplying wholesalers and jobbers with "punch board" or "push card" devices, either with assortments of candy or separately, bearing legends informing the purchasing public that the candy was being sold by lot or chance or in accordance with a sales plan, gaming device, or gift enterprise.

### MISREPRESENTATION OF EARNING CAPACITY

*Food Display Machine Corporation, Chicago*, engaged in the sale of potato chip machines, was ordered to cease and desist from representing or holding out as possible or maximum earnings for prospective operators of its machines during a fixed period, any amount in excess of actual earnings of its regular operators under normal business conditions during a fixed period. The respondent was also directed to cease representing or holding out as usual or customary earnings or profits to be derived from operation of its machines, any sum in excess of the average amounts actually earned under normal business conditions.

### CLOSING OF CASE INVOLVING ROBINSON-PATMAN ACT

In one complaint involving alleged violation of Section 2 of the Clayton Act as amended by the Robinson-Patman Act, the Commission closed the case without prejudice. A discussion of the charges contained in the complaint follows:

*Procon Grocery Service Co., Inc., New York*, Kroger Grocery and Baking Co., Cincinnati; American Stores Co., Philadelphia; First National Stores, Inc., Somerville, Mass.; National Tea Co., Chicago; Safeway Stores, Inc., Oakland, Calif.; David Pender Grocery Co., Norfolk, Va.; Southern Grocery Stores, Inc., Atlanta; Eisner Grocery Co., Champaign, Ill.; Steiden Stores, Inc., Louisville; Danahy-Faxon Stores, Inc., Buffalo, and Fisher Grocery Co., Springfield, Ill., were charged in one complaint with a Violation of Section 2 (c) of the Robinson-Patman Act. The complaint alleged that these large chain store buyers, through the instrumentality of Procon Grocery Service Co., Inc., were obtaining a so-called brokerage fee or commission, the amount of which varied between 1 percent and 10 percent of the quoted sale price agreed upon by buyer and seller, and that Procon, after the receipt of such fees or commissions, transmitted and paid them over to the respondent buyers, who were stockholders in Procon Grocery Service Co. It was further alleged that Procon was the agent and representative of the respondent buyers, acting for them and in their behalf and subject to their control, and that the so-called brokerage fees or commissions were not received or accepted by Procon as payment for any services rendered by Procon to the sellers but, on the contrary, were received and accepted for the use and benefit of the buyers and for the purpose of being transmitted and paid over to them. After the issuance of the complaint, the corporation was dissolved. Its members expressed an intention to cease the practices alleged, surrendered their charter and certified to the Commission a statement to the effect that they had dissolved the corporation in good faith and did not intend as a group or individually to

organize any similar corporation or any unincorporated association to engage in the business practices described in the complaint. The Commission then closed the case without prejudice to its right to reopen it and resume prosecution of the complaint in accordance with its regular procedure, should the facts so warrant.

## **TYPES OF UNFAIR COMPETITION**

### **PRACTICES CONDEMNED IN ORDERS TO CEASE AND DESIST**

Following is a partial list of unfair methods of competition which have been condemned by the Federal Trade Commission in orders to cease and desist issued during the fiscal year. These do not include violations of the Clayton Act as amended by the Robinson-Patman Anti-Price Discrimination Act, nor of those sections of the Clayton Act embracing "tying" contracts, corporate stock acquisitions, and interlocking directorates. The list follows:

1. Use of false and misleading advertising, false branding and labeling of products, for example:

(a) Misrepresenting flavoring extracts to be imported when they are in fact domestic-made.

(b) Misrepresenting merchandise as having been procured from sales of refused, salvaged or surplus Army and Navy supplies.

(c) Misrepresenting the processes employed in preparing salt offered for use in the curing of meats.

(d) Mislabeling radios with well-known and long recognized brand names of nationally advertised radios, simulating the brand names of such nationally advertised radios and passing off such products as and for such nationally advertised radios.

(e) Misrepresenting the quality, character and viscosity of motor oils, and the quality, character and octane rating of gasolines.

(f) Misrepresenting western ponderosa pine as white pine.

(g) Misrepresenting that upright pianos are grand pianos.

(h) Misrepresenting as camel's hair certain textile fabrics which do not contain camel's hair or camel's wool.

(I) Misrepresenting as whitefish a certain salt water fish known as cusk.

(j) Misrepresenting cigars made in the United States from domestic tobacco as being made from Cuban tobacco and as being Havana cigars.

(k) Misrepresenting tombstones and monuments made from granite chips mixed with cement as being granite.

(l) Misrepresenting photographic enlargements as being original drawings or paintings.

- (m) Misrepresenting stock size men's suits as being tailor-made or made-to-order.
  - (n) Misrepresenting the results to be obtained upon using various motor compounds and fluids, cleaning fluids, animal traps and other products.
  - (o) Misrepresenting that various miscellaneous products, such as incandescent lamps, stump socks for use on artificial limb appliances, and imitation and simulated diamonds, have a merit far in excess of that actually possessed.
2. Combining, agreeing and cooperating for the purpose, and with the effect; of suppressing competition among members of the combination and closing the sources of supply and sale to non-members through such cooperative means as controlling solicitation of business, allocation of customers and channels of distribution, fixing and maintaining uniform prices, terms and conditions, and exchanging information regarding contemplated price changes. The commodities involved in such agreements were: pin tickets, women's wear, surgical instruments, uniform caps, electric cable, turbine generators and condensers, butter tubs, grocery products, furniture, rubber heels and soles, and water gate valves and hydrants.
3. Misrepresenting the advantage to prospective customers in dealing with the seller by-
- (a) Asserting that the seller is a manufacturer of the products he offers for sale, thereby implying to purchasers that the middlemen's, profits are eliminated.
  - (b) Alleging that the seller is a wholesaler and is offering his goods at wholesale prices.
  - (c) Misrepresenting the size and importance of the seller's business by use of illustrations of fictitious buildings, or by exaggeration of the space occupied by the seller's business, or of the extent and value of his equipment.
4. Misrepresenting the necessity for, or advantage in using, various devices claimed to be beneficial in curing, treating or relieving such conditions as prostatic gland troubles or deficiencies, foot and leg abnormalities, obesity and hair deficiencies.
5. Use of books or pamphlets claiming; (1) to reveal all of the essentials to health and alleging that all illness is caused by neglect of one or more of such essentials; and (2) claiming to conquer bashfulness, nervousness and other psychological abnormalities.
6. Misrepresenting the necessity for, or advantage in using, various medicinal preparations claimed to be beneficial in curing, treating or relieving such conditions as nutritional deficiencies; diseases and ailments of the skin, stomach, kidney, bladder and digestive organs; glandular disturbances; asthma and hay fever; women's diseases, rheumatism, arthritis, neuritis and related ailments; metabolic dis-

orders, vitamin and mineral deficiencies; weakness, irritation and diseases of the eyes and ears.

7. Misrepresenting the advantages in using certain hair tonic, eyewash, facial cream, depilatory, eyelash grower and dentifrice, claimed to be beneficial, respectively, in relieving eye strain, promoting growth of hair, penetrating the skin below the epidermis so as to reach and beneficially affect the underlying muscles, tissues and glands, restoring gray hair permanently to its former color without dyeing, removing tartar on teeth and destroying mouth germs and bacteria.

8. Misrepresenting in the sale of encyclopedias and reference works that purchasers will receive all or a portion of the books free upon subscribing to additional research or extension services; that the purchasers are on preferred lists to receive the books free and without cost; that old and unrevised encyclopedias and reference works have been revised, enlarged and brought down to date; and that leaders in various professional fields are contributors to, or associate editors of, such encyclopedias and reference works, when they are not.

9. Use of misrepresentations by correspondence schools importing that they have some connection with, or are a branch or bureau of, the United States Government or of the Civil Service Commission; that there are many openings for various positions in the classified Civil Service and that examinations to fill such vacancies are held at frequent intervals; that upon completion of the courses of instruction, successful students will be placed in Government or other positions; that students have been selected on account of scholastic grades, or otherwise, to receive the courses at reduced rates; and that the respondents conduct, or are connected with, a university or an extension division of a university.

10. Misrepresenting through use of the words "Laboratory", "Manufacturer", "Mill", "Factory", and "Distiller" that the seller is the manufacturer of the products which he offers for sale, implying that middlemen's profits are eliminated and other advantages obtained because of the purchasers' ability to deal direct with the manufacturer.

11. Misrepresenting the character and quality of the raw materials used in manufacturing finished products, for example, misstating the amount and quality of the wool content of fabrics and other products; misrepresenting the amount and quality of silk in fabrics; misrepresenting split leather as being genuine cowhide, genuine leather, or chamois; misrepresenting the proportion or quantity of pure fruit juices or other food products in jams, preserves and other food stuffs.

12. Use of puzzle contests with the representation that the mere solution of the puzzle entitles the successful contestant to a prize, when, in fact, other services and performances are imposed upon the contestant before he is entitled to receive a prize.

13. Using a method of sale involving an element of chance or lottery, or preparing goods so that such a method of sale may be used.

14. Misrepresenting the character of the process used in producing gasoline and misrepresenting that gasoline to which tetraethyl head has been added is narcotic in effect, "doped up", poisonous, unsafe and dangerous to the life and health of persons using such gasoline for motor fuel.

15. Simulation of the containers in which merchandise of competitors is customarily packed and displayed, simulation of well known accounting systems and imitation of names of trade papers and well known and registered trade marks such as "Ethyl" and "Gulf".

16. Use of false and disparaging statements in respect to products sold by competitors, such products being oilcloth, window shades, pianos, pipe's, pipe filters, beer taps and candy.

17. Misrepresenting, through use of fictitious prices, that the usual and ordinary sale price is higher than the price at which the goods are actually sold, when such is not a fact.

18. Misrepresenting, in advertising for house-to-house canvassers or sales agents, the nature of their employment, the prospective profits, the usual retail prices of the products which they are to sell and the demand therefor.

19. Use of demonstrations. and scientific tests in such a way as to misrepresent the circumstances surrounding the tests or the results the re of.

20. Misrepresenting in the sale of dental plates that from impressions made by customers from their own teeth and gums the seller can make artificial teeth that fit as well and are as satisfactory as those made by members of the dental profession.

21. Misrepresenting the geographic location of the place of manufacture of a product by specifying the name of a place famous for such products.

## **CASES IN THE FEDERAL COURTS**

### **COMMISSION ACTIONS IN THE U. S. SUPREME, CIRCUIT AND DISTRICT COURTS**

Federal Trade Commission cases pending in the United States courts for final determination during or at the close of the fiscal year are reviewed in alphabetical order in the pages immediately following.<sup>2</sup>

During the year the Commission was sustained in 18 cases before the Federal Courts, 17 of which were in the United States Circuit Courts of Appeals, and 1 in a United States District Court. In none of these cases was the Commission reversed.

While there were no decisions during the year on the merits in Commission cases pending in the Supreme Court of the United States, that

<sup>2</sup> United states Circuit Courts of Appeals are designated First Circuit, second Circuit, etc.

Court denied petitions for writs of certiorari applied for by 7 petitioners, who were unsuccessful in their attempts in the Circuit Courts of Appeals to nullify the Commission's orders. These petitioners were: Armand Co., Des Moines, Iowa; A. McLean & Son, M. J. Holloway & Co., and Bob Hofeller Candy Co., all of Chicago; Queen Anne Candy Co., Hammond, Ind.; Bonita Co., Fond du Lac, Wis., and F. A. Martoccio Co. (Hollywood Candy Co.), Minneapolis.

The Supreme Court granted the Commission's petition for writ of certiorari in the Standard Education Society case.

Fifteen of the 18 cases in which the Federal courts sustained the Commission were formal affirmances. These cases were: (1) American Army and Navy Stores, and (2) Army and Navy Trading Company, both of Washington, D. C.; (3) Butterick Publishing Co. and seven other respondents, (4) James Kelley, (5) National Silver Co., and (6) Real Products Corporation, all of New York; (7) Chicago Silk Co., (8) A. McLean & Son, (9) M. J. Holloway & Co., (10) Mid West Mills, Inc., and (11) Standard Education Society and four others, all of Chicago; (12) F. A. Mortoccio Co. (Hollywood Candy Co.), Minneapolis; (13) Queen Anne Candy Co., Hammond, Ind.; (14) Bonita Co Fond du Lac, Wis., and (15) George Ziegler Co., Milwaukee.

Of the remaining three cases, one involved a contempt proceeding for violation of a decree affirming an order of the Commission, in which the respondents, Pacific States Paper Trade Association and certain of its member companies, of San Francisco and points in California, Washington, Oregon and Utah, were fined \$10,000; One involved a Court dismissal of the Commission's application for enforcement on joint motion of the Commission and the respondents, Evans Fur Co. and Kent Fur Co., both of Chicago, because the respondents had stipulated with the Commission that they would, in the future, scrupulously obey all terms of the Commission's order to cease and desist, and the third case represented a successful attempt by the Commission, through mandamus, to compel the National Biscuit Co., New York, to supply certain data required in connection with the Commission's Agricultural Income Investigation.

Commission court cases for the fiscal year are summarized as follows:

*American Army and Navy Stores, Inc., and Army and Navy Trading Co., both of Washington, D. C.*--On July 22, 1936, the Commission docketed, with the United States Court of Appeals for the District of Columbia, applications for enforcement of its cease and desist orders directed against these two concerns. With the applications, the Commission filed printed transcripts of the records and briefs.

The charge was that the use by these corporations of the words "Army and Navy" in their names, and in advertising in circulars, trade journals, newspapers and periodicals, misled and deceived buyers

into the false belief that the goods to be purchased in such stores "were substantially: all if not all, procured from the Army and Navy Departments of the United States Government; that the goods were of the quality and nature used by said Departments;" and that substantial bargains in price and quality would be obtained in such stores, with resulting diversion of trade to the respondents from their competitors.

On August 24, 1936, the Court entered its decree affirming the Commission's order in the American Army and Navy Stores case, and commanding the respondent to comply therewith.

The Army and Navy Trading Co. case was argued on its merits, November 10, 1936, and the Court, January 4, 1937, with a slight modification, affirmed the Commission's order (88 F. (2d) 776). In the course of its opinion, it said:

The first of the two issues of law in the case is whether the conclusion of the Commission, that the use of the words "Army and Navy" in the Trading Company's name is an unfair method of competition, is justified. It is. The Supreme Court has ruled that false and misleading representations as to the origin of a commodity constitute an unfair method of competition. \* \* \* The second issue of law is whether the cease and desist order of the Commission is too broad. The Trading Company contends that the Commission cannot lawfully order suppression of a trade name where the use of qualifying words will eliminate the deception and preserve the rights of competitors and the public. \* \* \* We think it not feasible to select qualifying words for use with the name "Army and Navy Trading Company" which will be effective to eliminate deception. The stock of goods of the Trading Company is in only an insubstantial portion, if at all, in any sense Army and Navy goods. But the phrase "Army and Navy" in the name "Army and Navy Trading Company" makes the single representation that at least the major portion of the merchandise offered for sale is in some sense Army and Navy goods. This single representation being untrue, it cannot be qualified; it can only be contradicted.

*Armand Co., Des Moines, Iowa.*--The Second Circuit (New York), July 2, 1936, in an opinion entered by the entire court (84 F. (2d) 973), denied the Armand Company's petition for reargument. of a motion to vacate the Court's decree (entered in 1935-see 78' F. (2d) 707), affirming the Commission's cease and desist order. The proceeding involved the maintenance, by the Armand Co., through the medium of express or implied agreements, of resale prices for its cosmetic products, fixed at arbitrary levels imposed by the company. On October 1, 1936, the company petitioned the Supreme Court for a writ of certiorari, to review the Second Circuit's per curiam decision of July 2. Brief in opposition, on behalf of the Commission, was filed October 30. The petition was denied November 16 (299 U.S. 597). Petition for rehearing was filed December 10, and denied December 14, 1936 (299 U.S. 623).

*Butterick Publishing Co., New York, and others.*--This group of New York publishers and distributors of magazines and other period-

icals, includes the Butterick Co., MacFadden Publications, Inc., Frank A. Munsey Co., Street & Smith Publications, Inc., Pictorial Review Co., International Circulation Co., Inc., S. M. News Co., Inc., and Midwest Distributors, Inc. The group, on October 25, 1935, had filed with the Second Circuit (New York) petitions to review and set aside the Commission's order to cease and desist in this case. On August 13, 1936, the Second Circuit (85 F. (2d) 522), unanimously affirmed the Commission's order.

Under the order, the petitioners were directed to cease and desist from preventing or seeking to prevent, by agreement, combination or concert of action, any person, firm or corporation from selling to distributors thereof or dealers therein, second-hand or back-number magazines lawfully owned by such person, firm or corporation, or seeking to prevent, or causing wholesalers to prevent retailers of magazines from buying and selling second-hand or back-number magazines. A proviso was added to the effect that nothing therein contained should prevent the petitioners from taking such action against wholesalers and retailers of their respective magazines as might reasonably be necessary to prevent the placing on sale of the coverless magazines or returns for which the petitioners had reimbursed such wholesalers and retailers.

The Court, in part, said:

While it is contended that the Commission was without jurisdiction in that the unfair methods of competition found were not shown to have been used in interstate commerce, it seems too clear for controversy that they were. The new magazines whose source of supply was controlled by the publishers were largely shipped across State lines and the threat to withhold them from dealers who did not sell new magazines exclusively would, if carried out, to that extent stop inter-state transportation of the magazines. So, too, the second-hand magazines were largely transported from State to State and the threatened curtailment of that business would have like effect upon interstate commerce.

Though any one publisher acting alone may sell or not sell his magazines as he may choose, *Federal Trade Commission v. Raymond Bros.-Clark Co.*, 263 U.S. 565, two or more may not combine in such refusal if the result is to harm the public or any person against whom the concerted action is taken. *Binderup v. Pathe Exchange*, 263 U.S. 291.

\* \* \* \* \*

But in this instance the concerted attempt was to prevent the sale of second-hand magazines where the new magazines of the petitioners were sold in competition with each other and the second-hand ones. It was shown that the business of selling second-hand magazines had been seriously curtailed by the agreement of the publishers and the action taken thereunder; and, except for some unsupported argument that the public health was endangered by the sale of used magazines, the action was plainly for the purpose of stifling competition. Certainly it is self-evident that an owner of second-hand magazines may of right sell them if he chooses, as may the owner of any other property suitable for sale. One need only remember the large use made of what are really second-hand books and magazines in the libraries throughout the country, to put aside as inconsequential the notion that the business is injurious to public health. The requirement that dealers must

not sell second-hand magazines where the new ones are sold, as a condition precedent to being allowed to obtain new magazines for sale from the petitioners, has been shown unreasonable and unnecessary to protect any legitimate rights of the publishers, and the order of the Commission under review should be affirmed, since the facts which support it have been found on sufficient evidence.

*Candy Lottery Cases.*--The Seventh Circuit (Chicago) July 1, 1936, in a unanimous, opinion, modified slightly and affirmed the Commission's cease and desist orders directed against *A. McLean & Son and M. J. Holloway & Co., both of Chicago; Queen Anne Candy Co., Hammond, Ind.; and Bonita Co., Fond du Lac, Wis.* The proceedings were instituted February 29, 1936, when the Commission filed applications for enforcement of its orders. Pertinent excerpts from the Court's opinion (84 F. (2d) 910) follow:

It is contended by the respondents, that the facts as found do not support an order to cease and desist. We hold otherwise on the authority of *Federal Trade Commission v. Keppel*, 291 U. S. 304; *Walter H. Johnson Candy Co. v. Federal Trade Commission*, [78 F. (2d) 717]; and *Hofeller v. Federal Trade Commission*, [82 F. (2d) 647]. Many questions of fact and law are raised by respondents, but most of them were decided adversely to respondents' contentions in the cases just cited. They contend that section 5 of the Act violates the Federal constitutional mandate of separation of governmental functions, and the due process clause. We think there is no merit in this contention.

\* \* \* \* \*

It is further contended by certain of the respondents that the court failed to find that they had discontinued the manufacture and sale of the chance assortments on August 1, 1934. Discontinuance or abandonment is no defense to the order, for, if true, it would be no guaranty that the challenged acts will not be renewed.

\* \* \* \* \*

Respondents further contend that the orders of the Commission seek to control the method of retail sale of candies in intrastate commerce, and for that reason they, together with the Act under which they were promulgated, are invalid under the ruling in the Schechter case. The orders, however, are expressly limited to interstate commerce and they do not apply to any intrastate business in which any of the respondents may be engaged.

\* \* \* \* \*

The four respondents, September 25, 1936, petitioned the Supreme Court for writs of certiorari to review the decision of the Seventh Circuit. Brief, on behalf of the Commission, in opposition to the granting of the writs, was filed October 22, and the petition was denied November 9, 1936 (299 U. S. 590).

At the beginning of the fiscal year, there was pending in the Supreme Court of the United States a petition for certiorari filed by *Robert Hofeller, an individual trading as Bob Hofeller Candy Company, Chicago*. Hofeller sought a review of the decision of the Seventh Circuit of March 25, 1936 (82 F. (2d) 647), unanimously affirming the Commission's order. Brief, on behalf of the Commission, in opposition to the petition, was filed August 7. Hofeller's petition was denied October 12, 1936 (299 U.S. 557).

On October 3, 1936, the Commission filed with the Seventh Circuit an application for enforcement of its order directed against *George Ziegler Company, Milwaukee*. The Court, February 18, 1937, entered its decree affirming the order and commanding obedience thereto.

On November 18, 1936, the Commission filed with the Eighth Circuit (St. Louis) an application for enforcement of its order directed against *F. A. Martoccio Co., a corporation, in its own name and right, and trading as Hollywood Candy Co., Minneapolis*. The case was argued December 14, 1936, and the Commission's order unanimously affirmed January 23, 1937 (87 F (2d) 561). The Court concluded its opinion with the following language:

We conclude that this case is ruled by the Keppel case (291 U. S. 304). We so conclude since we construe the Keppel case to determine that a method of sale which employs the element of chance as an essential feature is against public interest because it is in the nature of a gambling game and that such a method is unfair competition because it places competitors in the position where they must unwillingly adopt such method or run the risk of losing business if they refrain from so doing. Since we are unable to distinguish, in essentials, the situation 'in this case from the one presented in the Keppel case, the enforcement of the order of the Commission here involved will be ordered and the petition to set aside the order will be denied.

The company's petition for rehearing was denied February 12. On March 30, 1937, it filed with the Supreme Court a petition for writ of certiorari. The Commission's brief in opposition was filed April 21, and the petition was denied May 3, 1937.

The effort of the *Sifers Confection Co., Kansas City, Mo.*, to modify the degree of the Eighth Circuit of June 4, 1936, affirming the Commission's order (84 F. (2d) 999), proved unsuccessful, its motion to that effect having been denied January 23, 1937.

The Commission, May 27, 1937, docketed with the Second Circuit (New York) an application for enforcement of its cease and desist order directed against *Leader Novelty Candy Co., Brooklyn*.

*Chicago Silk Co., Chicago* .--At the beginning of the fiscal year, July 1, 1936, there was pending in the Seventh Circuit (Chicago) a petition by Chicago Silk Co. to review and set aside the Commission's cease and desist order issued against it. The order had prohibited the interstate sale, by means of lottery methods (use of punch cards or push cards), of hosiery or lingerie. After briefs had been filed, the case was argued on the merits, April 22, 1937, and decided unanimously in favor of the Commission, June 24, 1937. The Court said, in the course of its opinion (90 F. (2d) 689):

We assume that the question which petitioner seeks to raise is that the facts as found by the Commission do not constitute an unfair method of competition. With this position we are unable to agree. We gather from petitioner's brief that it should not be held accountable for any consequences which result from the activity which it originates. It is claimed, for instance, that there can be no

harm in the mailing of the punch cards; that whether they are used for disposing of merchandise by chance is one to be determined by the recipient of such cards and that, inasmuch as the cards are furnished free, petitioner is not engaged in a lottery or in disposing of its merchandise by chance. There is no merit in such contention. The petitioner originated and set in operation the scheme or device in question. Moreover, it sent through the mail specific instructions for the operation of the plan and reaped the benefits from its execution.

*Electro-Thermal Co., Steubenville, Ohio.*--This concern, September 18, 1936, docketed with the Ninth Circuit (San Francisco) its petition for review of the Commission's cease and desist order, which prohibited certain alleged misrepresentations concerning an electrical device for the treatment of prostatic and other ailments. After the printing of the transcript, briefs were filed by both parties and the case set for argument on July 16, 1937. <sup>3</sup>

*Evans Fur Co. and Kent Fur Co., Chicago.*--The Commission, November 27, 1936, filed with the Seventh Circuit (Chicago) an application for enforcement of its cease and desist order prohibiting these corporations from advertising and representing in any manner that they were manufacturers of the fur garments sold by them or implying that purchasers of their products saved the middleman's profit, and similar misrepresentations.

After the case had been docketed, the respondents stipulated with the Commission that they would, in the future, scrupulously obey all terms of the order. The Commission, considering the circumstances, and believing that the public interest would be adequately protected, consented to withdraw its proceeding. Accordingly, on January 4, 1937, the Court, on joint motion of the parties, entered an order dismissing the application for enforcement, "without prejudice to the right of said Federal Trade Commission, at its option and in its discretion, at any time or times hereafter, to file in this Court or other Court, said petition or a like petition, or such petition or papers as said Commission may elect, or to do such other acts as said Commission shall deem to be in the public interest" (88 F. (2d) 1008).

*Goodyear Tire & Rubber Co., Akron, Ohio.*--A petition of the Goodyear Tire & Rubber Co. to review and set aside the Commission's order to cease and desist as issued March 5, 1936, was pending at the beginning of the last fiscal year in the Sixth Circuit (Cincinnati). This Commission order had directed the respondent company, its subsidiaries, and their officers and agents, to cease and desist from discriminating in price between Sears, Roebuck & Co. and the Goodyear company's retail-dealer customers, by selling automobile tires to Sears, Roebuck & Co. at net realized prices lower than those at which the Goodyear company sold the same sizes of tires of comparable grade and quality to individual tire dealers or other purchasers. A printed condensation of the record was filed with the Court, March 31, 1937, and briefs

<sup>3</sup> The matter was argued July 16, 1937, and decided unanimously in favor of the Commission, July 19.

for the petitioner and the Commission were filed April 26 and May 24, 1937, respectively. On motion of the Goodyear company, argument was postponed until the October, 1937, term.

*James Kelley, New York.*--The Commission, July 23, 1936, filed with the Second Circuit (New York) an application for enforcement of its order directed against this respondent, an individual with headquarters in New York, and engaged in a mail-order jobbing business in fountain pens, pencils, and specialties. The order, based on findings supported by evidence, forbade Kelley from making certain misrepresentations in connection with his business, for example, that he manufactured the products he sold, that he conducted the business of a large mail-order concern, that purchasers of his articles saved the middleman's profit, that his pen points were tipped with iridium and were made of 14-carat gold, and that his fountain pens were worth as much as \$8 and \$10. After argument, the Court, February 3, 1937, affirmed the Commission's order from the bench. There was no opinion [87 F. (2d) 1004].

*Maisel Trading Post, Inc., Albuquerque, N. Mex.*--The Tenth Circuit (Denver), July 21, 1936 (84 F. (2d) 768), denied the Commission's motion for interpretation of the Court's order of August 28, 1935 (79 F. (2d) 127), modifying the Commission's cease and desist order in this case, with the object of eliminating certain misunderstandings which had arisen. The Commission's order was originally affirmed on May 1, 1935 (77 F. (2d) 246). It prohibited description of silver jewelry products made partly by machinery as "Indian" or "Indian-made", unless it was shown in such description whether the products so described had been rolled, pressed, or partly ornamented by machinery.

*National Association of Counter Freezer Manufacturers, Chicago.*--This case was pending in the United States Court of Appeals for the District of Columbia at the beginning of the fiscal year. An appeal had been made from a decision entered by the Supreme Court of the District of Columbia, March 20, 1936, denying petition for writ of mandamus sought by this association and its members. Such a writ was to have compelled the Commission to take jurisdiction of certain allegations originally made in its complaint against the International Association of Ice Cream Manufacturers, and subsequently stricken out, on motion of a respondent. Brief for the appellants and the Commission were filed September 9 and October 3, 1936, respectively, and the case set for argument on November 10. On November 5 1936, without notice to the Commission, the appellants dismissed their appeal.

*National Biscuit Co., New York.*--The United States District Court for the Southern District of New York (New York City), February 16, 1937, upheld the Commission in its petition for writ of mandamus

(filed September 2, 1936) to require the National Biscuit Co. to supply certain data required by the Commission in connection with its Agricultural Income Investigation. The Commission based its demand for the information on a Joint Congressional Resolution authorizing an investigation with respect to agricultural income and the financial and economic conditions of agricultural producers generally, to enable Congress "to consider whether new legislation should be enacted or existing legislation amended on any of the subjects referred to." (For details of this investigation, see p.19.)

In concluding its opinion (18 F. (Supp.) 667) the Court said:

Certainly burdens on interstate commerce, monopolies and taxation referred to in the Joint Resolution, are subjects under the control of the Congress and upon which it is entitled to information. It is true that the facts requested do include some information regarding respondent's activities that are not solely interstate, but the presumption is that the Congress intends to make use of all the facts obtained in aid of legislation affecting interstate commerce only. In the judgment of the Congress the information requested does directly relate to interstate commerce and lack of such relation is not so clearly nonexistent as to justify the court in saying to the contrary. This is a matter for the Congress to decide, at least in the first instance.

*National Silver Co., New York.*--In a unanimous decision entered March 1, 1937, the Second Circuit (New York) affirmed the Commission's cease and desist order in this case. The matter was argued February 3, 1937. The proceeding originated July 29, 1936, when the company docketed its petition to review and set aside the Commission's order, which, in connection with the offering for sale and sale by the petitioner of its silverware in interstate commerce, prohibited representations, "through the use of the term 'sectional overlay', or any term, word or phrase of like import or meaning, in advertisements or printed matter, or in stamping or branding of its said silverware, or in any other manner whatsoever, that said silverware has extra deposits of silver at the points of wear, when such is not the case.

The Court said (88 F. (2d) 425):

On this record, it is established that the petitioner, who sells silverware in interstate commerce, caused its silver known as the "Martha Washington" pattern to be manufactured with all pieces stamped "sectional overlay". Its sets are known as staples and ornamental pieces. Its staples were in fact overlaid, but its ornamentals were not. Letters and words stamped on ornamental pieces which are not overlaid tend to mislead purchasers. Buyers testified to being so misled. If a purchaser is induced to purchase because petitioner's product is represented as sectionally overlaid, that violates Section 5 even if the purchaser did not lose actual value or quality by reason of the false representation. \* \* \* Indeed, even where the purchaser benefits by the deception, it is misleading \* \* \* Clearly this proceeding is in the public interest and well within the requirement of the Act.

*Pacific States Paper Trade Association, and others, San Francisco and points in*

*California, Washington, Oregon and Utah.--Fines totaling*

\$10,000 were imposed by the Ninth Circuit (San Francisco), March 17, 1937, upon the Pacific States Paper Trade Association and certain of its member companies, including the Zellerbach Paper Co., Blake, Moffitt & Towne, and others, for violation of a decree of that Court entered upon mandate of the Supreme Court of the United States (88 F. (2d) 1009).

The case originated upon a complaint of the Federal Trade Commission, terminating in a cease and desist order which ultimately was affirmed by the Supreme Court of the United States (273 U.S. 52).

Imposition of the fines was the outcome of a petition filed by the Commission, May 21, 1936, for a rule requiring the several respondents to show cause why they should not be adjudged in contempt for disobeying the Court's decree affirming the Commission's cease and desist order against price-fixing agreements in the sale of paper and paper products in interstate commerce. The Court's rule was issued June 8, 1936. The respondents filed with the Court a stipulation in which they admitted violation of the decree, and threw themselves on the mercy of the Court. The respondents include large companies on the Pacific Coast engaged in the manufacture and sale of paper and paper products.

*Real Products Corporation and Reflex Products Corporation, Brooklyn.*--The Commission, December 10, 1936, applied to the Second Circuit (New York) for enforcement of its order directing these two corporations to cease and desist from certain unfair methods of competition in interstate commerce.

The Commission's findings were to the effect that these concerns made extensive use of the word "Champion" in advertising and labeling automotive and metal specialties, including spark-plug cable sets, manufactured and sold by them, and that this practice deceived and misled the retail trade and purchasing public, by creating the impression that these products were made by the well-known Champion Spark Plug Co., Toledo, Ohio. The result, according to findings, was diversion of trade to the respondents from those of their competitors which did not indulge in such methods.

The case was argued on the merits May 11, 1937, and decided unanimously in favor of the Commission on June 7, 1937. The Court, in its opinion (90 F. (2d.) 617, 619) said:

The use of an identical name for kindred products necessarily was deceptive to the public and indicated a purpose to use it unfairly in competition.

\* \* \* \* \*

Nor is it necessary that the product misrepresented be inferior or harmful to the public. The deceptive misrepresentation suffices.

\* \* \* \* \*

The principle of the *Raladam* case, *supra*, that potential competitors are equally to be protected with actual competitors, is an integral part of the law of unfair competition. All persons are free to enter the trade at any time and are therefore potential competitors.

\* \* \* \* \*

Finally, it is not material that respondents have copyrighted the box label "Champion Spark Plug Set." A copyright is not a license to engage in unfair competition.

*Standard Education Society and others, Chicago.*--The Commission filed with the Second Circuit (New York), January 20, 1936, an application for enforcement of its cease and desist order against the respondents Standard Education Society, Standard Encyclopedia Corporation, H. M. Stanford, W. H. Ward, and A. J. Greener, all of Chicago, and engaged in the sale and distribution, in interstate commerce, of encyclopedias or reference works, so-called extension services, and works of fiction.

The order (in effect since 1931) was directed against misleading advertisements and representations as to the date of printing, prices, and methods of sale and distribution of respondents' publications, and editorial services, testimonials and recommendations rendered or received in connection therewith.

The respondents' motion to dismiss as to the individual respondents was overruled, June 8, 1936.

The case was argued on the merits November 12, and the Court, December 14, 1936, in part affirmed, and in certain particulars reversed, the Commission's order. The Court, in referring to the wide latitude given to the Commission in protecting the unwary buyer (86 F. (2d) 692), said:

Its powers are not confined to such practices as would be unlawful before it acted; they are more than procedural; its duty, in part, at any rate, is to discover and make explicit those unexpressed standards of fair dealing which the conscience of the community may progressively develop.

On March 19, 1937, the Commission petitioned the Supreme Court of the United States for a writ of certiorari, presenting the question: "Are false representations to prospective purchasers of sets of books that they were to receive the books free and pay only for loose-leaf annual supplements so obviously false that they do not amount to an unfair method of competition within the meaning of Section 5 of the Federal Trade Commission Act?"

The Supreme Court granted the Commission's petition on April 26, 1937, and the case was scheduled for argument at the subsequent October term.

**TABLES SUMMARIZING WORK OF THE LEGAL DIVISIONS AND COURT PROCEEDINGS, 1915-1937**

TABLE 1.--*Preliminary inquiries*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937
Pending beginning of year	4	12		32	19	29	61	68	147	102	191	176	298	328	224	260	409	307	423	478	760	185	111
Instituted during year	119	265	482	611	843	1,107	1,070	1,223	1,284	1,568	1,612	1,483	1,265	1,331	1,469	1,605	1,380	1,650	1,593	2,151	847	837	899
Total for disposition	119	269	474	643	862	1,136	1,131	1,291	1,381	1,670	1,303	1,659	1,503	1,659	1,693	1,765	1,789	1,965	2,016	2,629	1,607	1,022	1,010
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Closed after investigation	3	123	289	292	298	351	500	731	897	1,157	1,270	1,075	912	1,153	1,049	1,060	1,150	1,319	1,274	1,597	935	624	583
Docketed as applications for complaints	112	134	153	332	535	724	503	413	382	322	357	286	293	282	384	296	332	224	264	272	487	237	275
Total disposition during year	115	257	442	624	833	1,075	1,063	1,144	1,279	1,479	1,627	1,361	1,235	1,435	1,433	1,356	1,482	1,543	1,518	1,849	1,422	911	858
Pending end of year	4	12	32	19	29	61	68	147	102	191	176	298	328	224	260	409	307	423	478	760	185	111	152

CUMULATIVE SUMMARY TO JUNE 30, 1937

Inquiries instituted	26,533
Closed after investigation	18,672
Docketed as Applications for Complaints	7,709
Total disposition	26,381
Pending June 30, 1937	152

## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 2.--*Applications for complaints*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937						
Pending beginning of year						0	104	130	188	280	389	554	467	458	572	5665	488	420	457	530	843	753	754	440	476	469	634	685	
Complaints docketed						112	134	153	332	535	724	426	382	416	337	340	273	292	334	679	535	511	378	404	376	913	1,221	1,477	
Rescissions:																													
To complaints						0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2	0	3	0	0	0	0	3	
Settled by stipulations to cease and desist C.T.E. 1						0	0	0	0	0	0	0	0	1	1	1	0	2	2	3	5	3	3	1	6	6	9		
Settled by stipulations to cease and desist S.B.I. 1						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	4	12	18			
Settled by acceptance of T. P.C. rules						0	0	0	0	0	0	0	0	0	0	0	1	3	2	0	0	0	0	0	0	0	0		
Consolidated with other proceedings						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Dismissed for lack of merit							0	0	0	0	0	0	5	6	4	3	4	0	0	0	3	4	1	0	3	1	12	12	
Closed for other reasons						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	3	3		
Total for disposition						112	238	283	520	515	1,113	980	854	880	954	909	766	712	793	1,212	1,389	1,277	1,136	850	859	1,394	1,888	2,205	
To complaints						0	3	16	80	125	220	156	104	121	143	118	57	45	58	100	171	110	90	52	98	259	382	290	
Settled by stipulations to cease and desist--C.T.E. 1						0	0	0	0	0	0	0	0	3	5	102	80	68	118	244	160	123	96	111	228	301	252		
Settled by stipulations to cease and desist--S.B.I. 1						0	0	0	0	0	0	0	0	0	0	0	0	0	31	43	209	85	90	129	243	362			
Settled by acceptance of T.P.C. rules						0	0	0	0	0	0	0	0	0	2	3	19	17	32	5	6	3	0	1	0	0			
Consolidated with other proceedings						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
Dismissed for lack of merit							0	8	105	79	160	301	339	357	292	187	243	298	185	127	118	134	158	205	268	138	91	66	4
Closed for other reasons: 1						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	77	273	337	
Total disposition during year						8	108	95	240	426	559	513	396	308	389	421	346	255	263	369	636	523	696	374	390	760	1,203	1,241	
Pending end of year						104	130	188	280	389	554	467	458	572	656	488	420	457	530	843	753	754	440	476	469	634	685	694	

TABULAR SUMMARY OF LEGAL WORK 81

CUMULATIVE SUMMARY TO JUNE 30, 1937

Applications docketed	11,324
Rescissions:	
To complaints	10
Settled by stipulations to cease and desist--C. T. E	43
Settled by stipulations to cease and desist-S. B. I	37
Settled by acceptance of T. P.C. rules	6
Dismissed for lack of merit	58
Closed for other reasons 2	5
Total for disposition	11,483
To complaints 2,798	
Settled by stipulations to cease and desist-C. T. E	1,891
Settled by stipulations to cease and desist-B. B. I	1,192
Settled by acceptance of T P. C. rules	88
Dismissed for lack of merit	3,863
Closed for other reasons 2	687
Total disposition	10,519
Pending June 30, 1937	964

C. T E. designates stipulations concerning general unfair practices negotiated for the Commission by its chief trial examiner. S. B. I. means stipulations handled by the special board of investigation in oases of false and misleading advertising. T P. C. indicates trade practice conference.

This classification includes such reasons as death, business, or practices discontinued. private controversy, controlling court decisions. etc.



## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 3.--*Complaints*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1984	1935	1936	1937						
Pending beginning of year						0	0	5	10	86	133	286	312	257	232	264	220	152	147	136	198	275	225	208	144	115	218	419	
Complaints docketed						0	5	9	154	135	308	177	111	144	154	132	62	76	64	149	172	110	92	53	97	280	386	296	
Rescissions:																													
Orders to cease and desist						0	0	0	0	0	0	1	0	0	5	0	0	1	1	0	0	1	0	0	1	12	10		
Settled by stipulations to cease and desist						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Settled by acceptance of T. P.C. rules						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Dismissed for lack of merit						0	0	0	0	0	0	1	0	1	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0
Closed for other reasons						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total for disposition						0	5	14	164	221	441	415	423	392	396	282	230	212	285	370	385	318	261	241	396	616	725		
Complaints rescinded							0	0	0	0	0	0	0	0	0	0	0	0	3	2	1	3	0	0	0	0	0	3	
Orders to cease and desist						0	0	3	71	75	111	116	91	82	92	73	44	52	48	67	48	108	83	56	111	126	161	296	
Settled by stipulations to cease and desist						0	0	0	0	0	0	0	0	0	6	3	1	3	3	3	0	1	1	2	1	1	17		
Settled by acceptance of T.P.C. rules						0	0	0	0	0	0	0	0	0	0	0	5	5	1	0	1	0	6	0	0	0	0		
Dismissed for lack of merit						0	0	1	7	13	44	37	75	88	36	97	83	25	20	16	41	49	45	41	12	38	19	13	
Closed for other reasons:						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	13	16	38			
Total disposition during year						0	0	4	78	88	155	166	170	128	176	130	83	76	87	95	160	110	117	126	178	197	367		
Pending end of year						0	5	10	86	133	286	312	257	232	264	220	152	147	136	198	275	225	208	144	115	218	419	358	

TABULAR SUMMARY OF LEGAL WORK 83

CUMULATIVE SUMMARY TO JUNE 30, 1937

Complaint	3,166
Rescissions:	
Orders to cease and desist:	
Contest	12
Consent	18
Settled by stipulations to CEASE and desist	0
Settled by acceptance of TPC rules	0
Dismissed for lack or merit	4
Closed for other reasons	0
	3,200
Complaints rescinded	12
Orders to cease and desist:	
Contest	1,276
Consent	627
Settled by stipulations to cease and desist	42
Settled by acceptance or TPC rules	18
Dismissed for lack or merit	798
Closed for other reasons	69
Total disposition	2,842
Pending June 30, 1937	358

<sup>1</sup> This classification includes such reasons as death, business or practices discontinued, private controversy, controlling court decisions, etc.

## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 4.--*Court proceedings--Orders to cease and desist--Petitions for review--Lower courts*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1938	1937					
Pending beginning of year						0	2	8	13	9	4	14	9	8	8	85	3	8	15	2	1	8	8	
Appealed						4	9	18	5	5	15	6	5	4	4	34	1	10	22	3	1	5	8	2
Total for disposition						4	11	26	18	14	19	20	14	12	7	37	38	13	30	18	3	6	9	7
Decisions for Commission						1	0	1	4	5	1	6	5	4	3	1	4	3	1	2	2	3	4	3
Decisions for others						1	3	11	5	4	4	3	1	2	1	1	28	1	11	13	0	0	0	0
Petitions withdrawn						0	0	1	0	1	0	2	0	3	0	0	3	1	8	1	0	0	0	1
Total disposition during year						2	3	13	9	10	5	11	6	9	1	2	33	5	15	16	2	3	4	4
Pending end of year						2	8	13	9	4	14	9	8	8	3	35	3	8	15	2	1	3	5	3

## CUMULATIVE SUMMARY-TO JUNE 30, 1937

Appealed	159
Decision for Commission	53
Decisions for others	87
Petitions withdrawn	16
Total disposition	156
Pending June 30, 1937	3

This table lists a cumulative total of 89 decisions in favor of the respondents in Commission cases before the United States Circuit Courts of Appeals. However, the Grand Rapids furniture (veneer) group (with 25 different docket numbers) was in reality 1 case, with 25 different subdivisions. It was tried, briefed, and argued, as 1 case and was so decided by the court of appeals. The same held true of the curb-pump group (with 12 different subdivisions), the Royal Milling Co. group (with 6 different subdivisions), and the White Pine cases (12 subdivisions). In reality, therefore, these 55 docket numbers mean but 4 cases; and, if cases and not docket numbers are counted, the total of decisions favor of the respondents would be 36.

TABULAR SUMMARY OF LEGAL WORK 85

TABLE 5.--*Court proceedings--Orders to cease and desist--Petitions for review--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937				
Pending beginning of year					0	0	1	3	3	1	0	4	6	1	0	1	0	0	1	0	0	1	
Appealed by Commission					0	2	2	4	5	0	5	2	1	0	0	1	1	0	8	12	0	0	0
Appealed by others					0	0	0	0	2	1	1	3	1	0	2	0	0	1	0	1	0	4	0
Total for disposition					0	2	3	7	10	2	6	9	8	1	2	2	1	1	8	14	0	4	1
Decisions for Commission					0	0	0	2	0	0	0	0	3	0	0	0	0	0	13	0	0	0	0
Decisions for others					0	1	0	0	5	1	0	0	2	0	0	1	1	0	0	1	0	0	0
Petitions withdrawn by Commission					0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Certiorari denied Commission					0	0	0	2	1	0	1	2	1	0	0	0	0	1	0	0	0	0	0
Certiorari denied others					0	0	0	0	2	1	1	1	1	1	0	0	1	0	0	0	3	1	1
Total disposition during year					0	1	0	4	9	2	2	3	7	1	1	2	1	1	7	14	0	3	1
Pending end of year					0	1	3	3	1	0	4	6	1	0	1	0	0	1	0	0	1	0	1

CUMULATIVE SUMMARY--TO JUNE 30, 1937

Appealed by Commission	43
Appealed by others	16
Total appealed	59
Decisions for Commission	24
Decisions for others	12
Petitions withdrawn by Commission	2
Certiorari denied Commission	8
Certiorari denied others	13
Total disposition	59
Pending Jun, 30,1937	0

## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 6.--*Court proceedings--Order to cease and desist--Petitions for enforcement--Lower Courts*

	1919	1920	1921	1922	1922	1924	1925	1925	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937					
Pending beginning of year						0	0	0	0	0	1	0	2	3	2	5	3	2	1	2	2	2	5	
Appealed						0	0	0	0	1	1	1	3	2	3	9	4	3	0	2	3	6	12	9
Total for disposition						0	0	0	0	1	4	2	3	4	6	11	9	6	2	3	5	8	14	14
Decisions for Commission						0	0	0	0	1	0	2	0	0	1	5	4	4	0	0	3	4	8	12
Decisions for others						0	0	0	0	0	0	0	1	0	1	0	1	0	0	0	0	0	0	0
Petitions withdrawn						0	0	0	0	0	0	0	1	2	0	1	0	0	1	0	2	1	1	1
Total disposition during year						0	0	0	0	1	0	2	1	1	4	6	6	4	1	1	3	6	9	13
Pending end of year						0	0	0	0	0	1	0	2	3	2	5	3	2	1	2	2	2	5	1

## CUMULATIVE SUMMARY--TO JUNE 30, 1937

Appealed	59
Decisions for Commission	43
Decisions for others	4
Petitions withdrawn	10
Total dispositions	57
Pending June 30, 1937	2

TABULAR SUMMARY OF LEGAL WORK 87

TABLE 7.--*Court proceedings--Orders to Cease and desist--Petitions for enforcement--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937				
Pending beginning of year					0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	
Appealed by Commission					0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Appealed by others					0	0	0	0	0	0	0	1	0	1	0	1	0	0	0	0	0	0	6
Total for disposition					0	0	0	0	0	0	0	1	1	1	1	2	0	0	0	0	0	0	6
Decisions for Commission					0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Decisions for others					0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0
Certiorari denied others					0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	5
Total disposition during year					0	0	0	0	0	0	0	0	1	1	0	2	0	0	0	0	0	0	5
Pending end of year					0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	1

CUMULATIVE SUMMARY--TO JUNE 30, 1937

Appealed by Commission	1
Appealed by others	9
Total appealed	10
Decisions for Commission	0
Decisions for others	2
Certiorari denied others	7
Total disposition	9
Pending June 30, 1937	1

## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 8.--*Court proceedings--Miscellaneous--Lower courts*

	1919	1920	1921	1922	1922	1924	1925	1925	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937						
Pending beginning of year							0	1	4	5	6	4	4	4	5	3	2	1	1	2	1	0	0	1	
Appealed by Commission							1	2	0	3	5	0	1	0	1	0	1	0	0	4	2				
Appealed by others								1	2	2	3	0	0	0	1	1	2	1	2	0	2	0	2	1	1
Total for disposition							2	5	8	11	11	4	5	5	6	7	6	4	2	3	3	3	0	5	4
Decisions for Commission							1	0	1	3	0	0	0	0	1	1	4	1	1	1	2	2	0	4	3
Decisions for others							0	1	0	1	7	0	0	0	0	1	0	1	0	0	0	0	0	0	0
Petitions withdrawn by Commission								0	0	0	0	0	1	1	0	2	0	0	0	0	0	0	0	0	0
Petitions withdrawn by others								0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0	0	1
Total disposition during year							1	1	1	5	7	0	1	1	1	4	4	3	1	1	2	3	0	4	4
Pending end of year							1	4	5	0	4	4	4	5	3	2	1	1	2	1	0	0	1	0	

## CUMULATIVE SUMMARY--TO JUNE 30, 1919-37

Appealed by Commission	23
Appealed by other	21
Total appealed	44
Decisions for Commission	25
Decisions for other	11
Petitions withdrawn by Commission	4
Petitions withdrawn by others	4
Total disposition	44
Total June 30, 1937	0

TABULAR SUMMARY OF LEGAL WORK 89

TABLE 9.--*Court proceedings--Mandamus, injunction, etc.--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937		
Pending beginning of year							0	0	0	0	6	4	1	1	0	0	0	0	0	0	0
Appealed by Commission							0	0	0	6	0	0	0	1	0	0	0	0	0	0	0
Appealed by others							0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total for disposition							0	0	0	6	6	4	1	2	0	0	1	0	0	1	0
Decisions for Commission							0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Decisions for others							0	0	0	0	2	3	0	0	0	0	0	0	0	0	0
Certiorari denied Commission							0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Certiorari denied others							0	0	0	0	0	0	0	0	1	0	0	0	1	0	0
Total disposition during year							0	0	0	0	2	3	0	2	0	0	1	0	0	1	0
Pending end of year							0	0	0	6	4	1	1	0	0	0	0	0	0	0	0

CUMULATIVE SUMMARY TO JUNE 30, 1938

Appealed by Commission	7
Appealed by others	2
Total appealed	9
Decisions for Commission	1
Decision for others	5
Certiorari denied Commission	1
Certiorari denied others	2
Total disposition	9
Pending June 30, 1937	0

### **PART III. TRADE-PRACTICE CONFERENCES**

ACTIVITIES UNDER TRADE CONFERENCE PROCEDURE

SALES OF INDUSTRIES ADOPTING RULES EXCEED BILLION DOLLARS

BENEFITS DERIVED FROM TRADE PRACTICE RULES

HISTORY AND PURPOSE OF PROCEDURE

OUTLINE OF TRADE CONFERENCE PROCEDURE

GROUP I AND GROUP II RULES

## **PART III. TRADE-PRACTICE CONFERENCES**

### **ACTIVITIES UNDER TRADE PRACTICE CONFERENCE PROCEDURE**

The constantly growing interest in this phase of the Commission's work is evidenced by the many industries which, during the fiscal year, sought this method of eliminating various unfair methods of competition and destructive trade practices. Among factors which account for the growth and success of this activity are an increasingly better understanding on the part of industry of the purpose of the Commission's trade practice conference procedure and of the benefits derived and economies effected through the substitution, where feasible, of voluntary cooperation through adoption of and adherence to trade practice conference rules in lieu of the compulsory legal processes for the correction of unfair practices.

During the fiscal year, trade practice conference proceedings advanced to the stage of promulgation of rules for the following industries or groups: (1) Paper drinking straw manufacturers; (2) buff and polishing wheel manufacturers; (3) cotton converting industry (embracing the following industry branches: clothiers' linings other than all cotton; corset, brassiere, and allied trade fabrics; all-cotton clothiers' linings; converted curtain and drapery fabrics; shirting fabrics; wash goods fabrics; interlinings, and bleached goods); (4) flat glass manufacturers and distributors; (5) juvenile wheel goods manufacturers; (6) ladies' handbag manufacturers; (7) preserve manufacturers; (8) rubber tire industry; (9) private home study schools; (10) school supplies and equipment distributors; (11) mirror manufacturers; (12) covered button and buckle manufacturers; (13) tubular pipings and trimmings manufacturers, and (14) wet ground mica industry. Final action was also taken by the Commission on the trade practice rules for the concrete burial vault manufacturing industry, which rules, however, were not promulgated until after the close of the fiscal period.

### **SALES OF INDUSTRIES ADOPTING RULES EXCEED BILLION DOLLARS**

The value of annual sales by the approximately 100,000 persons, firms or corporations comprising the memberships of the above industries is estimated at well over a billion dollars.

Prior to final action by the Commission on the rules proposed for an industry, such rules are made public, and for a 15-day period thereafter all interested or affected parties are given the opportunity of

presenting to the Commission their suggestions or objections, if any, with respect to the proposed rules. Rules as promulgated by the Commission are sent to all members of the industries concerned, accompanied by acceptance blanks which they are requested to sign and return to the Commission.

With respect to applications filed with the Commission for trade practice rules, and regarding which proceedings are pending before the Commission in various stages of progress, the regular procedure was followed in making public the proposed rules for the following industries in order that the Commission might be informed of any objections to such rules before proceeding to their final consideration: (1) Radio receiving set manufacturers; (2) toilet brush manufacturers; (3) gasoline pump manufacturers; (4) perfume and cosmetic manufacturers; (5) carbon dioxide manufacturers; (6) Douglas fir plywood manufacturers; (7) fertilizer industry, and (8) wholesale jewelers.

In order to assist industries applying to the Commission to sponsor trade practice conferences, it is necessary that considerable research be conducted with reference to the character or nature of such industries, and particularly as to existing unfair competitive conditions therein. With such information available, the Commission has a better understanding of an industry's objectives and is thereby enabled to render assistance towards improvement of business conditions. In many instances these studies require considerable time and work on the part of members of the staff, especially where an industry is large and of a complex nature.

In addition to public hearings and formal trade practice conferences, there have been held informal conferences with representatives of numerous industries affecting pending applications or with respect to other phases of this work.

### **BENEFITS DERIVED FROM TRADE PRACTICE RULES**

In accordance with procedure established by the Commission to ascertain the manner in which trade practice rules are being observed, inquiry was made of those industries for which rules had been in effect for six months. Inquiry was also made as to benefits accruing to members of the various industries as a result of the operation of their rules.

Generally, the conditions reported emphasize the value to industry of the trade practice conference procedure.

### **HISTORY AND PURPOSE OF TRADE PRACTICE CONFERENCE PROCEDURE**

The trade practice conference is a logical development of the efforts of the Federal Trade Commission, in cooperation with industry, to protect the public from the use of unfair methods of competition in commerce and to raise the standards of business practices.

The Division of Trade Practice Conferences, created by the Commission, April 19, 1926, is charged with coordinating and facilitating the work incident to holding trade practice conferences and of encouraging cooperation between business as a whole and the Commission in serving the public interest. As early as 1919, the Commission held conferences with industry for the purpose of eliminating unfair methods of competition and trade abuses.

The trade practice conference procedure affords a means whereby representatives of an industry may voluntarily assemble and, under the auspices of the Federal Trade Commission, consider prevailing unfair trade practices and collectively agree upon and provide for their abandonment. By this method all members of an industry may be placed simultaneously on an equally fair competitive basis and large savings effected through cooperative and voluntary self-correction. Under this procedure, a business or industry takes the initiative in establishing its own rules of business conduct, subject to approval by the Commission. Through these conferences the same results are achieved as by issuance of formal complaints by the Commission, but without bringing charges or employing any compulsory process. The procedure is predicated on the theory that the primary concern of the Federal Trade Commission is the public interest. Its importance to the public consists in bringing widespread relief from the harmful effects of unfair methods of competition which relief otherwise might not be accomplished in years, and in the saving of public funds which necessarily would be spent in conducting the trials of many cases.

#### **OUTLINE OF TRADE PRACTICE CONFERENCE PROCEDURE**

The first requisite of trade practice conference is an expression of desire on the part of a substantial majority of the members of an industry to eliminate unfair methods of competition and trade abuses and to improve competitive conditions. The procedure is as follows:

1. *Method of applying for a trade practice conference.*--Before authorizing a trade practice conference, the Commission assures itself that the holding of such conference is desirable and to the best interests of the industry and the public. An application, in the form of a petition or informal communication, should contain the following information:

1. A brief description of the business for which the conference is intended, and a statement as to the products manufactured or the commodities distributed. In order that the size and extent of the industry's operations may be taken into consideration, the approximate annual volume of production, value of sales and the capitalization of the entire industry membership should be stated. This data should include the total number of units engaged in the industry.

2. The authority of the person or persons making the application must also be shown. If the application is made by an association executive, a resolution showing the action of the association should be submitted, together with a statement indicating the percentage of the entire industry represented by the association membership, which may be given on the basis of volume of business; or numerically, or both. If the application is presented by an unorganized group, the percentage of the whole industry represented by the group applying for the conference should be stated.

3. The application should show whether the conference is intended for all branches of the industry, or is to be limited to a particular branch or branches thereof. If the resolutions, to be adopted by manufacturers, for example, are confined to practices which do not materially affect distributors, there would be no particular reason for including distributors. However, if the proposed action involves distribution, the distributors should be included.

4. The application should set out the various unfair methods of competition, trade abuses, and uneconomic and unethical practices alleged to exist in the industry at the time the application is filed and which the industry desires to eliminate through the medium of a trade practice conference. Discussion at the conference is not limited, however, to the particular subjects thus proposed, as the conference itself constitutes an open forum wherein any practice existing in the industry may be brought forward as a proper subject for consideration. Any resolutions submitted by a committee or member of an industry prior to a trade practice conference are tentative and their introduction does not prohibit other members of the industry from presenting new or additional resolutions.

If possible, the application should be accompanied by a complete and accurate list of the names and addresses of all members of the industry, or such list should be furnished shortly after the application is filed. These names should be divided or symbolized to indicate the types of concerns intended to be covered by the conference, that is, manufacturers, distributors, and so forth. Membership of the association presenting the application should also be shown.

II. *Procedure following authorization by the Commission.*--After a conference has been authorized by the Commission, a time and place are arranged and a commissioner or member of the Commission's staff is designated to preside. Anyone engaged in the industry for which the conference is authorized may participate. At such conference, resolutions are introduced, discussed, and, if necessary, amended before adoption.

Following receipt of the official transcript of the conference proceedings, the rules adopted by the industry are transmitted to the Commission for its consideration. Prior to final action thereon,

the rules are released by the Commission for a 15-day period upon public notice whereby all interested or affected parties have the opportunity of presenting to the Commission their suggestions or objections, if any. Thereafter, and upon full consideration of the entire matter, the Commission proceeds to final consideration of the rules. The procedure requires that a copy of the rules, as promulgated by the Commission, be sent to each member of the industry whose name and address are available, together with an acceptance card providing opportunity to such member to signify his acceptance and willingness to observe the rules in the conduct of his business.

After rules have been approved for an industry, the Commission retains an active interest in their observance, and to that end a survey of the industry is made by the Commission, when the rules have been in effect for six months. This is to ascertain not only the manner in which such rules are being observed, but also the benefits being derived by those who adopted them.

#### **GROUP I AND GROUP II RULES**

Rules approved by the Commission which relate to illegal practices are designated as Group I rules. Other rules adopted by an industry, and received by the Commission as expressions of the industry, are placed in Group II.

*Explanation of Group I rules.*--The unfair trade practices embraced in Group I rules are considered to be unfair methods of competition or other illegal practices within the decisions of the Federal Trade Commission or the courts, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

*Explanation of Group II rules.*--The trade practices embraced in Group II rules do not, in and of themselves, constitute violations of law. They are considered by the industry either to be unethical, uneconomic, or otherwise objectionable; or to be conducive to sound business methods which the industry desires to encourage and promote. Such rules, when they conform to the foregoing specifications and are not violative of law, will be received by the Commission, but their observance must depend upon and be accomplished through the cooperation of the members of the industry concerned, such observance being exercised in accordance with existing law. Where, however, such practices are used in such manner as to become unfair methods of competition in commerce or a violation of any law over which the Commission has jurisdiction, appropriate proceedings will be instituted by the Commission as in the case of violation of Group I rules.

**PART IV. SPECIAL PROCEDURE IN CERTAIN TYPES OF  
ADVERTISING CASES**

NEWSPAPER, MAGAZINE AND RADIO ADVERTISING

## **PART IV. SPECIAL PROCEDURE IN CERTAIN TYPES OF ADVERTISING CASES**

### **NEWSPAPER, MAGAZINE, AND RADIO ADVERTISING**

False and misleading advertising matter as published in newspapers and magazines and as broadcast over the radio is surveyed and scrutinized by a special board set up by the Federal Trade Commission in 1929. This board, known as the Special Board of Investigation, consists of three Commission attorneys designated to conduct hearings and specialize in this class of cases.

Misrepresentation of commodities sold in interstate commerce is a type of unfair competition with which the Commission has dealt under authority of the Federal Trade Commission Act since its organization. By 1929, it had become apparent that misrepresentation embodied in false and misleading advertising in the periodical field was of such volume that it should receive specialized attention from the Commission. Since that time the Commission, through its special board, on the alert for misleading representations, has reviewed the advertising columns of newspapers and magazines, and, since 1934, commercial advertising continuities broadcast by radio, and also has received from the public complaints of false and misleading advertising. Each misrepresentation so noted and each complaint received from the public has been carefully investigated, and, where the facts have warranted, and informal procedure has not resulted in the prompt elimination of misleading claims and representations, formal procedure has been instituted. While many orders have been issued requiring the respondents to cease and desist from advertising practices complained of, in a majority of cases the matters have been adjusted by the respondents signing stipulations to abandon the unfair practices.

The Commission believes its work in this field has contributed to the substantial improvement which has occurred in recent years in the character of advertising.

*Newspaper and magazine advertising.*--In reviewing advertisements in current publications, the Commission, through its special board, has found it advisable to call for some periodicals on a continuous basis, due to the persistently questionable character of the advertisements published. However, as to publications generally, of which there are some 20,000, it is physically impossible to review, continuously, all advertisements of a doubtful nature; also, it has been found unnecessary to review all the issues of publications of recognized high

ethical standard where the publishers themselves carefully censor all copy before acceptance.

With this situation in mind, the Commission has found it of material value to procure periodicals in cognate groups as to type or class, volume of circulation, and character of field of distribution, such as agricultural, fiction, informational, motion picture, trade, sales promotion, and the like. Advertisements of similar character, purpose and appeal are thus assembled and reviewed to advantage in a related manner.

Through periodical calls for magazines and newspapers during the fiscal year just closed, the Commission procured 474 editions of representative newspapers of established general circulation and 1,014 editions of magazines of interstate distribution, representing a combined circulation of 112,170,622.

During the last fiscal year, the Commission examined 136,639 advertisements appearing in the aforementioned newspapers and magazines and noted 22,662 as containing allegations that appeared to be false or misleading. These 22,662 advertisements formed the basis of 2,317 prospective cases.

The Commission now has developed from its newspaper and magazine review data, analyses showing the sources of the greatest volume of false and misleading advertisements, segregated as to fiction, motion picture, scientific information, home and women magazine groups, and so forth. In addition, similar data have accumulated with respect to key newspapers of general interstate distribution.

*Radio advertising.*--The Commission began the review of advertising copy broadcast over the radio at the beginning of the fiscal year 1934-35. At the outset, the Commission, through the Special Board of Investigation, made a survey of all commercial continuities, covering the broadcasts of all radio stations during July, 1934. The volume of returns received and the character of the announcements indicated that a satisfactory continuous scrutiny of current broadcasts could be maintained with a limited force and at relatively small expense, by adopting a plan of grouping the stations for certain specific periods.

Consequently, beginning with September, 1934, calls have been issued to individual radio stations at the rate of four times yearly for each station, according to their licensed power and location in the five radio zones established by the Federal Communications Commission. These returns cover specified 15-day periods.

National and regional networks, however, respond on a continuous weekly basis, submitting copies of commercial continuities for all programs wherein linked hook-ups are used involving two or more affiliated or member stations.

Producers of electrical-transcription recordings submit regularly monthly returns of typed copies of the commercial portions of all recordings manufactured by them for radio broadcast. As the actual

broadcast of a commercial recording is not always known to the manufacturer of an article being advertised, the Commission's knowledge of current transcription programs is supplemented by special reports from individual stations from time to time, listing the programs of recorded transcriptions with essential data as to the names of the advertisers, and the articles sponsored.

The combined material received furnishes representative and specific data on the character of current radio advertising which has proven of great value in the efforts to prevent false and misleading representations.

During the fiscal year ended June 30, 1937, the Commission received copies of 439,393 commercial broadcasts by individual radio stations, and 30,983 commercial broadcasts by networks, or chain originating key stations. The broadcasts from the independent stations averaged 1 ½ pages each and from the networks 10 pages each.

The special board and its staff read and marked about 959,264 pages of typewritten copies during the year, or an average of 3,145 pages every working day. From this material, 24,558 commercial broadcasts were marked for further study as containing representations that may have been false or misleading. These were assembled in 1,275 prospective cases for further review and procedure in instances that appeared to require it.

From data now accumulated as a result of the first three years' systematic review of radio advertising, the Commission is in a position to ascertain the sources of the more objectionable examples of broadcast advertising, and to take action where necessary.

The Commission is receiving the helpful cooperation of the 620 active commercial radio stations and of newspaper and magazine publishers generally, and notes a desire on the part of broadcasters and publishers to aid in the elimination of false and misleading advertising.

In its examination of advertising, the Commission's only purpose is to prevent false and misleading representations. It does not undertake to dictate what an advertiser shall say, but rather indicates what he may not say under the law. Jurisdiction is limited to cases which have a public interest as distinguished from a mere private controversy, and which involve practices held to be unfair to competitors in interstate commerce.

*Procedure in advertising cases.*--If a periodical or radio advertisement appears on its face to be misleading, the Commission sends a questionnaire to the advertiser, requesting a sample of his product, if; this is practicable, and a quantitative formula, if the product is a compound, and also requests copies of all advertisements published during the year, together with copies of all booklets, folders, circulars, form letters, and other advertising literature used. Upon receipt of this data, the claims, sample, and formula are referred to an appro-

priate technical agency of the Government for scientific opinion. Upon receipt of this opinion, the advertising is carefully studied, and a list of numbered excerpts made that appear to require justification or explanation. A copy of this numbered list and a copy of the opinions received are sent to the advertiser, who may then submit such evidence as he thinks may justify or explain the representations in his advertising.

An advertiser may answer by correspondence, or upon request, may confer in person with the special board. If the advertiser justifies the representations that have been questioned, the board reports the matter to the Commission with a recommendation that the case be closed without prejudice to the right of the Commission to reopen it should it become necessary. If he is unable to justify any material statement in his advertising which the board has reason to believe is false or misleading, the board reports the matter to the Commission with a recommendation that the case be docketed, and the entire matter referred back to the board for negotiation of a stipulation or agreement to abandon the unfair representations, alleged, provided the advertiser desires to dispose of the matter in that way.

If the Commission approves such recommendation, the board then prepares a stipulation and forwards it to the advertiser for execution. If the advertiser objects to any of the provisions of the stipulation, he may negotiate further by mail or in person, and when a stipulation has been finally agreed to and signed by the advertiser, the matter is again reported to the Commission with recommendation that the stipulation be accepted and the case closed.

Experience has shown that the elimination of unfair methods of competition can be accomplished not only by cease and desist orders but by stipulation. Not only is the stipulation method effective and speedy, but it is inexpensive for both the Government and the respondent.

*Number of cases handled.*--During the last fiscal year the Commission, through its special board, sent questionnaires to advertisers in 836 cases, negotiated 346 stipulations, and settled and closed by its various methods of procedure a total of 814 cases. The board recommended that complaints be issued in 12 cases for failure to execute stipulations and in 43 cases for violating stipulations. In several cases the board recommended that complaints be issued without giving the advertisers an opportunity to stipulate because of gross deception or danger to the public involved in the practices in which they were engaged.

In 294 cases the board recommended filing the assembled data and closing the cases without prejudice to the right of the Commission to reopen them at any time the facts warranted. Several cases were closed because them Post Office Department had issued fraud orders against the respondents concerned. Others were closed because the

parties respondent had discontinued advertising or selling without intent to resume, and others because the advertisers were able to justify their claims.

At the beginning of the fiscal year, 284 cases were pending before the special board. At the end of the year, 306 cases were pending.

*Commission has access to scientific services.*--Effective cooperation continued throughout the year with other departments of the Government. The Commission has access to the laboratories, libraries, and other facilities of various agencies of the Federal Government, including the Bureau of Standards, the Public Health Service, and the Food and Drug Administration of the Department of Agriculture, to any of which it may refer a matter for scientific opinion. In addition, the Commission, when necessary, obtains medical and other scientific information and opinions from non-government hospitals, clinics and laboratories. Such material and cooperation are often particularly helpful in enabling the Commission to reach sound and fair conclusions with respect to scientific and technical questions which come before it, and especially so in connection with much of the work of the Special Board.

## **PART V. FOREIGN-TRADE WORK**

ADMINISTRATION OF EXPORT TRADE ACT

ASSOCIATION EXPORTS INCREASE IN 1936

ASSOCIATIONS OPERATING UNDER THE ACT

ADVANTAGES OBTAINED BY EXPORTERS IN 1936

TRUST LAWS AND UNFAIR COMPETITION ABROAD

## **PART V. FOREIGN-TRADE WORK**

### **ADMINISTRATION OF THE EXPORT TRADE ACT**

Foreign trade work of the Commission includes administration of the Export Trade Act, commonly known as the “Webb-Pomerene law”, and inquiries made under section 6 (h) of the Federal Trade Commission Act, which empowers the Commission to investigate trade conditions in and with foreign countries. This work is handled by the export trade section of the legal division.

The Export Trade Act, passed by Congress in 1918, grants exemption from the antitrust laws to export combines or associations which are required to file with the Commission copies of their organization papers, annual reports, and such other information as the Commission may require as to their organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships and individuals. In case of violation of the law, the Commission may conduct inquiries and make recommendations for readjustment of a business. Should an association fail to comply with the recommendations, the matter may be referred to the Attorney General for further action.

Such an association must be solely engaged in export trade; and the law provides that it shall not restrain the export trade of a domestic competitor; artificially or intentionally enhance or depress prices within the United States of commodities of the class exported by the association; substantially lessen competition or otherwise restrain trade within the United States.

### **EXPORTS INCREASE IN 1936**

Reports of associations filing papers under the Export Trade Act show an upswing in exports for the year 1936, due to improved conditions abroad, a lessening of trade restrictions in foreign countries, and strong association effort to increase sales in spite of foreign competition,

Total exports for that year amounted to \$149,296,525, and exceeded by approximately \$11,600,000 the associations' exports in 1935, in spite of the fact that two of the largest groups, exporting petroleum, were dissolved in 1936.

*Association exports for the years 1935 and 1936*

	1935	1936
Metals and metal products, including iron and steel products, copper, metal lath machinery, railway equipment, pipes and valves, and electrical equipment	\$20,250,000	\$40,507,335
Products of mines and wells, crude sulphur, phosphate rock, petroleum, and carbon black	55,875,000	40,780,283
Lumber and wood products, pine, fir, redwood, walnut, hardwood, plywood, barrel and box shooks, tool handles, and wood naval stores	9,450,000	8,533,374
Foodstuffs, such as milk, meat, sugar, flour and fruit	16,500,000	21,250,433
Other manufactured goods, rubber, paper, textiles, glass, cement, abrasives, and chemicals	35,610,000	38,225,100
Totals	137,685,000	149,296,525

#### FORTY-FIVE ASSOCIATIONS OPERATING UNDER THE EXPORT TRADE ACT

New Associations organized under the Export Trade Act during the fiscal year ended June 30, 1937, were: California Alkali Export Association, comprising three member companies in California, with headquarters in Los Angeles; Pacific Fresh Fruit Export Association, comprising nine member companies in California and Washington, with headquarters in San Francisco; and Scrap Export Associates of America, comprising three member companies in New York and Pennsylvania, with headquarters in New York City.

At the end of the fiscal year, 45 export trade associations were on file with the Federal Trade Commission, as follows:

American Box shook Export Association, Barr Building, Washington, D. C.

American Hardwood Exporters, Inc., Queen & Crescent Building, New Orleans.

American Locomotive Sales Corporation, 30 Church Street, New York.

American Paper Export, Inc., 75 West Street, New York.

American Provisions Export Co., 80 East Jackson Boulevard, Chicago.

American Soda Pulp Export Association, 230 Park Avenue, New York.

American Spring Manufacturers Export Association, 30 Church Street, New York.

American Tire Manufacturers Export Association, 80 Church Street, New York.

California Alkali Export Association, 523 West Sixth Street, Los Angeles.

California Dried Fruit Export Association 1 Drumm Street, San Francisco.

California Prune Export Association, 1 Drumm Street, San Francisco.

Cement Export Co., Inc., 150 Broadway, New York City.

Copper Exporters, Inc., 50 Broadway, New York.

Douglas Fir Export Co., Henry Building, Seattle, Wash.

Durex Abrasives Corporation, 63 Wall Street, New York.

Electrical Apparatus Export Association, 70 Pine Street, New York.

Export Screw Association of the United States, 23 Acorn Street, Providence, R. I.

Florida Hard Rock Phosphate Export Association, Savannah Bank & Trust Building, Savannah, Ga.

General Milk Co., Inc., 19 Rector Street, New York.

Goodyear Tire & Rubber Export Co., 1144 East Market Street, Akron, Ohio.

Grapefruit Distributors, Inc., Davenport, Fla.

Inter-America Exporters, Inc., 11 Broadway, New York.

Carbon Black Export, Inc., 500 Fifth  
Avenue, New York.

Metal Lath Export Association, 47  
West 34th Street, New York.

Northwest Dried Fruit Export Association, Title & Trust Building, Portland, Ore.

Pacific Flour Export Co., care of Fisher Flouring Mills Co., Seattle, Wash.

Pacific Forest Industries, Tacoma Building, Tacoma, Wash.

Pacific Fresh Fruit Export Association, 451 California Street, San Francisco.

Phosphate Export Association, 393 Seventh Avenue, New York.

Pipe Fittings & Valve Export Association, 1421 Chestnut Street, Philadelphia.

Plate Glass Export Corporation, Grant Building, Pittsburgh.

Redwood Export Co., 405 Montgomery Street, San Francisco.

Rubber Export Association, 19 Good-year Avenue, Akron, Ohio.

Scrap Export Associates of America, 350 Fifth Avenue, New York.

Shook Exporters Association, Stahlman Building, Nashville, Tenn.

Signal Export Association, 74 Trinity Place, New York.

Steel Export Association of America, 75 West Street, New York.

Sugar Export Corporation, 120 Wall Street, New York.

Sulphur Export Corporation, 420 Lexington Avenue, New York.

Textile Export Association of the United States, 40 Worth Street, New York.

United States Alkali Export Association, Inc., 11 Broadway, New York.

United States Handle Export Co., Piqua, Ohio.

Walnut Export Sales Co., Inc., 12th Street & Kaw River, Kansas City, Kans.

Walworth International Co., 60 East 42nd Street, New York.

Wood Naval Stores Export Association, 1220 Delaware Trust Building, Wilmington, Del.

#### ADVANTAGES OBTAINED BY EXPORTERS IN 1936

Associations operating under the law represent mills, mines, factories and processing plants in all parts of the country. Shipments are made to all parts of the world.

The export association presents a united front to foreign competition; it concentrates and simplifies the problem of sales, makes for economy in operation, and generally builds up the prestige of American goods abroad. An association may adopt uniform sales terms as to price, credit, shipping dates, packing requirements, and other details of shipment. Complaints of foreign buyers against American shippers may be reduced through a centralized inspection service and an adjustment department. An arbitration board lessens legal expense.

Cooperative purchase of cargo space was especially helpful during the maritime strike tie-up of 1936. The pooling of orders makes it possible to complete large sales contracts over a longer period of shipment than could be handled by one company alone. Standardization of products and improvement in quality, have been effected through cooperative effort. Foreign buyers show more confidence in dealing with a large group of exporters than with a single company less known to the trade. The association is in a position to obtain current information for dissemination among the members as to market conditions abroad, tariffs, shipping requirements, tax regulations and exchange restrictions.

Exports were somewhat lessened in 1936 by labor disturbances, notably the maritime strike on the West Coast which delayed shipments and resulted in some cancellation of orders. There are still high duties and import quota plans in some countries abroad, although associations report that reciprocal tariff agreements negotiated by the United States have served to lessen these restrictions. Revaluation of gold-block currencies at lower levels gave foreign competitors an advantage. The policy of some countries to increase production to the point of becoming self-sustaining in time of war has led to changes in producing areas. Manufacturing plants have been built in the Orient, much effort has been spent in the development of substitute products in Europe, and the cultivation of grain and other foodstuffs has been encouraged abroad. These changes must be met and new markets developed to take the place of old. The Webb-Pomerene law offers a method under which the expense and effort of developing new markets may be divided among a number of exporters, for the benefit of all.

#### **TRUST LAWS AND UNFAIR COMPETITION IN FOREIGN COUNTRIES**

In accordance with Section 6 (11) of the Federal Trade Commission Act, directing inquiries as to trade conditions in and with foreign countries, the Commission notes the following measures involving trust laws and unfair competition abroad:

*Argentina.*--Recent legislation authorized Government purchase and destruction of vineyards in order to reduce the production of wine grapes. An executive decree of August 7, 1936, provided for appointment of a commission to study plans and present recommendations for agricultural laws and policies. A national wool institute was created by decree of June 10, 1936, to promote production and regulate prices. Under an executive decree on July 20, 1936, all imports and exports of petroleum must be handled by a Government-controlled agency with authority to allocate markets and to operate a monopoly for sale of petroleum in the Federal Capital.

*Australia.*--Decision of the Privy Council at London in July, 1936, invalidating the Dried Fruit Control Act, seriously affected the commonwealth plans for production control. Government aid to agriculture had been effected for some years through bounties and marketing schemes. Domestic prices were maintained above export prices, and the difference paid to exporters, control having been administered by commonwealth export control boards working in cooperation with control boards in the producing States. The Privy Council held the dried fruit control to be in violation of Section 92 of the Commonwealth Constitution which insures free trade between the Australian States (James V. Commonwealth of Australia.). Thereafter amendments were proposed to make Section 92 inapplicable to marketing laws, and to permit laws regulating aviation, the Commonwealth Air

Navigation Act having been held invalid by the High Court of Australia. But the proposed Constitutional amendments were rejected by the States in 1937. Section 7 of the Industries Preservation Act, which provides for freight dumping duties, was amended, December 7, 1936.

*Austria.*--Increased prices in raw materials and semi-finished goods have led to an increase in retail prices, and a demand for governmental price fixing for necessities. A price commissary has been appointed to receive claims and provide official hearings for disputes between producers, manufacturers, dealers and consumers.

*Bolivia.*--The Price and Profits Control Decree of June 20, 1936, provided that establishments dealing in articles of basic necessity be limited to a maximum profit of 12 percent, and other firms to a maximum commercial profit of 20 percent. Stocks will be inventoried, actual costs of prime necessities computed, and selling prices fixed by inspectors of the permanent fiscal commission. A decree dated August 20, 1936, required that any inhabitant who participates in any way in the production and distribution of wealth be required to join a syndicate operating under a national bureau of syndicates. An executive decree of December 21, 1936, created a Government petroleum monopoly.

*Canada.*--Judgments were rendered by the Privy Council in London, January 28, 1937, on a number of Canadian laws. The Farmers Creditors Arrangement Act was upheld by the council, as was section 498A of the criminal code which provides penalties for the granting of discriminatory discounts, rebates and allowances. The Dominion Trade and Industry Commission Act was upheld in part, but no appeal was taken from decision of the Supreme Court of Canada which had held invalid Section 14 providing for price regulation and production control by the Dominion Government. The Natural Products Marketing Act which had provided for agricultural agreements, the Employment and Social Insurance Act, the Minimum Wages Act, Limitation of Hours of Work Act, and the Weekly-Day-of-Rest-in-Seven Act, were held invalid, and beyond the power of the Dominion Parliament under the British North America Act which reserves to the provinces control of trade and industry within their borders.

The Combines Investigation Act, 1923, was amended on April 10, 1937; the law will now be administered by a commissioner under the Minister of Labor. A report was made by a Royal commission, dated February 3, 1937, on importation and distribution of anthracite coal in the Dominion. The anti-dumping provisions of the Customs Tariff Act were amended in 1937.

*China.*--In December, 1936, a national foodstuffs distribution and transportation bureau was opened at Shanghai, to put foodstuffs

under national control and to effect an adjustment between supply and demand in order to prevent local shortage and speculation in price.

*Colombia.*--Under an act approved in 1936, the Government may acquire utilities that are considered of public and social interest. A new land ownership law effective on December 30, 1936, provided that all rural lands shall revert to the State unless continuous possession or economic exploitation is shown for ten years.

*Czechoslovakia.*--In order to forestall an increase in prices after devaluation of the crown, a decree issued in October, 1936, directed local authorities to watch the prices of daily necessities, raw materials, intermediates, and other production materials, and to report to a newly created price advisory board in case of unwarranted price increase, speculative buying, curtailment of production, and any measures tending to increase prices or result in profiteering.

A decree dated July 23, 1936, provided for organization of all textile producers into a syndicate, under regulation of a board authorized to issue licenses and determine problems of production and distribution. A decree dated July 8, 1936, amended the National Defense Law of May 13, 1936, defining war industries and providing strict control for all of the industries and trades named therein. The wheat monopoly law was extended to June 30, 1940. Compulsory labor exchanges were introduced in October, 1936; strikes and lockouts are not permitted.

*France.*--The Price Control Act, passed on August 19, 1936, provided for governmental committees to survey wholesale and retail prices, determine a normal spread between cost and sales price, and to prohibit unjustified increase in price. The Monetary Act of October 3, 1936, included a provision against alteration of the price level. A decree of November 25 provided for a bureau to make inquiries and recommendations toward a reduction in production costs. A law passed February 15, 1937, declared illegal all price increases on foodstuffs, merchandise, and services of prime necessity, above the level of August 1, 1936, unless justified by a rise in the price of raw materials or an increase in service charges. A national price surveillance committee was provided to fix prices, in agreement with wholesalers and retailers.

A decree issued on July 1, 1937, forbade an increase in prices or service charges above those in effect on June 28, 1937.

The Coal Act, passed on August 18, 1936, empowers the Minister of Mines to fix the prices of coal and to grant subsidies to mines that are inadequately exploited. A national wheat board was created by a law, August 15, 1936, to control production, fix prices, apportion sales to millers, provide credit, and grant export subsidies when necessary. The Board will have a monopoly of the import and export trade in wheat, flour and cereals. The Export Credit Insurance Law was amended August 25. Other laws passed in 1936 provided aid and

credit for small sized commercial and industrial enterprises, gave temporary assistance to agricultural projects, and authorized delay in payments by merchants, industrialists and artisans. The 40-hour week was established in 1936, and a law dated December 31, supplemented by a decree on January 16, 1937, provided that all collective labor disputes in commerce and industry must be submitted to conciliation and arbitration. A national committee has been appointed to assist in enforcing orders to restrict to specified regions the production of wines bearing certain regional names, and to prohibit the shipment of such wines without an official certificate.

*Germany.*--An administrative order, July 7, 1936, directed coordination of the regional economic chambers with the so-called "groups" of business; a reduction in fees required for compulsory membership of business firms in the groups; and the creation of special courts of honor connected with the regional economic chambers, and a central court of honor connected with the Reich economic chamber.

Under the second 4-year plan proclaimed in September, 1936, further efforts will be made to make Germany independent of foreign supplies of industrial raw materials. A decree issued on October 23, 1936, named six business groups that will participate in the plan, representing production of raw materials, distribution of raw materials, labor, agricultural production, prices, and foreign exchange. An order issued by the Minister of Economics, November 12, set out the Government plan for compulsory organization of industry.

In September, 1936, warnings were issued with respect to advances in the price of food or rentals. Enticement of employees of a competitor by offering higher wages, was denounced as an unfair method of competition. In October a new price commissioner was appointed, with authority to fix just prices for goods and services of all kinds. Several orders were issued prohibiting price increases in specific industries, and on November 26 two decrees were issued, with an executive order on November 30, prohibiting any increase in the price of commodities and services, including rents, above the level of October 18, 1936. These orders did not apply to foreign trade which is under special rules issued by the import control boards.

Under a decree dated January 26, 1937, all private stocks of platinum, silver, copper, lead, tin, nickel or zinc, must be delivered to a governmental board for sale at prices and under terms fixed by the board. The Government has effected a plan for control of the supply of skilled labor; work books are now required and a worker must obtain a permit before he may change his occupation. The Reich has divested itself of a number of participations in private enterprise undertaken during the depression.

A law dated September 30, 1936, authorized monopoly control of domestic production and importation of agricultural products to be named by further ordinances.

A law dated January 26, 1937, designed to prevent absentee ownership and speculative sales, requires official approval for sale or transfer of all agricultural property in excess of 2 hectares (5 acres).

Two new Stock Company Laws were passed on January 30, 1937. In November, 1936, the foreign exchange board announced that steps would be taken toward confiscation of foreign securities, and on November 19 a decree was issued under which securities to be named from time to time by the board should be delivered for confiscation, to the foreign exchange bank. The law against economic sabotage, passed in December, 1936, provided capital punishment for persons who, in violation of exchange regulations, leave their property abroad or transfer it to parties abroad.

*Great Britain.*--A proposed enabling act to provide self-government in industry was introduced in the British Parliament during the past session but failed to pass. Regulation has been effected through the Coal Mines Act and the Cotton Spinning Industries Act, and some voluntary schemes toward dismantling of inefficient plants have been attempted through the reconstruction levy in the flour milling and ship building industries.

Report of the Food Council to the Board of Trade, dated June 26, 1936, reviewed the schemes in operation for fixing maximum prices of bread, and 4 further report on December 3, 1936, covered the pigs and bacon marketing schemes. Report of the Milk Reorganization Commission on the progress of the milk marketing boards, was presented in December, 1936; and recommendations were made for creation of a permanent milk commission with authority to fix prices, disburse government subsidies and direct the operation of milk marketing boards. A Marketing of Eggs Act was passed in northern Ireland in 1936.

The Petroleum Transfer of Licenses Act of July 14, 1936, amends the Petroleum Consolidation Act of 1928. The Key Industries Duties Act was extended for ten years from August 19, 1936.

*Greece.*--A committee was appointed in 1936 to present a plan for organization of production and economic development. The finance minister suggested a corporative system under which each branch of production should be united in a federation under State supervision, to determine all questions concerning trade, industry and agriculture.

*Hungary.*--A decree issued on December 19, 1936, provided that a price control committee shall supervise regularly the prices of staple goods, domestic and imported. The president of the committee may require reports as to the prices at which goods are sold; if these are deemed unjustifiably high, certain penalties may be imposed, favor granted regarding taxation and duties may be withdrawn, the firm may be excluded from public bids, its license may be revoked, or other means taken against the enterprise.

*India.*--Amendments to the Indian Companies Act, effective on January 15, 1937, further safeguard the interests of shareholders.

*International.*--A sugar agreement was entered into in London in May, 1937, to be administered by an international sugar council. Basic export quotas were fixed for cane and beet sugar producers representing almost 90 percent of the world's output; and the contracting parties agreed not to increase their production during the five years beginning September 1, 1937.

An international coffee conference held at Bogota, Colombia, in October, 1936, resulted in establishment of a Pan American coffee bureau in New York. Surplus stocks will be impounded. Further conferences were scheduled for 1937. In November, 1936, the international tea committee fixed the export quota for the year beginning April 1, 1937, at 82 ½ percent.

A revised tin restriction agreement was ratified on January 5, 1937, effective for five years. Producers of iron and steel, in Great Britain, Germany, Austria, Czechoslovakia, Hungary, Italy, Poland, Rumania, Sweden and Yugoslavia, are parties to an international scrap iron convention signed in the spring of 1937, under which a central office at London will purchase for all of the members according to quotas allotted and under uniform terms. Producers of cement in Great Britain, Belgium, Germany, France, Netherlands, Yugoslavia and Scandinavian countries entered into an agreement in 1937 which deals with production quotas and determination of prices.

An international cartel regulating prices and terms of sale for sodium chlorate, was entered into on March 2, 1937, by producers in Czechoslovakia, France, Italy, Switzerland, Germany and Sweden. The international nitrate cartel expired on June 30, 1930, due to withdrawal of the Chilean producers, and a European cartel comprising producers of synthetic nitrogen was established.

The reciprocal tariff agreement entered into by the United States with Nicaragua on March 11, 1936, became effective, October 1, 1936; that with Finland dated May 18, 1936, was made effective, November 2, 1936. Further agreements were negotiated with Costa Rica on November 28, 1936, effective August 2, 1937; and with El Salvador on February 19, 1937, effective March 31, 1937.

*Italy.*--Since devaluation, the policy of the government has been to prevent price increase and generally to peg prices at the level of September, 1936; but in order to permit necessary adjustments, a Royal ordinance dated October 7, 1936, provided for fixing of a maximum price by a central committee comprising government officials and representatives of employers' and employees' federations.

*Japan.*--Under an Imperial ordinance of July 3, 1936, the Law for Control of Important Industries was extended for a second five years from August 11, 1936. Plans of the Central Raw Silk Association

include control of production, price fixing, consolidation of plants, restriction of speculation, financial aid, and international agreements for distribution and sale.

*Latvia.*--The Law of Industry and Craft, of July 11, 1936, supplemented by an act of January 7, 1937, required all industrial enterprises (except electric power undertakings) which are not owned and controlled by the State, to obtain a license from the Ministry of Finance, or in the case of dairies and abattoirs, from the Ministry of Agriculture. Conditions under which licenses will be issued may establish complete control of industrial production. A law dated January 20, 1937, established a central organization which will have monopoly rights in the purchase and sale of wool, raw hides and skins, and undressed furs. A law of January 23, 1937, provided for a central union to combine all consumers' cooperatives, and to assist the Government in agricultural plans.

*Lithuania.*--A law dated August 14, 1936, subjected exports to license requirements. A law passed on April 23, 1937, effective September 1, required the registration of all commercial and industrial enterprises for the purpose of regulating commerce and industry, preventing wilful bankruptcies, unfair competition, and violation of tax measures.

*Mexico.*--A law passed August, 1936, required that merchants and industrialists shall be registered and organized into a confederation of chambers of commerce and industry. The Expropriation Law dated November 25, 1936, lists a number of enterprises that shall be deemed public utilities and therefore subject to expropriation proceedings.

*Netherlands.*--Following currency depreciation in 1936, an Emergency Price Control Law was passed, authorizing the Minister of Commerce to prescribe maximum prices for the wholesale and retail trade and for some services. Prices and rents may not be increased, and large stores of goods may not be accumulated, without governmental sanction. A constitutional amendment bill proposed in 1936, would authorize creation of public bodies for the regulation of industry, trade and the professions. Laws have also been proposed to change emergency or crisis measures into permanent laws.

*New Zealand.*--The Industrial Efficiency Act of October 29, 1936, gave to the Government wide powers of control over industry and trade. Part 1 provided for a bureau of industry to investigate and report as to organization of industries, their capitalization, the rendering of assistance by way of subsidies, loans, grants, tariff concessions, embargoes, and other means; the adoption of uniform methods of accounting and costing; standardization of products, processes or materials; the training of workers; marketing and distribution of products and the purchase of raw materials; and any matters relating to employment. Part 2 of the law provided for industrial plans to be prescribed by the Minister of Industries and Commerce, upon advice

of the Bureau of Industry. Part 3 covered registration and licensing of such industries as may be named by the minister. Part 4 required consideration and report by the Bureau on Applications for Loans under the State Advances Corporation Act of 1936 and on grants and loans under the Employment Promotion Act of 1936. Upon recommendation of the bureau, orders-in-council may be issued by the Governor-General covering: the registration of persons and firms and the licensing of industries; reports to be required of industrial firms; fixation of prices or rates for any class of goods or services; rates of royalties, fees, discounts, rebates, concessions, or considerations of any kind in respect of goods or services or in respect of any patent or proprietary rights; the control of production by fixing of quotas or otherwise; and the standardization and simplification of materials, processes and products.

A number of semi-private organizations have been completely nationalized, including the railways, the reserve bank, and the mortgage corporation. The Industrial Conciliation and Arbitration Law was amended on June 8, 1936, to include compulsory features.

Under the Primary Products Marketing Act of 1936, the government has assumed control of agricultural and dairy products. The Minister of Marketing buys the produce from the farmer at a guaranteed price for the whole season and markets it with the aid of professional distributors at a fixed price. If export sales are not made at figures high enough to cover the guaranteed price to producers, the deficit is met by the Government.

*Paraguay.*--A new Department of Industries and Monopolies under the Minister of Agriculture, to study questions of industrial development, tariff protection, and the possibility of Government monopolies, was created by Presidential decree on September 15, 1936. A decree law passed as a health measure on June 15, 1936, provided for regulation of production, transportation and sale of food, pharmaceutical and beauty products.

*Peru.*--A Presidential decree dated July 16, 1936, established governmental control of medicinal products, drugs and pharmaceutical specialties which are declared to be of prime necessity and therefore subject to the same regulatory measures as staple foodstuffs.

*Poland.*--A Government commissioner has been appointed to control prices of certain necessary commodities, including food, clothing, oil, coal, iron and bricks. A Presidential decree effective on September 22, 1936, lists certain properties which are destined for compulsory sale to the State Agrarian Bank.

*Portugal.*--A decree dated May 15, 1937, provided for appointment of a committee which shall organize the cotton industry, regulate imports of raw cotton, establish conditions under which importers shall engage in business, and encourage production of cotton in the Portuguese colonies.

*Rumania.*--A law dated April 29, 1936, provided for a Supreme Economic Council representing agriculture, commerce, industry, labor and Government officials, for study and investigation of problems regarding foreign commerce, the valorization of agricultural products, the regulation of labor, and other economic, financial and social problems. The council will also make recommendations for the negotiation of trade conventions.

*Spain.*--A decree dated December 2, 1936, prescribed regulations for the exportation of national products of Spain. Export permits will be required, and if the value declared by the exporter is considered too low the Ministry of Finance may take possession of the goods, paying for them the price at which they were declared.

Three decrees in Catalonia dated October 27, 1936, provide for socialization of large industries and land holdings, organization of municipalities into social economic units, and division of the State into nine economic areas. A plan has been offered for a central bank to impound the gains of profitable enterprise and extend credit or compensate other industries for their losses.

*Switzerland.*--A decree effective on July 1, 1936, gives to the Federal Price Control Office the power to check price movements deemed harmful to producers or consumers. A pure food ordinance dated May 28, 1936, provided for regulation of the sale of foodstuffs, laying down standards of purity, and applying also to certain chemicals in the manufacture of clothing, cosmetics and toilet preparations.

*Turkey.*--Under a law dated June 9, 1936, all exporters are placed under license.

*Venezuela.*--A new constitution adopted July 21, 1936, restates the power of the Government to legislate for the entire country on many matters listed therein. The Government reserves control of salt deposits, unoccupied lands and products thereof, pearl oyster beds, and mines.

**FISCAL AFFAIRS**

ACTS PROVIDING FUNDS FOR COMMISSION WORK

APPROPRIATIONS AND EXPENDITURES

## FISCAL AFFAIRS

### APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation Act, 1937 (Public, No.479, 74th Cong.), approved March 19, 1936, provided funds for the fiscal year 1937 for the Federal Trade Commission as follows:

For five commissioners, and for all other authorized expenditures of the Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including secretary to the Commission and other personal services, contract stenographic reporting services; supplies and equipment, law books, books of reference, periodicals, garage rentals, traveling expenses, including not to exceed \$900 for expenses of attendance, when specifically authorized by the Commission, at meetings concerned with the work of the Federal Trade Commission, for newspapers and press clippings not to exceed \$600, foreign postage, and witness fees and mileage in accordance with section 9 of the Federal Trade Commission Act; \$1,407,000: *Provided*, That the Commission may procure supplies and services without regard to section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5) when the aggregate amount involved does not exceed \$50.

For all printing and binding for the Federal Trade Commission, \$32,000.

Total, Federal Trade Commission, \$1,439,000.

The Second Deficiency Appropriation Act, fiscal year 1935 (Public, No.260, 74th Cong.), approved August 12, 1935, provided as follows:

*Salaries and expenses.*--For an additional amount for the Federal Trade Commission, including the same objects specified under this head in the Independent Offices Act, 1936 (including \$4,000 for printing and binding), \$200,000 to remain available until December 31, 1936. Balance available for fiscal year 1937, \$102,425.89.

The First Deficiency Appropriation Act, fiscal year 1936, approved June 22, 1936, provided as follows:

*Salaries and expenses.*--For an additional amount for five commissioners, and for all other authorized expenditures of the Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including the same objects specified under this head in the Independent Offices Appropriation Act, 1937, \$100,000.

Public Resolution, No.28, 75th Congress, 1st session, approved May 14, 1937, provided as follows:

*Salaries and expenses.*--For an additional amount for five commissioners, and for all other authorized expenditures of the Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including the same objects specified under this head in the Independent Offices Appropriation Act, 1937, \$299,000.

*Printing and binding.*--For an additional amount for all printing binding for the Federal Trade Commission, fiscal year 1937, \$7,500.

### APPROPRIATIONS AND EXPENDITURES

Appropriations available to the Commission for the fiscal year ended June 30, 1937; under the Independent Offices Act approved March 49, 1936, \$1,439,000; under the Second Deficiency Act approved August 12, 1935; \$102,425.89; under the First Deficiency Act approved June 22, 1936, \$100,000; under Public Resolution No.28, approved May 14, 1937, \$297,500; in all, \$1,938,925.89. This sum was made up of three separate items: (1) \$50,000 for salaries of the Commissioners, (2) \$1,845,571.94 for the general work of the Commission, and (3) \$43,353.95 for printing and binding.

#### *Appropriations, allotments, expenditures, liabilities and balances*

	Amount available	Amount expended	Liabil- ities	Expend- itures and liabilities	Balance
Federal Trade Commission 1937, Salaries Commissioners and all other authorized expenses	\$1,797,000.00	\$1,684,496.20	\$67,712.14	\$1,752,208.84	\$44,791.66
Printing and binding, Federal Trade Commission 1937	39,500.00	39,500.00		39,500.00	
Federal Trade Commission, 1936, Dec.31, 1936	98,571.94	98,443.48	22.00	98,465.48	106.46
Printing and binding, Federal Trade Commission, Dec. 31, 1936	8,853.95	3,853.95		3,853.95	
Total Fiscal Year 1937	1,938,925.89	1,826,293.63	67,734.14	1,894,027.77	44,898.12
Unexpended balances:					
National Industrial Recovery Federal Trade Commission. 1933-1937	.15	.15		.15	
Federal Trade Commission, 1936	15,263.28	15,197.02	8.20	15,205.22	58.06
Printing and binding, Federal Trade Commission, 1936	9,800.37	9,800.37		9,800.37	
Federal Trade Commission. 1935-1936	925.91	769.73	144.00	913.73	12.18
Working fund, F. T. C. N. B. A. (N.I.R.)	1 58.68	1 58.68		1 58.68	
Federal Trade Commission, 1935	2,340.71	145.65		145.68	2,195.03
Total	1,967,197.61	1,852,147.00	67,886.84	1,920,034.24	47,163.39

1 Credit.

APPROPRIATIONS AND EXPENDITURES

125

*Detailed statements of costs for the fiscal year ending June 30, 1937*

	Salary	Travel expenses	Other	Total
Commissioners	\$49,999.20	\$817.90		\$50,817.10
Clerks to Commissioners	14,651.75			14,651.75
Messengers to Commissioners	5,699.58			5,699.58
Total	70,350.53	817.90		71,168.48
<b>Administration:</b>				
Office of secretary	29,055.49			29,055.49
Accounts and Personnel section	29,481.36			20,481.36
Docket section	42,583.59			42,583.59
Hospital	1,805.61			1,805.61
Labor	3,135.50			3,135.50
Library section	12,501.11	37.65		12,538.76
Mail & File section	17,886.28			17,886.28
Messenger service	19,060.42			19,060.42
Public relations	17,866.83	44.85		17,911.68
Publications section	34,044.53			34,044.53
Purchases and supplies section	15,933.37			15,933.37
Stenographic section	114,740.50			114,740.50
Communications			\$9,309.61	9,309.61
Court charge			4.09	4.09
Equipment			8,425.04	8,425.04
Miscellaneous			524.58	524.58
Rents			2,167.76	2,167.76
Repairs			3,361.70	3,361.70
Reporting service			7,373.37	7,373.37
Supplies			26,289.87	26,289.87
Transportation of things			878.72	878.72
Witness fees			2,641.25	2,641.25
Total	338,094.59	82.50	60,975.97	399,153.06
<b>Legal:</b>				
Application for complaints	194,385.46	25,887.36	247.53	220,520.35
Complaints	257,980.93	38,818.33	502.22	297,301.48
Export trade	7,189.44	3.76		7,193.20
Preliminary inquiries	225,023.98	10,175.58	1,114.34	236,313.90
Robinson-Patman Act	70,159.62	4,948.01	140.00	75,247.63
Trade practice conferences	57,446.96	1,484.60		58,931.56
Total	812,186.39	81,317.64	2,004.09	895,508.12
<b>General investigations:</b>				
Income	71,951.29	5,657.37	80.00	77,718.66
Fruits and vegetables	165,982.64	31,175.13	951.95	201,109.72
Farm machinery	56,610.14	4,654.28	93.93	61,388.35
Milk investigation	6,660.82	5.84		6,666.66
Petroleum decree, 1936	30,294.91	11,527.03	256.50	42,078.44
Power & Gas	11,471.79	9.50		11,482.29
Price bases	5,115.04	64.65		5,179.69
Textile	27,289.86	250.30		27,540.16
Total	378,377.49	53,404.10	1,382.38	433,163.97
Printing and binding			48,341.85	43,341.85
Total			48,341.85	43,341.85
<b>Summary:</b>				
Commissioners	70,350.53	817.90		71,168.43
Administration	338,094.59	82.50	60,975.97	399,153.06
Legal	812,186.39	81,317.64	2,004.09	895,508.12
General investigation	378,377.49	53,404.10	1,382.38	433,163.97
Printing and binding			48,341.85	43,341.85
Total	1,599,009.00	135,622.14	107,704.29	1,842,335.43

RECAPITULATION OF COSTS BY DIVISIONS

Administrative	\$418,715.27	\$900.40	\$93,545.41	\$513,161.08
Economic	323,288.88	40,805.42	1,126.57	365,220.87

Chief Counsel	219,455.61	24,005.02	10,355.58	253,816.21
Chief Examiner	433,765.41	56,427.64	2,507.01	492,700.06
Special board of investigation	85,230.70	1.60	169.72	85,402.02
Trial Examiner	66,746.50	11,997.46		78,743.96
Trade practice conferences	51,806.63	1,484.60		53,291.23
Total	1,599,009.00	135,622.14	107,704.29	1,842,335.43

Appropriations available to the Commissions since its organization and expenditures for the same period, together with the unexpended balances, are shown by the following table:

Year	Appropriations	Expenditures	Balance	Year	Appropriations	Expenditures	Balance
1915	\$184,016.23	\$90,442.05	\$93,574.18	1927	\$997,000.00	\$960,654.71	\$36,345.29
1916	430,964.08	379,927.41	51,036.67	1928	984,350.00	972,966.64	11,383.96
1917	567,025.92	472,501.20	94,524.72	1929	1,163,192.62	1,169,459.76	3,732.77
1918	1,608,865.92	1,462,187.32	156,678.60	1930	1,495,821.69	1,494,619.69	1,202.00
1919	1,753,530.75	1,522,331.95	231,198.50	1931	1,863,348.42	1,861,971.72	1,376.70
1920	1,305,708.82	1,120,301.32	186,407.80	1932	1,817,382.49	1,778,427.88	38,954.61
1921	1,032,005.67	938,659.69	93,345.98	1933	1,426,714.70	1,393,427.90	33,286.80
1922	1,026,150.54	956,116.50	70,034.04	1934	1,314,013.49	1,313,614.33	399.16
1923	974,480.32	970,119.66	4,360.66	1935	2,097,397.01	1,956,313.34	141,083.67
1924	1,010,000.00	977,018.28	32,981.72	1936	2,035,466.58	1,821,725.81	213,739.77
1925	1,010,000.00	1,008,998.80	1,001.20	1937	1,938,925.89	1,894,027.77	44,898.12
1926	1,008,000.00	996,745.58	11,254.42				

## **APPENDIXES**

FEDERAL TRADE COMMISSION ACT

CLAYTON ACT

ROBINSON-PATMAN ANTI-PRICE DISCRIMINATION ACT

EXPORT TRADE ACT

SHERMAN ACT

TYDINGS-MILLER ACT

RULES OF PRACTICE

INVESTIGATIONS, 1915-37

# FEDERAL TRADE COMMISSION ACT 1

(15 U.S. C., Secs. 41-58)

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 date 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 : *Provided, however,* That upon the expiration of his term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. 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 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. 2

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 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

<sup>1</sup> The Jurisdiction of the Commission is limited by the Packers and Stockyards-Act, 1921, approved Aug. 15, 1921, ch. 64, 42 stat. 159 [amended by an act approved August 14, 1935, Public No. 272 (49 Stat. 648) to include live poultry dealers and handlers as therein specified], sec. 406(7 U.S. C. A. 227) of said Act providing that “on and after the enactment of this Act and so long as it retains in effect the Federal Trade Commission shall have no power or jurisdiction so far as relating to any matter which by this Act is made subject to the Jurisdiction of the Secretary of Agriculture] except in cases in which, before the enactment of this Act, complaint has been served under sec.5 of the Act entitled ‘An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes’, approved sept.26, 1914, or under sec. 11 of the Act entitled ‘An Act to supplement. existing laws against unlawful restraints and monopolies, and for other’, approved Oct.15, 1914, and except when the Secretary of Agriculture, in the exercise of his duties hereunder, shall request of the said Federal Trade Commission that it make investigations and report in any case.”

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 Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

“Corporation” shall be deemed to Include any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members, and has shares of capital or capital stock or certificates of interest, and any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, without shares of capital or capital stock or certificates of interest, except partnerships, which Is organized to carry on business for its own profit or that of its members.

“Documentary evidence” includes all documents, papers, correspondence, books of account, and financial and corporate records.

“Acts to regulate commerce” means the Act entitled “An Act to regulate commerce,” approved February 14, 1887, and all Acts amendatory thereof and supplementary thereto and the Communications Act of 1934 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 2, 1890; also sections 73 to 77, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved August 27, 1894; also the Act entitled “An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February 12, 1913; and also the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October 15, 1914.

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, common carriers, subject to the acts to regulate commerce, from using unfair methods of competition in commerce and unfair or deceptive acts or practices 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, partnership, or corporation a complaint stating its charges in that 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. 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 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 the 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 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. 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 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 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 aside. A copy of such petition shall be forth-with served upon the commission, and thereupon the commission 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 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 any wise 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 be served; or (b) by leaving a copy thereof at the principal office or place of business of such person, partnership, 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 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.

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 subject to the act to regulate commerce, and its relation to other corporations and to individuals, associations, and 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 cor-

porations, 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.<sup>2</sup>

(e) Upon the application of the Attorney General to investigate and make recommendations 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. From time to time such portions of the information obtained publicly 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.

(f) 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 matter 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 production of documentary evidence.

2 Public, No 78 73d Cong., approved June 16, 1933, making appropriations for the fiscal year ending June 30, 1934, for the "Executive Office and sundry independent executive bureaus, boards, commissions", etc., made the appropriation for the Commission contingent upon the provision (48 Stat. 291; 15 U.S. C. A., sec. 46a) that "thereafter no new investigations shall be initiated by the Commission as the result of a legislative resolution, except the same be e concurrent resolution of the two Houses of Congress."

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 as 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 deposition 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 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 failure 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 punishable 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 act 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.

### **SECTIONS OF THE CLAYTON ACT ADMINISTERED BY THE FEDERAL TRADE COMMISSION 1**

(U.S.C., Title 15, Sec. 12)

AN ACT To supplement existing laws against unlawful restraints and monopolies, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States Of America in Congress assembled, That "antitrust laws," as used herein, includes the Act entitled "An Act to protect trade and commerce against unlawful restrains and monopolies," approved July second, eighteen hundred and ninety: 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," of August twenty-seventh, eighteen hundred and ninety-four; an 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; and also this Act.*

"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. 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 therefor, or discount from, 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 may

<sup>1</sup> For text of sec.2 of the Clayton act as amended by the Robinson-Patman Anti-Discrimination Act, approved June 19, 1936, see text of the Robinson-Patman Act, p.137, which comprises the amendment.

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.

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 change 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 subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Federal Reserve

Board where applicable to banks, banking associations, 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, authority, 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 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, authority, 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 shown, may be allowed by the commission, authority, 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, authority, or board. If upon such bearing the commission, authority, 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 hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission, authority, 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, authority, or board while the same is in effect, the commission, authority, 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, authority, 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, authority, or board. The findings of the commission, authority, 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, authority, or board, the court may order such additional evidence to be taken before the commission, authority, 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, authority, 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 recommendations, 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, authority, 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, authority, or board be set aside. A copy of such petition shall be forthwith served upon the commission, authority, or board, and thereupon the commission, authority, 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, authority, or board as in the case of an application by the commission, authority, or board for the enforcement of its order, and the findings of the commission, authority, 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, authority, 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, authority, 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 the commission, authority, or board under this section may be served by anyone duly authorized by the commission, authority, 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 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.

\* \* \* \* \*

Original act approved October 15, 1941.

**ROBINSON-PATMAN ANTI-PRICE DISCRIMINATION ACT**

(U. S. C., Title 15, Sec. 13, as amended)

AN ACT To amend section 2 of the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2 of the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914, as amended (U. S. C., title 15, sec. 13), is amended to read as follows:

“SEC. 2. (a) 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 of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such 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, and where the effect of such discrimination may be substantially to lessen competition, or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided*, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: *Provided, however*, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the fore going shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: *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: *And*

*provided further*, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

“(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the commission is authorized to issue an order ter-

minating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima-facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

“(c) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

“(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

“(e) That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

“(f) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this section.”

SEC. 2 That nothing herein contained shall affect rights of action arising, or litigation pending, or orders of the Federal Trade Commission issued and in effect or pending on review, based on section 2 of said act of October 15, 1914, prior to the effective date of this amendatory act: *Provided,* That where, prior to the effective date of this amendatory act, the Federal Trade Commission has issued an order requiring any person to cease and desist from a violation of section 2 of said act of October 15, 1914, and such order is pending on review or is in effect, either as issued or as affirmed or modified by a court of competent jurisdiction, and the Commission shall have reason to believe that such person has committed, used, or carried on since the effective date of this mandatory act, or is committing, using, or carrying on any act, practice, or method in violation of any of the provisions of said section 2 as amended by this act; it may reopen such original proceeding and may issue and serve upon such person its complaint, supplementary to the original complaint, stating its charges in that respect. Thereupon the same proceedings shall be had upon such supplementary complaint as provided in section 11 of said act of October 15, 1914. If upon such hearing the commission shall be of the opinion that any act, practice, or method charged in said supplementary complaint has been committed, used, or carried on since the effective date of this amendatory act, or is being committed, used, or carried on in violation of said section 2 as amended 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 serve upon such person its order modifying or amending its original order to include any additional violations of law so found. Thereafter the provisions of section 11 of said act of October 15, 1914, as to review and

enforcement of orders of the commission shall in all things apply to such modified or amended order. If upon review as provided in said section 11, the court shall set aside such modified or amended order, the original order shall not be affected thereby, but it shall be and remain in force and effect as fully and to the same extent as if such supplementary proceedings had not been taken.

SEC. 3. It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than

those exacted by said person elsewhere in the United States for the purpose of destroying competition or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both.

SEC. 4. Nothing in this act shall prevent a cooperative association from returning to its members, producers, or consumers the whole, or any part of the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association.

Approved, June 19, 1936.

## EXPORT TRADE ACT

(U. S. C., Title 15, Sec. 61)

An Act to promote export trade, and for other purposes

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the words "export trade" wherever used in this Act mean solely trade or commerce in goods, wares, or merchandise exported, or in the course of being exported from the United States or any Territory thereof to any foreign nation; but the words "export trade" shall not be deemed to include the production, manufacture, or selling for consumption or for resale, within the United States or any Territory thereof, of such goods, wares, or merchandise, or any act in the course of such production, manufacture, or selling for consumption or for resale.

That the words "trade within the United States" wherever used in this Act mean trade or commerce among the several States 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 Territory or Territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

That the word "Association" wherever used In this Act means any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations.

SEC. 2. That nothing contained in the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, or an agreement made or act done in the course of export trade by such association, provided such association, agreement, or act Is not in restraint of trade within the United States, and is not in restraint of the export trade of any domestic competitor of such association: *And provided further*, That such association does not, either in the United States or elsewhere, enter info any agreement, understanding, or conspiracy, or do any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein.

SEC. 3. That nothing contained in section seven of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October fifteenth, nineteen hundred and fourteen, shall be construed to forbid the acquisition

or ownership by any corporation of the whole or any part of the stock or other capital of any corporation organized solely for the purpose of engaging in export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

SEC. 4. That the prohibition against “unfair methods of competition” and the remedies provided for enforcing said prohibition contained in the Act entitled “An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes”, approved September twenty-sixth, nineteen hundred and fourteen, shall be construed as extending to unfair methods of competition used in export trade against competitors engaged in export trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

SEC. 5. That every association now engaged solely" in export trade, within sixty days after the passage of this Act, and every association entered into hereafter which engages solely In export trade, within thirty days after its creation, shall file with the Federal Trade Commission a verified written statement setting forth the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated, a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of Its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and changes In its articles or certificate of incorporation or in its articles or contract of association. It shall also furnish to the commission such information as the commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals. Any association which shall fail so to do shall not have the benefit of the provisions of section two and section three of this Act, and It shall also 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 association 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 the forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Whenever the Federal Trade Commission shall have reason to believe that an association or any agreement made or act done by such association is in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, or that an association either in the United States or elsewhere has entered into any agreement, understanding, or conspiracy, or done any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein, it shall summon such association, its officers, and agents to appear before it, and thereafter conduct an. investigation into the alleged violations of law. Upon investigation, if It shall conclude that the law has been violated, it may make to such association recommendations for the readjustment of its business, in order that it may thereafter maintain its organization and management and conduct its business in accordance with law. If such association fails to comply with the recommendations of the Federal Trade Commission, said commission shall refer its findings and recommendations to the Attorney General of the United States for such action thereon as he may deem proper.

For the purpose of enforcing these provisions the Federal Trade Commission shall have all the powers, so far as applicable, given it in "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

Approved, April 10, 1918.

## SHERMAN ACT

(U.S.C., Title 15, Sec. 1)

SECTION 1. Every contract, combination the form of trust or otherwise, conspiracy, in

restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 2. Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States; in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just the premises.

SEC. 5. Whenever it shall appear to the court before which any proceeding under section four of this act may be pending, that the ends of justice require that other parties should be brought before the court; the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

SEC. 6. Any property owned under any contract Or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned section one of this act, and being in the course of transportation from one State to another, or to a foreign. country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

SEC. 7 Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

SEC. 8. That 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.

Approved, July 2, 1890.

## TYDINGS-MILLER ACT

AN ACT To provide additional revenue for the District of Columbia, and for other purposes

TITLE VIII--AMENDMENT TO THE ANTITRUST LAWS

Section 1 of the act entitled “An act to protect trade and commerce against unlawful restraints and monopolies”, approved July 2, 1890, is amended to read as follows:

“SECTION 1. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal: *Provided*, That nothing herein contained shall render illegal, contracts or agreements prescribing minimum prices for the resale of a commodity which bears, or the label or container of which bears, the trade mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful as applied to intrastate transactions, under any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia in which such resale is to be made, or to which the commodity

is to be transported for such resale, and the making of such contracts or agreements shall not be an unfair method of competition under section 5, as amended and supplemented, of the act entitled 'An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes', approved September 26, 1914: *Provided further*, That the preceding proviso shall not make lawful any contract or agreement, providing for the establishment or maintenance of minimum resale prices on any commodity herein involved, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court."

Approved, August 17, 1937.

## RULES OF PRACTICE

### RULE I. THE COMMISSION

*Offices.*--The principal office of the Commission is at Washington, D. C.

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

Branch offices are maintained at New York, Chicago, San Francisco, Seattle, and New Orleans.

Their addresses are: Federal Trade Commission, room 509, 45 Broadway, New York, N. Y.; Federal Trade Commission, 1118 New Post Office Building, 433 West Van Buren Street, Chicago, Ill.; Federal Trade Commission, 707 Flatiron Building 544 Market Street, San Francisco, Calif.; Federal Trade Commission, 801 Federal Building, Seattle, Wash.

*Hours.*--Offices are open on each business day, except Saturday, from 9 a. m. to 4:30 p. m., and on Saturdays from 9 a. m. to 1 p. m.

*Sessions.*--The Commission may meet and exercise all its powers at any 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 hearings will be held as ordered by the Commission.

Sessions of the Commission for the purpose of making orders and for transaction of other business unless otherwise ordered will be held at the principal office of the Commission at Pennsylvania Avenue at Sixth Street, Washington, D. C., on each business day at 10 a. m.

*Quorum.*--A majority of the members of the Commission shall constitute a quorum for the transaction of business.

### RULE II. THE SECRETARY

The Secretary shall sign all orders of the Commission.

### RULE III. SERVICE

Complaints, orders, and other processes of the Commission, and briefs in support of the Complaint, will be served by the secretary of the Commission by registered mail, except when service by other method shall be specifically ordered by the Commission, by registering and mailing a copy thereof addressed to the person, partnership, or corporation to be served at his or its principal office or place of business. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

When service is not accomplished by registered mail complaints, orders, or other processes of the Commission, and briefs in support of the complaint may be served by anyone duly

authorized by the Commission, or by any examiner of the Commission,--

(a) By delivering a copy of the document 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, partnership, or corporation.

The return post-office receipt for said complaint, order, or other process or brief registered and mailed as aforesaid, or the verified return by the person serving such complaint, order, or other process or brief, setting forth the manner of said service, shall be proof of the service of the document.

## RULE IV. APPEARANCE

Any individual or member of a partnership which is a party to any proceeding before the Commission may appear for himself, or such partnership upon adequate identification, and a corporation or association may be represented by a bona fide officer of such corporation or association upon a showing of adequate authorization therefor.

A party may also appear by an attorney at law possessing the requisite qualifications, as hereinafter set forth, to practice before the Commission.

Attorneys at law who are admitted to practice before the Supreme Court of the United States, or the highest court of any State or Territory of the United States, or the United States Court of Appeals for the District of Columbia, or the District Court of the United States for the District of Columbia, may practice before the Commission.

No register of attorneys who may practice before the Commission is maintained. No application for admission to practice before the Commission is required. A written notice of appearance on behalf of a specific party or parties in the particular proceeding should be submitted by attorneys desiring to appear for such specific party or parties, which notice shall contain a statement that the attorney is eligible under the provisions of this rule. Any attorney practicing before the Commission or desiring so to practice may, for good cause shown, be disbarred or suspended from practicing before the Commission, but only after he has been afforded an opportunity to be heard in the matter.

## RULE V. DOCUMENTS

*Filing.*--All documents required to be filed with the Commission in any proceeding shall be filed with the Secretary of the Commission.

*Title.*--Documents shall clearly show the docket number and title of the proceeding.

*Copies.*--Documents, other than correspondence, shall be filed *in triplicate*, except as otherwise specifically required by these rules.

*Form.*--Documents not printed shall be typewritten, on one side of paper only; letter size, eight and one-half (8 ½) inches by ten and one-half (10 ½) inches; left margin, one and one-half (1 ½) inches; right margin, one (1) inch.

Documents may be printed, in ten (10) or twelve (12) point type, on good, unglazed paper, of the dimensions and with the margins above specified.

Documents shall be bound at *left side only*.

The originals of all answers, briefs, motions, and other documents shall be signed in ink, by the respondent or his duly authorized attorney. Where the respondent is an individual or a partnership, the originals of said documents shall be signed by said individual or by one of the partners, or by his or its attorney. Where the respondent is a corporation, the originals of said documents shall be signed under the corporate name by a duly authorized official of such corporation, or by its attorney. Where the respondent is an association, the originals of said documents shall be signed under the association name for said association by a duly authorized official of such association, or by its attorney.

Answers shall be signed in quadruplicate. One copy of a brief or other document required to be printed shall be signed as the original.

## RULE VI. 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 for complaint 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 made either on its own motion or upon application, the Commission shall have reason to believe that there is a violation of law over which the Commission has jurisdiction, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, 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 80 days after the service of said complaint.

## RULE IX. ANSWERS

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Four copies of answers shall be furnished. All answers shall be signed in ink, by the respondent or by his attorney at law. Corporations or associations shall file answers through a bona fide officer or by an attorney at law. Answers shall show the office and post-office address of the signer.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve up on respondent:

(a) In cases arising under section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act), or under sections 2 and 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 purpose" (the Clayton Act), or under section 2 of the aforesaid Clayton Act as amended by "An act to amend section 2 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes' approved October 15, 1914, as amended (U.S. C., title 15, sec. 13), and for other purposes", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint

(b) In cases arising under section 7 of the said act of Congress approved October 15, 1914 (the Clayton Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint and to divest itself of the stock found to be held contrary to the provisions of said section 7 of said Clayton Act;

(c) In cases arising under section 8 of the said act of Congress approved October 15, 1914 (the Clayton Act), findings of fact and an order to cease and desist from the violation of law charged in the complaint and to rid itself of the directors found to have been chosen contrary to the provisions of said section 8 of said Clayton Act.

## RULE VIII. 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.

Three copies of the motion shall be filed.

## RULE IX. CONTINUANCES AND EXTENSIONS OF TIME

The Commission may, in its discretion, grant continuances, or, on good cause shown, in writing, extend time fixed by these rules.

Applications for continuances and extensions of time prescribed by these rules should be made prior to the expiration of time so prescribed.

#### RULE X. 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 he 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.

## RULE XI. HEARINGS ON COMPLAINTS

All hearings before the Commission or trial examiners on complaints issued by the Commission shall be public, unless otherwise ordered by the Commission.

Upon the joining of issue in a proceeding upon complaint issued by the Commission, the examination of witnesses therein shall proceed with all reasonable diligence and with the least practicable delay.

Not less than five (5) days notice of the time and place of the initial examination of witnesses before the Commission, a Commissioner, or an examiner, shall be given by the Commission to counsel or parties.

## RULE XII. HEARINGS ON INVESTIGATIONS

When a matter for investigation is referred to a single Commissioner, or examiner, for examination or report, such Commissioner, or examiner, 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 chief counsel, or such attorney as shall be designated by him, or by the Commissioner, or by the Commission, shall attend such hearings and prosecute the investigation, which hearings shall be public, unless otherwise ordered by the Commission.

## RULE XIII. TRIAL EXAMINERS

*Duties.*--When evidence is to be taken in a proceeding upon complaint issued by the Commission, a trial examiner shall be designated for that purpose by the Commission.

It shall be the duty of the trial examiner to complete the taking of evidence with all due dispatch.

The trial examiner shall state the place, day, and hour to which the taking of evidence may from time to time be adjourned.

*Reports.*--The trial examiner shall, within fifteen (15) days after receipt by him of the complete stenographic transcript of all testimony in a proceeding, make his Report upon the Facts.

He shall forthwith serve a copy of the report upon each attorney for the Commission, upon each attorney for respondents, and upon each respondent not represented by counsel.

The report of the trial examiner is not a decision, finding, or ruling of the Commission. It is not a part of the record of the proceeding, and is not a public document.

The Commission's findings as to the facts are based upon the record.

## RULE XIV. EXCEPTIONS

Attorneys or other persons served with a copy of the report of the trial examiner may, within ten (10) days after receipt of such copy of report, file, in writing, their exceptions, if any, to the report.

They shall specify the particular part or parts of the report to which exception is made, and the exceptions shall include any additional facts which the person filing the exception may deem proper.

Citations to the record shall be made in support of the exceptions.

Seven (7) copies of the exceptions, signed, in ink, shall be filed.

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits.

Exceptions are not a part of the record of the proceeding.

#### RULE XV. STATEMENTS OF FACTS

When, in the opinion of the trial examiner engaged in taking evidence in any proceeding upon complaint issued by the Commission, the size of the transcript, or complication or importance of the issues involved warrants, he may, of his own motion, or at the request of counsel, at the close of taking evidence, announce to attorneys for the Commission and for respondents that the trial examiner will receive, within five (5) days after the closing of the taking of evidence, and not later, a statement, in writing, one by attorneys for the Commission and one by attorneys for the respondents, setting forth, in terse outline, the contentions of each as to the facts proved in the proceeding.

Statements of facts are not to be exchanged between counsel, and are not to be argued before the trial examiner.

Statements of facts are not a part of the record of the proceeding.

## RULE XVI. SUBPOENAS

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 issued by a member of the Commission upon his own motion, will be issued only upon application in writing. The application must be verified, and must specify, as exactly as possible, the documents desired and the facts to be proved by them.

## RULE XVII. WITNESSES

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.

Witnesses summoned by the Commission shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

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

Witness fees and mileage, and fees for depositions, shall be paid by the party at whose instance witnesses appear.

## RULE XVIII. DEPOSITIONS

The Commission may order evidence to be taken by deposition in any proceeding or investigation pending 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.

Unless notice be waived, no deposition shall be taken except after at least five (5) days' notice to the parties within the United States, and fifteen (15) days' notice when the deposition is to be taken elsewhere.

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, or 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 three additional copies 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. Such deposition, unless otherwise ordered by the Commission for good cause shown, shall be filed in the record in said proceeding and a copy thereof supplied to the party upon whose application said deposition was taken, or his attorney.

Depositions shall be typewritten, on one side of paper only; letter size, eight and one-half (8

½ ) inches by ten and one-half (10 ½) inches; left margin one and one-half (1 ½ inches; right margin, one (1) inch.

Depositions shall be bound at *left side only*

#### RULE XIX. EVIDENCE

*Documentary.*--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 immaterial or irrelevant parts shall be excluded, and shall be segregated insofar as practicable.

*Objections.*--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.

## RULE XX. BRIEFS

*Filing.*--All briefs must be filed with the secretary of the Commission within the time limits fixed by these rules.

Briefs tendered after expiration of the times fixed will be filed only by special permission of the Commission.

Appearance of additional counsel in a case will not constitute grounds for extending time for filing briefs.

*Time.*--Opening brief in support of the complaint shall be filed by the trial attorney of the Commission within twenty (20) days after service upon him of copy of the report of the trial examiner.

Brief on behalf of respondent shall be filed within twenty (20) days after service upon respondent or respondent's attorney of copy of brief in support of the complaint.

Reply briefs in support of the complaint, if any, shall be filed within ten (10) days after filing of brief on behalf of respondent.

*Number.*--Twenty (20) copies of each brief shall be filed.

*Contents.*--Briefs, except the reply brief on behalf of the Commission shall contain, in the following order:

(a) A concise abstract or statement of the case;

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

(c) The exceptions, if any, to the report of the trial examiner.

*Index.*--Briefs comprising more than ten (10) pages shall contain on their top fly leaves a subject index with page references. The subject index shall be supplemented by an alphabetical list of all cases referred to, with references to pages where references are cited.

*Reply briefs.*--Reply brief in support of the complaint shall be filed only when recommended by the chief counsel, and shall be strictly in answer to brief on behalf of respondent.

No reply brief on behalf of respondent shall be filed.

*Form.*--Briefs on behalf of respondent shall be printed in ten (10) or twelve (12) point type; on good, unglazed paper, size eight and one-half (8 ½) by ten and one-half (10½) inches; left margin of one and one-half (1½) inches, right margin of one (1) inch; with double-leaded text and single-leaded citations.

## RULE XXI.--ORAL ARGUMENT

Oral arguments shall be had only as ordered by the Commission, on written application of the chief counsel of the Commission, or of the respondent, or of attorney for respondent, filed within fifteen (15) days after filing of brief on behalf of respondent.

Appearance of additional counsel in a case will not constitute grounds for extending time for oral argument.

## RULE XXII.--REPORTS SHOWING COMPLIANCE WITH ORDERS

In every case where an order is issued by the Commission for the purpose of preventing violations of the law, the respondent or respondents therein named shall file with the Commission, within the time specified in said order, a report, in writing, setting forth in detail the manner and form in which respondent or respondents have complied with the said order of the Commission. Within its sound discretion the Commission may require any such respondent or respondents, from time to time thereafter, to file further reports in writing, setting forth in

detail the manner and form in which they are complying with the said order.

Reports of compliance shall be signed, in ink, by respondent or attorney for respondent.

#### **RULE XXIII.--REOPENING PROCEEDINGS**

In any case where an order to cease and desist, an order dismissing a complaint, or other order disposing of a proceeding has been issued by the Commission, the Commission may, at any time within ninety (90) days after entry of such order, for good cause shown, in writing, and on notice to the parties, reopen the case for such further proceeding as to the Commission may seem proper.

## INVESTIGATIONS BY THE COMMISSION, 1915-37

### DESCRIPTIONS OF GENERAL INQUIRIES INCLUDING TITLES OF PUBLISHED REPORTS

General investigations of the Federal Trade Commission are described in the following paragraphs devoted to the more than 100 inquiries undertaken at the request of the Congress, the President, the Attorney General, other departmental heads, and on motion of the Commission in pursuance of certain provisions of its organic act.

Published reports of the Commission in connection with these inquiries are also listed, including the Senate and House Document numbers for those of the reports that were ordered printed by the Congress. Publications not designated by such document numbers were published as Commission reports. Many of these publications are now out of print and are so listed.

**Accounting Systems.**--This inquiry was made on motion of the Commission, with a view to improving accounting practices, and led to the publication of two reports, entitled *Fundamentals of a cost System for Manufacturers* (31 pages), and *A System of Accounts for Retail Merchants* (19 pages, out of print), both published in 1916.

**Agricultural Income.**--This inquiry was made pursuant to Senate Joint Resolution No.9, Seventy-fourth Congress, first session (Public Resolution No.61, Seventy-fourth Congress, approved August 27, 1935, as amended by Public Resolution No.86, Seventy-fourth Congress, and by Public Resolution No. 112 Seventy-fourth Congress). The first resolution called for an inquiry with respect to the "principal farm products" and the last one with respect to "table and juice grapes, fresh fruits and vegetables." The chief topics covered were: the decline in agricultural income, the increases or decreases in the income of principal corporations engaged in the manufacture and distribution of principal farm products; the proportion of total consumer cost of such products represented by proceeds to the farmers, manufacturers, and distributors; the financial position of the aforementioned principal corporations, including assets, investment and rates of return; the salaries of officers of such corporations; the concentration of control of major farm products, the methods used for obtaining such control, and the extent to which unfair methods were employed in handling farm products, such methods including any combinations, monopolies and price fixing. The resolution also required an inquiry into the extent to which cooperative agencies had entered into the processing and marketing of such farm products.

Four reports were issued: (1) *Interim Report of the Federal Trade Commission on the Agricultural Income Inquiry*, December 26, 1935, printed as House Document No.380, Seventy-fourth Congress, second session (6 pages); (2) *Fruits and Vegetables-Agricultural Income Inquiry* (interim report), February 1, 1937 printed as Senate Document No. 17, Seventy-fifth Congress, first session (16 pages); (3) *Principal Farm Products--Agricultural Income Inquiry*, March 2, 1937 (2,584 typewritten pages, exclusive of summary and appendixes) of which the first two chapters were printed, namely, (a) summary and (b) conclusions and recommendations, as Senate Document No. 54 Seventy-fifth Congress, first session (40 pages); and (4) *Fresh Fruits and Vegetables, Agricultural Income Inquiry*, June 10, 1937 (1,966 typewritten pages, exclusive of appendixes) of which a mimeographed release of 11 pages was issued on June 10, 1937, describing the contents. The principal reports, though not printed, are a public record, and may be examined at the offices of the Commission.

**Bakeries.**--At the request of the United States Food Administration the Commission made a brief report on the cost of bread and other related factors, which was printed, with other data by the Food Administration, November 1917, and entitled *United States Food Administration*,

*Report of the Federal Trade Commission on Bakery Business in United States* (pages 5-13), (out of print).

**Bread and Flour.**--This inquiry was made pursuant to Senate Resolution No. 163, Sixty-eighth Congress, first session, February 16, 1924. This resolution directed the Commission to investigate the production, distribution, transportation) and sale of flour and bread, showing costs, prices, and profits at each stage

of the process of production and distribution; the extent and methods of price fixing, price maintenance, and price discrimination; concentration of control in the milling and baking industries; and evidence indicating the existence of agreements, conspiracies, or combinations in restraint of trade. Two preliminary reports were issued, dealing with competitive conditions in flour milling and bakery combines and profits. The final report showed, among other things, that wholesale baking in recent years had been generally profitable. It disclosed also price-cutting wars by big bakery combines and subsequent price-fixing agreements. Reports were issued entitled *Competitive Conditions in Flour Milling* (140 pages) printed as Senate Document No.97, Seventieth Congress, first session, *Bakery Combines and Profits* (95 pages), printed as Senate Document No.212, Sixty-ninth Congress, second session, and *Competition and Profits in Bread and Flour* (509 printed as Senate Document No.98, Seventieth Congress, first session, May 3, 1926, February 11, 1927, and January 11, 1928, respectively. A supplementary report covering data withheld during court proceedings (Millers' National Federation against Federal Trade Commission) entitled *Conditions in the Flour Milling Business*, was transmitted to the Senate May 28, 1932, and printed as Senate Document No.96, Seventy-second Congress, first session (26 pages). (See also Bakeries, Flour Milling, and Food Investigation.)

**Calcium Arsenate.**--This inquiry was made pursuant to Senate Resolution No. 417, Sixty-seventh Congress, fourth session, January 23, 1923. The high prices of calcium arsenate, a poison used to destroy the cotton boll weevil, led to this Inquiry from which it appeared that the cause was due to the sudden increase in demand rather than to any restraints of trade. The report, entitled *Calcium Arsenate Industry*, was transmitted to the Senate March 3, 1923, and printed as Senate Document No.345, Sixty-seventh fourth session. (21 pages.)

**Cement Industry.**--This inquiry was made pursuant to Senate Resolution No. 448, Seventy-first Congress, fourth session, February 16, 1931. This resolution instructed the Commission to investigate competitive conditions and distributing processes in the cement industry to determine the existence, if any, of unfair trade practices or violations of the anti-trust laws. The report indicated that rigid application of the multiple basing-point price system, universally used in the industry, tended to lessen price competition and destroy the value of sealed bids; that manufacturers in concert with dealer organizations had engaged in activities which strengthened the system's price effectiveness and that dealer's associations had engaged in practices designed to restrict sales to those recognized as legitimate dealers by the associations. It was indicated such practices also tended to control sales terms. This report reiterated certain findings and conclusions of the Commission's earlier report on the cement industry made as a part of the price bases inquiry. Entitled *Cement Industry*, the report was transmitted to the Senate June 9, 1933, and printed as Senate Document No.71, Seventy-third Congress, first session (160 pages). (See also Price Bases and Steel Investigations.)

**Chain Stores.**--This inquiry was made pursuant to Senate Resolution No.224, Seventieth Congress, first session, May 12, 1928. Under the resolution the Commission was directed to ascertain the advantages and disadvantages of chain store distribution as compared with other types of distribution and how far the increase in the former system depended upon quantity prices and whether or not such quantity prices were in violation of law and what legislation, if any, should be enacted regarding them. The resolution also called for a report upon the extent to which practices of the chain stores had tended to monopoly or concentration of control, the existence of unfair methods, and agreements in restraint of trade. The factual data, submitted in 33 separate reports published as Senate documents under the general title *Chain- Stores*, contained detailed statistical analyses of nearly all phases of chain-store operations.

Subtitles of the chain store reports, their dates of issue, and the document numbers under which they were printed are as follows:

*Cooperative Grocery Chains*, 199 pages,

33

July 13, 1931, Senate Document No.12,  
Seventy-second Congress, first session.

*Scope of the Chain-Store Inquiry*,

pages, December 22, 1931, Senate  
Document No.31, Seventy-second Con-

*Wholesale Business of Retail Chains,*  
38 pages, December 22, 1931, Senate  
*Leaders,*

Document No.29, Seventy-second Con-  
gress, first session

*Sources of Chain-Store Merchandise,*  
76 pages, December 22, 1931, Senate  
Senate

Document No.30, Seventy-second Con-  
gress, first session.

gress, first session.

*Chain-Store Leaders and Loss*

57 pages, January 15, 1932, Senate  
Document No.51, Seventy-second Con-  
gress, first session.

*Cooperative Drug and Hardware  
Chains,* 28 pages, April 18, 1932,

Document No. 82, Seventy-second Con-  
gress, first session.

*Growth and Development of Chain Stores*, 81 pages, June 11, 1933, Senate Document No. 100, Seventy-second Congress, first session.

*Chain-Store Private Brands*, 126 pages, September 26, 1932, Senate Document No. 142, Seventy-second Congress, second session.

*Short Weighing and Over Weighing in Chain and Independent Grocery Stores*, 42 pages, December 15 1932, Senate Document No. 153, Seventy-second Congress, second session.

*Sizes of Stores of Retail Chains*, 50 pages, December 21, 1932, Senate Document No. 156, Seventy-second Congress, second session.

*Quality of Canned Vegetables and Fruits (Under Brands of Manufacturers Chains, and Other Distributors)*, 53 pages, January 13, 1933, Senate Document No.170, Seventy-second Congress, second session.

*Gross Profit and Average Sale per Store of Retail Chains*, 75 pages, February 2, 1933, Senate Document No.178, Seventy-second Congress, second session.

*Chain-Store Manufacturing*, 129 pages, April 5, 1933, Senate Document No.13, Seventy-third Congress first session.

*Sales, Costs, and Profits of Retail Chains*, 120 pages, April 22, 1933, Senate Document No. 40, Seventy-third Congress, first session.

*Prices and Margins of Chain and Independent Distributors, Washington, D. C., Grocery*, 98 pages, May 15, 1933, Senate Document No. 62, Seventy-third Congress, first session.

*Prices and Margins of Chain and Independent Distributors, Memphis--Grocery*, 43 pages, June 8, 1933, Senate Document No. 69, Seventy-third Congress, first session.

*Prices and Margins of Chain and Independent Distributors, Detroit Grocery*, 42 pages, June 22, 1933, Senate Document No. 81, Seventy-third Congress, second session.

*Prices and Margins of Chain and Independent Distributors, Cincinnati-Grocery*, 50 pages, November 12,1933, Senate Document No. 88, Seventy-Congress, second session.

*Prices and Margins of Chain and Independent Distributors, Cincinnati-Drug*, 43 pages. December 30, 1933, Senate Document No. 95, Seventy-third Congress, second session.

*Prices and Margins of Chain and Independent Distributors, Detroit--Drug*, 51 pages, December 30, 1933, Senate

Document No.96, Seventy-third Congress, second session.

*Prices and Margins of Chain and independent Distributors, Memphis--Drug*, 40 pages, December 30, 1933, Senate Document No. 97, Seventy-third Congress, second session.

*Prices and Margins of Chain and Independent Distributors, Washington, D. C.-Drug* 40 pages December 30, 1933, Senate Document No. 98, Seventy-third Congress, second session.

*Chain-Store Wages*, 116 pages, July 15, 1933, Senate Document No. 82, Seventy-third Congress, second session.

*Chain-Store Advertising*, 89 pages October 14,1933, Senate Document N. 84, Seventy-third Congress, second session.

*Chain-Store Price Policies*, 146 pages, October 20, 1933, Senate Document No. 85, Seventy-third Congress, second session.

*Special Discounts and Allowances to Chain and Independent Distributors--Tobacco Trade* 118 pages October 26, 1933, Senate Document No. 86, Seventy-third Congress, second session.

*Special Discounts and Allowances to Chain and Independent Distributors-Grocery Trade*, 44 pages, November 14, 1933, Senate Document No. 89, Seventy-third Congress, second session.

*Special Discounts and Allowances to Chain and Independent Distributors Drug Trade*, 98 pages, November 24, 1933, Senate Document No. 94, Seventy-third Congress, second session.

*Invested Capital and Rates of Return of Retail Chains*, 142 pages, October 29, 1933, Senate Document No.87, Seventy-third Congress, second session.

*Service Features in Chain Stores*, 67 pages, November 20, 1933, Senate Document No.91, Seventy-third Congress, second session.

*The Chain Store in the Small Town*, 112 pages, November 22, 1933, Senate Document No. 93, Seventy-third Congress, second session.

*Miscellaneous Financial Results of Retail Chains* 93 pages, December 31, 1933 Senate Document No.99, Seventy-third Congress, second session.

*State Distribution of Chain Stores, 1913-28*, 55 pages, November 16,1933, Senate Document No. 130, Seventy-third Congress, second session.

*Final Report on the Chain-Store Investigation*, 110 pages, December 14, 1934, Senate Document No.4, Seventy fourth Congress, first session.

**Coal, Anthracite.**--This investigation was conducted pursuant to Senate Resolution No.217, Sixty-fourth Congress, first session, June 22, 1916, and Senate Resolution No. 51, Sixty-fifth

Congress, first session, May 1, 1917. A rapid advance in the prices of anthracite at the mines, compared with costs, and the overcharging of anthracite jobbers and dealers, were disclosed in the inquiry in response to these resolutions. Current reports of operators' and retailers selling

prices were obtained, and this was believed to have substantially benefited the consumer. Reports were transmitted to the Senate May 4, 1917, and June 20, 1917.

**Coal, Anthracite.--**This inquiry was made on motion of the Commission, and dealt with premium prices of anthracite coal charged by certain mine operators and the premium prices and gross profits of wholesalers in the latter part of 1923 and early in 1924. The report discussed also the development of the anthracite combination and the results of the Government's efforts to dissolve it. The *Report of the Federal Trade Commission on Premium Prices of Anthracite* (97 pages), dated July 6, 1925, was transmitted to Congress and printed.

**Coal--Anthracite and Bituminous.--**This inquiry was made pursuant to House Resolution No. 352, Sixty-fourth Congress, first session; Senate Resolution No. 217, Sixty-fourth Congress, first session, and Senate Resolution No.51, Sixty-fifth Congress, first session. The original problems of the investigation were altered by entrance of the country into the World War and were treated accordingly. The report, entitled *Report of the Federal Trade Commission on Anthracite and Bituminous Coal*, consisting of a summary and a general report, was submitted to Congress June 19, 1917, and printed (420 pages) as a Commission publication and as Senate Document No.50, Sixty-fifth Congress, first session (out of print). The summary was also submitted to Congress separately and printed as House Document No. 193, Sixty-fifth Congress, first session (29 pages out of print).

**Coal, Bituminous.--**This inquiry was made pursuant to House Resolution No. 852, Sixty-fourth Congress, first session, adopted August 18, 1916. The resolution called for an investigation of the alleged depressed condition of the industry, but subsequent to Its adoption there was a marked advance in coal prices, and the Commission, in a preliminary report, suggested various measures for insuring a more adequate supply at reasonable prices. This report, entitled *Preliminary Report by the Federal Trade Commission on the Production and Distribution of Bituminous Coal* was printed as House Document No.1.92, Sixty-fifth Congress, first session (8 pages, out of print).

**Coal, Bituminous.--**An inquiry was made on motion of the Commission. The reports on investment and profit In soft-coal mining were prepared and transmitted to Congress in the belief that the information would be of timely value in consideration of pending legislation regarding the coal trade. The data cover the years 1916 to 1921, inclusive. Reports were issued in two parts, dated May 31, 1922, and July 6, 1922, but printed in one volume, entitled *Investment and Profit in Soft Coal Mining. Part I Summary and Conclusions; Part II. Explanatory and Statistical Material Supporting Part I* (222 pages).

**Coal Reports--Cost of Production.--**This inquiry was made at the direction of President Wilson. Before the passage of the Lever Act in August 1917, the Commission was called upon by the President to furnish information to be used by him in fixing coal prices under that act. On the basis of the Information furnished the prices of coal were fixed by Executive order. The work of the Commission In determining the cost of production of coal was continued by obtaining monthly reports. This information was compiled for use of the United States Fuel Administration in continuing the control of prices. Detailed cost records were collected from January 1917, through December 1918, for about 99 percent of the anthracite tonnage production and for about 95 percent of the bituminous coal production. This information was summarized, after the war, in a series of reports for the principal coal producing States or regions, which were all dated June 30, 1919, and printed as follows: *Cost Reports of the Federal Trade Commission--Coal. No.1. Pennsylvania--Bituminous* (103 pages). *No.2. Pennsylvania-Anthracite* (145 pages, out of prints). *No.3. Illinois--Bituminous* (127 pages). *No.4. Alabama, Tennessee, and Kentucky--Bituminous* (210 pages). *No.5. Ohio, Indiana, and Michigan--Bituminous* (288 pages). *No.6. Maryland, West Virginia, and Virginia--Bituminous* (208 pages). *No. 7. Trans-Mississippi States--Bituminous* (359 pages). (See also War-Time Cost Finding.)

**Coal--Current Monthly Reports.**--In December 1919, provided with a special appropriation by Congress, the Commission initiated a system of current monthly returns from the soft-coal industry somewhat similar to those required from coal-producing companies during the war. An injunction to prevent the Commission from calling for such reports (denied about 7 years later) led to their abandonment. Mimeographed reports of the results were published monthly regarding operations from January to June, inclusive, 1920, as follows: Bulletin No.1 (January 1920 costs), April 20, 1920 ; Bulletin No. 2 (February 1920 costs), May 24, 1920 ; Bulletin No.8 (March 1920 costs) June 25, 1920 ; Bulletin No.4 (April 1920 costs), July 26, 1920 ; Bulletin No. 5 (May 1920 costs), August 25, 1920 ; Quarterly Report No.1 (revised costs-First Quarter of 1920), August 25, 1920 ; Quarterly Report No. 2 (revised costs-Second Quarter of 1920), December 6, 1920.

**Coal--Retail Situation.**--An inquiry was made on motion of the Commission into the retail coal situation in Washington, D. C., and a typewritten report was issued on August 11, 1917, entitled *Washington, D. C., Retail Coal Situation* (5 pages).

**Commercial Bribery.**--An inquiry made on motion of the Commission into the prevalence of bribery of employees of customers as a method of obtaining trade was described in a special report to Congress, dated May 15, 1918, entitled *Special Report on Commercial Bribery*, printed as House Document No.1107, Sixty-fifth Congress, second session (3 pages, out of print). The report contained recommendations for legislation striking at this practice. On August 22, 1918, a letter from the Commission to Senator Duncan U. Fletcher of Florida, in the nature of a report, discussed this subject and was printed under the title *Commercial Bribery*, as Senate Document (unnumbered), Sixty-fifth Congress, second session (36 pages, out of print). On March 18, 1920, a brief report was transmitted to the Senate by the Commission, on its own motion, entitled *Commercial Bribery*, which was printed as Senate Document No.258, Sixty-sixth Congress, second session (7 pages, out of print).

**Cooperation in Foreign Countries.**--This investigation was initiated on motion of the Commission. The subsequent report on this subject was the result of inquiries made by the Commission regarding the cooperative movement in 15 European countries. It contained recommendations for further developments of cooperation in the United States. The report, dated December 2, 1924, was entitled *Cooperation in Foreign Countries* (202 pages, out of print), and was printed as a Senate Document.

**Cooperative Marketing.**--This inquiry was made pursuant to Senate Resolution No.34, Sixty-ninth Congress, special session, adopted March 17, 1925. It covered the development of the cooperative movement in the United States and illegal interferences with the formation and operation of cooperatives. The report included also a study of comparative costs, prices, and marketing practices as between cooperative marketing organizations and other types of marketers and distributors handling farm products. Entitled *Cooperative Marketing*, the report was transmitted to the Senate April 30, 1938, and printed as Senate Document No.95, Seventieth Congress, first session (721 pages, out of print).

**Copper.**--This inquiry was a part of the war-time work done at the direction of President Wilson. One Of the first products for which the Government established a definite maximum price during the World War was copper. The information upon which the price was fixed was primarily the cost findings of the Federal Trade Commission, and a summary of this cost information was printed in the report entitled *Cost Reports of the Federal Trade Commission--Copper* (26 pages, issued June 30, 1919). (See also War-time Cost Finding.)

**Cost of Living.**--At the outbreak of the World War, the rapid rise of prices led the Commission, at the direction of President Wilson, to call a conference on April 30, 1917, to which official delegates of the various States were invited. The proceedings, entitled *The High Cost of Living*, were subsequently printed (119 pages, out of print).

**Cotton Merchandising.**--This inquiry was made pursuant to Senate Resolution No. 252, Sixty-eighth Congress, first session, adopted June 7, 1924. The report discussed abuses in handling consigned cotton and made recommendations designed to correct or alleviate existing conditions. The report, *Cotton Merchandising Practices*, was transmitted to the Senate January 20, 1925, and printed, as Senate Document No.194, Sixty-eighth Congress, second session (88 pages).

**Cottonseed Industry.**--An inquiry was made pursuant to House Resolution No.439, Sixty-ninth Congress, second session, adopted March 2, 1927. Alleged fixing of the prices paid for cottonseed led to this investigation. The Commission found considerable evidence of cooperation among the State associations, but the evidence as a whole did not indicate that

prices had been fixed in violation of the antitrust laws by those engaged in crushing or refining cottonseed. One of the main causes of dissatisfaction to both the producer of cottonseed and those engaged in its purchase and manufacture was found to have been a lack of a uniform system of grading. The report, Cottonseed Industry, was submitted to the House March 5, 1928, and printed as House Document No.193, Seventieth Congress, first session (37 pages) .

**Cottonseed Industry.**--An inquiry was made pursuant to Senate Resolution No. 136, Seventy-first Congress, first session, adopted October 21, 1929, and Senate Resolution 147, Seventy-first Congress, first session, adopted November 2, 1929. These resolutions instructed the Commission to investigate practices of corporations operating cottonseed-oil mills to determine the existence of unlawful combinations seeking to lower and fix prices of cottonseed, and seeking to sell cottonseed

meal at a fixed price under boycott threat. The Commission was also directed to determine whether such corporations were acquiring control of cotton gins for the purpose of destroying competitive markets as well as for depressing or controlling prices paid to seed producers. The final report (207 pages) was submitted to the Senate on May 19, 1933. This report and twelve volumes covering hearings during the course of the investigation were printed as Senate Document No. 209, Seventy-first Congress, second session, under the general title, *Investigation of Cottonseed Industry*.

**Cotton Trade.**--An inquiry was made pursuant to Senate Resolution No. 262, Sixty-seventh Congress, second session, adopted March 29, 1922. A preliminary report discussed especially the causes of the decline in cotton prices during the period 1922. A report entitled *Cotton trade--A preliminary report* (28 pages, out of print) was transmitted February 26, 1923 (See next paragraph.)

**Cotton Trade.**--An inquiry was made pursuant to Senate Resolution No. 429, Sixty-seventh Congress, fourth session, adopted January 31, 1923. The inquiry in response to this second resolution on the cotton trade was combined with the one mentioned above and resulted in a report which was sent to the Senate in April 1924. This report recommended that Congress enact legislation providing for some form of southern warehouse delivery on New York contracts, and as a part of such a delivery system the adoption of a future contract which would require that not more than three adjacent or contiguous grades should be delivered on any single contract. The Commission also recommended a revision of the system of making quotations and differences at the various spot markets and the abolition of deliveries on futures at New York. The special warehouse committee of the New York Cotton Exchange, on June 28, 1924, adopted the recommendations of the Commission with reference to the southern delivery on New York contracts, including the contiguous grade contract. A report entitled *The Cotton Trade*, printed in two volumes, contained, respectively, the report and the transcript of hearings. It was transmitted to the Senate April 28, 1924, and printed as Senate Document No. 100, Sixty-eighth Congress, first session (510 pages, out of print).

**Du Pont Investments.**--This inquiry was made on motion of the Commission of July 29, 1927. The reported acquisitions of E. I. du Pont de Nemours & Co., of the stock of the United States Steel Corporation, together with previously reported holdings in General Motors Corporation, caused an inquiry into these relations with a view to ascertaining the facts and their probable economic consequences. The report, entitled *Report of the Federal Trade Commission on Du Pont Investments*, was mimeographed (43 pages), together with views of Commissioner William E. Humphrey on the resolution and on the report (3 pages).

**Electric and Gas Utilities.**--See Electric Power, Interstate Power Transmission, and Utility Corporations.

**Electric Power.**--This inquiry was made pursuant to Senate Resolution No. 329, Sixty-eighth Congress, second session, adopted February 9, 1925. Two reports on the control of the electric-power industry were made pursuant to this resolution. The first dealt with the organization, control, and ownership of commercial electric-power companies, and showed, incidentally, the dangerous degree to which pyramiding had been practiced in superposing a series of holding companies over the underlying operating companies. The second report related to the supply of electrical equipment and competitive conditions existing in the industry. The dominating position of the General Electric Co. in the field of electric equipment was clearly brought out. These reports, entitled *Electric Power Industry--Control of Power Companies* (272 pages), printed as Senate Document No. 213 Sixty-ninth Congress, second session (out of print), and *Supply of Electrical Equipment and Competitive Conditions* (282 pages), printed as Senate Document No. 46, Seventieth Congress, first session, were transmitted to the Senate February

21., 1927, and January 12, 1928, respectively. (See also Interstate Power Transmission and Utility Corporations.)

**Farm Implements.**--This inquiry was made pursuant to Senate Resolution No. 223, Sixty-fifth Congress, second session, adopted May 13, 1918. The high prices of farm implements and machinery led to this inquiry, which disclosed that there were numerous trade combinations to advance prices and that the consent decree for the dissolution of the International Harvester Co. was inadequate. The Commission recommended a revision of the decree and the Department of Justice proceeded against the company to that end. The report, entitled *Report of the Federal Trade Commission on the Causes of High Prices of Farm Implements* (713 pages, out of print), was transmitted to the Senate May 4, 1920. (See Agricultural Implements and Machinery, and Independent Harvester.)

**Farm Implements and Machinery.**--This inquiry was made pursuant to Senate Joint Resolution No. 277, Seventy-fourth Congress, second session (Public Resolution No.130, Seventy-fourth Congress), approved June 24, 1936. It called for an investigation to determine whether there had been recently any conspiracy in unlawful restraint of trade or unfair methods of competition in the manufacture or sale of agricultural implements and machinery, the extent of concentration and control in the industry, the costs, prices and profits of manufacturers and distributors, the methods and price margins of dealers, and the course of prices of farm machinery and of other similar machinery, since 1914. This investigation is pending.

**Farm Products.**--See Agricultural Income.

**Feeds.**--This inquiry was made pursuant to Senate Resolution No.140, Sixty-sixth Congress, first session, adopted July 31, 1919. Its purpose was to discover whether there were any combinations or restraints of trade in that business; and, though it disclosed some association activities in restraint of trade, it found no important violation of the antitrust laws. Certain minor abuses in the trade were eliminated. The *Report of the Federal Trade Commission on Commercial Feeds* (206 pages), was transmitted to the Senate March 29, 1921, and printed.

**Fertilizer.**--An inquiry was made pursuant to Senate Resolution No.487, Sixty-second Congress, third session, adopted March 1, 1913. Begun by the Commissioner of Corporations, the investigation disclosed the extensive use of bogus independent fertilizer companies for purposes of competition, but through conferences with the principal manufacturers agreements were reached for the abolition of such unfair competition. A report, entitled *Fertilizer Industry* (269 pages) was transmitted by the Federal Trade Commission to the Senate August 19, 1916, and printed as Senate Document No.551, Sixty-fourth Congress, first session.

**Fertilizer.**--An inquiry made pursuant to Senate Resolution No.307, Sixty-seventh Congress, second session, adopted June 17, 1922, developed that active competition generally prevailed in the fertilizer industry in this country, though in certain foreign countries combinations controlled some of the most important raw materials. The Commission recommended constructive legislation to improve agricultural credits and more extended cooperative action in the purchase of fertilizer by farmers. The report, entitled *Fertilizer Industry* (87 pages), was transmitted to the Senate March 3, 1923, and printed as Senate Document No.347. Sixty-seventh Congress, fourth session.

**Flags.**--This inquiry, made pursuant to Senate Resolution No.35, Sixty-fifth Congress, first session, adopted April 16, 1917, resulted from unprecedented increases in the prices of American flags due to the war-time demand. A report entitled *Prices of American Flags*, printed as Senate Document No.82, Sixty-fifth Congress, first session (6 pages, out of print), was transmitted to the Senate, July 26, 1917.

**Flour Milling.**--An inquiry into the flour-milling industry was made pursuant to Senate Resolution No.212, Sixty-seventh Congress, second session, adopted January 18, 1922. A report on the inquiry was sent to the Senate in May 1924. It showed the costs of production of wheat flour and the profits of the flour-milling companies in recent years. It also discussed the disadvantages of the miller and consumer arising from an excessive and confusing variety in the sales of flour packages. A report, entitled *Wheat Flour Milling Industry* (130 pages), was transmitted to the Senate May 16, 1924, and printed as Senate Document No. 130, Sixty-eighth Congress, first session (out of print). (See also Bakeries, Bread, and Food Investigation.)

**Food Investigation.**--This inquiry was made pursuant to an order of President Wilson dated February 7, 1917. The general food investigation, undertaken with a special appropriation of Congress, resulted in two major series of reports, namely, meat packing and the grain trade, both described elsewhere in this list. In addition separate inquiries were made into flour milling, canned vegetables and fruits, and canned salmon. (See Food Investigation: Flour Milling, Grain Trade, Meat Packing, Food-Canning, Private Car Lines, and Wholesale Marketing of Food.)

**Food Investigation--Flour Milling.**--This inquiry was begun pursuant to the order of President Wilson dated February 7, 1917, but was continued as a separate inquiry. A report entitled *Commercial Wheat Flour Milling* was issued on September 15, 1920 (118 pages). (See also Bakeries, Bread, and Flour Milling.)

**Food Investigation--Flour Milling and Jobbing.**--In connection with the food Inquiry ordered by President Wilson, the Commission on April 4, 1918, issued a report entitled *Food Investigation, Report of the Federal Trade Commission on Flour Milling and Jobbing* (27 pages, out of print). (See also Bakeries, Bread, and Flour Milling.)

**Food Investigation--Food Canning.**--As a part of the general food investigation ordered by President Wilson in 1917, the Commission made a study of canned foods, and published two reports, one May 15, 1918, entitled *Food Investigation. Report of the Federal Trade Commission on Canned Foods. General Report and Canned Vegetables and Fruits* (103 pages, out of print) and another December 27, 1918, entitled *Food Investigation. Report of the Federal Trade Commission on Canned Foods. Canned Salmon* (83 pages). Also, the Commission, in connection with its general war-time cost finding activity, obtained a large amount of cost data for use of the War and Navy Departments, including data on canned foods. A volume was published November 21, 1921, in accordance with section 6 (f) of the Federal Trade Commission Act, and entitled *Report of the Federal Trade Commission on Canned Foods, 1918. Corn, Peas, String Beans, Tomatoes and Salmon* (86 pages).

**Food Investigation--Grain Elevators.**--In connection with the Inquiry into the grain trade ordered by President Wilson as elsewhere described, the Commission, in a letter dated June 13, 1921, transmitted to the Senate, on its own motion, in accordance with section 6 of the Federal Trade Commission Act, its report, *Profits of Country and Terminal Grain Elevators, a Preliminary Report*. This was printed as Senate Document No.40, Sixty-seventh Congress, first session (12 pages, out of print). (See also Grain Exporters and Grain-Wheat Prices.)

**Food Investigation--Grain Trade.**--Made pursuant to the direction of President Wilson dated February 7, 1917, this investigation covered the grain trade generally from the country elevator to the central markets, and included an extensive statistical analysis of the trading in cash, grain, and future contracts used as recorded in the books of commission men, brokers, and others. The Commission recommended that the quotations of the various grain exchanges should be made up and published on a more uniform basis and that railroads should be required to operate public elevators for the convenience of their shippers or that there should be governmental operation of storage elevators to permit small dealers to compete more nearly on an equality with the large elevator merchandisers. *The Report of the Federal Trade Commission on the Grain Trade* was printed in seven volumes, as follows: *I. Country Grain Marketing* (350 pages), September 15, 1920; *II. Terminal Grain Markets and Exchanges* (333 pages) September 15, 1920; *III. Terminal Grain Marketing* (332 pages), December 21, 1921; *IV. Middlemen's Profits and Margins* (215 pages), September 26, 1923; *V. Future Trading Operations in Grain* (347 page, out of print), September 15, 1920; *VI. Prices of Grain and Grain Futures* (374 pages), September 10, 1924; *VII. Effects of Future Trading* (419 pages), June 25, 1926 (See also Grain Exporters and Grain-Wheat Prices.)

**Food Investigation-Meat Packing.**--As a part of the food inquiry ordered by President Wilson as of February 7, 1917, a comprehensive inquiry was made into the meat-packing industry. Evidence was obtained of a combination among meat packers and of various unfair methods of competition. It also was developed that they were rapidly extending their operations into various unrelated lines of food products such as fruits, and dairy products. As a result of the Inquiry, the Commission recommended divorcing the meat packers from the control of the stockyard., a recommendation subsequently adopted by Congress in enacting the Packers and Stockyards Act, and also recommended restricting their operations in the unrelated lines, which was included in the provisions of a consent decree enjoining them from engaging in such merchandising. (See Packer Consent Decree below.) Six reports were Issued as a result of this inquiry, the sixth having been prepared by the Department of Agriculture which cooperated with the Commission in making a study of the costs of raising and marketing cattle for slaughter. These six reports submitted to the President were: *Food Investigation. Report of the Federal Trade Commission on the Meat-Packing Industry. Summary and Part I (Extent and Growth of Power of the Five Packers in Meat and Other Industries)*, submitted June 24, 1919 (574 pages); *Part II, Evidence or Combination Among Packers*, submitted November 25, 1918 (290 pages);

*Part III. Methods of the Five Packers in Controlling the Meat Packing Industry*, submitted June 28, 1919 (325 pages, out of print); *Part IV. The Five Large Packers in Produce and Grocery Foods*, submitted June 30, 1919 (390 pages) ; *Part V. Profits or the Packers*, submitted June 28, 1919 (110 pages): and *Part VI Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost or Marketing Live Stock*, submitted June 30, 1919 (183 pages). The summary was also printed separately by the Commission and as House Document 1297, Sixty-fifth Congress, second session, with a letter of transmittal of the President, dated September 24, 1918. (See also Meat Packing Profit Limitations and Packer Consent Decree.)

**Food Investigation--Wholesale Marketing.--**Undertaken as a part of the food Inquiry ordered by President Wilson as of February 7, 1917, this inquiry consisted of an examination of the methods of marketing, including especially the facilities

necessary therefor and the private control or public regulation thereof. The printed report, *Food Investigation, Report of the Federal Trade Commission on the Wholesale Marketing of Food* (268 pages, out of print), was dated June 30, 1919

**Food Investigation--Private Car Lines.--**This inquiry also was undertaken as a part of the food investigation ordered by President Wilson as of February 7, 1917. It comprised chiefly an examination of livestock car lines and refrigerator ear lines, both for meats and for fruits and vegetables, including a study of the effect of the ownership of such facilities on competition. Certain remedial measures were recommended. The report entitled *Food Investigation, Report of the Federal Trade Commission on Private Car Lines* (271 pages), was dated June 27, 1919, and printed.

**Foreign Trade--Antidumping Legislation.--**The inquiry was begun in the spring of 1933, on motion of the Commission, when amendments to the antidumping laws of this country were under consideration by Congress. Authority for this study is found in sections 5 and 6 (h) of the Federal Trade Commission Act. The several recognized types of dumping--(1) real or ordinary dumping, (2) bounty dumping, (3) freight dumping, (4) dumping of materials, (5) consignment dumping, (6) exchange dumping, and (7) social dumping, were studied, as well as certain general provisions which may be used to prevent the dumping of goods from foreign countries. International action in suppression of dumping was briefly mentioned, and the legislation of each country was studied separately. A report entitled *Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries*, was ordered printed on January 11, 1934, as Senate Document No. 112, Seventy-third Congress, second session (100 pages).

**Foreign Trade--Cooperation in American Export Trade.--**This inquiry was made on motion of the Commission. An extensive investigation was undertaken of competitive conditions affecting Americans in international trade. The report disclosed the marked advantages of various other nations in foreign trade by reason of their superior facilities and more effective organizations. The Webb-Pomerene Act authorizing the association of manufacturers for export trade was enacted as a direct result of the recommendations embodied in the report. The report was issued as of June 30, 1916, under the general title *Cooperation in American Export Trade*, in two volumes: *Part I. Summary and Report* (387 pages), *Part II. Exhibits* (597 pages) (both out of print).

**Foreign Trade--Cotton Growing Corporation.--**This inquiry was made pursuant to Senate Resolution No. 317, Sixty-eighth Congress, second session, adopted January 27, 1925, and concerned the development, methods, and activities of the Empire Cotton Growing Corporation, a British company. The report discussed world cotton production and consumption and concluded that there was then little danger of serious competition to the American cotton grower and that it would be many years before there would be a possibility that the United States would lose its position as the largest producer of raw cotton. The report, entitled *Empire Cotton Growing Corporation* (30 pages) was transmitted to the Senate February 28, 1925, and printed as Senate Document No. 226, Sixty-eighth Congress, second session (out of print).

**Fruits and Vegetables.--**See Agricultural Income.

**Gasoline.--**Pursuant to the direction of the President, February 7, 1924, the Commission made an investigation of the sharp advance in gasoline prices, reporting in the form of a *Letter of Submittal and Summary of Report on Gasoline Prices in 1924*, dated June 4, 1924 (typewritten or mimeographed copy, 24 pages). It was referred by the President to the Attorney General and reprinted in the Congressional Record of February 28, 1925, beginning on page 5158. (See also Petroleum Decree Investigation.)

**Gasoline.--**Pursuant to Senate Resolution No. 109, Sixty-third Congress, first session, adopted

June 18, 1913, and Senate Resolution No.457, Sixty-third Congress, second session, adopted September 28, 1914, the Commission investigated gasoline prices for the year 1915 and published its *Report on the Price of Gasoline in 1915* (224 pages) as of April 11, 1917, in which were discussed the high prices of petroleum products and how the various Standard Oil companies had continued to maintain a division of marketing territory among themselves. The Commission suggested several plans for restoring effective competition In the oil industry. A preliminary report was issued April 10, 1916, *Investigation of the Price of Gasoline*, and

printed as Senate Document No.403, Sixty-fourth Congress, first session (15 pages, out of print).

**Gasoline Importation.**--This inquiry, made pursuant to Senate Resolution No. 274, Seventy-second Congress, first session, adopted July 16, 1932, had its inception in complaints filed against four major oil companies operating in Detroit, alleging price discrimination due to zoning divisions in which different retail prices prevailed. The Commission transmitted its report to the Senate February 27, 1933, in the form of a letter entitled *Importation of Foreign Gasoline at Detroit, Mich.* (3 pages), printed as Senate Document No.206, Seventy-second Congress, second session.

**Gasoline Prices.**--This inquiry was made pursuant to Senate Resolution No. 166, Seventy-third Congress, second session, adopted February 2, 1934. The Commission investigated the causes and effects of increased gasoline prices during the 6-month period preceding the resolution's adoption. The report revealed an average price increase of 2 cents about the time of the effective date, September 2, 1933, of the petroleum code. Following subsequent declines the average net increase was 1.04 cents. The report submitted May 10, 1934, entitled *Gasoline Prices*, was printed as Senate Document No. 178, Seventy-third Congress, second session (22 pages).

**Grain Exporters.**--The low prices of export wheat gave rise to this inquiry, which was made pursuant to Senate Resolution No.133, Sixty-seventh Congress, second session, adopted December 22, 1921. The study developed facts regarding extensive and harmful speculative manipulations of prices on the grain exchanges and conspiracies among country grain buyers to agree on maximum prices for grain purchased. Legislation for a stricter supervision of grain exchanges were recommended, together with certain changes in their rules. The Commission also recommended governmental action looking to additional storage facilities for grain uncontrolled by grain dealers. Reports, entitled *Report of the Federal Trade Commission on Methods and Operations of Grain Exporters, Vol. I, Interrelations and Profits* (123 pages), and *Vol. II, Speculation, Com-petition, and Prices* (264 pages), were transmitted to the Senate May 16, 1922, and June 18, 1923, respectively. (See Food Investigation: Grain Elevators and Grain Trade.)

**Grain--Wheat Prices.**--The extraordinary decline of wheat prices in the summer and autumn of 1920 led to a direction of President Wilson (as of October 12, 1920) to inquire into the reasons. These were found chiefly in abnormal market conditions, including certain arbitrary methods pursued by the grain-purchasing departments of foreign governments. The resulting report, entitled *Report of the Federal Trade Commission on Wheat Prices for the 1920 Crop* (91 pages), was transmitted to the President December 13, 1920. (See Food Investigation: Grain Elevators and Grain Trade.)

**Guarantee Against Price Decline.**--The Commission, in 1919, made an inquiry into the practice of guarantee against price decline through a circular letter calling for information and opinions. The report, entitled *Digest of Replies \* \* \* Relative to the Practice of Giving Guarantee Against Price Decline*, was published May 27, 1920 (60 pages).

**House Furnishings.**--Pursuant to Senate Resolution No.127, Sixty-seventh Congress, second session, adopted January 4, 1922, the Commission investigated the alleged high prices for house furnishing goods which had prevailed since 1920, as compared to the price declines in other lines. Three reports were issued showing that in respect to several kinds of household furnishings there had been conspiracies to inflate the prices of such goods. These reports, entitled *Report of the Federal Trade Commission on House Furnishing Industries, Vol. I, Household Furniture* (484 pages), *Vol. II, Household Stoves* (187 pages) and *Vol. II, Kitchen Furnishings and Domestic Appliances* (347 pages), were transmitted to the Senate, January 17, 1923, October 1, 1923, and October 6, 1924, respectively. A summary of Volume I was printed

in 1923.

**Independent Harvester Co.**--This inquiry was made pursuant to Senate Resolution No.212, Sixty-fifth Congress, second session, adopted March 11, 1918, calling for an investigation of the organization and methods of operation of the company which had been formed several years before to compete with the "Harvester trust." The company passed into receivership and the report disclosed that mismanagement and insufficient capital brought about its failure. A summary, entitled *Federal Trade Commission Report to the Senate on the Independent Harvester Co.* (mimeographed, 5 pages, out of print), was transmitted to the Senate May 15, 1918. (See also Farm Implements.)

**Interstate Power Transmission.**--This inquiry was made pursuant to Senate Resolution No. 151, Seventy-first Congress, first session, adopted November 8, 1929, which called for ascertainment of the quantity of electric energy used for develop-

ment of power or light, or both, generated in any State and transmitted across State lines, or between points within the same State but through any place outside thereof. The report, entitled *Interstate Movement of Electric Energy*, was printed as Senate Document No.238, Seventy-first Congress, third session (134 pages), and transmitted to the Senate December 20, 1930. Interim reports had been issued as of December 9, 1929, March 10, June 11, and September 19, 1930. (See also Electric Power and Utility Corporations.)

**Leather and Shoes.--**This inquiry was made on motion of the Commission, on account of general complaint regarding the high prices of shoes, and dealt chiefly with the costs and prices of heather and shoes. A report, entitled *Report on Leather and Shoe Industries* (180 pages), was published August 21, 1919. Previously, as of January 23, 1918, the Commission had issued *Hide and Leather Situation. A Preliminary Report to the "Report on Leather and Shoe Industries."* (Out of print.)

**Leather and Shoes.--**Under this inquiry, made pursuant to House Resolution No.217, Sixty-sixth Congress, first session, adopted August 19, 1919, a further study of leather and shoe costs and prices was conducted. The report, entitled *Report of the Federal Trade Commission on Shoe and Leather Costs and Prices* (212 pages), and a summary were printed and transmitted to the House, June 10, 1921.

**Lumber--Costs.--**The war-time examination of lumber costs authorized by President Wilson as of July 25, 1917, resulted in an accumulation of information which led the Commission to compile certain reports among which was one titled *Report of the Federal Trade Commission on War-Time Costs and Profits of Southern Pine Lumber Companies*, transmitted to Congress May 1, 1922 (94 pages).

**Lumber Trade Associations.--**Pursuant to request of the Attorney General dated September 4, 1919, an extensive survey was made of lumber manufacturers' associations throughout the United States. The information obtained was presented in a series of published reports revealing the activities and attitude of lumber manufacturers toward national legislation, amendments to the revenue laws, elimination of competition of competitive woods, control of prices and production, restriction of reforestation, and other matters. In consequence of the Commission's findings and recommendations, the Department of Justice initiated proceedings against certain of these associations for violations of the antitrust laws. A report was printed entitled *Report of the Federal Trade Commission on Lumber Manufacturers' Trade Associations, Incorporating Reports of January 10, 1921* (Preliminary Survey of Lumber Manufacturers' National and Regional Trade Associations) ; *February 18, 1921* (Southern Pine Association of New Orleans, La.) ; *June 9, 1921* (Douglas Fir Lumber Manufacturers' amid Loggers' Associations) ; and *February 15, 1922* (Western Pine Manufacturers' Association of Portland, Oreg.) (150 pages, out of print). On May 7, 1923, a further report was made, entitled *Report of the Federal Trade Commission on Northern Hem lock and Hardwood Manufacturers' Association* (52 pages). Further information on these associations was developed in connection with the inquiry into open price associations. (See Open Price Associations.) On January 24, 1923, a report was made on three additional associations, entitled *Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountains and Mississippi Valley Territory* (22 pages). The three associations were: Western Red Cedar Association, Lifetime Post Association, and Western Red Cedar Men's Information Bureau.

**Lumber Trade Associations.--**An investigation of the activities of five large lumber trade associations bringing down to date the study made at the request of the Attorney General in 1919-20, was conducted on motion of the Commission in conjunction with the inquiry into open-price associations. Transmitted February 13, 1929. (See Open-Price Associations.)

**Meat-Packing Profit Limitations.--**This inquiry was made pursuant to Senate Resolution No.177, Sixty-sixth Congress, first session, adopted September 3, 1919, and had to do with the

system of war-time control established by the United States Food Administration. Certain changes were recommended by the Commission, including more complete control of the business and lower maximum profits. The report, entitled *Maximum Profit Limitation on Meat-Packing Industry* (179 pages), on September 25, 1919, was ordered by the Senate to be printed and was published as Senate Document No.110, Sixty-sixth Congress, first session. (See also Food Investigation: Meat Packing.)

**Milk--Canned.--**An inquiry was made into the milk industry pursuant to Senate Resolution No.431, Sixty-fifth Congress, third session, adopted March 3, 1919. The investigation of the fairness of milk prices to producers and of canned milk prices to consumers, and whether they were affected by fraudulent or dis criminary practices, resulted in a report showing marked concentration of control and of questionable practices in the buying and handling of cream by butter manufacturers, many of which practices have since been recognized as unfair by the trade

itself. The report, entitled *Report of the Federal Trade Commission on Milk and Milk Products, 1914-1918* (234 pages), was transmitted to the Senate June 6 1921, with a summary.

**Milk Investigation.--**This inquiry was made pursuant to House Concurrent Resolution No.32, Seventy-third Congress, second session, adopted June 15, 1934, concerning questionable trade practices in the milk industry and alleged monopolistic tendencies in the control of milk supply. The titles of seven reports issued are as follows: *Report of the Federal Trade Commission on the Sale and Distribution of Milk and Milk Products, Connecticut and Philadelphia Milksheds*, dated April 5, 1935, and printed as House Document No.152, Seventy-fourth Congress, first session (105 pages); *Connecticut and Philadelphia Milksheds*, dated December 81, 1935, and printed as House Document No.387, Seventy-fourth Congress, second session (125 pages); *Chicago Sales Area*, dated April 15, 1936, and printed as House Document No.451, Seventy-fourth Congress, second session (103 pages) ; *Boston, Baltimore, Cincinnati and St. Louis*, dated June 4, 1936, and printed as House Document No.501, Seventy-fourth Congress, second session (243 pages); *Twin Cities Sales Area*, dated June 15, 1936, and printed as House Document No.506, Seventy-fourth Congress, second session (90 pages); *New York Milk Sales Area*, dated September 30, 1936, and printed as House Document No.95, Seventy-fifth Congress, first session (138 pages) ; and *Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products*, dated January 4, 1937, and printed as House Document No.94, Seventy-fifth Congress, first session.

**National Wealth and Income.--**This inquiry was made pursuant to Senate Resolution No.451, Sixty-Seventh Congress, fourth session, adopted February 28, 1923, calling for a comprehensive inquiry into national wealth and income and specially indicating for investigation the problem of tax exemption and the increase in Federal and State taxes (for reference to which see Taxation and Tax Exempt income). In the report devoted to national wealth and income, the national wealth was estimated to have been \$353,000,000,000 in 1922 and the national income to have been \$70,000,000,000 in 1923. The nature of the wealth and income and its distribution among various classes were also given. The report on *National Wealth and Income* was transmitted to the Senate May 25, 1926, and printed as Senate Document No. 126, Sixty-ninth Congress, first session (381 pages).

**Open Price Associations.--**This inquiry was made pursuant to Senate Resolution No.28, Sixty-ninth Congress, special session, adopted March 17, 1925, calling for an investigation to ascertain the number and names of so-called open-price associations, their importance in the industry, and the nature of their activities, with particular regard to the extent to which uniform prices were maintained among members to wholesalers and retailers. A report, entitled *Open Price Trade Associations*, was transmitted to the Senate February 13, 1929, and printed as Senate Document 226, Seventieth Congress, second session (516 pages). (See also Lumber Trade Associations.)

**Packer Consent Decree.--**Pursuant to Senate Resolution No.278, Sixty-eighth Congress, second session, adopted December 8, 1924, a report was made reviewing the legal history of the consent decree and the efforts made to modify or vacate it. A summary was given of the divergent economic interests involved in the question of packer participation in unrelated lines. The report, entitled *Packer Consent Decree*, recommended the enforcement of the decree against the Big Five packing companies. it was transmitted to the Senate February 20, 1925, and printed as Senate Document No.219, Sixty-eighth Congress, second session (44 pages, out of print). (See also Food Investigation--Meat Packing and Meat-Packing Profit Limitations.)

**Paper--Book.--**This inquiry, made pursuant to Senate Resolution No.269, Sixty-fourth Congress, first session, adopted September 7, 1916, was begun that year, shortly following the newsprint inquiry. (See below.) It had a similar origin and it disclosed similar restraints of trade,

resulting in proceedings by the Commission against the manufacturers involved therein to prevent *enhancement* of prices. The Commission also recommended legislative action to repress restraints of trade by certain associations. Reports were transmitted to the Senate June 13, 1917, and August 21, 1917, entitled, respectively, *Book Paper Industry--A Preliminary Report* (11 pages), Senate Document No.45, Sixty-fifth Congress, first session (out of print), and *Book Paper Industry--A Final Report* (125 pages), Senate Document No.79, Sixty-fifth Congress, first session.

**Paper--Newsprint.--**This inquiry, made pursuant to Senate Resolution No. 177, Sixty-fourth Congress, first session, adopted April 24, 1916, resulted from a sharp advance in prices of newsprint. The reports of the Commission showed that these high prices had been partly the result of certain newsprint association activities which

were in restraint of trade. Through] the aid of the Commission, distribution of a considerable quantity of paper to needy publishers was obtained at comparatively reasonable prices. The Department of Justice instituted proceedings in consequence of which the association was abolished and certain newsprint manufacturers indicted. A letter to the Senate from the Commission entitled *Newsprint Pa per Industry*, transmitted March 3, 1917, was printed as Senate Document No. 3, Sixty-fifth Congress, special session. The report, entitled *Report of the Federal Trade Commission on the Newsprint Paper Industry* (162 pages), was transmitted to the Senate June 13, 1917, and printed. Following this inquiry the Commission established a system of monthly reporting of current figures dealing with production, stocks, sales, and the like, which was continued for several years. On July 10, 1917, an additional brief report was submitted to the Senate pursuant to Senate Resolution No.95, Sixty-fifth Congress, first session, entitled *Newsprint Paper Investigation*, which was printed as Senate Document No.61, Sixty-fifth Congress, first session (8 pages, out of print).

**Paper--Newsprint.--**An inquiry was made pursuant to Senate Resolution No. 337, Seventieth Congress, second session, adopted February 27, 1929. The question was whether there existed an alleged monopoly among manufacturers and distributors of newsprint paper in the supplying of paper to publishers of small daily and weekly newspapers. A report, *Newsprint Paper Industry*, was transmitted to the Senate July 3, 1930, and printed as Senate Document No. 214, Seventy-first Congress, special session (116 pages).

**Peanut Prices.--**This inquiry was made pursuant to Senate Resolution No.193, Seventy-first Congress, first session, adopted October 22, 1929. The Commission sought data concerning an alleged combination of peanut crushers and mills for price fixing purposes in violation of the antitrust laws, as well as information with respect to an alleged arbitrary decrease in prices. The report, entitled *Prices and Competition Among Peanut Mills*, was transmitted to the Senate June 30, 1932, and printed as Senate Document No.132, Seventy-second Congress, first session (78 pages).

**Petroleum Decree Investigation.--**Pursuant to duty imposed upon and the power granted to it under Section 6 (c) of the Federal Trade Commission Act, and at the req nest of the Attorney General made April 16, 1936, the Commission conducted an investigation to determine the manner in which a consent decree entered September 15, 1930, in the case of the United States against the Standard Oil Company of California, Inc., and others, had been or was being observed. The decree in question perpetually enjoined and restrained seven major oil companies, twelve independent oil companies, and one individual, operating primarily on the Pacific Coast, from conspiring to monopolize and restrain interstate trade and commerce in the manufacture, transportation, or sale of gasoline in violation of the Sherman Antitrust Act. The Commission transmitted its report to the Attorney-General on April 2, 1937. It was not made public by the Commission.

**Petroleum--Foreign Ownership.--**This inquiry was made pursuant to Senate Resolution No. 311, Sixty-seventh Congress, second session, adopted June 29, 1922. The acquisition of extensive oil interests in this country by the Dutch-Shell concern, amid alleged discrimination practiced against Americans in foreign countries, caused this inquiry which] developed the situation in a manner to promote greater reciprocity on the part of foreign governments. The report, entitled *Report of the Federal Trade Commission on Foreign Ownership in the Petroleum Industry* (152 pages), was transmitted to the Senate February 12, 1923.

**Petroleum Industry.--**This inquiry was made pursuant to Senate Resolution No.31, Sixty-ninth Congress, first session, adopted June 3, 1926. A comprehensive study covered all branches of the industry from the ownership of oil lands and the production of crude petroleum to the conversion of petroleum into finished products and their distribution to the consumer. The report described not only the influences affecting the movements of gasoline and other products, but

also discussed the organization and control of the various important concerns in the industry. No evidence was found of any understanding, agreement, or manipulation among the large companies to raise or depress prices of refined products. A report, entitled *Petroleum Industry-Prices, Profits, and Competition* (360 pages), was transmitted to the Senate December 12, 1927, and printed as Senate Document No. 61, Seventieth Congress, first session.

**Petroleum, Pacific Coast.**--The great increase in the prices of gasoline, fuel oil, and other petroleum products on the Pacific coast led to this inquiry, made pursuant to Senate Resolution 138. Sixty-sixth Congress, first session, adopted July 31, 1919. It disclosed that several of the companies were fixing prices. Reports entitled *Pacific Coast Petroleum Industry: Part I. Production, Ownership and Profits* (270 pages) and *Part II. Prices and Competitive Conditions* (262 pages),

were transmitted to the Senate April 7, 1921, and November 26, 1921, respectively, each with a summary.

**Petroleum--Panhandle.--**This inquiry into conditions in the Panhandle (Texas) oil fields was made on a motion of the Commission of October 0, 1926, in response to requests of crude-petroleum producers. The reduction of prices late in 1926 as complained of was largely a result of difficulties of handling and expenses of marketing this oil because of peculiar physical properties, according to the report, which was entitled *Report of the Federal Trade Commission On Panhandle Crude Petroleum* (19 pages), issued as of February 3, 1928.

**Petroleum--Pipe Lines.--**This inquiry, made pursuant to Senate Resolution No. 109, Sixty-third Congress, first session, adopted June 18, 1913, was begun by the former Bureau of Corporations. The report, entitled *Report on Pipe-Line Transportation of Petroleum* (467 pages, out of print), which was transmitted to the Senate February 28, 1916, showed the dominating importance of the pipe lines of the great midcontinent oil fields. It also pointed out that the pipe-line companies, which were controlled by a few large oil companies, not only charged excessively high rates for transporting petroleum, but also evaded their duties as common carriers by insisting on unreasonably large shipments, to the detriment of the numerous small producers.

**Petroleum Prices--1920.--**Pursuant to House Resolution No. 501, Sixty-sixth Congress, second session, adopted April 5, 1920, a brief inquiry was made into the high prices of petroleum products. The report pointed out that the Standard companies practically made the prices in their several marketing territories and avoided competition among themselves. Various constructive proposals to conserve the oil supply were made by the Commission. The report, entitled *Advance in the Prices of Petroleum Products* (57 pages), was transmitted to the House June 1, 1920, and printed as House Document No. 801, Sixty-sixth Congress, second session.

**Petroleum--Wyoming.--**This inquiry was made on motion of the Commission. Complaints of several important producing companies in the Salt Creek oil field led to the investigation. The report covered the production, pipe-line transportation, refining, and wholesale marketing of crude petroleum and petroleum products in the State of Wyoming. The report, entitled *Report of the Federal Trade Commission on the Petroleum Industry of Wyoming* (54 pages, out of print), which was issued January 3, 1921,

**Petroleum--Wyoming and Montana.--**This inquiry, made on motion of the Commission, resulted in a special report directing the attention of Congress to conditions existing in the petroleum trade in Wyoming and Montana. Remedial legislation was recommended by the Commission. The report, entitled *Petroleum Trade in Wyoming and Montana* (4 pages), was dated July 13, 1922, and printed.

**Power and Gas Utilities.--**See Electric Power, Interstate Power Transmission, and Utility Corporations.

**Price Bases.--**This inquiry was made on motion of the Commission of July 27, 1927, for the purposes of studying methods in use to compute delivered prices of industrial products and of determining what actual and potential influences such methods might have on competitive markets and price levels. The study also included factors which determined the methods used. This survey extended to more than 3,500 reporting manufacturers representing practically every industrial segment. Inquiry into conditions in the cement industry revealed that the basing-point system contributed to imperfect price competition and tended to establish an unhealthy uniformity of delivered prices from the competitive standpoint together with a lack of price flexibility over variable periods of time. Cross-haul or cross-freighting was found to be one of the cement industry's economic evils and to be generally admitted as such by the industry itself. The first report, *Report of the Federal Trade Commission on Price Bases Inquiry, Basing-point*

*Formula and Cement Prices* (218 pages), was submitted to Congress on March 26, 1932, and printed. A mimeographed report, entitled, *Study of Zone-Price Formula in Range Boiler Industry*, was issued March 30, 1936. (See Steel Code Inquiry, Steel Code as Amended, and Cement Industry.)

**Price Deflation.**--To an inquiry of President Harding dated March 21, 1921, the Commission made immediate reply (undated) giving its views of the causes of the disproportional decline of agricultural prices compared with consumers' prices. This was entitled *Letter of the Federal Trade Commission to the President of the United States* (8 pages, out of print).

**Profiteering.**--This report was made in response to Senate Resolution No. 255, Sixty-fifth Congress, second session, adopted June 10, 1918, on the then current conditions of profiteering as disclosed by various inquiries of the Commission, and transmitted to the Senate on June 29, 1918. It was printed under the title of *Profiteering* as Senate Document No. 248, Sixty-fifth Congress, second session (20 pages, out of print).

**Radio.**--This inquiry was made pursuant to House Resolution No.548, Sixty-seventh Congress, fourth session, adopted March 4, 1923. As a result of this investigation, It was found that a large number of patents were owned by and cross-licensed among a number of large companies. At the conclusion of the investigation, the Commission instituted proceedings against these companies charging a monopoly of the radio field. A report entitled *Report of the Federal Trade Commission on the Radio Industry* (347 pages), was transmitted to the House, December 1, 1923, and printed.

**Raisin Combination.**--Allegations of a combination among raisin growers in California were referred to the Commission for examination by the Attorney General as of September 30, 1919, pursuant to the Federal Trade Commission Act. The Commission found that the enterprise was not only organized in restraint of trade but was being conducted in a manner that was threatening financial disaster to the growers. The Commission recommended changes to conform to the law. These were adopted by the raisin growers. A report in the form of a letter entitled *California Associated Raisin Co.*, was made to the Attorney General June 8, 1920 (28 pages, typewritten).

**Resale Price Maintenance.**--This report was made on motion of the Commission. The question whether a manufacturer of standard articles, identified by trade mark or trade practice, should be permitted to fix by contract the price at which the purchasers could resell them, led to this inquiry. The Commission recommended to Congress the enactment of legislation permitting resale-price maintenance under certain conditions. The report, dated December 2, 1918, was in the form of a letter to Congress, printed as House Document No.1480, Sixty-fifth Congress, third session (3 pages, out of print).

**Resale Price Maintenance.**--A report was made on motion of the Commission in the form of a letter addressed to Congress, June 30, 1919, and was printed as House Document *No.145*, Sixty-sixth Congress, first session (3 pages, out of print).

**Resale Price Maintenance.**--This inquiry was made on motion of the Commission of July 25, 1927. The study was conducted from the point of view of the economic advantages or disadvantages of resale price maintenance to the manufacturer, distributor, and consumer, the effects on costs, profits, and prices, and the purpose and results of price cutting. Part I of the report. *Resale Price Maintenance*, was transmitted to Congress January 30, 1929, and printed as House Document No.546, Seventieth Congress, second session (141 pages, out of print); Part II (final, 215 pages) was transmitted on June 22, 1931, and printed.

**Salaries Inquiry.**--This inquiry was made pursuant to Senate Resolution No 75, Seventy-third Congress, first session, adopted May 21, 1933, which directed that an inquiry be made by the Commission concerning the salaries of executive officers and directors of corporations engaged in interstate commerce (other than public utilities corporations) having capital and assets of more than a million dollars, whose securities were listed on the New York Stock Exchange or the New York Curb Exchange. The investigation was confined to the 5-year period 1928-32, and was necessarily limited to a comparatively small proportion of corporations. coming within the Commission's jurisdiction. A statement explaining the report, but not containing the lists of salaries, amid entitled *Report of the Federal Trade Commission on Compensation of Officers and Directors of Certain Corporations*, was issued in mimeographed form (15 pages). It was transmitted to Congress, February 26, 1934, together with copies of the lists of officers and salaries (a public record).

**Sisal Hemp.**--This inquiry was made pursuant to Senate Resolution No.170, Sixty-fourth Congress, first session, adopted April 17, 1916, calling on the Commission to assist the Senate Committee on Agriculture and Forestry by advising how certain quantities of hemp, promised by the Mexican Sisal Trust might be fairly distributed among American manufacturers of binder twine. The Commission made an inquiry and submitted a plan of distribution, which was

followed. The report entitled *Mexican Sisal Hemp*, was transmitted to the Senate May 9, 1916, and printed as Senate Document No. 440, Sixty-fourth Congress, first session (8 pages out of print).

**Southern Livestock Prices.**--This inquiry was made pursuant to Senate Resolution No.133, Sixty-sixth Congress, first session, adopted July 25, 1919. The low prices of southern livestock, which gave rise to the belief that discrimination was being practiced, were investigated, but the alleged discrimination did not appear to exist. The report, entitled *Southern Livestock Prices*, was transmitted to the Senate February 2, 1920, and printed as Senate Document No. 209, Sixty-sixth Congress, second session (11 pages).

**Steel Code Inquiry.**--This inquiry was made pursuant to Senate Resolution No.166, Seventy-third Congress, second session, adopted February 2, 1934. The resolu-

tion directed the Commission to investigate and report upon certain practices of the steel industry with particular reference to price fixing, the increased prices of steel products, and "other such matters as would give a full presentation of the facts touching the industry since it went under the National Recovery Administration code." The inquiry centered largely upon alleged collusive activities of steel producers in fixing identical delivered prices and eliminating competition under the code, the effects of the multiple basing-point system incorporated in the code, composition of the delivered selling prices which the code imposed, the influence of various code restrictions on competition, and a general analysis of price increases attributable to the organized efforts of the industry. The Commission found that adherence to the code required violation by certain producers of a cease and desist order issued some years before by the Commission against the basing-point system in what is known as the "Pittsburgh Plus" case. The report, entitled *Practices of the Steel Industry Under the Code*, was transmitted to the Senate on March 19, 1934, and printed as Senate Document No. 159, Seventy-third Congress, second session (79 pages). Certain modifications of the steel code were approved by the President on May 30, 1934.

**Steel Code as Amended.**--This inquiry was made pursuant to Executive order of President Roosevelt dated May 30, 1934. This order directed the Commission and the National Recovery Administration to undertake a point study of the effect of the multiple basing-point system other than the amended steel code, particularly within the realm of the system's influence on prices to consumers, effects of the system in either permitting or encouraging price fixing, or "providing unfair competitive advantages for producers, or disadvantages for consumers not based on immaterial causes." The order called for "recommendations for revisions of the code." The *Report of the Federal Trade Commission to the President in Response to Executive Order of May 30, 1934, with Respect to the Basing Point System in the Steel Industry* (125 pages), was transmitted to the President on November 30, 1934, and printed. It recommended code revisions eliminating provisions giving sanction to the multiple basing-point system provisions in aid of price fixing and those relating to regulation of production and new capacity. It found that the multiple basing-point system not only permitted and encouraged price fixing but that it was price fixing. It found also that the system did provide unfair competitive advantages for producers and disadvantages for consumers not based on natural causes.

On March 15, 1935, there was issued in mimeograph form the *Summary of Report of the Federal Trade Commission to the President \* \* \*. In re: Iron and Steel Industry's Basing Point System* (9 pages, out of print). On the same day the National Recovery Administration issued its *Summary of the Report of the National Industrial Recovery Board to the President on the Operation of the Basing Point System in the Iron and Steel Industry* (7 pages, mimeographed, not obtainable from the Federal Trade Commission).

**Steel Companies, Proposed Merger.**--Pursuant to Senate Resolution No. 286, Sixty-seventh Congress, second session, adopted May 12, 1922, the Commission was requested to inquire into a proposed merger of steel companies, namely, of the Bethlehem Steel Corporation and the Lackawanna Steel Co., and of the Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co. Two reports were made, June 5, 1922, and September 7, 1922, both entitled *Merger of Steel and Iron Companies*, regarding the purpose and probable effects of the proposed merger, which were printed as Senate Document No. 208, Sixty-seventh Congress, second session, part 1, and as Senate Document No. 208, Sixty-seventh Congress, second session, part 2 (9 pages and 2 pages, respectively, both out of print).

**Steel Industry--Costs and Profits.**--Inquiry into the costs and profits of the steel industry during the war was made pursuant to the order of President Wilson dated July 25, 1917, and after its conclusion certain data in regard thereto were compiled by the Commission in a report entitled *Report of the Federal Trade Commission on War--The Profits and Costs of the Steel*

*Industry* (138 pages), which was sent to Congress February 18, 1925.

**Steel Sheet Piling--(Collusive Bidding) .--**In response to a direction of President Roosevelt dated November 20, 1935, to investigate the prices of steel sheet piling on certain Government contracts in New York, North Carolina, and Florida, the Commission, as of June 10, 1936, made a report demonstrating the existence of collusive bidding because of a continued adherence to the basing point system and other provisions of the code. The report (mimeographed) was entitled *Federal Trade Commission Report to the President on Steel Sheet Piling* (42 pages).

**Stock Dividends.--**This inquiry was made pursuant to Senate Resolution No. 304, Sixty-ninth Congress, second session, adopted December 22, 1926. This resolution called for a list of the names and capitalizations of those corporations which had issued stock dividends, together with the amount of such stock dividends, since

the decision of the Supreme Court, March 8, 1920, holding that stock dividends were not taxable. The same information for an equal period prior to that decision was called for. The report, entitled *Stock Dividends*, contains a list of 10,245 such corporations and a brief discussion. The report points out that the declaration of stock dividends at the rate prevailing for a few years preceding the date of its publication did not appear to be the result of any controlling necessity and seemed to be of questionable advantage as a business policy. The report was transmitted to the Senate on December 5, 1927, and printed as Senate Document No.26, Seventieth Congress, first session (273 pages).

**Sugar.**--This inquiry was made pursuant to House Resolution No.150, Sixty-sixth Congress, first session, adopted October 1, 1919. The extraordinary advance in the price of sugar in 1919 led to the investigation. The price advance was found to have been due chiefly to speculation and hoarding in sugar. Certain recommendations were made for legislative action to correct these abuses. The report, entitled *Report of the Federal Trade Commission on Sugar Supply and Prices* (205 pages), was transmitted to the House, November 15,-1920, and printed.

**Sugar-Beet.**--This inquiry was initiated by the Commissioner of Corporations at the direction of the Secretary of Commerce, but was completed by the Federal Trade Commission. It dealt with the cost of growing beets and the cost of beet-sugar manufacture. The report, entitled *Report on The Beet Sugar Industry in the United States* (164 pages), was published May 24, 1917 (out of print).

**Taxation and Tax Exempt Income.**--This inquiry was made pursuant to Senate Resolution No.451, Sixty-seventh Congress, fourth session, adopted February 28, 1923. The resolution was directed chiefly to a study of national wealth and income. A separate report, entitled *Taxation and Tax Exempt Income*, was transmitted to the Senate on June 6, 1924, and printed as Senate Document No. 148, Sixty-eighth Congress, first session (144 pages, out of print). (See National Wealth and Income.)

**Textiles--Combed Cotton Yarns.**--This inquiry was made pursuant to House Resolution No.451, Sixty-sixth Congress, second session, adopted April 5, 1920. The Commission was called upon to investigate the high prices of combed cotton yarn. The inquiry disclosed that there had been an unusual advance in price and that the profits in the industry had been extraordinarily large for several years, but at the end of 1920 the prices of combed yarns, like other cotton textile products, showed a sharp decline. The *Report of the Federal Trade Commission on Combed Cotton Yarns* (94 pages), was transmitted to the House April 14, 1921, and printed.

**Textile Industry.**--This inquiry was directed by an Executive order of President Roosevelt dated September 26, 1934, instructing the Commission to inquire into the industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. The order also established The Textile Labor Relations Board and directed the Department of Labor to report on actual hours of employment in the industry, employees' earnings, and general working conditions. Conditions prevailing in the 20 months preceding the 1934 textile strike were first studied. These were divided into three 6-month periods and a 2-month period--January-June, 1933, before National Recovery Administration codes became effective; July-December 1933, covering their effective dates; January-June 1934, while codes were functioning; and July-August 1934, the 60-day period prior to the strike. Due to the desirability of an early report, essential information was obtained by means of a comprehensive schedule, subscribed to under oath and forwarded to approximately 2,600 textile manufacturing companies. Material for immediate comparable results was transmitted by 765 concerns, with an aggregate investment of almost \$1,200,000,000. The following reports were issued (and printed, except where hereinafter designated as processed):

*Report of the Federal Trade Commission on Textile Industries:*

*Part I. Investment and Profit, December 31, 1934 (26 pages).*

*Part II. The Cotton Textile Industry, March 6, 1935 (34 pages).*

*Part III. The Woolen and Worsted Textile Industry, January 1935 (21 pages).*

*Part IV. The Silk and Rayon Textile Industry, February 1935 (37 pages).*

*Part V. Thread, Cordage, and Twine Industry, February 18, 1935 (14 pages).*

*Part VI. Tabulations Showing Financial and Operating Results for Textile Companies According to Rates of Return on Investment, Rates of Net Profit or Loss on Sales, and Amount of Investment (Six-Month Periods from January 1, 1933, to June 30, 1934, and for July-August 1934), (24 tables), June 20, 1935. Processed.*

*Report of the Federal Trade Commission on the Textile Industries in 1933 and 1934:*

*Part I. The Cotton Industry, August 1, 1935 (34 pages).*

*Part II. The Woolen and Worsted Textile Industry*, September 25, 1935 (31 pages, processed).

*Part III. The Silk and Rayon Textile Industry*, November 29, 1935 (45 pages, processed).

*Part IV. --Thread, Cordage and Twine Industries*, December 5, 1935 (21 pages, processed).

*Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934* (46 tables, processed).

*Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934* (18 tables, processed).

*Textile Industries in the First Half of 1935:*

*Part I. The Cotton Textile Industry, Including Thread, Cordage and Twine, Hay 22, 1936*, (52 pages, processed).

*Part II. The Woolen and Worsted Textile Industry*, July 20, 1936 (40 pages processed).

*Part III. The Silk and Rayon Textile Industry*, August 22, 1936 (47 pages, processed).

*Textile Industries in the Lost Half of 1935:*

*Part I. The Cotton Textile Industry, including Thread, Cordage and Twine*, November 20, 1936 (66 pages, processed).

*Part II. The Woolen and Worsted Textile Industry*, December 21, 1936 (42 pages, processed).

*Part III. The Silk and Rayon Textile Industry*, January 6, 1937 (46 pages, processed).

*Textile Industries in the First Half of 1936:*

*Part I, The Cotton Textile Industry, Including Thread, Cordage and Twine*, January 21, 1937 (74 pages, processed).

*Part II. The Woolen and Worsted Textile Industry*, January 29, 1937 (47 pages, processed).

*Part III. The Silk and Rayon Textile Industry*, February 11, 1937 (42 pages, processed).

**Textiles--Woolen Rag Trade.**--This report was published on motion of the Commission, and contains certain information gathered during the war, at the request of the War Industries Board, for its use in regulating the prices of woolen rags used for making clothing. The report, entitled *Report on the Woolen Rag Trade* (90 pages), was printed as of June 30, 1919.

**Tobacco.**--This inquiry was made pursuant to Senate Resolution No. 329, Sixty-eighth Congress, second session, adopted February 9, 1925. The report on the investigation related to the activities of the American Tobacco Co. and the Imperial Tobacco Co. of Great Britain. The alleged illegal agreements, combinations or conspiracies between these companies did not appear to exist. The report, entitled *The American Tobacco Co. and the Imperial Tobacco Co.*, was transmitted December 23, 1925, to the President, who sent it to the Senate. It was printed as Senate Document No. 34, Sixty-ninth Congress, first session (129 pages, out of print).

**Tobacco Marketing--Leaf.**--This inquiry, made on motion of the Commission in 1929, was instituted upon complaint of representative groups of North Carolina tobacco farmers charging the existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices. In 1929 the price to growers was approximately 25 percent below cost of production. The inquiry was broadened to include the entire flue-cured belt, extending from southern Virginia through north central Florida. The Commission found no evidence of price agreements. It recommended curtailing production, improved marketing processes, a standardized system of grading, and greater cooperation between manufacturers and growers. It also recommended enactment of legislation similar to the Cotton Standardization Act, which would make mandatory existing classification under the Tobacco Stocks and Standards Act. The *Report on Marketing of Leaf Tobacco in the Flue-Cured District of the States of North Carolina and Georgia* (54 pages, mimeographed), was released May 23, 1931.

**Tobacco Prices.**--This inquiry was made pursuant to House Resolution No 533, Sixty-sixth Congress, second session, adopted June 3, 1920. The unfavorable relationship between the

prices of leaf tobacco and the selling prices of tobacco products was reported to be due in part to the purchasing methods of the large tobacco companies. As a result of this inquiry, the Commission recommended that the decree dissolving the old Tobacco Trust should be amended and that proceedings be instituted in the matter of alleged violations of the existing decree. Better systems of grading tobacco were also recommended by the Commission. The *Report of the Federal Trade Commission on the Tobacco Industry* (162 pages), was transmitted to the House, December 11, 1920, and printed.

**Tobacco Prices.**--This inquiry was made pursuant to Senate Resolution No. 129, Sixty-seventh Congress, first session, adopted August 9, 1921. Among the subjects of investigation were the low prices of leaf tobacco and the high prices of tobacco products. It was alleged that in the sale of tobacco several of the largest companies were engaged in numerous conspiracies with their customers, the jobbers, to enhance the selling prices of tobacco. Proceedings were instituted by the Commission. The report, entitled *Prices of Tobacco Products* (109 pages), was transmitted to the Senate, January 17, 1922, and printed.

**Trade and Tariffs in South America.**--This inquiry, directed by President Wilson as of July 22 1915, was an outgrowth of the First Pan American Financial Conference which met in Washington, May 24-29, 1915. The immediate purpose of the inquiry was to furnish the American branch of the International High Commission, appointed as a result of this financial conference, with information to assist in the deliberations of that commission. Customs administration and related matters, including tariff policy, were discussed in the *Report on Trade and Tariffs in Brazil, Uruguay, Argentina, Chile, Bolivia, and Peru* (246 pages, out of print), which was transmitted to the President under date of June 30, 1916.

**Utility Corporations.**--This inquiry was made pursuant to (1) Senate Resolution No.83, Seventieth Congress, first session, adopted February 15, 1928, (2) Senate Joint Resolution No.115, Seventy-third Congress, second session, adopted June 1, 1934, and to (3) section 6 of the Federal Trade Commission Act. The former resolution directed the Commission to investigate the growth of the capital assets and liabilities of public utility corporations doing an interstate business in electrical energy or gas, and of their holding companies and other companies controlled by such holding companies, the method of issuing securities, the value received, the commissions paid, and so forth, the extent to which holding companies control financial, engineering, construction, or management corporations and their corporate interrelations with such companies and their operating utility companies, the services furnished and the fees received there-for, the earnings and expenses of all such companies, the value or detriment to the public of such holding companies, and what remedial legislation should be adopted ; also the efforts of such companies, directly or indirectly, to influence public opinion with respect to municipal ownership of electric utilities, or to influence the elections of certain Federal officers or United States Senators. The second resolution directed the Commission to conclude the investigation and submit its final report in January 1936.

During the investigation monthly interim reports presented many hundreds of detailed reports by Commission accountants, attorneys, engineers, economists and statisticians, based on examination of corporation accounts and other records. These data and the oral testimony of the experts and other witnesses are included in 84 printed volumes which, with 11 summary, final, index and appendix volumes, or a total of 95 were published as Senate Document No.92, Seventieth Congress, first session, under the general title, *Utility Corporations*. Several of the earlier published volumes are out of print.

The final and summary volumes, their sub-titles (omitting certain routine designations), dates of Issue and numbers of pages, are as follows: *No. 69-A, Compilation of Proposals and Views for and Against Federal Incorporation or Licensing of Corporations and Compilation of State Constitutional, Statutory, and Case Law Concerning Corporations, With Particular Attention to Public Utility Holding and Operating Companies*, September 21, 1934, 618 pages ; *No. 71-A, Efforts by Associations and Agencies of Electric and Gas Utilities to Influence Public Opinion*, December 12, 1934, 480 pages ; *No. 71-B, Index of Association Publicity and Propaganda and Index of Named in Parts 1 to 20, Inclusive, and Accompanying Exhibit Volumes*, 1935, 545 pages ; *No. 72-A, Economic, Financial and Corporate Phases of Holding and Operating Companies of Electric and Gas Utilities*, June 17, 1935, 882 pages ; *No. 73-A, Holding and*

*Operating Companies of Electric and Gas Utilities--Survey of State Laws and Regulations, Present Extent of Federal Regulation and the Need or Federal Legislation, Conclusions and Recommendations and Legal Studies in Support Thereof*, January 18, 1935, 218 pages ; *No. 81-A, Publicity and Propaganda Activities by Utilities Groups and Companies, With Index*, November 14, 1935, 570 pages ; and (final report) *No. 84-A, Economic, Corporate, Operating and Financial Phases of the Natural-Gas Producing Pipe-Line, and Utility Industries, with Conclusions and Recommendations*, December 31, 1935, 617 pages.

A list of the companies investigated and the volume numbers of the reports concerning them are printed in the Commission's annual reports for 1935 and 1936, beginning at pages 21 and 36, respectively. During the Investigation, the Commission's accountants, engineers, and economists examined 29 holding companies having total assets of \$6,108,128,713 ; 70 subholding companies with total assets of \$5,685,463,201, and 278 operating companies with total assets of \$7,245,106,464.

**War-time Cost Finding.**--This series of cost inquiries was ordered by President Wilson as of July 25, 1917. The numerous cost investigations made by the Federal Trade Commission during the World War into the coal, steel, lumber, petroleum, cotton-textile, locomotive, leather, canned foods, and copper industries, and scores of other important industries, on the basis of which prices were fixed by the Food Administration, the War Industries Board, and purchasing departments such as the Army, Navy, Shipping Board, and Railroad Administration, were all done under the President's special direction, and it has been estimated that they helped to save the country many billions of dollars by checking unjustifiable price advances. Lists of most of the reports prepared for this purpose (not printed or otherwise published) are given in the annual reports of the Commission for the years 1918 and 1919. Subsequent to the war a number of reports dealing with costs and profits was published based on these war-time inquiries. (See Coal Reports--Cost of Production, Copper. Food Investigation--Food Canning, Lumber--Costs, and Steel Industry--Costs and Profits).

## INDEX

[Index does not include names or items in alphabetical lists, tables or appendixes. For names of respondents in orders to cease and desist, in pages 52-58; of export trade associations, see pages 110-111; of foreign countries and various acts and references listed under "Trust Laws and Unfair Competition in Foreign Countries", see pages 112-120; for appropriation items, see pages 123-126; and for "Investigations of the Commission, 1915-1937" and various references thereunder, see pages 147-168]

	Page
Advertising, false and misleading:	
Complaints alleging	46, 47
Special procedure in certain types of	4, 6, 40, 41, 43, 101
Agricultural Adjustment Administration	23
Agriculture, Department of	23
Agricultural Income Investigation	9, 12, 14, 15, 19, 23, 29, 69, 76
Alaska Packers' Association, San Francisco	61
Allis-Chalmers Manufacturing Co	59
American Army & Navy Stores, Washington, D.C.	69
American Fruit Growers, Inc	25
American Stores Co., Philadelphia	64
Appropriations of the commission	4, 123, 126
Armand Co., Des Moines, Iowa	69, 70
Army & Navy Trading Co., Washington, D.C.	69
Association of American Railroads	26
Atlantic Commission Co	25
Attorney General	3, 9, 10, 12, 33, 109
Automobile parts and accessories, cases involving	45, 51, 52
Ayres, William A., Chairman, Federal Trade Commission	10, 11
Basing point system	4, 5, 50
Bernheim Distilling Co., Louisville, Ky	42
Binderup v. Pathe Exchange	71
Bird Floor Covering Sales Corporation, East Walpole, Mass	49
Bird & Son, Inc., East Walpole, Mass	49
Blake, Moffitt & Towne	77
Blueprint and tracing paper manufacturers	44
Bonita Co., Fond du Lac, Wis	69, 72
Borden Co	28
Bousfield Wooden Ware Co., Minneapolis	59
Bureau of Standards	12, 105
Butter Tub Manufacturers' Council	60
Butterick Publishing Co	69, 70
Cabinet committee on textiles	32
California Alkali Export Association, Los Angeles	110
California Fruit Growers' Exchange	24
California Packing Corporation, San Francisco	61
Cast Iron Soil Pipe Producers	45, 50
Chalk and crayon manufacturers	44
Champion Spark Plug Co., Toledo, Ohio	77
Chicago Silk Co., Chicago	69, 73
Clayton Act:	
Cases arising under section 7	41, 42, 44, 52
Complaints under section 3	51, 52
Proposed Amendment to section 7	15, 22, 28, 29
References to	3, 5, 6, 8, 37, 39, 45, 65
Text of	134



	Page
Colonial Steel Co	42
Complaints:	
Number issued	5, 6, 43, 44, 82
Procedure under	38, 39
Under F. T. C. Act	44-47
Under Clayton and Robinson-Patman Acts	48-52
Conde Nast Publications, Inc., New York	60
Congress	3, 9, 13, 15, 28, 29
(See also House Concurrent Resolution, House Document, House of Representatives, Public, Public Resolution, Senate, and Senate Document.)	
Consolidations and mergers	41
Court proceedings:	
Cases in the Federal Courts	5, 68
Tabular Summary	84
Creamery Package Manufacturing Co., Chicago	59
Dairymen's League Cooperative Association, Inc., New York	27
Danahy-Faxon Stores, Inc., Buffalo	64
Davis, Ewin L., Commissioner	11
Disparagement of competitors or their products	47, 61
Duncombe, Tyrell H., Highland Park, Mich	62
Eisner Grocery Co., Champaign, Ill	64
Electro-Thermal Co., Steubenville, Ohio	74
Elgin Butter Tub Co., Elgin, Ill	59
Elliott Co	59
Encinal Terminals, Alameda, Calif	61
Evans Fur Co., Chicago	69, 74
Executive order:	
Of September 26, 1934	31
Export Trade Act:	
Administration of by the Commission	109-112
Associations formed under	110-111
References to	3, 5, 6, 37, 39, 109-112
Text of	139
Trust laws and unfair competition abroad	112-120
Farm Credit Act of 1933	23
Farm implements and machinery investigation	10, 29
Federal Anti-Racketeering Act	25, 26
Federal Communications Commission	37
Federal Reserve Board	37
Federal Trade Commission:	
Accounts and personnel	12
Administrative Division	11, 12, 125
Advertising cases, special procedure in	4, 6, 11, 40, 41, 43, 101, 125
Appropriations	4, 123, 126
Assistant to the Chairman	12
Assistant Secretary	12
Branch offices	41
Chief Counsel's division	11, 38, 125
Chief Examiner's division	11, 12, 37, 38, 40, 41, 125
Chief Trial Examiner's division	11, 12, 39, 125
Commissioners	10, 11, 125
Disbursing office	12
Docket section	12

	Page
Federal Trade Commission-Continued.	
Economic work	4, 12, 125
Fiscal affairs	123-126
Foreign trade work	4, 12, 109-120
Functions of	3
General investigations of	9
Hospital	12
Legal work	3, 4, 13, 37-89, 125
Library	12
Mails and files	12
New building	14, 15
Publications	12, 13
Public relation. and editorial service	12
Recommendations of	15, 21, 26, 28, 29
Rules of practice	142
Secretary	11
Stenographic section	12
Stipulation procedure	4, 38, 41, 42
Supplies section	12
Trade practice conference division	9, 11, 38, 93, 125
Federal Trade Commission Act:	
Amendment to section 5 proposed	15
References to	3, 9, 10, 12, 14, 29, 33, 37, 39, 43, 44, 45, 46, 49, 52, 76,78, 101, 109, 112, 123
Text of	128
Ferguson, Garland S., Vice Chairman, Federal Trade Commission	11
First Deficiency Appropriation Act, 1936	123, 124
First National Stores, Inc., Somerville, Mass	64
Fisher Grocery Co., Springfield, Ill	64
Florida Citrus Exchange	24
Food Display Machine Corporation, Chicago	64
Food and Drug Administration	12, 165
Foreign trade work. ( <i>See</i> Export Trade Act.)	
Foster-Wheeler Corporation	59
Freer, Robert E., Commissioner	11
Fresh fruits and vegetables investigation	10, 12, 13, 23
General Electric Co	45, 58
Golf ball manufacturers	46, 49
Goodyear Tire & Rubber Co., Akron, Ohio	74
Great Atlantic & Pacific Tea Co	24
Hofeller Candy Co., Chicago	69, 72
Holloway & Co., M. J., Chicago	69, 72
Hollywood Hat Co., Inc., New York	48
House Concurrent Resolution No.32, 73d Congress, 2d session	26
House Document:	
No. 94; 75th Congress, 1st session	13
No.95, 75th Congress, 1st session	13
No.380, 74th Congress, 2d session	19
House of Representatives, Interstate and Foreign Commerce Committee	15
Hull, Cordell, Secretary of State	32
Independent Offices Appropriation Act, 1936	124
Independent Offices Appropriation Act, 1937	123, 124
Ingersoll-Rand Co	59
International Association of Ice Cream Manufacturers	75

	Page
International Circulation Co., Inc., New York	71
Interstate Commerce Act	7, 26
Interstate Commerce Commission	26, 37
Investigations by the Commission, 1915-37	168
Johnson Candy Co., Walter H., v. F. T. C	72
Justice, Department of	7, 13, 26, 41
Kelley, James, New York	69, 75
Kent Fur Co., Chicago	69, 74
Keppel & Brother, F. T. C., v	72, 73
Kraft-Phoenix Cheese Corporation, Chicago	48
Kroger Grocery & Baking Co., Cincinnati	64
Labor Advisory Board	33
Lake Wales Citrus Growers' Association	24
Land O'Lakes Creameries, Inc., Minneapolis	60
LaSalle Extension University, Chicago	63
Leader Novelty Candy Co., Brooklyn	73
Legal work of the Commission	3, 4, 13, 37-89
I.,oft, Inc., Long Island City, N.Y.	61
Lotteries or gift enterprises	47, 63, 72
MacFadden Publications, Inc., New York	71
March, Charles H., Commissioner	11
Marconi Radio Corporation, New York	61
Martoeclco Co., F. A. (Hollywood Candy Co.), Minneapolis	69, 73
McLean & Son, A., Chicago	69, 72
Meisel Trading Post, Inc., Albuquerque, N. Mex	75
Menasha Wooden Ware Corporation	59
Metal Window Products Manufacturers	44
Midwest Distributors, Inc	71
Midwest Mills, Inc	69
Milk and dairy products investigation	10, 12, 13, 26
Millinery Quality Guild, Inc., New York	60
Miller-Tydings Act	141
Montgomery Ward & Co., Chicago	49
Munsey Co., Frank A., New York	71
Mutual Orange Distributors	24
Nash-Finch Co	25
National Association of Counter Freezer Manufacturers, Chicago	75
National Biscuit Co., New York	5, 69, 75
National Dairy Products Corporation	28
National Electrical Manufacturers' Association	59
National Silver Co., New York	62, 69, 76
National Tea Co., Chicago	64
Navy Department	70
Orders to cease and desist:	
Number issued	5, 39, 40, 41, 52, 84
Representative cases	52-65
Pacific Fresh Fruit Export Association, San Francisco	110
Pacific States Paper Trade Association, San Francisco	89, 76
Fender Grocery Co., David, Norfolk, Va	64
Perishable Agricultural Commodities Act	26
Perkins, Frances, Secretary of Labor	32
Petroleum Decree Investigation	10, 12, 33
Pictorial Review, New York	71

	Page
Post Office Department	104
President of the United States:	
Lays cornerstone of new Commission building	14
References to	3, 9, 10, 29, 32
Price discrimination. ( <i>See</i> Robinson-Patman Act.)	
Prices, combinations to fix and maintain	44, 58-61
Procon Grocery Service Co., Inc., New York	64
Public:	
No.260, 74th Congress	123
No.479, 74th Congress	123
Publications of the Commission	12, 13, 147-166
Public Resolution:	
No.61, 74th Congress 1st session	19, 23
No. 86, 74th Congress, 2d session	19
No.112, 74th Congress, 2d session	23
No.130, 74th Congress, 2d session	29
No.28, 75th Congress, 1st session	124
Queen Anne Candy Co., Hammond, Ind	69, 72
Queen Anne Candy Co., Seattle, Wash	63
Radio advertising	102
Radio brands, imitation of	61
Raladam case	77
Raymond Brothers-Clark Co., F. T. C. v	71
Real Products Corporation, Brooklyn	69, 77
Recommendations of the Commission	15, 21, 26, 28, 29
Resale prices	14, 46
Revised statutes (U.S. C., title 41, sec. 5)	123
Rice Millers' Association	44
Rivet manufacturers	45
Robinson-Patman Act:	
Administration of	6, 14
Alleged price discriminations In violation of	48-50
Brokerage section, alleged violation of	50-51
Closing of case involving	64
References to	3, 5, 25, 31, 39, 43, 44, 45, 65
Text of	137
Roper, Daniel C., Secretary of Commerce	32
Ross Heater & Manufacturing Co	59
Safeway Stores, Inc., Oakland, Calif	64
Schenley Distillers Corporation, New York City	42
Scrap Export Associates of America, New York	110
Sears, Roebuck & Co., Chicago	74
Second Deficiency Appropriation Act, 1935	123, 124
Secretary of Agriculture	26
Senate 1077	15
Senate Document:	
No.17, 75th Congress, 1st session	13, 23
No.33, 75th Congress, 1st session	14
No.54, 75th Congress, 1st session	14, 15
No.58, 75th Congress, 1st session	14
Sheffield Producers' Cooperative Association, New York	27
Sherman Act	33, 140
Sifers Confection Co., Kansas City, Mo	73



	Page
S. M. News Co., Inc., New York	71
Southern Grocery Stores, Inc., Atlanta	64
Standard Education Society	69, 78
Standard Encyclopedia Corporation	78
Standard Oil Co. of California, Inc	33
Steiden Stores, Inc., Louisville, Ky	64
Sterling Products, Inc., New York City	42
Stipulations:	
Number issued	43, 80
References to	4, 38, 42
Storey City Butter Tub Co., Storey City, Iowa	59
Street & Smith Publications, Inc., New York	71
Supreme Court, District of Columbia	76
Supreme Court of the United States	5, 13, 22, 40, 68, 69, 72, 73, 77, 78
Textile industries investigation	10, 12, 14, 31
Trade practice conferences	8, 93
Tri-way Produce Co	25
Turbine generator & condenser manufacturers	45
Tydings-Miller Act	141
Unfair methods of competition:	
In foreign countries	112-120
Types of	66
United States Circuit Courts of Appeals:	
References to	5, 40, 68
Second circuit, New York	70, 71, 73, 75, 76, 77, 78
Sixth circuit, Cincinnati	74
Seventh circuit, Chicago	72, 73, 74
Eighth circuit, St. Louis	78
Ninth circuit, San Francisco	74, 77
Tenth circuit, Denver	75
United States Court of Appeals, District of Columbia	69, 75
United States District Courts:	
References to	5, 68
Southern District of New York	75
United States Public Health Service	12, 28, 106
United States Supreme Court	5, 13, 22, 40, 68, 69, 72, 73, 77, 78
Vanadium-Alloys Steel Co., Latrobe, Pa	42
Vogue magazine	60
Wallace, Henry A., Secretary of Agriculture	32
War Department	70
Water Gate Valve and Hydrant Manufacturers	45, 68
Watkins Co. R. L., Inc	42
Webb-Pomerene Act. ( <i>See</i> Export Trade Act.)	
Wesco Foods Co	25
Westinghouse Electric & Manufacturing Co	58, 59
Wheeler Manufacturing Co., C. H	59
Window-glass manufacturers	46, 49
Wisconsin Butter Tub Co., Marshfield, Wis	59
Worthington Pump & Machinery Corporation	59
Zellerbach Paper Co	77
Ziegler Co., Geo., Milwaukee	69