ANNUAL REPORT

OF THE

FEDERAL TRADE COMMISSION

FOR THE

FISCAL YEAR ENDED JUNE 30

1939

UNITED STATES
GOVERNMENT PRINTING OFFICE
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FEDERAL TRADE COMMISSION

ROBERT E. FREER, *Chairman* [1]
GARLAND *S.* FERGUSON
CHARLES H. MARCH
EWIN L. DAVIS
WILLIAM A. AYRES
OTIS B. JOHNSON, *Secretary*

FEDERAL TRADE COMMISSIONERS--1915-41

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-A p r. 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. l. 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.

1 Chairmanship rotates annually. Commissioner Davis will become chairman in January 1940.

EXECUTIVE OFFICES OF THE COMMISSION

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

BRANCH OFFICES

45 Broadway, New York
483 West Van Buren Street, Chicago
548 Federal Office Building, San Francisco
801 Federal Building, Seattle
217 Custom House, New Orleans

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.

ROBERT E. FREER, *Chairman*.

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ANNUAL REPORT
OF THE
FEDERAL TRADE COMMISSION
FOR
FISCAL YEAR ENDED JUNE 30, 1939

INTRODUCTION

POWERS AND DUTIES OF THE COMMISSION

The Federal Trade Commission herewith submits its report for the fiscal year, July 1, 1938, to June 30, 1939. Organized March 16, 1915, under the Federal Trade Commission Act, approved September 26, 1914, which was amended March 21, 1938, the Commission is an administrative tribunal.

In performing its functions, the Commission's duties fall into two categories: (1) Legal activities in enforcement of the laws it administers, and (2) general investigations of economic conditions in domestic industry and interstate and foreign commerce.

Legal activities[1] have to do with (1) prevention and correction of unfair methods of competition and unfair or deceptive acts or practices, in accordance with section 5 of the Federal Trade Commission Act, in which it is declared that unfair methods of competition and unfair or deceptive acts and practices in commerce are unlawful; (2) administration of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, dealing with price and other discriminations, and Sections 3, 7, and 8 of the Clayton Act dealing with tying and exclusive contracts, acquisitions of capital stock, and interlocking directorates, respectively, and (3) administration of 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, and providing that nothing contained in the Sherman Act shall be construed as declaring to be illegal any combinations or "'associations" entered into for the sole purpose of engaging in, and actually solely engaged in, export trade: *Provided, further, however,* 'That the same are not in restraint of trade within the United States.

1 As respects certain special and limited fields excepted from the Commission's jurisdiction, see second paragraph of section 5 of the Federal Trade Commission Act in appendix, p.178, and discussion of the Commission's functions and duties under applicable sections of the Clayton Act, pp.83,89.

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 anti-trust acts by any corporation.

An investigation under section 6 (d) of the organic act, when requested by Congress, is undertaken by the Commission as a result of a concurrent resolution of both Houses. This is in conformity with. the United States Code (48 Stat. 291, 15 U. S. C. A., sec. 46a), and the Independent Offices Appropriation Act, 1934 (Public, No. 78, 73d Cong.).

GENERAL LEGAL ACTIVITIES

Upon authority of the acts which it administers, the Commission, during the fiscal year ended June 30, 1939, continued to direct its efforts toward the correction and elimination of unlawful practices prohibited by those statutes.

Cases before the Commission.--The Commission made approximately 1,650 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 Commission approved a total of 600 stipulations to cease and desist, executed by parties against whom informal proceedings had been instituted. Of these, 329 were

cases in which false and mis-

leading advertising in newspapers, magazines, or by radio broadcast, was involved.

The Commission issued 370 complaints against companies, associations, or individuals, alleging various forms of unfair competition or unfair, deceptive, or other unlawful acts or practices, as compared with 805 in the last preceding fiscal year. These included cases of alleged combination or conspiracy in restraint of trade through price fixing and other unlawful agreements, and complaints charging violation of section 2 of the Clayton Act as amended by the Robinson-Patman Act. In 288 cases the Commission served upon respondents its orders to cease and desist from unlawful practices which had been alleged in complaints and which were found to have been engaged in by the respondents, as compared with 245 issued during the last preceding fiscal year. Representative cases are described at pages 45 and 58.

Cases before the courts.--The Commission was successful in 27 cases before the Federal courts, 17 of which were before the United States Circuit Courts of Appeals and 10 before the United States District Courts. The Circuit Courts of Appeals set aside the Commission's orders to cease and desist in 2 cases, one of which, at the close of the fiscal year, was pending before the Supreme Court of the United States on petition for certiorari. There was one adverse decision in a District Court. The Supreme Court denied petitions for writs of certiorari filed by respondents in 2 cases in efforts to reverse prior decisions by Circuit Courts of Appeals favorable to the Commission. Under the Wheeler-Lea amendment to the Federal Trade Commission Act providing injunctive relief in cases involving advertised commodities the use of which may be injurious to health, the Commission was successful in obtaining from the United States District Courts in the 10 cases in which it made application, preliminary injunctions prohibiting certain advertisements of medicinal preparations pending the issuance, trial, and final disposition of complaints under the Federal Trade Commission Act.

Foreign trade work.--Forty-three export trade associations organized under the Export Trade (Webb-Pomerene) Act had papers on file with the Commission as of June 30, 1939. Associations formed during the fiscal year were: Potash Export Association, Inc., New York, and International Wood Naval Stores Export Corporation, Gulfport, Miss. The associations are discussed in part V of this report, which also contains a summary of laws and decrees relating to trade and competitive conditions in 31 countries or dominions of the world.

Radio and periodical advertising.--In October 1938, the Commission created its Radio and Periodical Division *to* supersede the

former Special Board of Investigation in order more effectively to discharge the additional duties resulting from enactment of the Wheeler-Lea amendment to the Federal Trade Commission Act. Examination of newspaper, magazine, and radio advertising for misleading representations was continued and the survey extended to include mail-order catalogs and domestic newspapers published in foreign languages.

TRADE PRACTICE CONFERENCES

An important phase of the Commission's activities during the last year has been its trade practice conference work. Under this procedure a means is afforded whereby members of an industry may voluntarily cooperate with the Commission in the establishment of fair trade practice rules, the purpose of which is the wholesale elimination of unfair methods of competition and other illegal acts, practices, and trade abuses.

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

Since the beginning of this work in 1919, there have been held before the Commission trade practice conference proceedings for a large number of industries of varied character, with memberships up to many thousands and aggregate capital investments running into billions of dollars.

In the near future a booklet containing current trade practice rules will be available.

THE WHEELER-LEA ACT

The Wheeler-Lea Act has been in effect approximately 18 months. It is purely amendatory, its provisions having been incorporated and integrated entirely in the provisions of the Federal Trade Commission Act, which is the basis of a major portion of the Commission's activities.

Principal amendments were summarized in the Commission's Annual Report for 1938 at page 3. Section 5 of the Federal Trade Commission Act was broadened to include the prohibition of unfair or deceptive acts or practices in commerce in addition to unfair methods of competition theretofore prohibited. It was provided that the Commission's cease and desist orders shall become final after certain definite dates, and penalties for violation of orders that have become final were prescribed. The Commission has already certified to the Department of Justice a number of cases for penalty proceedings under this section, and appropriate suits have been filed by that department.

The dissemination or the causing of the dissemination of false advertisements of food, drugs, devices, or cosmetics were specifically made unlawful and criminal penalties were prescribed for the dissemination of advertising relative to any of such commodities, the use of which may be injurious to health, or, where there is intent to defraud or mislead.

Also, the Commission, when it has reason to believe that such action would be in the public interest, was given authority to proceed in a United States District Court by injunction to halt an existing, or to prevent a threatened, dissemination in violation of the provisions above referred to, pending the issuance and final disposition of a complaint under the Act. The Commission has obtained a number of preliminary injunctions pursuant to this section of the act.

The procedures under the false advertising sections of the act as amended are described at page 37, field investigations thereunder at page 42, and 10 suits in the United States District Courts for injunctive relief in cases involving false advertising of medicinal preparations at page 110. Questions relating to effects of the amendment of section 5 are discussed under court cases in the matters of National Candy Co. and others, page 97, and Benjamin D. Ritholz and others, page 108.

ROBINSON-PATMAN ANTI-DISCRIMINATION ACT

Enacted more than 3 years ago (June 19, 1936), the Robinson-Patman Act is an amendment to section 2 of the Clayton Act, restating in broader terms the basic principle of prohibiting price and related discriminations which injuriously affect competition.

Three of the United States Circuit Courts of Appeals, in affirming Commission cease and desist orders issued pursuant to the amended act in 3 cases, have determined the most important questions arising in connection with interpretation and application of the brokerage section of the Robinson-Patman Act. These decisions were in the cases of Biddle Purchasing Co., of New York, and others (see p.94), Oliver Brothers, Inc., of New York, and others (p. 106), and The Great Atlantic & Pacific Tea Co. of New York (Third Circuit, Philadelphia, September 22, 1939).

The volume of the Commission's work in administering the amended section 2 has steadily increased. During the fiscal year ended June 30, 1939, the Commission issued 32 complaints alleging violations of this section as compared with 20 complaints in the last preceding fiscal year. During the year investigations of alleged violations of section 2 were instituted in 173 matters, and 134 of such investigations were completed and submitted to the Commission with recommendations for disposition. Since the Robinson-

Patman amendment a total of 689 investigations has been instituted and 478 completed.

In the 3 years since its enactment, the Commission's administration of the amended section 2 has touched to some extent the whole field of industry and commerce. The number of investigations completed, or in progress at the close of the fiscal year, is indicated in the following list of general commodity classifications: Food products, 174; building materials, 74; manufactures' supplies, 64; furniture and household equipment, 40; automobiles and accessories, 37; farm supplies, 83; clothing and accessories, 29; toilet preparations, 29; petroleum products, 26; pharmaceutical preparations, 26; specialties, 22; tobacco products, 19; recreational and sporting goods, 11; school and office supplies, 10; hardware, 8; machinery, 7; publications, 7; medical and surgical equipment, 6; optical supplies, 6; general merchandise, 6; and coal 4.

A proceeding by the Commission against one member of a particular industry for a violation of the statute frequently requires the institution of proceedings against similar violations by other members of the same industry and this contributes to the increase of enforcement work. An additional factor in the increase is the better grasp of the provisions of the statute on the part of applicants who charge violations of the law. This growing understanding is demonstrated by a decrease in the number of applications for complaint based upon misinterpretation of the law and by an increase in applications which are prima facie well founded.

The policy of furnishing business men or their attorneys, who call at the Commission offices, with available information concerning decisions of the Commission or of the courts with respect to applicable portions of the act, has been continued in an effort to aid business concerns in their desire to comply with the provisions of the statute.

Expense of price discrimination investigations.--Investigations of alleged violations of the amended section 2 are much more costly and time-consuming than those made under the other acts administered by the Commission. This results from the technical nature of the act, the defenses available, and the consequent particularity of detail required, as well as the fact that a single investigation may involve from one to several hundred possible respondents. In many instances where justification for price differences is claimed upon the basis of costs, elaborate cost-accounting studies are required.

Where cost studies become necessary they are carefully coordinated by the Commission's investigating staff with the legal issues. in a particular case to avoid excessive accounting costs to the Commission or to the proposed respondent. Distribution cost data in adequate form are frequently not readily available from records of

proposed respondents, and it is often difficult to relate such data to the price differences which may exist. The fact is that distribution cost accounting adequate for purposes of defense under the Robinson-Patman Act is in its pioneer stage, and the difficulties which arise will probably continue until adequate cost and marketing records, in a form which permits allocation of costs as among customers in varying price classifications, are more generally kept by companies subject to the act.

Basing of price differences on cost differences.--In most cases which have come before the Commission thus far, where attempt has been made to justify price differences on the basis of cost differences, it has been the costs of sale and delivery that were involved and not those of manufacture.

When a company bases its defense to a charge of price discrimination on differences in costs the Commission in the preliminary stages of the case endeavors to give, through its economic and accounting staff, as much assistance as is desired and practicable under the circumstances in order to determine and allocate such costs by sound accounting methods. Often test studies are suggested by the Commission and outlined for the company. When, however, formal com-plaint has been issued the burden of proof that differences in cost equal or exceed differences in price rests upon the company as respondent.

TEMPORARY NATIONAL ECONOMIC COMMITTEE

Following a special message delivered to Congress by President Roosevelt on April 29, 1938, Congress, by Public Resolution No.113, Seventy-fifth Congress, approved June 16, 1938, created the Temporary National Economic Committee, having as its basic purpose the making of a study of monopoly and the concentration of economic power in and financial control over production and distribution of goods.

The main objectives were to determine: (1) The causes of such concentration and control and their effect upon competition; (2) the effect of the existing price system and the price policies of industry upon the general level of trade, upon employment, upon long term profits, and upon consumption, and (3) the effect of existing tax, patent, and other Government policies upon competition, price levels, unemployment, profits, and consumption; and to investigate the subject of governmental adjustment of the purchasing power of the dollar so as to attain 1926 commodity price levels; and to make recommendations to Congress respecting contingent legislation, including the improvement of antitrust policy and procedure and the establishment of national standards for corporations engaged in commerce among the States and with the foreign nations.

The various fields of inquiry were divided among six executive agencies. The Federal Trade Commission was assigned the fundamental task of studying monopolistic practices in American industry, together with an investigation of the feasibility of Federal licensing of corporations engaged in interstate commerce.

The Federal Trade Commission opened its hearings on February 28, 1939. Its presentation was divided into three parts: (1) a prologue; (2) a general summary of Federal Trade Commission experience during the period 1930-38; and, (3) a series of monopolistic practices affecting competition in approximately 14 industries.

The prologue expressed the attitude and desire of the Commission that free, open, and fair competition be fostered and protected and that antimonopoly laws be strengthened. This initial presentation was followed by a factual survey of the corrective proceedings taken by the Commission pursuant to its powers and duties involving illegal practices and restraints of interstate commerce. A summary was presented of 59 selected cases in which the Commission had issued cease and desist orders against a series of monopolistic practices and restraints of trade. Recommendations were presented pertaining to strengthening existing antitrust laws by supplemental legislation. It was specifically suggested that section 7 of the Clayton Act be amended by forbidding the acquisition by corporations of assets of competitor corporations. The prohibitions of this section are at present restricted to capital stock acquisitions. (See page 14.)

Brief summaries were presented of a few of the economic studies made by the Commission at the direction of Congress during the last 7 years, the materials presented including the investigations of electric and gas utilities, agricultural income, chain stores, and farm machinery.

The final part of the program involved presentation of various monopolistic practices and conditions in a number of industries, including the milk, whisky, and sulphur industries. The basing point practice of the steel industry was presented by the Commission as an example of geographic price discrimination.

The program of the Temporary National Economic Committee continues into the fiscal year 1939-40 and the Federal Trade Commission staff engaged in this work, as of June 30, 1939, was preparing a final group of studies for presentation in the form of both hearings and oral reports during the fall of 1939.

Commissioners Ferguson and Davis are the Commission's representatives on the Temporary National Economic Committee.

GENERAL INVESTIGATIONS

More than 110 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. Many of these inquiries have supplied valuable information bearing on competitive conditions and trends in interstate trade and industrial development and have shown the need for, and wisdom of, legislation or other corrective action.

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

Motor-vehicle industry.--In response to Public Resolution No. 87, Seventy-fifth Congress, third session, approved April 13, 1938, the Commission investigated the investments, profits, and production of motor vehicle manufacturers, the selling and distributing policies and practices of automobile manufacturers and dealers, and cost to the consumer of the charges made by finance companies, and reported to Congress on June 5, 1939. (See p.19.)

Resale price maintenance.--An investigation of resale price maintenance as practiced under the various State Fair Trade laws was authorized by the Commission in a resolution adopted April 25, 1939, and was undertaken prior to close of the fiscal year. (See p.27.)

Millinery industry.--At the request of the President, the Commission investigated distribution methods in the millinery industry. (See p.28.)

A list and brief descriptions of the more than 110 inquiries conducted by the Commission since 1915 begins at page 203.

ACTIVITIES ON BEHALF OF THE CONSUMER

That the Commission's functions are directly concerned with affording protection to the purchasing public, as well as to business, and that the Commission's work for consumer protection has been increasing steadily, both in volume and in effectiveness, is shown in a special chapter on "Consumer Protection," beginning at page 163.

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.

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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." Upon the expiration of his term of office, a Commissioner continues to serve until his successor has been appointed and has qualified.

As of June 30, 1939, the Commission was composed of the following members: Robert E. Freer, Republican, of Ohio, chairman; Garland S. Ferguson, Democrat, of North Carolina; Charles H. March, Republican, of Minnesota; Ewin L. Davis, Democrat, of Tennessee; and William A. Ayres, Democrat, of Kansas. Commissioner Davis will become Chairman in January 1940.

Each December the Commission designates one of its members to serve as Chairman during the ensuing calendar year. Commissioner Freer was chosen Chairman for the calendar year 1939, succeeding Commissioner Ferguson. 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 Freer has supervisory charge of the Economic Division and Radio and Periodical 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 Commissioner Ayres, of the Administrative Division. The Commission has a Secretary, who is its executive officer.

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 its jurisdiction are acted upon by the Commission as a whole. The Commissioners meet for the consideration and disposal of such matters every business day. They have administrative charge of the work of a staff which, as of June 30, 1939, numbered 687 officials and employees including attorneys, economists, accountants, and administrative personnel engaged in Washington and in 5 branch offices. The Commissioners hear final arguments

in the cases before the Commission, and 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.

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, the Chief Trial Examiner, the Director of the Radio and Periodical Division, and the Director of Trade Practice Conferences.

The Chief Counsel acts as legal adviser to the Commission, supervises its legal proceedings against respondents charged with violations of the acts administered by the Commission, has charge of the trial of cases before the Commission and in the courts, and supervises the export trade work of the Commission as conducted pursuant to the Export Trade Act.

The Chief Examiner has charge of legal investigations of applications for complaint alleging violations of the laws over which the Commission has jurisdiction, except as to probable violations which have come under the observation of the Radio and Periodical Division as hereinafter explained 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 general investigations as are primarily of a legal nature, such as the millinery investigation.

Members of the Chief Trial Examiner's Division preside at hearings for the reception of evidence in formal proceedings and certain of the investigations conducted by Executive direction, pursuant to congressional resolutions, upon the Commission's own initiative, or at the request of the Attorney General. Other members of the division, who have no other function, arrange settlements by stipulation of applications for complaint, subject to the approval of the Commission.

The Division of Trade Practice Conferences conducts activities relative to the formulation and approval of trade practice rules, the holding of industry conferences in respect thereto, the administration and enforcement of such rules which have received Commission approval and are in effect, and other staff duties incident to the trade practice conference procedure.

The Radio and Periodical Division conducts preliminary investigations in cases involving allegations of false and misleading adver-

tising. Such cases usually result from the division's continuing examination of radio and periodical advertising and are conducted under a special procedure.

The Economic Division, under the Chief Economist, conducts those general inquiries of the Commission as are primarily of an economic nature, such as the motor vehicles and resale price maintenance investigations. The Economic Division cooperates With the legal divisions with respect to the cost accounting work for the Robinson-Patman Act cases.

The Commission has on its staff an economic advisor with special reference to administration of the Robinson-Patman Act and in connection with certain general investigations. This official has charge of the special staff assisting the Commission in the studies assigned to it by the Temporary National Economic Committee.

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: Accounts and Personnel, Disbursing Office, Docket Section, Publications, Library, Mails and Files, Legal Editing, Supplies, and Stenographic.

The Commission has a Public Relations and Editorial Service. Its duties include the distribution of information, the preparation and editing of annual and special 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 Federal Government agencies, to any of which it may refer matters for scientific opinions or information. The Commission also obtains, when necessary, certain medical and other scientific information and opinions from nongovernment hospitals, clinics, and laboratories. The Commission has established the nucleus of a competent medical staff under supervision of an officer assigned to it by the United States Public Health Service. These physicians act as advisors and consultants in certain matters arising under the advertising provisions of the Federal Trade Commission Act as amended by the Wheeler-Lea Act.

The Commission maintains branch offices in New York, Chicago, New Orleans, San Francisco, and Seattle.

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. Important among such documents are those presenting fact-finding

studies, reports, and recommendations relating to general business and industrial inquiries. Illustrated by appropriate charts, tables, and statistics, these books and pamphlets deal with current developments, possible abuses, and trends in an industry, and contain scientific and historical background. 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 in the volumes known as *Federal Trade Commission Decisions,* contain interesting and important material regarding business and industry. They tell, case by case, the story of unfair competition, unfair or deceptive acts or practices, 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 publishes a monthly summary of its work showing the number of cases in the various stages of its legal procedure and the status of each current legal case, general investigation, and trade-practice conference.

Regarding the Commission's publications, the Federal Trade Com-mission 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 of the Commission for the fiscal year ended June 30, 1939, were:

Annual Report Of the *Federal Trade Commission for* the *Fiscal Year Ended June 30, 1938.* House Document No.10, Seventy-sixth Congress, first session, November 30, 1938.

Supplemental Report on Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries. June 27, 1938. [2] Report supplements Senate Document No.112, Seventy-third Congress, second session.

2 Full report processed in 1939.

Trade Practice Conference Procedure, reprint of Rule *XXIV*, "Rules, Policy, and Acts of the Federal Trade Commission," dated May 21, 1938. August 25, 1938.
Robinson-Patman Act, data compiled from public sources of information, excerpts from findings and orders of the *Commission and decisions of* the *Courts*, November 1, 1938.
Procedure before the Federal Trade Commission in the Handling of Certain Types of False and Misleading Advertising Cases by the Radio and Periodical Division, November 23, 1938.
Motor Vehicle Industry, Summary and Conclusions. June 5, 1939. 3 *Federal Trade Commission Decisions, Volume 22, January 14-July 9, 1936, and Volume 23, July 10-November 30, 1936.* [4]
Statutes and Decisions Pertaining to the Federal Trade Commission, Volume II, 1930-1938. [4]

RECOMMENDATIONS

Amendments to section 7 of the Clayton Act.--On a number of occasions in annual reports and in reports on particular investigations, 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, or the acquisition by a holding company of the capital stock of two or more competing corporations, where substantial lessening of competition between the corporations may result or where a tendency to create a monopoly of any line of commerce or restraint of trade in any section or community may result, it does not purport to declare unlawful the acquisition of physical assets where similar tendencies and conditions may result. It has also been pointed out by the Commission in previous reports that this latter method of eliminating competition to the public injury has been increasingly employed by corporations engaged in interstate commerce. The Commission therefore renews its recommendation that the acquisition of assets be declared unlawful under the same circumstances that the acquisition of capital stock is already so declared. It is also recommended that section 11 of the Clayton Act be amended by inserting in the 21st line thereof, after the word "stock," the words "or assets." This recommendation is made so that the Commission will have authority to require a corporation to divest itself of assets illegally acquired.

[3] Complete report printed as House Document No. 468, Seventy-sixth Congress, first session. Available only from the Superintendent of Documents, Government Printing Office, Washington, D.C.
[4] Available only from the Superintendent of Documents, Government Printing Office, Washington D.C. Printed In 1939.

As a result of its studies of competitive conditions existing in many industries during the past few years, the Commission believes that when a considerable proportion of the total output of an industry is brought under one ownership, there is strong probability that competition will be substantially lessened in the process. It is also believed that the problem created by consolidations and mergers is not merely that of lessening of competition in a particular industry. The progressive enlargement of a few predominant enterprises has already gone so far that, in financial strength and in numbers of persons subject to their control, the largest concerns outrank some State governments. The dangers of such concentration of power are evident whether the power is concentrated in one industry or spread over a number of industries. The Commission believes that there should be limits to growth which result from combining the assets of various enterprises for the sake of greater power which can be exercised by the combination.

The Commission calls attention to the fact that the Temporary National Economic Committee, in a preliminary report to the United States Senate, made pursuant to the terms of section 4 (a), Public Resolution No.113, Seventy-fifth Congress, recommended the amendment of sections 7 and 11 of the Clayton Act with the following comment:

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* Preliminary investigations by the Commission, during the period 1929-35, into 547 mergers, show that 54 percent of them involved merging of assets. The proportion increased from year to year during said period and has greatly increased since that time, until nearly all recent consolidations have been brought about through acquisition or merging of assets.

2. The law should be amended to cover the acquisition of the stock of one or more corporations, instead of two or more as in the present law. The paragraph covers acquisitions by a holding company, and it is manifest that if the holding company acquires the stock of a company in substantial competition with one of its subsidiaries, there is or may be the same restriction or destruction of competition as in the acquisition of two competing companies.

3. Another desirable amendment would prevent the closing of what may be the only available market for the assets of a corporation in bankruptcy or in immediate danger of bankruptcy. A competitor of the corporation in financial difficulties may often be the only available market for its assets, and it is believed that permitting an acquisition under such circumstances will not defeat the purposes of the section, provided the provision is so drafted as to prevent the bringing about of the competitor's financial difficulties by collusion, for the purpose of evading the prohibitions of the section.

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The tendency toward the concentration of control of the economic system in fewer and fewer business executives seems proved.
The consequence of that tendency is a steadily lessening number of competitors.
It has been the traditional conviction of the people of the United States that the opportunity of the citizen to engage in business should not be restricted

and that a system of free open competition is best calculated to preserve that opportunity.

It is clear, however, that the financial and other resources required for economic endeavor are becoming increasingly difficult for the ordinary enterpriser to obtain and that concentration of economic power and wealth is accompanied by increasing unemployment and narrowing markets.

The Commission therefore desires to reiterate the recommendations made in its previous reports for the amendment of the provisions of section 7 of the Clayton Act to make it unlawful for any corporation, directly or indirectly, through a holding company, subsidiary, or otherwise, to acquire any of the capital stock or assets of a competing corporation when either of said corporations is engaged in interstate commerce, or for a holding corporation to acquire any of the capital stock or assets of a single corporation, engaged in interstate commerce in competition with a subsidiary of the holding corporation when the effect of such acquisition of stock or assets may be to substantially lessen competition between the two corporations or, where, from the relative size of the corporation resulting from the merger and the surrounding conditions, the effect of such acquisition may be to restrain competition or tend to create a monopoly in any line of commerce; and for the amendment of section 11 as above indicated.

The permissible percentage of corporate control over an industry should be elastic. A given percentage in one industry might be wholly harmless to the public interest, while the same Or even a smaller percentage in another industry might be gravely prejudicial. The minimum percentage necessary to effective corporate control of an industry is quite analogous to the minimum percentage of stock ownership necessary to control a corporation. In both cases it varies widely according to circumstances.

The Commission would emphasize that among its various recommendations for the amendment of section 7, the one of outstanding and basic importance is that the acquisition of assets should be made as unlawful as the now forbidden acquisition of stock when it produces the same results. Unless that recommendation be translated into legislative action, the other recommendations made are of relatively minor importance. If that recommendation were accepted, then the importance of the others would be greatly enhanced. As the Supreme Court has said, the acquisition of stock was probably forbidden in 1914 because it was the method then most commonly employed. The prohibition of that method made the acquisition of assets the method most commonly employed since 1914. If evil results be the criterion, the methods more recently employed should be forbidden.

PART I. GENERAL INVESTIGATIONS

MOTOR-VEHICLE INDUSTRY

RESALE PRICE MAINTENANCE--1939

MILLINERY INDUSTRY

PART I. GENERAL INVESTIGATIONS

MOTOR-VEHICLE INDUSTRY

INQUIRY COMPLETED AND REPORT SENT TO CONGRESS

The Commission inquiry regarding the motor-vehicle industry was made pursuant to a joint congressional resolution (Public Res. No. 87, 75th Cong., 3d sess.), approved by the President on April 13, 1938. Adoption of this resolution was a result of complaints by organized automobile retailers that manufacturers of automobiles impose unreasonable operating conditions upon dealers under the terms of agreements required of all dealers handling new motor vehicles. These agreements set forth the conditions under which dealers may purchase and distribute the automobiles, repair parts, and accessories of the manufacturer whose cars or trucks are handled.

The resolution directed the Commission to determine and report in a year its findings respecting:

1. The extent of concentration of control and of monopoly in the manufacturing, warehousing, distribution, and sale of automobiles, accessories, and parts, including methods and devices used by manufacturers for obtaining and maintaining their control or monopoly of such manufacturing, warehousing, distribution, and sale of such commodities, and the extent, if any, to which fraudulent, dishonest, unfair, and injurious methods are employed, including combinations, monopolies, price fixing, or unfair trade practices;
2. The extent to which any of the antitrust laws of the United States are being violated.

The resolution authorized the appropriation of $50,000 for the inquiry, but no funds were actually appropriated. The Commission, however, initiated the investigation at once and the work was well under way before June 30, 1938. The entire inquiry was carried on with funds included in the Commission's regular appropriations for the fiscal years ended June 30, 1938, and 1939, and the report was submitted to the Congress on June 5, 1939. The summary chapter, "Motor Vehicle Industry, Summary and Conclusions" (24 pp.), was made available for distribution in booklet form. The complete. report, "Motor Vehicle Industry," has been printed as House Document No.468, Seventy-sixth Congress, first session, and is available

at the office of the Superintendent of Documents, Government Printing Office, Washington, D. C.

Scope of the inquiry.--Because of limitations of time, money, and personnel, the detailed study of the books and records of manufacturers was limited to 7 of the 11 important manufacturers that were making passenger cars in 1938, several of whom are important producers of trucks and commercial cars; however, these 7 manufacturers examined sold 98 percent of all new passenger automobiles marketed by American manufacturers in 1937. No detailed study, however, was made of the operations of companies manufacturing only trucks and commercial vehicles.

Report forms were addressed to approximately 5,600 individual retailers requesting financial information and replies to specific questions regarding conditions under which their businesses were operated. Usable financial and operating statements were obtained from approximately 525 individual dealers and usable replies to the general questions were obtained from a considerably larger number of dealers. Also, some 400 dealers were questioned by the Commission examiners.

A study was made of the operations of 30 representative automobile finance companies, including one factory owned, three large factory preferred, and 26 independent finance companies. This study covered the investment and profits of the companies and a detailed study of approximately 40,000 purchases by finance companies of individual retail installment sales contracts.

Concentration of production.--There is a marked degree of concentration in motor vehicle manufacture. Seven leading passenger car manufacturers, in 1937, sold 98 percent of all new passenger auto-mobiles marketed by American manufacturers, and over 90 percent of passenger ears, trucks, and other commercial vehicles combined. These 7 manufacturers sold, in 1938, about 99 percent of all new passenger cars registered. In this year, 3 of these 7 manufacturers sold slightly more than 90 percent of all new passenger cars registered, the proportions being: General Motors, 44.8 percent, Chrysler, just under 25 percent, and Ford, 20.5 percent.

Profits of manufacturers.--During the 11-year period, 1927 to 1937, the aggregate net profits of the largest seven manufacturers of passenger automobiles amounted to more than $2,375,000,000, before provision for income taxes. The profits of General Motors and Chrysler Corporation, especially, were very large. Those of General Motors amounted to nearly 80 percent of this total, and those of Chrysler Corporation, to about 11.6 percent. The Ford Motor Co. together with four of the smaller manufacturers had less than 9 percent of these profits. The Ford Company's profits in this period were

extremely small because of its heavy losses during the depression years and also during the shutdown of manufacturing operations in 1927 and 1928 for the reconstruction of plants in connection with a change in models.

Prices and quality of passenger cars.--Data obtained from the seven companies examined made possible a comparison of factory prices of reasonably comparable four-door sedans, covering roughly the period since 1923. This comparison shows substantial net decreases in prices. In general, prices were lowest during the depression years following 1929, but increased somewhat in more recent years.

Profits of motor vehicle dealers.--Retail dealer reports to the Commission covering 119,131 new cars of all makes sold in 1937, indicated that the dealer's average net operating profit per new car sold was entirely derived from sales of parts, accessories, supplies, and services that represented only 15 percent of their total business. For distributor-dealers, whose business combined both wholesaling and retailing, the showing was that nearly 97 percent of their profit per new car sold was derived from sales of parts, accessories, supplies, and service, representing less than 12 percent of their total business. This showing supports the claim of dealers that competition, aggravated by the pressure of manufacturers for large volume of new car sales, forces dealers to handle both new and used cars at little or no profit.

Cost of installment purchasing.-- About 60 percent of retail motor vehicle sales is made on installment plans. Financing these retail sales at minimum cost to the car user is of importance to manufacturers, because of the effects on the manufacturer's volume of sales and his ability to compete with other manufacturers.

To improve this business for their own advantage, as well as to share in the profits of financing, General Motors Corporation organized General Motors Acceptance Corporation, Ford Motor Co. organized Universal Credit Corporation, Chrysler Corporation acquired an interest in Commercial Credit Co. and entered into special contracts with it, and other manufacturers made special financing arrangements with Commercial Investment Trust Corporation. Later, however, Ford Motor Co. and Chrysler Corporation disposed of their direct financial interests in their respective companies. This left only one finance company, General Motors Acceptance Corporation controlled directly by a manufacturing company.

The factory controlled finance company was the leader in the establishment of basic finance charge rates of one-half of 1 percent per month on the entire original unpaid purchase prices, including the retail premiums for the insurance protection of automobiles pur-

chased on the installment plan. The rates, however, still imply interest paid by the car purchasers at about 11 ½ percent per annum on the monthly unpaid balances of the cash purchase prices of their automobiles and insurance.

Actual finance charges paid by the retail purchaser sometimes. are less than the basic rate, because of dealers' errors or special concessions to purchasers. More often, however, the finance charges paid by the purchaser exceed the basic rate. Such excess paid by the purchaser may be the result of a number of causes. For example, the insurance rates actually paid by the finance company may be less than the rates charged the customer, or special charges or additions to the finance charges may be made by the vending dealer (so-called "packs") for which no additional service is rendered. Dealer packs are facilitated by many finance companies that provide dealers with two or more rate charts based on different rates of charge, so that a dealer can use a chart based on a high rate when dealing with a car purchaser, but will use the chart based on the minimum rate when selling the installment contract to the finance company. Some retailers claim that they are impelled to insert such "packs" to recoup over-allowances on used cars taken in trade in selling new cars under pressure from manufacturers for volume.

Insurance commissions, sometimes representing as much as 50 percent of the retail premiums for insurance on motor vehicles, are an important source of profit to most of the finance companies. The system offers opportunity for providing the automobile purchasers with less protection than that for which they are charged; and at least 1 finance company, among the 30 examined, did this systematically.

Basis for manufacturer-dealer relations.--The terms of the manufacturer-dealer agreement, without which no dealer can purchase directly from the manufacturer or the manufacturer's authorized wholesale distributor, lay the basis for extensive supervision by the manufacturer over the operations of his dealers. Dealers complain that the supervision exercised, especially by the larger manufacturers, often is of such a character as to amount to coercive interference with the dealer's business.

Manufacturers' pressure on dealers.--Much information was developed by the inquiry indicating that automobile manufacturers exert pressure in varying degrees to induce dealers to establish and maintain sales establishments, service facilities, sales and service personnel satisfactory to the manufacturer, and require the dealer to take, especially near the end of each model year, more cars, parts, and accessories than dealers may wish to handle or be able readily to market. Manufacturers, especially the larger ones, generally

insist that their dealers shall handle their particular lines to the exclusion of other manufacturers' lines.

Manufacturers generally either require their dealers to adopt prescribed accounting systems or insist upon the maintenance of an accounting system that will enable the dealer periodically to furnish detailed financial and operating statements in the form prescribed by the manufacturer, and expect dealers to permit audits of their accounts by accountants employed by the manufacturers.

Dealer penalty for failure to meet manufacturers' requirements.--The penalty for failure of the dealer to conform to any or all of the requirements imposed upon him by the manufacturer, or the latter's field representatives, is cancellation of his dealership on relatively short notice as provided in the dealer agreement.

Manufacturers' trade association activities.--The Commission's examination of the activities of the Automobile Manufacturers' Association did not disclose price agreements or other cooperative activities that appear to be contrary to the antitrust acts. Apparently this is due in part to the fact that motor vehicles, and particularly passenger cars, are commodities so individual in character that the ordinary methods of price fixing are not readily adaptable to them, and in part to the existence of keen competition among manufacturers for volume based on both price and quality of product.

Dealer trade association activities.--In addition to the National Automobile Dealers' Association there probably are at least 500 local and State organizations of automobile retailers.

Inquiries respecting the activities of a number of typical local associations, most of which were sponsored by State associations and operated along lines recommended by the National Automobile Dealers' Association, indicated that a large proportion of the local associations studied were attempting, by agreements, to limit dealer competition.

CONCLUSIONS OF THE COMMISSION

Based on information developed by the inquiry, the Commission stated its conclusions respecting the economic activities of motor-vehicle manufacturers, dealers, and companies financing installment sales of automobiles that affect the public interest as follows:

Concentration in the motor vehicle industry.--The Commission finds that a high degree of concentration prevails in the motor-vehicle industry, there being in 1938 only 11 companies (or company groups) producing passenger cars regularly, and 3 of them had no less than 90 percent of the total unit sales of passenger cars; that among these 3 leading motor-vehicle manufacturers there prevails, apparently, a condition of active competition.

The Commission finds that in the early stages of the industry, when there were many small motor-vehicle manufacturers, the General Motors Corporation had an advantage resulting from the acquisition and combination of several of

the leading companies making distinct lines of motor vehicles, some of which included two or more types of cars of different price classes; and that the company, now known as the Chrysler Corporation, to a less extent obtained a similar advantage through the purchase of the Dodge line, but it was also greatly aided by its development of the Chrysler and Plymouth cars.

On the other hand, the Ford Motor Co. development was characterized, substantially, by a concentration of its efforts on developing a single line of low-priced motor vehicles, which for a time put it in the forefront of the industry in unit production.

Competition in production and prices.--There is strong competition for business in the automobile industry both among manufacturers and retail dealers. Price competition in motor vehicles, however, is naturally different from that in commodities that are of the same, or standardized, description and quality for producers generally. The constant effort of a motor-vehicle manufacturer is to emphasize the superiority of his car and the special features it has as a Justification for this claim. The retail prices of motor vehicles are widely advertised by the manufacturers, and the dealers are expected generally to conform to them, except in connection with allowances for "trade-ins." In some instances, however, where a low-priced car, for example, of one manufacturer has been reduced, a competing manufacturer has made a corresponding reduction for his car in the same price class; price reductions on current models are sometimes made, also, for the higher priced cars, Just before the annual change to new models.

Competition of manufacturers with respect to passenger cars In the low-price class is more for volume than for prices though prices are potentially important.

With reference to any question of price fixing In other price classes, the nature of the demand is such, and consumer preference such a vital element of demand, that it would be difficult, not only to fix prices but also to establish any quota system of production, even if the retail dealers could be brought into effective cooperation for that purpose.

Policies with respect to exclusive handling of the product of a particular manufacturer by a dealer having a dealership agreement with him tend to restrict competition by making it more difficult for the smaller manufacturers to obtain adequate dealer representation, because in many markets they are unable to establish exclusive dealerships with sufficient volume to operate profitably. Such restriction of competition perpetuates the high degree of concentration already existing in the hands of the three large manufacturers.

Active competition among automobile manufacturers, although some of them have made very large profits, gave to the public improved products, often at substantially reduced prices. In the automobile industry this has been especially true of those manufacturers who are able to obtain large volume of production through competitive Improvement in motor-vehicle construction, style, performance, and safety, particularly in the low-priced class. Such competition has been the basis for the remarkable growth of the industry.

Consumer benefits from competition In the automobile manufacturing Industry have probably been more substantial than in any other large industry studied by the Commission.

Competition among motor-vehicle dealers.--The Commission finds that the retail motor-vehicle trade Is competitive in the sense that the individual dealer generally pushes actively the sale of the particular make of motor vehicles which he is under contract to sell, and that the prices thereof, as advertised by the motor-vehicle manufacturer, though quite generally adhered to in

appearance, are frequently cut by allowances for "used cars" quite generally "traded in" as part payment for new cars. These allowances are sometimes excessive in the sense that, when reconditioned and sold, the prices obtained for them are substantially below such allowances. In a number of instances the Commission found evidence of local combinations among motor-vehicle dealers to prevent competition regarding such allowances made on used cars "traded in."

"Padding" new and used-car prices.--It is also concluded from the study that the practices of dealers "padding" new car prices and "packing" finance charges falls most heavily on the minority of automobile buyers who have no used ears to trade. The majority of car buyers who have cars to trade also suffer in case the amount of consumer price enhancement is greater than the over-allowance made by dealers.

Dealer price-fixing activities.--The Commission finds that local associations of motor-vehicle dealers in various parts of the country have engaged in the following practices to fix or maintain prices: (1) Fixing minimum prices on new cars, often by means of uniform maximum discounts from the manufacturer resale prices in transactions where no trade-ins are involved; (2) establishing maximum purchase prices, or allowances, for used cars taken in trade; (3) regulating bidding on used cars taken in trade by means of uniform minimum increases on all bids subsequent to the original bid, or by requiring all bids subsequent to the original bids to be less than the original bid; and (4) adopting published used-car price guides as a basis for maximum allowances for used cars.

The Commission found that, in certain instances and in varying degrees, General Motors Corporation and Ford Motor Co., or representatives of these companies, cooperated with dealers in the formulation or operation of dealer plans to fix retail prices and limit dealer competition. Ford Motor Co., however, in its 1939 dealer agreements, requires its dealers: "To avoid in every way such trade practices in connection with dealer's competition with other Ford dealers and in selling company products to the public as are injurious to company's good name and good will or are detrimental to public interest."

Legal aspects of used-car valuation or appraisal bureaus.--The Commission found that many local associations operate used-car valuation or appraisal bureaus that are essentially combinations of dealers in particular localities, who are bound by agreements to restrict competition in used-car trading. A plan in effect In a large city in 1938, entirely eliminated competitive bidding if the prospective buyer obtained his first bid on his used car from the dealer In whose "zone," or trading area, he resided.

The question as to whether Federal jurisdiction exists respecting such local association activities, depends upon whether interstate commerce is involved. In complaints before the Commission in which cooperation with local combinations of dealers to control used-car trade-in allowances was a factor, upon Investigation It was found that interstate commerce was not involved to a sufficiently substantial extent to establish jurisdictional requisites. Consequently, cases have either been closed subject to the Commission's right to reopen them, or dismissed without prejudice. In general, therefore, the regulation of the activities of such local combinations of dealers becomes a matter to be handled by the law-enforcement agencies of the various States, acting under their respective State laws, the terms of which vary greatly among the approximately 40 States that have enacted State antitrust acts.

Unfair methods of motor-vehicle manufacturers in their relations with their dealers.--The Commission finds that motor-vehicle manufacturers, and, by reason

of their great power, especially General Motors Corporation Chrysler Corporation, and Ford Motor Co., have been, and still are, imposing on their respective dealers unfair and inequitable conditions of trade, by requiring such dealers to accept, and operate under, agreements that inadequately define the rights and obligations of the parties and are, moreover, objectionable in respect to defect of mutuality; that some dealers, in fact, report that they have been subjected to rigid inspections of premises and accounts, and to arbitrary requirements by their respective motor-vehicle manufacturers to accept for resale, quantities of motor vehicles or other goods, deemed excessive by the dealer, or to make investments in operating plants or equipment without adequate guaranty as to term of agreement or even supply of merchandise; and that adequate provisions are not included for an equitable method of liquidation of such investments, sometimes made at the insistence of the respective motor-vehicle manufacture.

Manufacturers' treatment or dealers.--In the opinion of the Commission, this inquiry has demonstrated that inequities exist in the terms of dealer agreements, and in certain manufacturers' treatment of some dealers, calling for remedial action.

It is recommended that present unfair practices be abated to the end that dealers have: (a) Less restriction upon the management of their own enterprises; (b) quota requirements and shipments of cars based upon mutual agreement; (c) equitable liquidation in the event of contract termination by the manufacturer; (d) contracts definite as to the mutual rights and obligations of the manufacturers and the dealers, including specific provision that the contract will be continued for a definite term unless terminated by breach of reasonable conditions recited therein.

Abuses of installment financing.--The Commission finds that, in the methods employed by some of the companies engaged in financing the purchaser of a new motor vehicle, serious abuses have developed, not only in permitting dealers to impose exorbitant charges, but also in serious deception, or even direct defraudation, of the purchaser.

In the more general practice by the larger companies, the principal objection was that, in the original advertising of the so-called "6-percent plan," it was not made clear that the finance charge rates were not interest rates and that the interest rates implied in the charges were nearly twice as much as 6 per-cent per annum on the money borrowed. However, the application of this plan constituted a substantial reduction from the rates of finance charge and interest that were in general use just previously.

The more serious deceptions have been engaged in generally by the dealer, often In connivance with a finance company. The practices here referred to relate to the so-called "packs" (padding), which are additions made, for no extra service, by the dealer to the regular finance charges provided in the finance company's minimum rate chart; and certain finance companies provided their dealers with the instrumentalities for such deceptions by furnishing them with two or more rate charts based on different rates of charge.

The Commission found, among the 30 finance companies examined, one finance company that systematically failed to afford car purchasers a portion of the insurance protection for which they were charged.

Itemized invoice needed for consumer protection.--In order that the automobile purchaser may be protected against overcharges, there is need of regulation requiring retail automobile dealers to furnish each retail purchaser with an Itemized invoice showing in detail the components of the cash sale price--stating separately the charges for accessories, Federal excise tax, State

or local sales tax, transportation, advertising, "handling charges," service, motor-vehicle license, motor vehicle title registration, and each other charge included in the cash sale price of the vehicle as delivered--and the components of charges added to the cash sale price by reason of the fact that the vehicle is sold on time--the amount and components of the retail insurance premium and the extent of the coverage to be provided for each component, the amounts respectively charged for recording fee, notary fee, and documentary stamp tax and the amount of the finance charge.

Deception in *charges for transportation of motor vehicles.--The* frequent practice of either motor-vehicle manufacturers or dealers of adding to the factory price a transportation charge to a certain point of delivery based on the published railroad rate, but which is greater than that actually incurred by the manufacturer or dealer, because of differing methods of transportation and delivery, is, in the opinion of the Commission, an unjustifiable imposition upon the purchasers of such vehicles, which should be eliminated.

Sale of driven cars as new cars.--The practice of some retail dealers in selling as new cars those which have been towed or driven from the factory or used as demonstrators, unless the full facts, including the miles driven, are disclosed to the purchaser, is deceptive and unfair and should be eliminated.

RESALE PRICE MAINTENANCE, 1939

INVESTIGATION UNDER WAY AT CLOSE OF FISCAL YEAR

On April 25, 1939, the Federal Trade Commission, acting under the powers vested in it by section 6 (a) and (b) of the Federal Trade Commission Act, adopted a resolution declaring it to be the Commission's purpose to--

* * * ascertain and make an investigation of the extent, effects, and methods of the development by corporations engaged in interstate commerce of resale price maintenance under and by virtue of State statutes legalizing, under conditions therein prescribed, agreements and contracts for the maintenance of resale prices, on:

1. Manufacturers' sales price, together with quality of goods sold, volume of sales, and selling costs for commodities under price contract and for similar competing commodities not under price contract (including private brands), and the competitive relations of such manufacturers and their relative growth.

2. Retail dealers' sales price, gross margin, and volume of sales for commodities under price contract and for similar competing commodities not under price contract (including private brands), and the competitive relations of such dealers through association with other collective activities and their relative growth, differentiating in respect to these various items as between independent dealers, chains, department stores, etc.

8. Price and quality to consumer for commodities under price contract and for similar competing commodities not under price contract; where price increases result for individual commodities of the first group, extent of shift of consumer purchases from such commodities to similar competing commodities of the second group or extent of price increases for the latter commodities; and consumers' total costs.

4. Practices employed in obtaining the support of industry and the retail and wholesale trades for resale price maintenance and practices employed in the practical establishment of resale price maintenance.

Steps were immediately taken to initiate an inquiry of the broad scope outlined by the resolution. Before the end of the fiscal year field work was under way among trade associations and trade association enforcement agencies, a preliminary request for information was addressed to manufacturers of selected lines of trade-marked products to which resale price maintenance contracts under the Miller-Tydings Act and State Fair Trade Acts may be applicable, and the work of selecting products for specific study was under way. In addition a considerable amount of office research was in progress covering the voluminous literature on the subject in trade magazines and other published sources, including the laws themselves and hearings held in connection with the enactment of both Federal and State laws. Also preliminary field work was under way to ascertain what statistical information bearing on retail prices may be obtained by schedule or by direct visitation of agents, and methods of obtaining other information bearing on the subject from manufacturers, wholesalers, and retailers were under consideration.

MILLINERY INDUSTRY

INQUIRY MADE AT REQUEST OF THE PRESIDENT

The President of the United States requested that an investigation be made of distribution methods in the millinery industry.

Among the factors assigned for investigation was the growth and development of syndicates or organizations operating a number of units for the retail distribution of millinery, the units consisting of leased millinery departments in department stores or specialty stores.

Results of the depression.--The report shows that millinery manufacturers, like all others, have passed through a period of depression, and that perhaps the resulting economic stress was more severe than in some other industries. Unlike industries requiring a substantial capital investment, hard times produce an increase in the number of millinery manufacturers. The failure of one concern results in the formation of three or four new concerns by owners, salesmen, or factory workers, who have been separated from their businesses, and the constant influx of producers makes competition keen. However, this marginal group of producers, although numerous, accounts for only a small percentage of the industry's volume and employs less than 10 percent of its labor.

The report concludes that while the presence of the marginal producer and the methods he employs may be disturbing to the industry as a whole, the concerns which in the face of this condition conduct their affairs in a sound and businesslike manner, suffer no permanent injury.

Syndicates and the leased department.--With respect to the leasing of millinery departments in stores by syndicates, the report points out that the leased department is not peculiar to the millinery industry, nor is it a recent development, the first reported lease of a millinery department having been in 1891. In 1930 more than 60 percent of all department stores leased one or more departments, the average number in stores leasing departments being 4.6 per store. However, the millinery department is leased more frequently than any other department.

It was found that there are from 30 to 40 firms engaged in the business of leasing millinery departments and of that number 11, organized prior to 1922, operate about 70 percent of all leased departments and do approximately 75 percent of the total business of leased departments.

The report points out that while there have been isolated instances of concessions made by manufacturers to syndicate buyers, they affect only a small percentage of the syndicates' purchases and have not demoralized the price structure of the industry. Syndicate business has been as profitable to manufacturers as has that of independent buyers, but is not vital to the success of the individual manufacturer. A manufacturer whose sales to syndicates in 1937 represented but 2.58 percent of his total net sales earned a net profit of 13.64 percent, approximately the same as that of a manufacturer whose sales to syndicates was 54.44 percent of his total net sales.

The facts developed in the investigation indicate neither unreasonable profits to the syndicates, nor the payment of excessive rentals by them to store owners. The conclusion was drawn that the very growth of the syndicate method of distribution is indicative of the fact that it fills a need in the industry, and that even if it does no more than make profitable to store owners the maintenance of a millinery department, it benefits the manufacturer. It was concluded that to overemphasize the importance of the marginal producer and exaggerate the power of the mass distributor can accomplish no constructive purpose. It might well result in the creation of a feeling of uncertainty and insecurity among the majority of manufacturers who, until now, have made profits and, according to a report of the United States Department of Labor, have maintained fair labor standards. [5]

A $100,000,000 industry.--Millinery manufacturing may be described as a $100,000,000 industry since in 1937, 812 of the more than 1,000 producing firms had total net sales of $83,769,315. There ap-

[5] Bulletin No. 169, Women's Bureau, on "Conditions in the Millinery Industry in the United States."

pear to be some 25,000 to 30,000 retail outlets for factory-made millinery. Of these, approximately 20,000 were, in 1937, independently owned and operated. Of the remainder, 1,041 were leased to syndicates or combination chain syndicates, and the others Were controlled by firms operating chains of millinery, apparel, general merchandise, and limited price variety stores.

The Commission's study was limited to problems of distribution so as not to duplicate the work of the Department of Labor which investigated and reported on manufacturing and labor conditions in the millinery industry. Field work in the Commission's investigation consisted of more than 300 interviews with manufacturers, syndicates, chain distributors, combination chain syndicates, jobbers, and retailers. The books and records of more than 90 manufacturers located in 12 States were examined and analyses made of their profit and loss statements and balance sheets. Similar examinations were made of the books and records of syndicates, combination chain syndicates, and chain stores.

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PART II. GENERAL LEGAL WORK

DESCRIPTION OF PROCEDURE

(SEE CHART OPPOSITE THIS PAGE)

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 whether 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. 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. Section 5 of the Federal Trade Commission Act declares unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce to be unlawful and empowers and directs the Commission, as the public interest dictates, to proceed against the use of such methods, acts, and practices in interstate commerce. 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 by the Robinson-Patman Antidiscrimination Act, and sections 3, 7, and 8 of the Clayton Act, make unlawful, under the circumstances therein set forth, price discrimination (under certain conditions quantity limits may be fixed by the Commission beyond which no further price differentials may be allowed on account of quantity) 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, the Civil Aeronautics Authority, and the Federal

Reserve Board are empowered to enforce compliance with such sections in their respective fields.

The Commission's organic act was amended by the Wheeler-Lea Act approved March 21, 1938. That legislation extended greater protection to the consumer through specifically giving the Commission jurisdiction over unfair or deceptive acts or practices, including the dissemination of false advertising concerning food, drugs, devices, and cosmetics by United States mails or in commerce by any means. It relieved the Government of unnecessary time and expense in proving an injury to a competitor as a prerequisite to consumer protection against unfair or deceptive acts or practices in commerce, and gave more effective control over false advertisements of food, drugs, devices, and cosmetics.

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 and advises such party of the charges and requests the submission of such evidence as should be considered 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 standpoint. It is often desirable to interview consumers to assist in determining whether the practice alleged constitutes an unfair method of competition or unfair or deceptive act or practice and also to establish the existence of 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 he believes 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, and conclusions and recommendations, to the Commission for its consideration.

If a published or broadcast advertisement coming under the observation of the Radio and Periodical Division, appears to be misleading, it is investigated by that division and report and recommendation made to the Commission under the procedure more fully explained on page 140.

The Chief Examiner or the Director of the Radio and Periodical Division may recommend: (1) That a 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 as to 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 entire file, including the Chief Examiner's or the Director of the Radio and Periodical Commission's recommendation, the Commission decides that formal complaint should issue, the case is referred to the Chief Counsel for preparation of the complaint and trial of the case. Or, if the Commission should permit stipulation, the case is referred to the Chief Trial Examiner or the Radio and Periodical Division for its negotiation.

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

FORMAL PROCEDURE

Only after careful consideration of the facts 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, alleges a violation of law, and contains a statement of the charges. The party complaining to the Commission 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 and unfair or deceptive acts or practices forbidden by the Federal Trade Commission Act and those practices within the Commission's jurisdiction, which are prohibited by the Clayton Act, as amended by the Robinson-Patman Act, and by the Export Trade Act.

The Commission's rules of practice provide that in case the respondent desires to contest the proceedings he shall, within 20 days from service of the complaint, file answer thereto admitting or denying each allegation thereof. They also specify a form of answer for use should the respondent decide to admit all the facts alleged.

Under these rules, "Failure of the respondent to file answer within the time * * * 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."

Where evidence is to be taken, either in a contested case or where the respondent has failed to file answer, the matter is set down for hearing before a member of the Commission's staff of trial examiners, who may sit anywhere in the United States, the Commission being

represented by one of its staff of attorneys and the respondent having the privilege of appearing in his own behalf or by attorney. Hearings consume varying periods of time, depending upon the nature of the charge and the number and availability of the witnesses examined.

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

Briefs may be filed within a stated time after the trial examiner s report is made, and, in the discretion of the Commission, upon the written application of the attorneys for the Commission or for the respondent, oral argument may be had before the Commission. Thereafter the Commission reaches a decision either sustaining the charges of the complaint, or dismissing the complaint, or closing the case.

If the complaint is sustained, the Commission makes its findings as to the facts and states its 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; sometimes such order of dismissal or closing is accompanied by a written opinion, although more often reasons for the action appear only in the order.

PROCEDURE SUBSEQUENT TO ISSUANCE OF A CEASE AND DESIST ORDER

Up to and including the issuance of an order to cease and desist, there is no difference in procedure whether the case is under the Federal Trade Commission Act, as amended, or under the Clayton Act. Both acts embody procedure for their enforcement by the Commission and their provisions in this regard were substantially the Same until the passage of the act of -March 21, 1938 (the Wheeler-Lea Act). However, the provisions of this act worked substantial changes in the provisions of the Federal Trade Commission Act, applicable after the Commission has issued its order to cease and desist, but did not amend the corresponding provisions of the Clayton Act.

Under the Federal Trade Commission Act, as amended , an order to cease and desist becomes final 60 days after the date of service thereof upon the respondent, unless within that period the respondent petitions the United States Circuit Court of Appeals to review the order. In case of such a review, the Commission's order becomes final after affirmance by the Circuit Court of Appeals or by the Supreme Court of the United States, if taken to that court. Viola-

tion of an order to cease and desist after the same shall have become final and while it is in effect subjects the offender to a civil penalty of not more than $5,000 for each violation, recoverable by the United States.

Under the Clayton Act an order to cease and desist does not become final, in the sense that its violation subjects the violator to a penalty, until the United States Circuit Court of Appeals shall have issued its order commanding obedience, on the application or cross-application of the Commission for enforcement.

Under both acts the respondent may apply to the Circuit Court of Appeals for a review of an order, and either upon the application of the Commission for enforcement or of the respondent for review, the court has power to affirm, or affirm as modified, and to enforce to the extent affirmed, or to set aside, the order. Also, under both acts, either party may apply to the Supreme Court for review, by certiorari, of the action of the Circuit Court of Appeals.

SPECIAL PROVISIONS FOR PREVENTING DISSEMINATION OF FALSE ADVERTISEMENTS

The Wheeler-Lea. Act of March 21, 1938, further amended the Federal Trade Commission Act by adding special provisions for the prevention of the dissemination of false advertisements concerning food, drugs, devices (meaning devices for use in the diagnosis, prevention, or treatment of disease), and cosmetics. In addition to the regular proceeding by way of complaint and order to cease and desist, the Commission may, in a proper case, bring suit in a United States District Court to enjoin the dissemination of such false advertisements pending issuance and final disposition of the Commission complaint.

Further, the dissemination of such a false advertisement, where the use of a commodity advertised may be injurious to health or where it is published with intent to defraud or mislead, constitutes a misdemeanor and conviction subjects the offender to a fine of not more than $5,000, or imprisonment of not more than 6 months, or both. Succeeding convictions may result in a fine of not more than $10,000, or imprisonment of not more than one year, or both.

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 acts, practices, or methods of competition or other acts violative of the laws administered by the Commission. This work is directed and supervised by the Chief

Examiner and in certain types of false and misleading advertising cases by the Radio and Periodical Division.

Preliminary investigations are conducted by the Radio and Periodical Division in some cases which involve allegations of false and misleading advertising, and are handled through a special procedure more fully described beginning at page 135. All other cases are investigated by the Chief Examiner.

At the beginning of the fiscal year, July 1, 1938, there were pending for investigation by the Chief Examiner's staff, 311 applications for complaint in preliminary or undocketed cases. During the fiscal year 762 additional applications of this character were received, making a total of 1,073, of which 600 were investigated during the year. As a result, 198 of such investigated cases were docketed and transmitted to the Commission for action and 402 were closed without docketing because of lack of jurisdiction or other deficiencies. This left 473 preliminary cases of this type pending for investigation at the end of the fiscal year, June 30, 1939.

Four hundred seventeen 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, 886 additional cases of this type were received for investigation, making a total of 1,303 such cases docketed for investigation. Of these cases, 659 were investigated and transmitted to the Commission for action, leaving 644 cases of this character still pending for investigation at the end of the fiscal year.

During the year 739 investigations were also made which included (1) inquiries into alleged violations of cease and desist orders and stipulations, (2) additional investigations for the Chief Counsel, and (3) others of a supplemental nature. At the end of the year there were 284 such matters awaiting the completion of investigation.

Thus the Chief Examiner's Division, during the fiscal year, completed 1,998 investigations. During the year this division disposed of 27,322 pieces of incoming and outgoing mail, requiring varying degrees of research and study.

Approximately 20 attorneys on the Chief Examiner's staff, usually engaged in the investigation of applications for complaint, were assigned to other tasks including special work for the Temporary National Economic Committee, assistance to the Chief Counsel's Division in connection with the trial of certain important cases, and assistance to the Economic and other divisions. This necessarily impeded the conduct of investigational work and restricted the number of investigations handled. The number of investigations completed was likewise restricted by the increase in number and complexity of matters handled relating to the Robinson-Patman

Anti-discrimination Act and the Wheeler-Lea Act, which required greatly augmented expenditure of time and effort, especially in matters involving petitions for temporary injunction under section 13 and certification of facts to the Attorney General pursuant to section 16 involving alleged criminal violations of the provisions of section 14.

The Chief Examiner conducts supplemental investigations (1) in matters originating with the Radio and Periodical Division (relating to false and misleading advertising); (2) where additional evidence is necessary in connection with the trial of a formal complaint; (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 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 five branch offices located respectively at 45 Broadway, New York; 433 West Van Buren Street, Chicago; 548 Federal Office Building, San Francisco; 801 Federal Building, Seattle, and 217 Custom House, New Orleans.

STOCK ACQUISITIONS, MERGERS, AND CONSOLIDATIONS (SECTION 7, CLAYTON ACT)

The legal investigational work of the Commission includes inquiries into illegal stock acquisitions, mergers, and consolidations. These inquiries seldom originate by application for complaint, but are instituted upon the Commission's own motion.

Section 7 of the Clayton Act prohibits acquisition by one corporation of the share capital of another corporation engaged in commerce, or acquisition by one corporation of the share capital of two or more corporations engaged in commerce, where the effect, in either case, may be to substantially lessen competition between the acquiring and acquired companies, or to restrain commerce or tend to create a monopoly.

Under the statute, corporations are not precluded from acquiring stock solely for investment purposes, provided the stock is not used to bring about or in attempting to bring about the substantial lessening of competition.

The Commission is empowered to enforce the statute except as to unlawful Stock acquisition involving common carriers subject to the jurisdiction of the Interstate Commerce Commission; common carriers engaged in wire or radio communication subject to the jurisdiction of the Federal Communications Commission; air carriers

subject to the Civil Aeronautics Authority; banks and trust companies subject. to the jurisdiction of the Federal Reserve Board; public-utility companies subject to the jurisdiction of the Securities and exchange Commission; and livestock and meat-packing industries subject to the jurisdiction of the Secretary of Agriculture.

Pursuant to and by virtue of the authority vested in the Commission, preliminary inquiries were instituted during the year with respect to 13 important acquisitions, mergers, or consolidations involving corporations engaged in the sale and distribution of building materials, chemicals, coal, foods, glassware, liquors, refractories, steel products, storage batteries, and other lines of commerce. There were pending at the beginning of the year 4 such inquiries involving corporations engaged in shipbuilding and in the sale and distribution of building materials, music publications, and paper products. By direction of the Commission, 9 of these inquiries were closed during the year, 1 was placed on suspense, and 7 were in the course of investigation or awaiting Commission action at the close of the year. Seven of the 9 inquiries closed involved the acquisition or merger of assets as to which the Commission was without power to take corrective action. The Supreme Court of the United States has held that section 7 of the Clayton Act does not forbid mergers made pursuant to State laws, or mergers effected directly by the shareholders, and that the statute confers no authority upon the Commission to order divestiture of physical assets, even though obtained as a result of an illegal acquisition of stock (291 U. S. 587 and 272 U.S. 554).

No orders of divestiture or formal complaints were issued during the year. A previously issued complaint against a distilling corporation and another against a holding company engaged through subsidiaries in the manufacture and sale of hydraulic products were pending at the close of the year.

CASES UNDER OTHER SECTIONS OF CLAYTON ACT

The progress of the Commission's work under the Clayton Act as amended by the Robinson-Patman Act is reviewed at page 5.

Concurrently with the growing volume of the Robinson-Patman cases there has been a substantial increase in the number of investigations and proceedings under section 3 of the Clayton Act. This section makes it unlawful to lease, sell, or contract to sell, fix a price,. discount from or rebate upon a price on condition that the lessee or purchaser shall not use or deal in the commodities of a competitor of the lessor or seller where the effect may be substantially to lessen competition or tend to create a monopoly in any line of commerce

PRICE FIXING AND OTHER TRADE RESTRAINTS

One of the fundamental purposes behind the passage of the Federal Trade Commission Act was to establish an agency which would detect and eliminate illegal trade restraints in their incipiency before they developed into monopolies. The importance of this phase of its work is indicated by the fact that at the beginning of the fiscal year, July 1, 1938, 160 cases of this type were on the Commission's calendar, either awaiting investigation or in the process of being investigated. During the year 123 new cases were instituted, making a total of 283 restraint-of-trade cases on its calendar during the fiscal year. During the same period, 117 investigations of this type were completed and the files, containing the Chief Examiner's recommendation, were forwarded to the Commission for its consideration and disposition. This left a total of 166 cases pending on the Commission's active investigational calendar as of June 30, 1939.

Price fixing continues to be the most frequently recurring charge among the restraint-of-trade cases. However, the whole category of trade restraints will be found among the charges in the cases pending before the Commission during the last year. These include such practices as conspiracy to boycott or threats of boycott; interference with sources of supply and with distributing outlets; threats of infringement suits not made in good faith; sales below cost for the purpose of inj u ring competitors; collusive bidding; intimidation of competitors or potential competitors; coercive practices; espionage; operation of bogus independents; commercial bribery; allocation of territory among ostensible competitors; and a variety of other methods of competition which have been condemned as unfair by both the Commission and the courts.

The kinds and types of commodities involved in the restraint-of-trade cases are almost as numerous as the cases themselves. The following general classifications of commodities are given in order to convey some idea as to the widespread nature of the restraint-of-trade investigations conducted by the Commission: agricultural supplies; automotive equipment and supplies; beverages; clothing, cloth, notions, etc.; confectionery; construction materials and Supplies; containers; dental equipment and supplies; drugs, chemicals, and pharmaceuticals; electrical equipment and appliances; food products; fuel; household furnishings and equipment; machinery, tools, and equipment; metal and metal products; office supplies and equipment; paint, varnish, etc.; photographic supplies and optical goods; publications, rubber and rubber products; and tobacco.

A development of interest during the last fiscal year was the increasing number of applications for complaint filed with the Com-

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mission by various governmental agencies--Federal, State, and city. These dealt almost entirely with the receipt of identical bids or other evidence indicative of the existence of unlawful price fixing. Formerly, when these agencies received identical bids, the successful bidder was usually selected by lot or chance. This permitted an award without in any way correcting the condition that produced the identical bids. Instead of accepting this condition, they now frequently call upon the Federal Trade Commission to determine whether or not the identical prices are the result of agreements, understandings, or other collusive activities among the bidders. Many of these investigations have, in fact, established the existence of illegal practices, and appropriate steps have been taken to terminate them.

Of the 283 restraint-of-trade investigations which were active during the last fiscal year, 71 resulted from applications for complaint filed by various governmental agencies, and 28 were initiated by the Commission on its own motion. A few applications for complaint came from various miscellaneous sources, but the great majority continued to come from individuals or concerns whose business was being jeopardized by the alleged unfair and illegal practices against which complaint was made. The group last mentioned was responsible for 173 of the applications for complaint filed with the Commission.

FIELD INVESTIGATIONS OF CASES INVOLVING FOOD, DRUGS, DEVICES, AND COSMETICS

Since enactment of the Wheeler-Lea amendment to the Federal Trade Commission Act the Chief Examiner's Division has completed 549 field investigations of alleged violations of section 12 prohibiting dissemination of false advertisements of food, drugs, devices, or cosmetics. (See also p.5.) Of this number, 298 represented new cases instituted by the Commission and which were handled in regular course, and 251 represented cases previously disposed of by the Commission but which were reinvestigated to determine (1) whether or not the prohibitions of orders to cease and desist entered by the Commission and of stipulations executed by advertisers and approved by the Commission, were being violated, and (2) whether or not other practices not prohibited under previous orders to cease and desist and stipulations, were being carried on in contravention of the amended act.

Since approval of the amendatory act the Commission has issued and served 125 formal complaints alleging unfair and deceptive acts and practices through the dissemination of false advertisements

of food (11 cases), drugs (63 cases), devices (12 cases), and cosmetics (39 cases). A total of 82 orders to cease and desist has been entered, preventing the further dissemination of false advertisements of food (5 cases), drugs (51 cases), devices (12 cases), and cosmetics (14 cases).

Investigations by the Chief Examiner's Division have, since the effective date of the amended act, resulted in negotiation by the Chief Trial Examiner and acceptance and approval by the Commission of 65 stipulations executed by manufacturers and distributors of food (25 cases), drugs (12 cases), devices (12 cases), and cosmetics (16 cases), under the terms of which the parties agreed to discontinue using false advertisements in promoting the various commodities.

At the close of the fiscal year the Chief Examiner's Division had under field investigation a total of 227 applications for complaint relating to alleged false advertisements of food, drugs, devices, and cosmetics. Of this number, 39 applications involved drug preparations which allegedly are injurious to health.

Injurious drug products.--investigations have resulted in the granting of temporary injunctions and restraining orders by the United States district courts in 10 cases where such investigations revealed the dissemination of false advertisements of drug products which were found definitely to be of a dangerous nature and injurious to the health users when taken as prescribed, or under such conditions as are customary or usual. These drug products included alleged cures for chronic alcoholism, obesity remedies or weight-reducing agents, and abortifacients and emmenagogue.

The Commission is mindful of the vital importance of protecting and conserving the public health and, by invoking its new procedure, has succeeded in causing manufacturers and distributors of these toxic drug preparations, promoted and sold throughout the country, to discontinue forthwith the dissemination of false advertisements. A serious menace to the health of the general public is being removed, since the effect of the temporary injunctions has been in most, if not all, instances actually to cause the manufacturers and distributors to discontinue selling these injurious products.

The Chief Examiner's Division has established and placed in operation a special food and drug section for the investigation of applications for complaint under sections 12, 13, and 14 of the amended act. Attorneys in this section are being trained in the new investigational procedure, and facilities are being provided for specialized work in cases involving advertisement of injurious products, as well as cases in which violations are with intent to defraud or mislead.

DISPOSITION OF CASES BY STIPULATION

PROCEDURE AFFORDS OPPORTUNITY FOR DISPOSING OF SOME OASES BY AGREEMENT TO DISCONTINUE UNFAIR PRACTICES

Under certain circumstances the Commission, instead of disposing of cases by formal complaint and trial, 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 such violation 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.

Where signed stipulations are approved and accepted by the Commission, the public interest is deemed satisfied without issuance of formal complaint. They are not permitted in cases where a fraudulent business is concerned, where a legitimate business is conducted in a fraudulent manner, where the circumstances are such that there is reason to believe that an agreement entered into with the concern involved will not be kept, or where a violation of section 14 of the Federal Trade Commission Act, of the Clayton Act, or the criminal sections of the Sherman Act or any other statute, is believed to have occurred. The Commission reserves the right in all cases, for any reasons which it regards as sufficient, to refuse to extend the privilege of stipulation.

All stipulations are for the public record.

OASES 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, 1939, included 271 cases in addition to 329 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. [6] A total of 600 stipulations was thus approved and accepted during the year.

REPRESENTATIVE COMPLAINTS

ALLEGED VIOLATIONS OF FEDERAL TRADE COMMISSION ACT AND CLAYTON ACT, INCLUDING ROBINSON-PATMAN AMENDMENT

During the fiscal year ended June 30, 1939, the Commission issued 370 complaints, as compared with 305 issued during the last preceding fiscal year.

Three hundred and thirty-seven of these complaints charged violation of section 5 of the Federal Trade Commission Act prohibiting unfair methods of competition and unfair or deceptive acts and practices in commerce. Of this number, two charged violation of section 5 of the Federal Trade Commission Act and of section 2 of the Clayton Act as amended by the Robinson-Patman Antidiscrimination Act; and three charged violation of section 5 of the Federal Trade Commission Act and of section 3 of the Clayton Act. Three complaints charged violation of section 3 of the Clayton Act only, making a total of six section 3 complaints.

The total number of complaints issued charging violation of the Clayton Act was 38, of which 32 alleged violation of section 2 of that act as amended by the Robinson-Patman Act.

[6] See p.135.

I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT

(Complaints which also involve the Robinson-Patman Act, or section 8 of the Clayton Act, are discussed under those headings)

A. SUPPRESSION OF PRICE COMPETITION AND OTHER ALLIED RESTRAINTS ON TRADE

(Complaints referred to below are identified by docket numbers. Full text of any complaint may be obtained upon application to the Federal Trade Commission, Washington)

I. COMBINATIONS TO FIX AND MAINTAIN PRICES

Sixteen complaints were issued charging combination and conspiracy in restraint of trade through price fixing and other similar agreements. The agreements were entered into, to a considerable extent, 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. Th several of these complaints, the agents for establishing and making the combinations effective were allegedly trade associations. A brief description of the complaints follows:

Four glass companies and two local labor-union organizations of glaziers.--A complaint, followed later by an order to cease and desist, was issued against four glass distributing companies and two local labor-union organizations of glaziers. Details of the case are presented under Orders to Cease and Desist. (See Pittsburgh Plate Glass Co. and others, p.73.) (3491.)

Association of producers of calcium chloride.--Four manufacturers, alleged to control substantially the entire output of calcium chloride in the United States, and their trade association, were charged with engaging in a conspiracy to fix prices and with using other unlawful methods to restrain and eliminate competition in the sale of their product. (3519.)

Manufacturers of combination wood and wire portable corn cribs and silos.--Seven manufacturers were charged in a complaint with unlawfully conspiring to fix and maintain uniform delivered prices for such products. Later an order to cease and desist was entered. The complaint charged that the respondent manufacturers, whose combined production comprises the major portion of the total output of the industry, entered into and put into effect understandings and agreements to unlawfully restrict, monopolize, and eliminate competition in the Sale of their products in certain States in order better to effectuate their price-fixing agreement. (See under Orders to Cease and Desist, Rowe Manufacturing Co. and others, p.73.) (3544.)

An association of maltsters and its 19 member manufacturers were charged with fixing and maintaining uniform delivered prices for malt. These manufacturers were

alleged to produce more than 65

percent of all the malt manufactured in the United States and to constitute the only regular Source of Supply for many purchasers. The complaint charged that the association was organized in 1930, when, for the purpose of eliminating price competition among themselves, the manufacturers, through the association, entered into their price-fixing conspiracy, and Since that time have fixed and maintained uniform delivered prices. (3555.)

Associations of producers of veneer containers used in packing fruits and vegetables.--A complaint was issued charging five trade associations and their member manufacturers producing the above-named products with fixing and maintaining uniform prices. A business engineering firm was also made a respondent. The respondent manufactures allegedly made approximately 90 percent of all the veneer containers produced east of the Rocky Mountains. The complaint alleged that the respondents entered into agreements and understandings for the purpose and with the effect of eliminating competition and of creating a monopoly in the sale of veneer containers. (3556.)

Producers of agricultural and chemical lime.--Twenty producers were charged with fixing and maintaining by combination and agreement the prices at which their product should be sold to customers in the southeastern United States where all their plants were located. The respondent producers were alleged to engage in their price-fixing practices with the aid and cooperation of their paid representative whom the complaint also named as a respondent. The acts and practices of the respondents, the complaint charged, have, among other things, increased the prices of agricultural and chemical lime and created in the respondent producers a monopoly in the sale of their product in the Southeast. (3591.)

Building material dealers.--Unlawful restraint of trade and suppression of competition in the sale of building supplies shipped between Wisconsin and other States was alleged in a complaint issued against 11 Milwaukee building-material dealers and a certain individual described as being ostensibly a building material dealers' consultant and advisor. To suppress competition and develop in the respondents a monopoly in the purchase and sale of building supplies in Milwaukee County and other Wisconsin counties, the respondents, it was charged, entered into and executed agreements and understandings which had the effect, among other things, of unlawfully preventing certain out-of-state manufacturers from selling their products for shipment into Milwaukee County and other Wisconsin counties; of extorting unearned commissions from certain manufacturers and sellers, and of preventing competing dealers from purchasing building materials outside Wisconsin. The respondents' practices were alleged to have the effect of substantially and artificially increas-

ing and maintaining the prices at which building supplies were sold to purchasers and consumers and of depriving them of the benefits of fair, free, and normal competition. (3631.)

An association of manufacturers of wood-cased lead pencils, and its 13 members, alleged to produce more than 90 percent of all the wood-cased lead pencils manufactured in the United States, were charged with fixing and maintaining uniform prices for their wood-cased lead pencils. They were also charged with establishing, by agreement, uniform agency contracts with their local distributors, whereby the distributors, when offering bids to public agencies, were limited to a 10 percent commission, of maintaining identical price lists on comparable pencils, and charging same simultaneously. Likewise, it is alleged that they, by agreement, offered uniform bids, either directly or through their distributors, to prospective purchasers. (3643.)

Producers of hardwood charcoal.--Nineteen producers, alleged to manufacture approximately 70 percent of the country's output of hardwood charcoal which is used principally as a fuel, were charged with participating in price-fixing conspiracies to eliminate and suppress price competition in sales to the wholesale and retail trade. Two nonproducing corporations, allegedly organized to act as exclusive sales agents for all but two of the respondent producers, were also named as respondents. (3670.)

Association of power and gang mower manufacturers.--Nine companies, manufacturing practically all the power lawn mowers sold in the United States, and their association, were charged with forming a combination, understanding, and conspiracy to fix and maintain by agreement through the association certain price lists, uniform trade-in allowances, and uniform discounts for the purpose of eliminating price competition among themselves. Federal, State, and city governments are an important class of the respondents' purchasers, according to the complaint. (3689.)

Manufacturers of corporation stops and *curb stops.--Five* manufacturers of corporation stops and curb stops, a type of pipe fitting used in waterworks and gas systems and sold principally to municipalities and owners of public utilities, were charged with combining and agreeing to fix and maintain prices. The respondent companies were said to constitute substantially all the manufacturers of such products in the United States. The complaint charged that they, for the purpose of effectuating their agreement, fixed and maintained the prices at which their products were sold; fixed and maintained uniform terms and conditions of sale; submitted uniform and identical bids to purchasers, and used coercive measures to compel jobbers to maintain their fixed prices. It was charged that the acts and prac-

tices alleged in the complaint prevented price competition among the respondent companies; placed in them the power to control and enhance prices, and unreasonably restrained commerce. (3690.)

Wholesale grocery firms.--Four Baltimore wholesale grocery firms were charged with combining and conspiring to restrict competition in the resale of certain products in the Baltimore trade area. The complaint charged that it was a custom of the wholesale grocers in Baltimore to pool their respective purchases of less-than-carload lots from producers and manufacturers selling in interstate commerce, to take advantage of price concessions granted for carload lots, each wholesaler being responsible for only that part representing his individual purchase. The respondents were alleged to have entered into and thereafter carried out an agreement to refuse to join in the making of carload shipments, if certain designated wholesale grocers in Baltimore were permitted to pool their purchases in such shipments, thus depriving the designated wholesalers requiring less-than-carload lots of the benefit of carload prices. (3720.)

Wholesalers of leather and shoe findings.--Four dealers in shoe findings, leather, or other supplies for shoe stores and shoe repair shops in the Providence, R. I., area were charged with unlawfully combining to eliminate competition. The complaint alleged that in 1937 certain named Providence wholesalers entered into an agreement with a Philadelphia firm which sells such material to wholesalers, whereby the Philadelphia firm would refuse to sell to others in the Providence area until these wholesalers consented to the making of such sales, and that the Providence respondents listed certain dealers to whom the Philadelphia distributor must not sell. Boycott was alleged to have been threatened to effect the purpose of the agreement. The complaint alleged the effect of the respondents' practices to restrict the movement of goods in interstate commerce and to enhance prices to the consuming public. (3725.)

An association of dealers in dry goods, notions, and kindred lines, its officers and approximately 135 members, were charged with acts and practices tending to prevent competition and to create a monopoly. It was alleged that the institute and its members, under an agreement, combination, and conspiracy, prepared and distributed a directory containing the names of approximately 1,400 individuals, partners, and corporations, which were considered to meet their definition of wholesalers. It was alleged that under the agreement the institute from time to time compiled a list of manufacturers of dry goods, notions, and kindred in which all manufacturers were classified. The highest classification allegedly was given to manufacturers who confined their sales to wholesalers; the lowest grade was given manufacturers who sold to chain stores, syndicates,

and retail Stores without maintaining any differential in prices. The complaint alleged the institute coerced and compelled its members to refrain from purchasing from manufacturers who did not confine their sales to “wholesalers” as defined by the institute. (3751.)

Association of manufacturers of book paper, coated paper, and similar papers.--This complaint charged a combination and conspiracy to control prices by an association of book paper manufacturers, its officers, and 45 members in various parts of the country, who produce approximately 86 percent of the total volume of book paper, coated paper, and similar papers. it was charged that uniform prices and differentials were agreed upon, with a resulting control of the market, suppression of price competition, increase of prices above the normal competitive level and increase of the cost of paper used by the United States Government. (3760.)

Association of manufacturers of women’s dresses and an allied association.--An association of manufacturers and distributors of women’s dresses in the lower price ranges, and an allied association, were charged with entering into a combination and conspiracy among themselves to suppress competition and create a monopoly. The complaint charged that members of both associations entered into a combination and agreement through which (1) the dress manufacturers’ group coerced and compelled its members to confine sales to such retail dealers in women’s and misses’ dresses as agreed to conform to and abide by rules promulgated by the dress manufacturers’ group for the government of its members, under penalty of fine or suspension for failure to do so; (2) the allied association coerced and compelled retail dealers to refrain from returning garments to manufacturers except in accordance with regulations promulgated by it, under penalty of being blacklisted and boycotted by members of the manufacturers’ group; (3) both respondents employed investigators to investigate all returns by retailers of dresses to the manufacturers and to ascertain whether the returns were in accordance with the rules and regulations promulgated by the respondents. (3778.)

2. RESALE PRICE MAINTENANCE

The Miller-Tydings Act (title VIII, act of August 17, 1937, 50 Stat. 693) amended section 1 of the Sherman Act [7] So that nothing therein contained would render illegal contracts or agreements pre scribing 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 agree

[7] For texts, see pp.192 and 194.

ments of that description are lawful as applied to intrastate transactions, under any statute, 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. The act also provided that Such a contract or agreement should not be an unfair method of competition under Section 5 of the Federal Trade Commission Act. The Miller-Tydings Act, however, does not apply to what has been termed "horizontal" price-fixing agreements between competing vendors in the same class.

Publishers of medical and scientific books, and dealers in such books.--Four publishers of medical and scientific books were charged with fixing and prescribing the prices and discounts at which such books published by them, respectively, should be resold to departments and agencies of the United States Government and State, county, and municipal institutions, and with unlawfully selling such books to dealers upon the agreement and condition that the dealers would adhere to the prices and discounts fixed by the publisher in bidding for the business of Government agencies and public institutions. Three medical book dealers were charged in the same complaint with unlawfully agreeing with each other to adhere to the publishers' prices in competing for governmental and institutional business, and not to compete in certain territories for that class of business. (3558.)

3. MISCELLANEOUS

A complaint was issued charging a wholesale and retail dealer in medical and scientific books, and four publishers of such books, with unlawfully agreeing and conspiring together to boycott certain competitors of the dealer, for the purpose and with the effect of maintaining prices and creating a monopoly in the sale and distribution of such books in the area served by the respondent dealer. (3557.)

A manufacturer of "automobile chemicals" was charged with un fairly disparaging competitors and their goods and endeavoring to effectuate its monopolistic purposes by accepting similar products manufactured by others in part payment for products manufactured by it and dumping them on the market as distress merchandise to demoralize the sale thereof. (3661.)

B. FALSE ADVERTISING AND MISREPRESENTATION

A total of 241 complaints issued during the fiscal year ended June 30, 1939, charged false and misleading representations in advertisements, on labels and otherwise. These may be classified broadly as follows:

Forty-six complaints alleged misrepresentations as to the efficacy, durability, or results to be obtained by the use of various products.

Other misrepresentations were also involved in some cases, such as method of manufacture and financial returns to agents.

Forty-three complaints involved alleged false and misleading representations as to the therapeutic value of various medicinal and food preparations and devices.

Thirty-eight complaints alleged misrepresentation as to the ingredients, composition, construction, or quality of various products, including the simulation of products of higher quality.

Fifteen complaints alleged use of fictitious price markings, such as the quotation of regular prices as reduced prices, retail prices as wholesale prices.

Thirteen complaints alleged misrepresentation as to business status--such as, a dealer representing himself to be a manufacturer,. a commercial establishment representing itself to be a consumers' research or educational organization, and a layman representing him-self to be a doctor.

Thirteen complaints alleged passing off of textiles as made of something other than their true composition-such as, passing off of rayon as silk, and products containing only a small amount of wool as wool.

Thirteen complaints alleged passing off of domestic products as imported or imported products as domestic, or otherwise misrepresenting the place of manufacture.

Eleven complaints alleged misrepresentation of correspondence schools or correspondence courses and the financial returns to students.

Nine complaints alleged misrepresentation of financial returns to agents.

Seven complaints alleged passing off of renovated or reconditioned products as new, or of used products that had been renovated as shopworn products that had been made over, the commodities involved being principally hats and caps and spark plugs.

Seven complaints alleged misrepresentation of the business or other contacts or associations of the respondent, including connection with the Federal Government, disclosure of commodity used in Bureau of Standards tests contrary to the Bureau's long-established. rules, passing off of merchandise as Army surplus stock, and misrepresentation that products had been approved by the Federal Government.

Six complaints alleged conduct unfair to competitors and unfair to the public--such as, simulation of the trade dress of competitor's products, adoption of a well-known manufacturer's name, disparagement of competing products, misrepresentation that manufacture of competing product had been discontinued.

Five complaints alleged failure to disclose harmful potentialities of products involving drugs.

Four complaints alleged use of samples superior to articles furnished.

Three complaints alleged fraudulent methods or misrepresentation, involving such matters as, obtaining magazine subscriptions, puzzle advertisements, and misrepresentation of the value of premiums and terms of redemption.

Two complaints alleged misrepresentation of merchandise as free when its cost was included in the price charged for the merchandise with which it was purported to be given as a premium.

Two complaints alleged use of misleading puzzle advertisements to contact purchasers.

One complaint alleged slack filling of containers so as to deceive the purchasing public as to the quantity it was receiving.

One complaint alleged misrepresentation that clothing was made from surplus stock of patterns used by manufacturers of high-grade clothing.

One complaint alleged dispensing of labeled containers to drug trade without restrictions as to use, and misrepresentations.

One complaint alleged misrepresentation of source of formula and of awards purported to have been received.

C. MISCELLANEOUS CASES

Lotteries or gift enterprises.--Seventy complaints charged manufacturers and dealers in candy, jewelry, bedding, kitchenware, novelty merchandise, steamer rugs, carbonated beverages, clothing, ice-cream cones, frozen stick confections, salted nuts, sales promotion cards, radios, silverware, tableware, blankets, hosiery, chinaware, wrist watches, electric dry shavers, and other kinds and varieties of articles with using schemes involving an element of chance or lottery in the sale of such products to the ultimate consumer or with furnishing to dealers the means with which to conduct such enterprises. Novelty merchandise and confections constituted the principal commodities involved.

Ship ping goods without order and at tempting to force purchase and payment there for.--A jobber of novelty merchandise, including lamps and shades, was alleged to have sent merchandise to various individuals, partnerships, and corporations without previously receiving orders therefor, and then to have contended that the merchandise had been sent in response to orders. Through threats, coercion, and annoyance, this respondent allegedly attempted to induce the purported purchasers to accept and pay for the merchandise rather than submit to the annoyance of interminable correspondence and threats. (8812.)

Offering prices for raw materials higher than justified by trade conditions to drive out competitors.--The complaint alleges that a dealer in hides, fertilizers, and allied products, with the intent to restrain and control the supply and prices of materials and for the purpose of eliminating competition, paid and quoted, in localities. in which it met competition in the purchase of raw materials, prices. higher than justified by trade conditions and so high as to be prohibitive to its competitors and agreed with certain of its large competitors upon divisions of territory for purchase of raw materials. (3766.)

II. COMPLAINTS UNDER THE CLAYTON ACT

COMPLAINTS CHARGING VIOLATION OF SECTION 2 (A) OF CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT

For the purpose of brevity, the following summaries do not mention that each Complaint contains allegations concerning a necessary element in all price-discrimination cases, namely, the effects of the practices charged which "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."

(Complaints referred to below are identified by docket numbers. Full text of any complaint may be obtained upon application to the Federal Trade Commission, Washington)

Corn refiners.--All members of the industry refining products derived from corn such as glucose and corn sirup, nine in number, were charged in separate complaints with discriminating in price in the sale of such products. (3633, 3798, 3799, 3800, 8801, 3802, 3803, 3804, 3805.)

Grocery manufacturer.--A manufacturer of mayonnaise, vanilla extracts, spices, and similar commodities was charged with giving certain chain stores preferential prices and allowances, thus enabling retail chains to obtain such goods at lower prices than wholesalers serving retailers competing with the favored chain stores. Wholesalers associated under a common name allegedly were also granted discounts and allowances not accorded to their competitors. (3646.)

Bedding manufacturer.--A manufacturer of beds, bed Springs, mattresses, and allied products was charged with discriminating in price in favor of certain of its retail customers, principally chain stores and the members of cooperatives and syndicates. It was alleged that the discrimination was accomplished by the granting of retroactive cumulative discounts, based upon the quantities of merchandise purchased in any one year by any one customer, the company treating a chain store, a cooperative, or a syndicate as a single customer for the purpose of granting and paying the discounts,

even though the unit stores of a chain or the member stores of a

cooperative or syndicate receiving the discounts purchased only in comparable quantities and were serviced in substantially the same manner as the unaffiliated individual customers of the company which were in direct competition with such unit or member stores but which did not qualify for or receive the discounts. (3840.)

Candy manufacturer.--Use of 4 price lists and a sliding scale of commissions in aid to making sales at discriminatory prices to buyers was alleged in a complaint against a candy manufacturer. The company allegedly permitted its salesmen to classify customers so that they paid different prices for goods of like grade and quality. Salesmen allegedly were promised commissions of from 12 percent to 2 percent, depending upon the prices charged for the candy. (3756.)

Nitrate of soda.--Two corporations, which together assertedly. held a monopoly in the distribution and sale of raw nitrate of soda, used by farmers as fertilizer, were separately charged in one complaint with granting allowances or rebates on price based upon quantities of such commodities purchased annually from all producers. These corporations also were charged with having jointly, and pursuant to understandings and agreements between them, adopted and maintained substantially similar and, in most respects identical, systems, policies, and methods of marketing both the bulk and bag nitrate of soda sold by each of them. They were charged with thus having achieved elimination of price competition in the sale of bag nitrate of soda and with having established uniform and artificial prices. (3764.)

Bread companies.--Two complaints alleged discriminatory prices in the sale of bread. One company was alleged to discriminate by selling in one area a 20-ounce loaf for 10 cents and in an adjacent area farther from manufacture the same size loaf for 8 cents. Another baking company allegedly sold a 24-ounce loaf in one area at 10 cents and elsewhere for 8 cents. (3669 and 3740.)

COMPLAINTS CHARGING VIOLATION OF SECTION 2 (C) OF CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT

Brokerage, groceries.--Violations of Section 2 (c) were charged against two recipients of brokerage paid upon purchases of groceries by buyers. The ownership, management, and control of the buyers were alleged to be identified and affiliated with the ownership, management, and control of the corporations receiving the brokerage through the stock ownership of certain named individuals. Th connection with the sales to such buyers, the complaints alleged no services were rendered by the named intermediaries to several respondent sellers named in each complaint. (3511 and 3765.)

Wholesalers of fish.--Two California associations of fish dealers and three corporations acting as their purchasing agents and brokers

were charged with receiving and accepting so-called brokerage fees through such agents on purchases of their principals. The brokerage allegedly was for the use and benefit of the buyers for which no services connected with the purchases were rendered by the intermediaries. (3739.)

Buying office.--A corporation operating 57 retail department stores in the Southwest maintained an office in New York for the purchasing of commodities, principally women's apparel, for sale in its retail stores. Through the New York office the chain-store organization allegedly received so-called brokerage fees and com-missions on purchases of commodities sold in such retail stores. The complaint charges that the buyer as well as a number of sellers, grantors of the brokerage, both had violated section 2 (c) of the Robinson-Patman Act. (3834.)

Buying organization.--A complaint alleged that prior to the pas-sage of the Robinson-Patman Act a large number of wholesale grocers had created a corporation for the purpose of providing themselves with purchasing and other services the cost of which services were defrayed from funds derived from so-called brokerage fees. About October 1, 1936, the officers of such corporation resigned their positions and organized a new corporation to perform the services of purchasing agents for the wholesale grocers. The second corporation was charged with performing substantially the same services as the first with the proceeds of so-called brokerage and it was alleged that the payment by sellers of the so-called brokerage and the receipt of the same by the beneficiaries was in violation of section 2 (c). (3783.)

COMPLAINTS CHARGING VIOLATION OF SECTION 2 (D), (E), AND (F) OF CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT

Mouth wash.--A corporation manufacturing and distributing an antiseptic mouth wash was charged with granting and paying to certain customers allowances for advertising and promotional services without making such allowances available to other competing customers on proportionally equal terms, contrary to the provisions of section 2 (d) of the Robinson-Patman Act. It was alleged that the manufacturer allowed to various groups of its customers different percentage payments on the previous month's purchases. To a certain group furnishing certain services the manufacturer would make a greater payment for such services than it would to another group furnishing identical services. (3749.)

Cosmetics.--A corporation engaged in the manufacture of cosmetics which it packaged in two sizes for resale to the public, at 55 cents and at 10 cents, was charged with failing to accord the service and facilities of packaging in the smaller sizes to its customers

petitively engaged with those for whom it packaged in the smaller size. It was alleged that such acts violate section 2 (e) of the Robinson-Patman Act. (3736.)

Surgical instrument distributor.--A large buyer of surgical equipment, instruments, and supplies was charged with inducing a number of manufacturers and sellers of such products to discriminate in price to the extent of approximately 10 percent to 30 percent below the prices paid to such sellers by buyers competitively engaged with the respondent buyer, for goods of like grade and quality. The respondent buyer was charged with knowingly inducing, accepting, and receiving such lower discriminatory prices, contrary to the provisions of section 2 (f) of the Robinson-Patman Act. (3820.)

COMPLAINTS CHARGING VIOLATION OF SECTION 3 OF THE CLAYTON ACT

(AND ALSO SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT)

Wire and steel strap trying-machines and supplies therefor.--Three complaints were issued against manufacturers and processors of tools and equipment for tying or binding boxes, packages, and bundles. The complaints alleged that the respondents leased and licensed machines on the condition that the lessees and licensees would not use in their machines tying wire, bands, Or materials sold by competitors; and that if they did, they would lose the right to the use and possession of the machines, which might be immediately repossessed by the respondents. (3498, 3088, 3818.)

Bakery and packaged food products.--A manufacturer of bakery and packaged food products was alleged to have entered into agreements with wholesalers, jobbers, or other dealers in such products to the effect that the dealers should not deal in products of this class made by any one other than the respondent. An order to cease and desist was entered. (3607.)

Pyrophyllite.--A miner and its sole distributor of Pyrophyllite, an aluminum silicate used in the manufacture of earthenware, were alleged to have misleadingly represented that the distributor had the sole and exclusive right to sell and supply Pyrophyllite for the use designated; and that it owned certain patents on a process for admixture of this material in connection with the manufacture of semivitreous earthenware. It was alleged that the respondents issued letters to competitors and their customers threatening patent infringement suits. (3656.)

Bowling equipment.--A manufacturer of bowling equipment, said to be the largest in the United States, was alleged *to* have conducted a so-called sweepstakes under such terms that owners of bowling alleys were compelled to buy its equipment to the exclusion of that of competitors and also purchase in larger quantities than needed. (3604.)

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ORDERS TO CEASE AND DESIST

UNFAIR TRADE PRACTICES PROHIBITED IN 288 CASES

The Commission issued 288 orders to cease and desist from the use of unfair methods of competition and other violations of law during the fiscal year ended June 30, 1939, as compared with 245 issued during the last preceding fiscal year. One of the 288 orders was subsequently rescinded, leaving a net total of 287, and 2 of the orders were directed against the same respondent on different counts.

LIST OF RESPONDENTS

Respondent	*Location*
Ace Business Builders Lottery; sales promotion cards.	Chicago.
Ace Premium Co Lottery; novelty merchandise.	San Francisco.
Acme Merchandise Co. and others False advertising; reconditioned clothing.	Chicago.
Allied Gift Shop Lottery; novelty merchandise.	Detroit.
Ambrosia Candy Co. and others Lottery; candy.	Chicago.
American College and others False advertising; passing off correspondence school as college or university; correspondence school (pedopractic, physiotherapy, chiropody, psychoanalysis.)	Do.
American Field Seed Co. and others Falsely representing products have been inspected and approved by State authorities; misrepresenting quality; farm seeds.	Do.
American Flange & Manufacturing Co., Inc Price discrimination; negotiating exclusive dealing contracts; metal closure structures and sealing caps.	New York.
American Merchandise Co., Inc., and others Passing off imported products as domestic products; gloves and thumb tacks.	Do.
American Optical Co. and others Price discrimination; optical goods.	Southbridge, Mass.
American Sportswear Lottery; novelty merchandise.	Chicago.
American Toy Works Passing off imported products as domestic products; toys and crayons.	Long Island City, N.Y.
Anylite Electric Co Misrepresenting therapeutic value; electric belts.	Fort Wayne, Ind.
Arata, John B Lottery; candy.	Philadelphia.
Argo Pen-Pencil Co., Inc., and others Misbranding; fountain pens.	New York.
Aronson-Caplin Co., Inc Misbranding; lingerie.	Do.

Respondent	*Location*
Artistic Tailoring Co. and others Distributor claiming to he manufacturer; misrepresenting quality; workmen's uniforms.	Kansas City, Mo.
Askin's Retail Stores, Inc Advertising as gifts or premiums, articles whose cost is included in the price charged for other merchandise purchased; wearing apparel.	New York.
Associated Arts, and others Passing off tinted enlargements of photographs as paintings; misrepresenting prices and conditions of sale; tinted photographs and frames.	Pittsburgh.
Associated Sales Co Lottery; novelty merchandise.	Milwaukee.
Atlas, Charles, Ltd False advertising; correspondence school (physical culture).	New York.
Bacon Co., Charles H., and others Misbranding; hosiery.	Lenoir City, Tenn.
Banfi Products Corporation, and others Misrepresenting therapeutic value; mineral salts.	New York.
Barnard Rubber Co., W. H Distributor claiming to be manufacturer; garden hose.	Philadelphia.
Bausch & Lomb Optical Co., and others Price discrimination; optical good.	Rochester, N. Y.
Berry Seed Co., and others Falsely representing products have been inspected and approved by State authorities; misrepresenting quality; farm seeds.	Clarinda, Iowa.
Bloomingdale Bros., Inc False advertising; wearing apparel.	New York.
Bobs Candy & Pecan Co Lottery; candy.	Albany, Ga.
Bonded Jewelers of America, and others Distributor claiming to be manufacturer; advertising as gifts or premiums, articles whose costs is included in the price charged for other merchandise purchased; jewelry.	Philadelphia.
Bonwit Teller, Inc False advertising; lingerie.	New York.
Boyce Co., W. D Chicago. Using misleading "puzzle" advertisements; magazines.	
Brach & Sons, E. J., and others Lottery candy.	Do.
Bradley Boston, Inc., and others Advertising as gifts or premiums, articles whose cost is included in the price charged for other merchandise purchased; misrepresenting quality; jewelry.	Newton, Mass.
Bradley, Joseph C., and others Misrepresenting therapeutic value; electric belts.	Toronto, Canada.
Bregstone & Co., J. M Lottery; novelty merchandise.	Chicago.

Respondent	*Location*
Brinkler, George Henry Misrepresenting therapeutic value; correspondence school (diet).	Miami Beach, Fla.
Bunte Bros., Inc Lottery ; candy.	Chicago.
Burd Knitting Mills Co Distributor claiming to be manufacturer ; hosiery.	Philadelphia.
Burn, Pollak & Beer Falsely representing products can be secured from only one source ; loden cloth.	Brooklyn.
Bush & Co., W. J., Inc. Passing off domestic products as imported products; cosmetics.	Linden, N. J.
Cal-A-Mo Laboratories Misrepresenting therapeutic value; bath salts to counteract obesity.	Los Angeles.
Caldwell, W. B., Dr., Inc Misrepresenting therapeutic value; medicine.	Monticello, Ill.
California Lumbermen's Council, and others Combining in restraint of trade; price fixing; boy colt, building materials.	San Francisco.
Canadian Chamois & Leather Corporation Misbranding ; leather interlinings.	New York.
Carter Carburetor Corporation Negotiating exclusive dealing contracts; carburetors.	St. Louis.
Century Business Service, and others Lottery ; sales promotion cards.	Waterloo, Iowa.
Century Metalcraft Corporation False advertising; kitchen utensils.	Chicago.
Certified Sales Service Lottery; novelty merchandise.	Do.
Chicago Mattress Co Misbranding; reconditioned mattresses.	Do.
Oluthe & Sons, Charles Misrepresenting therapeutic value ; trusses.	Bloomfield, N. J.
Co-operative Library Co Passing off a commercial establishment as a group maintaining a library service ; encyclopedia.	St. Paul.
Cohen Bros. Corporation Misbranding ; knitted wearing apparel.	New York.
Columbia Alkali Corporation, and others Combining in restraint of trade ; price fixing ; collusive bidding, calcium chloride.	Barberton, Ohio.
Columbia Refining Co Distributor claiming to be manufacturer ; lubricating oil.	Long Island City, N.Y.
Comstock Co., W. IL, Ltd Misrepresenting therapeutic value; medicine.	Brockville, Canada
Conrad, Cyril J Lottery ; hosiery and novelty merchandise	Altoona, Pa.

Respondent	*Location*
Consolidated Portrait & Frame Co., and others Passing off tinted enlargements of photographs as paintings; misrepresenting prices and conditions of sale; tinted photographs and frames.	Chicago.
Coronado Manufacturing Co Misrepresenting financial returns to agents ; cosmetics.	St. Paul.
Cotton Belt Mattress Co Misbranding ; mattresses.	Pinetops, N. C.
Crown Mall Order House Lottery ; novelty merchandise.	New York.
Crown Novelty House Lottery ; novelty merchandise.	Brooklyn.
Day-Lite Illuminating Corporation Misrepresenting wattage ; electric lamps.	Chicago.
De Pinna Co., A., Inc Misbranding ; wearing apparel.	New York.
DeKama, Inc Misrepresenting results to be obtained by use of products ; cosmetics.	Los Angeles.
Detective Publishing Co Falsely representing products have been inspected and approved by Federal authorities; bullet-proof vests.	Chicago.
Drushell Co., J. D., and others Misrepresenting financial returns to purchasers; coin-vending machines.	Do.
Earl Chrome Manufacturing Co Lottery ; novelty merchandise.	Do.
Eastern Trading Co False advertising ; incense.	Do.
Educators Association, Inc., and others Passing off a commercial establishment as an association connected with educational work; misrepresenting financial returns to agents ; encyclopedia.	New York.
El Moro Cigar Co Passing off domestic products as imported products; cigars.	Greensboro, N. C.
Elbee Chocolate Co., Inc Lottery ; candy.	Brooklyn.
Elite Publishing Co Misrepresenting character and efficacy of product; publications containing business plans.	New York.
Endura Corporation Falsely representing products have been approved by and are used in the major studios of Hollywood; cosmetics.	Hollywood, Calif.
Engel, Jane, Inc., and others False advertising ; wearing apparel.	New York.
Ever-Keen Dry Shaver Co., and others Lottery ; electric razors	Chicago.

Respondent	*Location*
Excelsior Laboratory, Inc Misrepresenting therapeutic value; medicine.	Staten Island, N. Y.
F & F Laboratories, Inc Misrepresenting therapeutic value; medicine.	Chicago.
F. B. Products Co., and others Misrepresenting therapeutic value; emmenagogue.	Springfield, Mo.
Fan Tan Co., Inc., and others Misrepresenting results to be obtained by use of products; cosmetics.	Chicago.
Fashion Originators Guild of America, Inc., and others Combining in restraint of trade; price fixing; original designs. in wearing apparel.	New York.
Fee & Stemwedel, Inc Passing off imported products as domestic products; weather-indicating instruments.	Chicago.
Ferrara Panned Candy Co., Inc Lottery ; candy.	Do.
Fireside Industries, Inc Passing off a commercial establishment as an association engaged in kindred pursuits for mutual protection; novelty merchandise; correspondence school (novelty decoration).	Adrian, Mich.
Florida Building Material Institute, Inc., and others Combining in restraint of trade; boycott ; building materials.	Orlando, Fla.
Flying Intelligence Service False advertising ; falsely claiming to be affiliated with the United States Mr Corps ; aviation manual.	Milwaukee.
Food Dish Associates of America, and others Combining in restraint of trade; price fixing; wooden and paper food containers.	Bronxville, N. Y.
4-U Companys of America Lottery ; soft drinks.	Philadelphia.
Gailsto Co Misrepresenting therapeutic value; medicine.	Milwaukee.
Gates Medicine Co., Inc Misrepresenting therapeutic value; compound to counteract obesity.	Charleston, W. Va.
General Sales Co Lottery ; novelty merchandise.	Chicago.
Gersten Bros Misbranding ; cedarized cardboard chests.	New York.
Gimbel Bros., Inc Misbranding ; lingerie.	Do.
Glade Candy Co Lottery ; candy.	Salt Lake City.
Gold Medal Books, Inc Quoting regular prices as reduced prices; misrepresenting bindings; books (fiction).	New York.
Good Humor Corporation of America Lottery ; frozen confections.	Maspeth, Long Island, N. Y.
Goodman & Son, M., and others Distributor claiming to be manufacturer ; hosiery.	New York.

Respondent	*Location*
Goodyear Associates Lottery ; novelty merchandise.	Philadelphia.
Gotham Sales Co., Inc., and others Passing off domestic products as Imported products; distributor claiming to be manufacturer ; cosmetics and flavoring extracts.	New York.
Goudey Gum Co., and others Lottery ; chewing gum.	Boston.
Granada Vineyards, Inc Bottler claiming to be grower and manufacturer; passing off domestic products as Imported products; spirituous beverages.	Cambridge, Mass.
Grand Gaslight, Inc Distributor claiming to be manufacturer; misrepresenting wattage; electric lamps.	New York.
Great Lakes Novelty Co., and others Lottery ; novelty merchandise.	Chicago.
Greater Chambers Co False advertising ; funerals and metal burial vaults.	Washington, D.C.
Grove Laboratories, Inc Misrepresenting therapeutic value ; medicine.	St. Louis.
Gum, Inc Lottery; chewing gum.	Philadelphia.
Hammond Clock Co False advertising ; electronic musical instrument of the organ type.	Chicago.
Hancock Pen Co., John Quoting regular prices as reduced prices; misrepresenting quality: fountain pens.	Cleveland.
Harper Manufacturing Co., and others Advertising as gifts or premiums, articles whose cost is included in the price charged for other merchandise purchased ; misrepresenting financial returns to agents ; household brushes.	Fairfield, Iowa.
Hay & Peahody Cement Vault Co Misrepresenting structure and durability of products; cement burial vaults.	Watertown, Mass.
Henderson, J. J Lottery ; clocks.	Jersey City.
Hershey Chocolate Corporation, and others Combining to effect the quoting of higher prices to certain vending machine operators ; candy.	Hershey, Pa.
Hershey Creamery Co Lottery ; frozen confections.	Harrisburg, Pa.
Hild Floor Machine Co False advertising; rug-cleaning machines.	Chicago.
Houser Candy Co., Boyd Lottery; candy.	Minneapolis.
Idaho Candy Co Lottery ; candy.	Boise, Idaho.
Ideal Gift Co Lottery ; novelty merchandise.	Chicago.

Respondent	*Location*
Illinois Baking Corporation Lottery; ice cream cones.	Chicago.
Ink Company of America, and others Misrepresenting financial returns to agents; misrepresenting quality and services furnished; ink, pens, and pencils distributed as premiums in connection with sales promotion plan.	Do.
Instruction Service, Inc., and others Falsely claiming to be affiliated with Federal Government; false advertising; correspondence school (civil service and penmanship).	St. Louis.
International Art Co., and others Passing off tinted enlargements of photographs as paintings; misrepresenting prices and conditions of sale; tinted photographs and frames.	Chicago.
Isabella Laboratories, and others Failing to disclose harmful potentialities; preparation to counteract obesity.	St. Louis.
Jackson University, and others False advertising; correspondence school (secretarial and business administration).	Chillicothe, Mo.
Jacobson, Irving Roy, and others Advertising as gifts or premiums, articles whose cost is included in the price charged for other merchandise purchased; encyclopedia.	Madison, Wis.
Johnson-Smith & Co Lottery; misrepresenting financial returns to purchasers; misrepresenting therapeutic value; peanut-vending machines, novelty merchandise, and medicine.	Detroit.
Jones, Josiah L. Misrepresenting therapeutic value; hygienic appliances.	St. Petersburg, Fla.
Julep Bottling Co., Inc Lottery; soft drinks.	Kingsport, Tenn.
K & K Supply Co., Inc Passing off imported products as domestic products; bicycles.	New York.
Kar-Nu Co., and others False advertising; automobile polish and tire fluids.	Cincinnati.
Kastar Specialty Manufacturing Co., Inc Distributor claiming to be manufacturer; automobile accessories.	New York.
King Candy Co Lottery; candy.	Fort Worth, Tex.
Knox Co Misrepresenting therapeutic value; ointments.	Los Angeles.
Kolynos Co False advertising; dentifrices.	New Haven, Conn.
Koskott Co Misrepresenting results to be obtained by use of products; hair tonics and dyes.	New York.

Respondent	*Location*
L. & M. Mercanthe Co., and others Misbranding; paints.	Kansas City, Mo.
La Pep Health Beverage Co Misrepresenting therapeutic value; fruit beverages.	Philadelphia.
La Perla Vineyard Co., and others Distributor claiming to be distiller and grower; spirituous beverages.	Chicago.
Lancaster Salted Nut Co Lottery; salted nuts.	Lancaster, Pa.
Lanteen Laboratories, Inc., and others Misrepresenting efficacy of products; contraceptives.	Chicago.
Lee Sales Co Lottery; novelty merchandise.	Brooklyn.
Letellier-Phillips Paper Co., Inc Restraining trade; boycott; waste paper and other waste materials.	New Orleans.
Levy Bros. China Co., Inc Passing off domestic products as imported products; chinaware and earthenware.	Brooklyn.
Lewyn Drug, Inc Misrepresenting therapeutic value; emmenagogues.	Hollywood, Calif.
Libbey Co., W. S Misbranding; blankets.	Lewiston, Maine.
Lightmore Appliance Corporation, and others Falsely representing products have been inspected and approved by Federal authorities; misrepresenting wattage; electric lamps.	New York.
Lincoln Dental Supply Co., Inc Falsely claiming to be affiliated with competitor; passing off deteriorated products as fresh products; dental supplies.	Philadelphia.
Lincoln Locker Corporation Misrepresenting construction and capacity; cold- storage lockers.	Pocahontas, Iowa.
Linwood Sales Co., Inc., with others Lottery; novelty merchandise.	New York.
Lipman Bros Misbranding; wearing apparel.	Do.
Livingston & Sons, L. D Misbranding; wearing apparel.	Do.
Lloyd's Distribution Co Lottery; novelty merchandise.	Do.
Lock Joint Pipe Co., and others Combining in restraint of trade; selling below cost; collusive bidding; concrete pipe.	East Orange, N.J.
Loeser & Co., Frederick, Inc False advertising; wearing apparel	Brooklyn.
Louisville Pottery Co Passing off machine-made products as Indian handicraft; pottery.	Louisville, Ky.
Idumino Co., Inc Misbranding; water-proofing compounds.	New York.

Respondent	*Location*
Lux-Visel Co., Inc Falsely claiming products have been approved by an underwriter's laboratory; misrepresenting financial returns to agents; electric water heaters.	Elkhart, Ind.
Madison Milling Co Lottery; food products.	Madison, Minn.
Mall Tool Co Misbranding; misrepresenting power; motors of concrete vibrators.	Chicago.
Marvel Products Co Misrepresenting results to be obtained by use of products; hair dyes.	Hazel Park, Mich.
Mason, Au & Magenheimer Confectionery Manufacturing Co Lottery; candy.	Brooklyn.
Master Distributing Corporation Lottery; novelty merchandise.	New York.
Master Lock Co Price discrimination; padlocks.	Milwaukee.
Mathieson Alkali Works, Inc., and others Combining in restraint of trade; price fixing; liquid chlorine.	New York.
McCracken Box & Label Co., H. S Dispensing to drug trade without restriction as to use, empty containers labeled to indicate the contents consist of English Crown Female Pills, prepared only by Crown Chemical Co. of London, England; drug containers.	Chicago.
McCurrach Organization, Inc Passing off domestic products as imported products; wearing apparel.	New York.
Merco Sales Co Lottery; novelty merchandise.	Birmingham, Ala.
Metropolitan Distributing Co Lottery; clocks.	Chicago.
Metzler-McKean Corporation, and others Misrepresenting results to be obtained by use of products; cosmetics.	Kansas City, Mo.
Miami Wholesale Drug Corporation, and others Price discrimination; drugs.	Miami, Fla.
Mid-West Sales Syndicate, and others Misrepresenting value of premiums and conditions under which coupons are redeemed; lanterns, batteries, and tinted photographs distributed as premiums in connection with sales-promotion plan.	Chicago.
Midwest Grocery Co. Lottery; food products.	Do.
Midwest Studios, Inc., and others Passing off tinted enlargements of photographs as paintings; misrepresenting prices and conditions of sale; tinted photographs and frames.	Portland, Oreg.

Respondent	*Location*
Miller Growers Association, and others Passing off a commercial organization as an association of growers; misrepresenting quality; citrus fruits.	New York.
Modern American Co., and others False advertising; falsely claiming to be affiliated with Carnegie Institute; passing off old publication as up-to-date reference book; encyclopedia.	Chicago.
Monarch Stove Top Co False advertising; stove tops.	Hamburg, Mich.
Moretrench Corporation False advertising; well points.	Rockaway, N. J.
Morris & Co., Philip, Ltd., Inc Lottery; cigarettes.	New York.
Mosby, G. H., and others Misrepresenting therapeutic value; medicine.	Windsor, Canada.
Motor Equipment Specialty Co Misrepresenting financial returns to agents and efficacy of devices; testing device and fender roller for automobiles.	Beaver City, Nebr.
Mueller Co., and others Combining in restraint of trade; price fixing; collusive bidding; curb and corporation stops for water and gas systems.	Decatur, Ill.
Mutual Printing, Inc., and others Lottery; sales-promotion plans.	Chicago.
N-Urg-Izr, and others Misrepresenting therapeutic value; electric blankets.	Do.
Nation-Wide Distributors Lottery; novelty merchandise.	Brooklyn.
National Advertisers Co Lottery; novelty merchandise.	Chicago.
National Biscuit Co. Negotiating exclusive dealing contracts; bakery products.	New York.
National Guard Equipment Co Falsely claiming to be affiliated with United States National Guard; general merchandise.	Do.
National Press Service False advertising; falsely claiming to be affiliated with press agencies; correspondence school (press clipping and writing).	Los Angeles.
National Publicity Bureau, Inc., and others Falsely claiming to he affiliated with competitor; misrepresenting value of premiums and terms under which coupons are redeemed; silverware distributed as premiums in connection with a sales-promotion plan.	Baltimore.
National Sales & Novelty Co Lottery; novelty merchandise.	Chicago.
National Sales Co., and others Misbranding; novelty merchandise.	Atlantic City.

Respondent	*Location*
National Scientific Products Co Misrepresenting therapeutic value; medicine.	Chicago.
National Silver Co., and others Distributor claiming to be manufacturer; false advertising; misbranding; silver-plated ware, chinaware, and pottery.	New York.
New York Pattern Co., Inc., and others Simulating trade name and trade dress of competitor; dress patterns.	Do.
New York Sales Co Lottery; novelty merchandise.	Do.
Newark Felt Novelty Co Passing off reconditioned products as new products; hats and caps.	Newark, N. J.
Newton Products Co Lottery; candy.	Cincinnati.
North Western Printing House, Inc., and others Lottery; sales, promotion cards.	Chicago.
Northwestern Yeast Co Misrepresenting therapeutic value; Yeast tablets and livestock remedies.	Do.
Novelcrafts Co., and others Lottery; candy and chewing gum.	Pittsburgh.
Novelty Distributing Co Lottery; clocks.	Chicago.
Nu-Deal Premium Co Lottery; novelty merchandise.	New York.
O. K. Tailoring Co., Inc Advertising as gifts or premiums, articles whose cost is included in the price charged for other merchandise purchased; misrepresenting quality and financial returns to agents; wearing apparel.	Chicago.
Ostler Candy Co Lottery; candy.	Salt Lake City.
Pacific China Co., and others Falsely claiming to be manufacturer; misrepresenting value of premiums and terms under which coupons are redeemed; chinaware distributed as premiums in connection with sales promotion plan.	Los Angeles.
Pacific Coast Specialty Co Lottery; novelty merchandise.	Do.
Palazzolo, J Misrepresenting results to be obtained by use of product; hair dyes.	New York.
Par-Tex Hosiery Mills False advertising; distributor claiming to be manufacturer; hosiery.	Dallas, Tex.
Paramount Products Co., and others Lottery; novelty merchandise.	Chicago.
Park-Lane Candy Co., and others Lottery; candy and novelty merchandise.	Do.

Respondent	*Location*
Patterson School False advertising; falsely claiming to be affiliated with Federal Government; correspondence school (civil service).	Rochester, N. Y.
Payne Co., H. G Lottery; novelty merchandise.	Nashville, Tenn.
Pearce & Co., William H., and others False advertising; stove tops.	Philadelphia.
Pergande Institute, and others False advertising; falsely claiming to be affiliated with Federal Government; correspondence school (civil service).	Milwaukee.
Pinaud, Inc Misrepresenting results to be obtained by use of product; cosmetics.	New York.
Pittsburgh Plate Glass Co., and others Combining in restraint of trade; price fixing; collusive bidding; glass.	Pittsburgh.
Politis Laboratory Misrepresenting therapeutic value; medicine.	Portland, Oreg.
Postal Co False advertising; publications on fortune telling, dreams, number systems, etc.	New York.
Premio Sales Co., Inc., and others Lottery; novelty merchandise.	Do.
Pro-Ker Laboratories, Inc Misrepresenting results to be obtained by use of products; hair restorers.	Do.
Publix Printing Corporation Lottery; sales-promotion cards.	Chicago
Publix Sales Corporation False advertising; wearing apparel.	Do.
Purity Products Co., and others Misrepresenting efficacy of products; contraceptives.	Do.
Quality Bakers of America, and others Price discrimination; bakery products.	New York.
Raritan Distillers Corporation Rectifier and blender claiming to be distiller; spirituous beverages	Perth Amboy, N. J.
Reeves, Parvin & Co., and others Price discrimination; food products.	Philadelphia.
Reid Packing Co Lottery; salted nuts.	Charlotte, N. C.
Reliable Specialty Corporation Misrepresenting therapeutic value; medicine.	Buffalo.
Republic Products Co., and others Distributor claiming to be manufacturer; misrepresenting quality; advertising as gifts or premiums, articles whose cost is included in the price charged for other merchandise purchased; general merchandise.	Chicago.

Respondent	*Location*
Richmond School Furniture Co False advertising; blackboards.	Muncie, Ind.
Rightway Institute Passing off commercial establishment as an institute devoted to scientific research; misrepresenting results to be obtained by use of product; books setting forth methods of treatment without medication.	Glendale, Calif.
Rogers Redemption Bureau, and others Appropriating trade name of competitor; misrepresenting value of premiums and terms under which coupons are redeemed ; silverware and chinaware distributed as premiums in connection with a sales promotion plan.	Minneapolis.
Rosebury Organization, Richard, Inc. and others Failing to furnish merchandise for which payment is accepted; magazine subscriptions.	New York.
Rowe Manufacturing Co., and others Combining in restraint of trade ; price fixing ; portable corn cribs. and silos.	Galesburg, Ill.
Roy Service, Ross, Inc., and others False advertising; electric refrigerators.	Detroit.
Run-Proof Laboratories, Inc False advertising ; distributor claims to be manufacturer; preparation alleged to make hosiery and lingerie run-proof.	Chicago.
S. & C. Sales Lottery ; novelty merchandise.	Philadelphia.
Sales on Sound Corporation False advertising ; motion picture sound screen.	New York.
Schulte, D. A., Inc Lottery; candy.	Do.
Sculler, Joseph, Inc., and others Distributor claiming to be manufacturer and wholesaler; jewelry.	Columbus, Ohio.
Seyon Products Co., Inc., and others Misrepresenting therapeutic value ; medicine.	Rutland, Vt.
Shalwin Hosiery Mills Misbranding ; hosiery.	Hagerstown, Md.
Shupe-Williams Candy. Co Lottery; candy.	Ogden, Utah.
Sinnock & Sherrill, Inc Misbranding; penknives.	New York.
Siroil Laboratories, Inc Misrepresenting therapeutic value ; mineral oil.	Detroit.
Soap Lake Products Corporation Misrepresenting therapeutic value; mineral salts.	Seattle.
Specialties, Inc Lottery ; candy.	Baltimore.
Sponge Institute, and others Combining in restraint of trade; price discrimination; sponges.	Washington, D. C.
Springfield Milling Corporation Lottery ; food products.	Springfield, Minn.

Respondent	*Location*
Standard Brands, Inc., and others Price discrimination ; bakers yeast.	New York.
Star Tobacco Co., and others Combining in restraint of trade; price fixing; boycott; tobacco products and candy.	Wilkes-Barre, Pa.
Startup Candy Co Lottery ; candy.	Provo, Utah.
Stillwater Co Misrepresenting therapeutic value; ointments and nose sprays.	Stillwater, Minn.
Stock's Nu-Tone Tonic Misrepresenting therapeutic value; medicine.	Quincy, Ill.
Storyk Bros., Inc Passing off domestic products as imported products; wearing apparel.	New York.
Sunbeam Laboratories Misrepresenting results to be obtained by use of products; cosmetics.	Los Angeles.
Superyarn Co Misbranding ; yarns and fabrics.	New York.
Swamp & Dixie Laboratories, Inc Misrepresenting therapeutic value ; medicine.	Fort Smith, Ark.
Sweets Company of America, Inc Lottery ; candy.	New York.
Sylvan Co Lottery ; novelty merchandise.	Chicago.
Technical Laboratories, and others Misrepresenting therapeutic value; medicine.	Berkeley, Calif.
Texas Tasty Co Misrepresenting quality and financial returns to agents; candy.	Fort Worth, Tex.
Thorson's Soap Lake Products Co Misrepresenting therapeutic value; ointments, soaps, and mineral salts.	Soap Lake, Wash.
Traffic Inspectors Training Corporation, and others False advertising; correspondence school (traffic inspector).	Syracuse.
Tru-Valu Home Supply Lottery ; novelty merchandise.	New York.
Tucker's, Ben, and others False advertising ; furs and fur garments.	Brooklyn.
Twentieth Century Business Builders, Inc., and others Distributing to retail dealers misleading "puzzle advertisement" scheme ; sales-promotion plans.	Chicago.
20th Century Sales Co Lottery ; novelty merchandise.	Do.
U.S. Ordnance Engineers, Inc., and others Falsely claiming to have official relationship with the United States Army ; ordnance.	Cleveland.
UCA Manufacturing Co., others Misrepresenting therapeutic value; lottery; medicine and novelty merchandise.	Chicago.

Respondent	*Location*
Uneeda Underwear Co Misbranding ; knitted wear.	Brooklyn.
United Advertising Service Lottery ; novelty merchandise.	Philadelphia.
United Fence Manufacturers Association, and others Combining in restraint of trade; price discrimination; snow fencing.	Burlington, N. J.
United States Rubber Co., and others Price discrimination ; automobile tires.	New York.
Universal Advertisers Service Lottery ; novelty merchandise.	Chicago.
Universal Specialties Co Lottery ; novelty merchandise.	Do.
Universal Trading Co., and others Lottery ; novelty merchandise.	New York.
Veltrola Co Lottery ; novelty merchandise.	Chicago.
Voss Co., Inc Misrepresenting therapeutic value ; aspirin.	Brooklyn.
Webb Crawford Co., and others Price discrimination ; food products.	Athens, Ga.
White Manufacturing Co., Morris, Inc., and others Misbranding ; handbags.	New York.
Willard Tablet Co., Inc Misrepresenting therapeutic value ; medicine.	Chicago.
Willys -Overland Motors, Inc Using advertisements that are deceptive as to the models that may be purchased at quoted prices; automobiles.	Toledo, Ohio.
Wonder Wood-Tex Co Distributor claiming to be manufacturer ; displaying as samples articles superior to those delivered to purchasers; wood pulp novelties.	Los Angeles.
Woodbury Sales Co., William A., Inc., and others Misbranding ; distributor claiming to be manufacturer ; cosmetics.	New York.
Wrisley Co., Allen B., and others Misbranding ; soap.	Chicago.
Zephyr Radio Co False advertising ; radio sets.	Detroit.
Zimmer, H. R Misrepresenting therapeutic value ; radio-active products.	Los Angeles.

Illustrative of the orders to cease and desist issued during the fiscal year ended June 30, 1939, are the cases briefly described as follows:

COMBINATIONS TO FIX PRICES AND RESTRAIN TRADE

(violations of the Federal Trade Commission Act)

California Lumbermen's Council, its officers, dealer members, and affiliated associations, Fresno, Calif.--The respondents were served

with an order to cease and desist. from practices deemed to be in restraint of trade. They later petitioned the United States Circuit Court of Appeals for review of the Commission's order. Details of the order and of the court proceedings may be found under Cases in the Federal Courts at page 94. (2898.)

United Fence Manufacturers Association, Burlington, N. J., and others.--The 8 members of this association, who sold from 90 percent to 95 percent of the snow fence (used as a barrier to prevent drifting snow from blocking highways, etc.) used in 14 Northern and Eastern States, were found by the Commission to have adopted agreements and understandings designed to suppress and resulting in suppression of competition, and were ordered to cease and desist from these practices as well as from certain price discriminations held to be in violation of the Robinson-Patman Act. (3305.)

Rowe Manufacturing Co., Galesburg, Ill., and others.--Rowe Manufacturing Co. and six other manufacturers of wood and wire portable corn cribs and silos were restrained from entering into understandings, combinations, and conspiracy for the purpose and with the effect of restricting and eliminating competition in the sale of such products. The combination so restrained operated in 10 Middle Western States. (3544.)

Pittsburgh Plate Glass Co., three other glass distributors, and two local labor union organizations of glaziers.--The Commission found that the four glass distributing companies were, by agreement, exchanging information among themselves concerning prevailing prices and proposed price changes ; discussing and exchanging information as to prices to be bid ; agreeing upon formulas and other practices and policies to be used in computing bids, and carrying on other practices designed to suppress and resulting in the suppression of competition. The Commission also found that the two local unions were, by an understanding, persuading and inducing the respondent distributors to agree among themselves to require the employment of a specified number of glaziers at a fixed wage as a condition to obtaining glaziers to install the glass furnished by them, and to require that all glazing be done on the premises where the building was being erected. The Commission's order was that the respondents cease and desist from the unlawful practices so found to have been in use. (3491.)

Fashion Originators Guild of America, Inc., New York, and others.-The respondents in this case were served with an order to cease and desist from practices deemed to be in restraint of trade. They later petitioned the United States Circuit Court of Appeals for review of the Commission's order. Details of the order and of the

court proceedings may be found under Cases in the Federal Courts. at page 101. (2769.)

Arlington Concrete Pipe Corporation, South Washington, Va., Lock Joint Pipe Co., East Orange, N. J., and three other manufacturers and distributors of concrete pipe and other concrete products.--In this case was involved a conspiracy to eliminate and suppress competition in the Eastern Seaboard territory where the five companies operated, particularly in Virginia, Maryland, and the District of Columbia. The Commission found that these respondents transacted about 40 percent of the concrete pipe business in the Eastern Seaboard territory from New Jersey and Pennsylvania to North Carolina and approximately 75 percent of such business in Virginia, Maryland, and the District of Columbia. The following particulars of the Commission's order indicate the facts found to exist. The order was that the respondents cease and desist from refusing and failing to submit independent, competitive bids to supply concrete pipe and other concrete products to prospective customers; selling or submitting bids to supply either in the name of the Arlington Concrete Pipe Corporation or any other jointly owned corporation or organization, the products above mentioned ; and selling or submitting bids to supply, either in the name of the Arlington corporation or any of the respondents any of the products above mentioned. The Commission found that the Arlington corporation was created and jointly owned and controlled by the other manufacturers named. (3127.)

Letellier-Phillips Paper Co., Inc., New Orleans.--The Commission ordered this company to cease and desist from certain unfair methods of competition, the effect of which was to tend to monopolize in it the business of buying and selling waste paper, rags, and other waste. materials in Southern and Southwestern States, particularly Louisiana, Texas, and Mississippi. (8434.)

Hershey Chocolate Corporation, Hershey, Pa., and others.--The respondents in this case were served with an order to cease and desist from practices deemed to be in restraint of trade. They later petitioned the United States Circuit Court of Appeals for review of the Commission's order. Details of the order and of the court proceedings may be found under Cases in the Federal Courts at page 104. (3134.)

FALSELY CLAIMING SOME AFFILIATION WITH THE UNITED STATES GOVERNMENT

Lake Erie Chemical Co. and U.S. Ordnance Engineers, Inc., Cleveland.--The order to cease and desist issued against these two corporations was under the Export Trade Act (Webb-Pomerene Act

of 1918), extending tire prohibition of the use of unfair methods of competition to export trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States. In substance, the Commission found that the respondents caused about 700 copies of a catalog to be made up and circulated among foreign purchasers, advertising the respondents' products in such manner as misleadingly to represent that the respondents had such official or close relationship With the United States Government, its Army, Ordnance Department, and Chemical War fare Service as to afford respondent, U. S. Ordnance Engineers, Inc., access to and use of all information and experience, including experimental and development work, relating to warfare products and the Government's standards and specifications therefor, and that U. S. Ordnance Engineers, Inc., was favored and especially fitted by such relationship to supply purchasers with munitions and related products conforming to United States Government standards. The order was to the effect that the respondents cease these and similar misleading representation's. (2484.)

William J. Cressy, trading as Flying Intelligence Service.--The respondent was found to be engaged in the sale of *a* manual of instruction in aviation and was ordered to cease and desist from representing that he conducted a flying school, that he would procure jobs for students during or after training, that he was affiliated with the United States Air Corps or that purchasers of his manual would, receive training by the Air Corps. (3431.)

MISREPRESENTATION OF AN ELECTRONIC MUSICAL INSTRUMENT

Hammond Clock Co., Chicago.--The Commission found that this company made and sold in commerce an electronic musical instrument of the organ type, in which the musical tones were produced in, and issued from, a loud speaker, and were caused by, the passing of rotating wheels in a fixed arrangement within an electric field. Extravagant claims were found to have been made *by* the respondent in its advertising as to the capacity and capability of this mechanical instrument to produce or reproduce pipe organ tones and music of the highest type. Instrumental tone qualities and their richness depend upon the presence of numerous harmonics or overtones in properly graded and shaded amplitudes. Comparative tests, made by the latest development in tone analyzer of organ pipes and ranks of pipes, with the respondent's instrument established that, except as to certain flute and flute-like tones, comparatively barren of harmonics, the respondent's instrument Was physically incapable of producing many of the numerous harmonics produced by organ pipes and ranks of pipes. This was confirmed by auditory tests by musi-

cians of standing, and by the testimony of experts. The Commission ordered the respondent to cease and desist making these extravagant and false claims. (2930.)

MISREPRESENTATION OF AND CONCEALING COUNTRY OF ORIGIN OF COMMODITIES

Fee & Stemwedel, Inc., Chicago.--This respondent was ordered to cease and desist from representing that its weather indicating instruments, marked as hereinafter described, were wholly of American manufacture, and from removing or concealing brands and marks disclosing foreign origin, unless the removal or concealment was necessary for further manufacture or processing. The Commission found that to a complete barometer mechanism, made in Germany, the respondent added a dial and indicator and placed the whole in a case SO that the legend "Made in Germany" on the mechanism was no longer visible. On some of its models the respondent was found to have placed on the dial "Made in U.S. A. by Fee and Stemwedel, Inc., Chicago." On a combination instrument the respondent placed a p late reading "Airguide Trio, Made in U. S. A. by Fee & Stemwedel, Inc., Chicago." It was found that many purchasers preferred American-made weather instruments. (3202.)

Harry Greenberg and Leo Josefsberg, trading under the name American Merchandise Co., and other names, New York.--These respondents were found to have removed the marks disclosing that glove hands, to which they added cuffs, were imported from Japan, and by repackaging thumb tacks to have concealed the fact that they were imported from Germany. They were ordered to cease these practices. (2960.)

MISREPRESENTATION OF FABRICS AND MATERIALS

Lipman Bros., Bonwit-Teller, Frederick Loesser & Co., Inc., Bloomingdale Bros., Inc., and A. DePinna Co., Inc., all of New York.--In these cases the respondents were ordered to cease the use of the term "Pure Dye" in connection with fabrics other than silk ; the use of "Satin," "Crepe," "Taffeta," or "Chiffon;" or similar words in connection with "Rayon" except with proper qualification ; the use of "Silk Rayon" ; the use of the word "Wool" except as descriptive of fabrics composed wholly of wool, unless the fabric is a mixture of wool and other materials, in which instance the descriptive words must be used in the order of predominance by Weight; and were required to disclose affirmatively the presence of rayon in fabrics in whole or in part made of rayon. (3494, 3499, *3502,* 3564, and 3565.)

Aronson-Caplin Co. Inc., New York.--This company was ordered to cease using the term "Pure Dye" or other terms of similar mean

ing to designate fibers or fabrics other than those made wholly of unweighted silk, and to discontinue employing "Satin," "Taffeta," or other words of similar import to describe a fabric or product not made wholly of silk, unless the descriptive words were truthfully employed to designate the type of weave and it was clearly shown that they designated the type of weave only. The commission found that the respondent used such representations as "Made of Satin La Rue," "Made of New Satin La Rue 100% Pure Dye," and "Seamprufe, Made of Taffeta De Luxe 100% Pure Dye, Finest Tested Acetate Yarns" in describing products made in whole or in part of rayon. (3649.)

ENDORSEMENT BY A PRETENDED IMPARTIAL AUTHORITY

Ross Roy Service, Inc., and Nash Kelvinator Co., Detroit.--The Commission found that Ross Roy Service had compiled and was distributing a handbook and other literature of comparative data on various mechanical refrigerators, claiming that its comparisons were authoritative, independent, and unbiased. The Kelvinator was represented to be superior in many ways over all other competitive makes. It was found that the respondent was not equipped to be an authority on mechanical refrigerators and was biased in favor of the Kelvinator by reason of its manufacturers having aided in the publication of the handbook and having paid Ross Roy Service a large sum of money prior to its publication. The Commission issued its order that the respondent cease making representations that its comparisons were authoritative and unbiased or that it was an independent organization when the cost of the publication or any part thereof was borne by the manufacturer whose products were used as the base for the scientific data or comparison. (3125.)

MISLEADING ADVERTISEMENTS CONCERNING MEDICINAL PREPARATIONS

R. O. Murphy, trading as The Stillwater Co., Stillwater, Minn.-- The Commission found that the respondent represented that hay fever was not a disease, but was the result of the irritation by pollen of oversensitive and weak nasal membranes, and that all that was necessary to give the sufferer comfort and lasting relief was to build up and toughen these membranes. He was found to have represented that his "nose sprays" Nos. 1, 2, and 3 and his nose salve would accomplish these results and that his eye medicine would open up the tear ducts and allow the natural secretions to wash away the pollen, preventing itching of the eyes. The Commission found that the respondent's theories as to the treatment of and method of averting hay fever were not in accordance with the consensus of present day medical opinion and that his-preparations did not cure, avert, or fortify the user against hay fever.

He was ordered to cease and desist from so advertising them. (3608.)

Dr. W. B. Caldwell, Inc., Monticello, Ill.--The respondent was ordered by the Commission to cease and desist from certain misleading representation's in the sale of a medicinal preparation. This company later petitioned the United States Circuit Court of Appeals to set aside the Commission's order. Details of the order and of the court proceedings may be found under Cases in the Federal Courts at page 94. (2957.)

SALES METHODS INVOLVING LOTTERY SCHEMES AND OTHER PLANS BASED UPON AN ELEMENT OF CHANCE

The Commission has continued to move against the sale of candy and other merchandise by lottery schemes and other selling plans in which there is an element of chance, the so-called break-and-take packaging of candy, and the use of punchboards and pull cards. During the fiscal year ended June 30, 1939, many orders were issued against these practices.

In *Bunte Bros., Inc., Chicago,* the break-and-take candy package was found to be in use. The respondent was not. using this method in inter-state commerce, doing business wholly within the State of Illinois, the State of its location. However, the Commission found that its use by the respondent placed a burden on, and had a deterrent effect on, commerce into Illinois by outside manufacturers. An order to cease and desist was issued. (See also Cases in the Federal Courts, p. 99.)

Irving Schwartz, trading as *Lloyd's Distributing Co., New York.*--This respondent was ordered to cease and desist offering for sale or selling or distributing in interstate commerce electric shavers, radios, fountain pens, or any other merchandise by the use of punchboards, push cards, pull cards, or other lottery devices. He was also required to cease supplying, shipping, or mailing to agents, distributors, or members of the public any of the above-mentioned lottery devices for the purpose of enabling such persons to sell or otherwise dispose of merchandise by means thereof to ultimate consumers. (3277.)

ORDERS UNDER THE CLAYTON ACT

(As amended by the Robinson-Patman Act)

Standard Brands, Inc., New York, and Standard Brands of California, San Francisco, were ordered to cease and desist in connection with the sale of baker's yeast from discriminating in price between different purchasers by selling at different prices based upon the total quantity purchased or required monthly by the respective purchasers ; and from selling such yeast at different prices based upon the total quantity purchased (whether from the respondents or from

any other source) within any period of time; and from selling at prices based upon the total quantity purchased (whether from the respondents or from any other source) during any given period of time irrespective of the quantity delivered by the respondents to the respective bakeries of an individual purchaser, unless the differentials in price make only due allowance for the difference in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such yeast is to such purchasers sold or delivered during the period for which such differentials are allowed. The order further prohibits selling baker's yeast at so-called off-sale prices from any schedule of prices which make only due allowance for the difference in cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the yeast is to such purchasers sold or delivered during the time for which such differentials in price are allowed. (2986.)

United States Rubber Co., New York., and a subsidiary were ordered to cease and desist, in connection with the sale of automobile tires and tubes, from discriminating in price between Montgomery Ward & Co., Atlas Supply Co., Western Auto Supply Co., and two other chain distributors of tires, on the one hand, and independent tire dealers on the other, except to the extent that any price differential in favor of any of such mail-order houses or chain distributors make only due allowance for savings in the cost of manufacture, sale, or delivery resulting from the different methods or larger quantities in which tires are sold to such favored customers. The order further directed the respondents to cease and desist from discriminating in price between different independent tire dealers pursuant to a system of discounts, rebates, and volume bonuses which resulted in the charging of different prices to competing dealers for tires of the same grade and quality. The order further prohibits certain discriminations in p rice by company-owned stores (the operation of which by respondents has now been discontinued) and the payment of certain "overriding commissions' to oil companies purchasing tires from respondents for resale based upon sales of tires by respondents to service stations dealing in the products of such oil companies. (3685.)

American Optical Co., Southbridge, Mass., Bausch & Lomb Optical Co., Rochester, N. Y., and others.--These two companies, both engaged in the manufacture and sale of a complete line of optical merchandise, together with six wholesale distributors of optical goods controlled by Bausch & Lomb Co., were ordered to cease and desist from discriminating in price between different retail dealers in optical goods pursuant to a "big dealer discount plan," used by both companies for a number of years, under which certain large optical stores and chains received discounts of 33 1/3 percent or 25

percent from list price on purchases of optical merchandise, which discounts were based upon total volume of purchases during a month or a year and were not granted to many small opticians and optometrists competing with such "big dealers." (3232 and 3233.)

The *Webb Crawford Co., Athens, Ga., and others.*--The respondent was ordered to cease and desist from violation of the brokerage section of the Robinson-Patman Act. Later it petitioned the United States Circuit Court of Appeals for review of the Commission's order. Details of the order and of the court proceedings may be found under Cases in the Federal Courts at page 109. (3214.)

Quality Bakers of America, New York, and others.--These respondents, including the association and 70 wholesale baking concerns and Quality Bakers of America, Inc.-, purchasing agent, were ordered to cease and desist from violating the brokerage section of the Robinson-Patman Act. Later they petitioned the United States Circuit Court of Appeals for review of the Commission's order. Details of the order and of the court proceedings may be found under Cases in the Federal Courts at page 107. (3218.)

Reeves, Parvin & Co., Philadelphia, wholesale grocers, Tri-State Brokerage Co., which derives the greater portion of its business as an intermediary through which merchandise is purchased by Reeves, Parvin & Co., and Francis B. Reeves, Jr., president, director , and majority stockholder of Reeves, Parvin & Co. and president, director, and owner of all of the outstanding stock of the Tri-State Brokerage Co., were ordered to cease and desist from accepting or receiving from sellers any fees as brokerage or allowance in lieu thereof connected with purchases by Reeves, Parvin & Co. A number of sellers were ordered to cease paying to the Tri-State Brokerage Co. or Reeves, Parvin & Co. the fees in question. (3129.)

Master Look Co., Milwaukee, engaged in manufacturing and selling padlocks, was ordered to cease and desist from directly or indirectly discriminating unlawfully in price. The respondent was directed particularly to cease granting an additional discount of 5 percent conditioned upon annual purchases of $10,000 or more, and freight allowances, to customers competitively engaged with others not given such discount or allowances. (3386.)

Miami Wholesale Drug Corporation, Miami, Fla.--Rodney S. Pullen, Jr., and certain named associates conducting a business under the trade name "Miami Magazine," were found to have pursued a policy designed to induce favorable discriminatory prices in its purchases of goods. It was found that pursuant to this policy the respondents caused a magazine to be published under the trade name "Miami Magazine," and that sellers were persuaded to enter into contracts for advertisements in the magazine with the understanding

that the charges made for the advertisements were to be credited on the purchase price of the goods. The Commission found that the publication of the magazine was a subterfuge operated solely as an incident to the wholesale drug business for the purpose of obtaining the discriminations in price. The respondents were ordered to cease and desist from receiving and accepting any discriminatory price or the benefit thereof, obtained in the manner set forth. (3377.)

VIOLATIONS OF SECTION 3 OF THE CLAYTON ACT

Section 3 of the Clayton Act provides among other things that it shall be unlawful for any person engaged in interstate commerce to make a sale or contract for sale of goods for use, consumption, or resale in the United States, or fix a price charged therefor, on the condition, agreement, Or understanding that the purchaser shall not use or deal in the goods of a competitor, where the effect may be to substantially lessen competition or tend to create a monopoly. Illustrative of orders under this provision are:

Carter Carburetor Corporation St. Louis, and *National Biscuit Co., New York.*--In the Carter Carburetor case the respondent was ordered to cease negotiating exclusive dealing contracts in connection with the sale of carburetors and carburetor parts and to cease putting service stations or retail dealers on notice that higher prices would be charged for the respondent's products if competing products were dealt in by them. (See Cases in the Federal Courts, page 100.) In the National Biscuit case, the company was directed to discontinue making the sale of bakery and packaged food products conditional on the agreement that the purchaser would not deal in the products of its competitor. (3279 and 3607.)

American Flange & Manufacturing Co., Inc., New York.--In this case was involved both section 5 of the Federal Trade Commission Act and section 3 of the Clayton Act. The findings, in brief, were: The respondent manufactured "Tri-sure" closure structures and sealing caps, and sold them to manufacturers of metal drums, and their "filler" customers, in most part for containers for oils, paints, and liquid products.- The sealing caps were used to seal the closure, parts against tampering and leakage. The respondent owned patents on these devices, as well as on certain dies and tools used in applying them to containers. The tools and dies were leased to purchasers of the closure structures and seals. The respondent solicited its customers, both drum manufacturers and filler customers, buying these devices, to enter into a so-called license and service agreement.

It was concluded that the objectionable parts of the agreement were: In an outright sale of the closure flanges and seals, the purchaser acknowledged the validity of the patents under which they

were manufactured and agreed not to infringe or contest these patents. There were also included in this acknowledgment and agreement other patents owned by respondent, but not used in the manufacture of these devices, as well as pending patent applications. The agreement listed some 50 patents and 15 patent applications. The Commission concluded that these provisions constituted a violation of section 5 of the Federal Trade Commission Act, and the respondent was ordered to cease and desist from soliciting, persuading, or inducing purchasers of the Tri-sure products to accept a license for the use of the patents under which they were manufactured, or to agree to acknowledge the validity of or not to contest or infringe such patents, or the other patents, or patents for which applications were pending or any patent in advance of its issuance; and to cease and desist from recognizing or continuing in force any of these provisions in existing contracts.

The license and service agreement also provided that if a customer, during any 6-month period, purchased Tri-sure closures to the extent of 80 percent of his requirements, for the period, he would be granted a "quantity" discount of 10 percent. Later this was modified by a provision that he would be deemed to have earned this discount if he informed the respondent, at the end of the 6-month period, that he had considered the respondent's flange and plug his standard, had recommended them to his customers without discrimination, and had used them when he could. The Commission concluded that these provisions constituted a violation of section 3 of the Clayton Act, and the respondent was ordered to cease their use. (3391.)

TYPES OF UNFAIR METHODS AND PRACTICES

TYPICAL METHODS AND PRACTICES CONDEMNED IN ORDERS TO CEASE AND DESIST

The following list illustrates unfair methods of competition and unfair or deceptive acts and practices condemned by the Commission from time to time in its orders to cease and desist. This list is not limited to orders issued during the last fiscal year. It does not include specific practices outlawed by the Clayton Act and committed to the Commission's jurisdiction, namely, various forms of price discrimination, exclusive and tying dealing arrangements, competitive stock acquisition, and certain kinds of competitive interlocking directorates.

l. The use of false or misleading advertising, calculated to mislead and deceive the purchasing public to their damage.

2. Misbranding of fabrics and other commodities respecting the materials or ingredients of which they are composed, their quality, purity, origin, source, attributes or properties, history, or nature of

manufacture, and selling them under such names and circumstances that the purchaser would be misled in these respects.

3. Bribing buyers or other employees of customers and prospective customers, without the employer's knowledge or consent, to secure or hold patronage.

4. Procuring the business or trade secrets of competitors by espionage, or by bribing their employees, or by similar means.

5. Inducing employees of competitors to violate their contracts and enticing away employees of competitors in such numbers or under such circumstances as to hamper or embarrass the competitors in the conduct of their business.

6. Making false and disparaging statements respecting competitors' products and business, in some cases under the guise of ostensibly disinterested and specially informed sources or through purported scientific, but in fact misleading, demonstrations or tests ; and making false and misleading representations with respect to competitors' products, such as that seller's product is competitor's, and through use of such practices as deceptive simulation of competitors counter-display catalogs or trade names ; and that competitor's business has been discontinued, and that seller is successor thereto or purchaser and owner thereof.

7. Widespread threats to the trade of suits for patent infringement arising from the sale of alleged infringing products of competitors, such threats not being made in good faith but for the purpose of intimidating the trade and hindering or stifling competition, and claiming and asserting, without justification, exclusive rights in public names of unpatented products.

8. Trade boycotts or combinations of traders to prevent certain wholesale or retail dealers or certain classes of such dealers from procuring goods at the same terms accorded to the boycotters or conspirators, or to coerce the trade policy of their competitors or of manufacturers from whom they buy.

9. Passing off goods or articles for well and favorably known products of competitors through appropriation or simulation of such competitors' trade names, labels, dress of goods, or counter-display catalogs.

10. Selling rebuilt, second-hand, renovated, or old products or articles made from used or second-hand materials as and for new.

11. Buying up supplies at excessive prices for the purpose of hampering competitors and stifling or eliminating competition.

12. Using concealed subsidiaries, ostensibly independent , to obtain competitive business otherwise unavailable, and making use of false and misleading representations, schemes, and practices to obtain representatives and make contacts, such as pretended puzzle prize contests purportedly offering opportunities to win handsome prizes, but in fact

mere "come-on" schemes and devices in which the seller's true identity and interest are initially concealed, and in which the purpose is to obtain a large sales force to sell its product.

13. Using merchandising schemes based on lot or chance.

14. Cooperating with others in the use of schemes and practices for compelling wholesalers and retailers to maintain resale prices fixed by a manufacturer or distributor for resale of his product. [8]

15. Combinations or agreements of competitors to enhance prices, maintain prices, bring about substantial uniformity in prices or to divide territory or business, to cut off competitors' sources of supply; or to close markets to competitors, or otherwise restrain or hinder free and fair competition.

16. Gutting off or curtailing or restricting, competitors' sources of supply or access to market or customers, through such acts and practices as fixing especially favorable prices or discounts conditioned on nondealing in competitive goods, or exacting higher prices for such dealings, and withholding valuable collateral services incident to sale of goods involved, or discontinuing, or threatening to discontinue, dealings with others by reason of their sales to or purchases from competitors with intent, tendency or effect of restraining competition, and securing to or maintaining in the concern making use of such practices a monopoly in the particular product or territory involved.

17. Aiding, assisting, or abetting unfair practice, misrepresentation, and deception, and furnishing means or instrumentalities thereof, and combining and conspiring to offer or sell products by chance or by deceptive methods, through such practices as supplying dealers with lottery devices, or selling to dealers, and assisting them in conducting contest schemes as a part of which pretended credit slips or certificates are issued to contestants, which in fact give the recipient no advantage in price because the price of the goods on which applied has been marked up to absorb the face value of the credit slip, and the supplying of emblems or devices to conceal marks of country of origin of goods, or otherwise to misbrand goods as to country of origin.

18. Various schemes to create the impression in the mind of the prospective customer that he or she is being offered an opportunity to make a purchase under unusually favorable conditions when such is not the case, such schemes including--

(a) Sales plans in which the seller's usual price is falsely represented as a special reduced price made available on some pretext for a limited time or to a limited class only, or involving

[8] The Miller-Tydings Act and fair-trade laws are referred to at pp.28 and 50. For text of that act, see pp.192 and 194.

false claim of special terms, equipment, or other privileges or advantages.

(b) The use of the "free goods" or service device to create the false impression that something is actually being thrown in without charge, when, as a matter of fact, it is fully covered by the amount exacted in the transaction as a whole.

(c) Use of misleading trade names calculated to create the impression that a dealer is a producer or importer, selling directly to the consumer, with resultant savings.

(d) Use of pretended, exaggerated retail prices in connection with or upon the containers of commodities, intended to be sold at lower figures as if bargains.

(e) Use of false or misleading representation that article offered has been rejected as nonstandard or is, for some other special and unusual reason, offered at an exceptionally favorable, or other than its normal, price, or that the number thereof that may be had or purchased is limited.

(f) Falsely and misleadingly representing that the goods are not being offered as sales in ordinary course, but are specially priced and offered as a part of a special advertising campaign to secure customers or for some purpose other than the customary profit.

19. Using containers ostensibly of the capacity customarily associated in the mind of the general purchasing public with standard weights or quantities of the product therein contained, or using such standard containers only partially filled to capacity, so as to make it appear to the purchaser that he is receiving the standard weight or quantity.

20. Concealing business identity in connection with the marketing of a product, or misrepresenting the seller's relation to others; such as claiming falsely to be the agent or employee of some other concern, or failing to disclose the termination of such a relationship in soliciting customers of such concerns.

21. Misrepresenting in various ways the necessity or desirability or the advantages to the prospective customer of dealing with the seller, such as--

(a) Misrepresenting seller's alleged advantages of location or size, or the branches, domestic or foreign, or the dealers he has.

(b) Making false claim of being the authorized distributor of some concern, or of being successor thereto or connected therewith, or of being the purchaser and owner of competitor's business, or falsely claiming the right to prospective customer's special consideration, through such false statements as that customer's

president or chairman of its board, or the customer's friends, have expressed a desire for, or special interest in, consummation of seller's transaction with the customer.

(c) Alleged Government connection of a concern, or endorsement of it or its product by the Government or by nationally known business organizations.

(d) False claim by a dealer in domestic products of being an importer, or by a dealer of being a manufacturer, grower, or nursery, or by a manufacturer of some product of being also the manufacturer of the raw material entering into the product.

(e) Claiming to be a manufacturer's representative and outlet for surplus stock sold at a sacrifice, when such is not the fact.

(f) Representing that the seller is a wholesale dealer, grower, producer, or manufacturer, or owns a laboratory in which product offered is analyzed and tested, when in fact such representations are false.

(g) Representing that ordinary private commercial seller and business is an association, or national association, or connected therewith, or sponsored thereby, or is otherwise connected with noncommercial or professional organizations or associations, or constitutes an institute, or, in effect that it is altruistic in scope, giving work to the unemployed.

(h) Falsely claiming that business is bonded or misrepresenting its age or history, or the demand established for its products, or the selection afforded, or the quality or comparative value of its goods, or the personnel or staff or personages presently or theretofore associated with such business or the products thereof.

(I) Claiming falsely or misleadingly patent, trade-mark, or other special and exclusive rights.

22. Use by business concerns, associated as trade organizations or otherwise, of methods which are calculated to result in the observance of uniform prices or practices for the products dealt in by them, with consequent restraint on or elimination of competition, such as various kinds of so-called standard cost systems, price lists, or guides, or exchange of trade information.

23. Obtaining business through undertakings not carried out, and not intended to be carried out, and through deceptive, dishonest, and oppressive devices calculated to entrap and coerce the customer or prospective customer, such practices including--

(a) Misrepresenting seller's business methods and practices through such representations as that seller fills orders promptly,

ships kind of merchandise described in his catalogs, assigns exclusive territorial rights within definite trade areas to purchasers or prospective purchasers.

(b) Obtaining orders on the basis of samples displayed for customer's selection, and failing or refusing to respect such selection thereafter in filling of orders thus secured, and promising results which, in the nature of things, are impossible of fulfillment, or falsely making promises or holding out guarantees, or the right of return, or results, or refunds, replacements, or reimbursements, or special or additional advantages to the prospective purchaser such as extra credit, or furnishing of sup plies or advisory assistance.

(c) Concealing from prospective purchaser unusual features involved in purchaser's commitment, the result of which will be to require of purchaser further expenditure in order to secure benefit of commitment and expenditure already made, such as failure to reveal peculiar or nonstandard shape of portrait or photographic enlargement, so as to make securing of frame therefor from sources other than seller difficult and impracticable, if not impossible.

(d) Obtaining by deceit prospective customer's signature to a contract and promissory note represented as simply an order on approval.

(e) Making use of improper and coercive practices as means of exacting additional commitments from purchasers, through such practices as unlawfully withholding from purchaser property of latter lent to seller incident to carrying out of original commitment, such as practice of declining to return, and withholding original photograph from which enlargement has been made until purchaser has also entered into commitment for frame therefor.

(f) Falsely representing earnings or profits of agents, dealers, or purchasers, or the terms or conditions involved, such as false statement that participation by merchant in seller's sales promotion scheme is without cost to former, and that territory assigned any agent, representative, or distributor is new or exclusive.

(g) Obtaining agents or representatives to distribute the seller's products, through promising to refund the money paid by them should the product prove unsatisfactory, and through other mis-representations and undertakings, such as that the agent was granted right to exclusive or new territory, would be given assistance by seller in some form or another, or would be given special credit or furnished supplies, or the amount of his earnings or the opportunities which the employment offered.

24. Giving products misleading names so as to give them a value to the purchasing public, or to a part thereof, which they would not otherwise possess, such as names implying falsely that--

(a) The particular products so named were made for the Government or in accordance with its specifications and of corresponding quality, or are connected with it in some way, or in some way have been passed upon, inspected, underwritten, or endorsed by it; or

(b) They are composed in whole or in part of ingredients or materials, which in fact are contained only to a limited extent or not at all, or that they have qualities or properties which they do not have; or

(c) They were made in or came from some locality famous for the quality of such products; or

(d) They were made by some well and favorably known process, when as a matter of fact they were made in imitation of and by a substitute for such process; or

(e) They have been inspected, passed, or approved after meeting the tests of some official organization charged with the duty of making such tests expertly and disinterestedly, or giving such approval; or

(f) They were made under conditions or circumstances considered of importance by a substantial part of the general purchasing public; or

(g) They were made in a country, place, or city considered of importance in connection with the public taste, preference, or prejudice.

25. Selling below cost or giving product without charge, with intent and effect of hindering or suppressing competition.

26. Dealing unfairly and dishonestly with foreign purchasers and thereby discrediting American exporters generally.

27. Coercing and enforcing uneconomic and monopolistic reciprocal dealing.

28. Entering into contracts in restraint of trade whereby foreign corporations agree not to export certain products into the United States in consideration of a domestic company's agreement not to export the same commodity, nor to sell to anyone other than those who agree not to so export the same; and

29. Employing various false and misleading representations and practices to give products a standing, merit, and value to the pur-

chasing public, or a part thereof, which they would not otherwise possess, such practices including--

(a) Misrepresenting, through salesmen or otherwise, products' composition, nature, qualities, results accomplished, safety, value, and earnings or profits to be had therefrom.

(b) Claiming falsely unique status or advantages, or special merit therefor, on the basis of pretended, but in fact misleading and ill-founded, demonstrations or scientific tests, or pretended widespread tests, or of widespread and critical professional acceptance and use.

(e) Misrepresenting the history or circumstances involved in the making and offer of the products or the source or origin thereof (foreign or domestic), or of the ingredients entering therein, or parts thereof, or the opportunities brought to the buyer through purchase of the offering, or otherwise misrepresenting scientific or other facts bearing on the value thereof to the purchaser; and

(d) Representing products falsely as legitimate, or prepared, tagged, and labeled in accordance with law, or prepared in accordance with Government or official standards or specifications; and

(e) Claiming falsely Government or official, or other acceptance, use, and indorsement of product, and misrepresenting success and standing thereof through use of false and misleading indorsement or false and misleading claims thereto, or otherwise.

30. Failing and refusing to deal justly and fairly with customers in consummating transactions undertaken, through such practices as refusing to correct mistakes in filling orders, or to make promised adjustments or refunds, and retaining, without refund, goods returned for exchange or adjustment, and enforcing, notwithstanding agents' alterations, printed terms of purchase contracts, and exacting payments in excess of customers' commitments.

31. Shipping products at market prices to its customers or prospective customers or to the customers or prospective customers of competitors without an order and then inducing or attempting by various means to induce the consignees to accept and purchase such consignments.

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CASES IN THE FEDERAL COURTS

COMMISSION ACTIONS IN THE UNITED STATES 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 ended June 30, 1939, are reviewed in alphabetical order in the pages immediately following. [9]

During the year., results favorable to the Commission were obtained in 27 cases of which 17 were before the United States Circuit Courts of Appeals and 10 before United States District Courts. The Corn-mission's orders were set aside in 2 cases in the Circuit Courts of Appeals (1 of which, involving the Goodyear Tire & Rubber Co., at the close of the year, was pending before the Supreme Court of the United States on petition for certiorari), and there was 1 adverse decision in a District Court.

The Supreme Court denied petitions for writs of certiorari filed by respondents in two cases in efforts, to reverse prior decisions by Circuit Courts of Appeals favorable to the Commission. The respondents involved were the Standard Education Society, Chicago, and its associates, and the Biddle Purchasing Co., New York, and others.

Cases in, the Circuit Courts of Appeals in which the Commission's orders were affirmed were: Bear Mill Manufacturing Co., New York; Belmont Laboratories, Inc., Philadelphia; California Rice Industry, San Francisco; Helen Ardelle, Inc., Canterbury Candy Makers, Inc., Imperial Candy Co., and the Rogers Candy Co., Seattle; Brown & Haley, Tacoma, Wash.; National Candy Co., St. Louis; March of Time Candies, Inc.; and Dietz Gum Co., Chicago; Minter Brothers and Douglass Candy Co., Philadelphia; Bunte Brothers, Inc., Chicago; Fioret Sales Co., Inc., New York; and Oliver Brothers, Inc., and others, New York. In a case involving Benjamin D. Ritholz, and others, of Chicago, in the Federal Courts of the District of Columbia, the Court of Appeals affirmed the action of the district court in sustaining the Commission's motion to dismiss an injunction suit brought against it.

A modified decree, satisfactory to the Commission, was obtained through negotiations with the respondent in a case involving Bayuk Cigars, Inc., Philadelphia.

Proceedings involving Bourjois, Inc., and Barbara Gould Sales Corporation, New York, the Startup Candy Co., Provo, Utah, E J. Brach & Sons, Chicago, and National Silver Co., New York, were dismissed by the Circuit Courts of Appeals on motions by the several petitioners.

9 United States Circuit Courts of Appeals are designated First Circuit, Second Circuit, etc.

The Commission successfully opposed two preliminary motions made in a Circuit Court of Appeals by the California Lumbermen's Council and others, Fresno, Calif.

Ten injunction proceedings in the United States District Courts involving alleged false advertisements of medicinal products under section 13 (a) of the Federal Trade Commission Act as amended by the Wheeler-Lea Act of March 21, 1938, are reviewed at page 110.

(Except where otherwise indicated. the following cases involve violations of the Federal Trade Commission Act)

American College, American University, and Denton N. Higbe, Chicago.--These two correspondence schools, and their presidents, Denton N. Higbe, petitioned the Seventh Circuit (Chicago) October 4, 1938, to review and set aside the Commission's order prohibiting the use of the words "College" and "University" in their corporate names. The Commission found that neither institution was a college or university within the popular general conception of the words. A certified transcript of the record was filed with the court, and the case, as of June 30, awaited briefing and argument.

American Field Seed Co., and others, Chicago, on September 26, 1938, petitioned the Seventh Circuit (Chicago) to review the Commission's order prohibiting misleading representations to the effect that the petitioners' agricultural seed was cleaned with their own equipment, analyzed and tested by them, in their own laboratory, and tagged and labeled in accordance with the laws of the States into which it was shipped; and that their seed was free from weed seed and other foreign matter, was cold-resisting, and capable of producing luxuriant crop growth. As of June 80, the case awaited printing of the transcript, briefing, and argument.

Bayuk Cigars, Inc., Philadelphia.--The Commission, on December 1, 1938, filed with the Third Circuit (Philadelphia) its motion to modify that court's decree of November 21, 1930, permitting the respondent to use the label "Havana Ribbon" on cigars made entirely of domestic tobacco provided the label was accompanied by qualifying words indicating the product's domestic origin. The Commission alleged that the continued use of the words "Havana Ribbon" was indicated "still has a tendency and capacity to, does, and probably will continue to mislead and deceive the public and prospective purchasers into the erroneous belief that said cigars are made of tobacco grown upon the Island of Cuba, and to induce them, under and because of such erroneous belief, to purchase said corporation's said cigars in preference to cigars offered for sale and sold by said corporation's competitors--thereby unfairly diverting trade to said corporation from said competitors."

Counsel for the respondent, at a hearing on March 7, 1939, proposed a consent decree abandoning use of the word "Havana"

the label "Havana Ribbon," provided adequate time was allowed for transferring to a new label the good will which had attached to the former name. Drafts of such a decree were submitted by both parties and the court, on May 8, entered, with slight changes, the draft submitted by the respondent, which was unsatisfactory to the Commission. A substitute decree acceptable to the Commission was entered on June 26, providing, among other things, that on and after 2 years from the date thereof, the respondent----

shall cease and desist, in connection with the sale or distribution of cigars from any of its factories in interstate commerce:

(1) From using the trade-mark or trade name "Havana Ribbon" as descriptive of cigars of the type and composition or substantially of the type and composition lately and now sold under the aforesaid trade or brand name;

(2) From using the word "Havana" or other word or words of similar import, alone or in conjunction with the word "Ribbon," or any other word or words, either as a brand or trade name or as descriptive of cigars, unless such cigars are composed entirely or in substantial part of tobacco grown on the Island of Cuba; provided, that if the cigars be composed in part only of such tobacco, that fact shall be indicated by the brand or trade name (if the word "Havana" or like word occurs therein), the words of which that are descriptive of tobacco content shall be of uniform size, together with such accompanying descriptive words as may be necessary clearly to indicate the true composition and character of said cigars. If the word "Havana" or like word is not used in the brand name, but only in descriptive words applied to cigars composed in substantial part of Havana tobacco, such descriptive matter shall fairly indicate the true composition and character of the cigars. In all such descriptive matter the filler tobaccos used in said cigars shall be set forth in the order of their predominance by weight in letters of equal size and conspicuousness.

Bear Mill Manufacturing Co., New York.--The Second Circuit (New York), July 5, 1938, modified the Commission's order in this case, directing its enforcement as so modified, allowing the company 30 days to make the necessary changes in its stationery, folders, labels, cartons, and advertising matter,

The order prohibited use of the words "Mill" or "Manufacturing" as a part of the company's corporate name so as to represent that it manufactured the cotton and rayon fabrics it sold, unless and until it actually owned or controlled a mill in which they were made. Findings were that the company was engaged solely in the sale and distribution of fabrics manufactured by others.

In the course of its Opinion (98 F. (2d) 67), the court said:

There can be no doubt that a finding should stand that the erroneously descriptive words in the corporate title and stationery have the tendency to mislead prospective purchasers and the public. * * * We cannot say that the findings are not supported by substantial evidence or that the order to cease and desist from the use of the words "Mill" and "Manufacturing" which the Commission issued in consequence of the findings was without foundation

* * * * * * *

The injury to the petitioner by the requirement of the order of the Commission that it should abandon a well-known corporate and trade name of many years standing and of evidently excellent repute, seems to us a far too drastic method of remedying a slight and, we believe, unconscious infraction of proper trade practice when the inaccuracy can be cured by requiring the petitioner to append to and use in connection with Its corporate name, stationery, folders, labels, cartons and any advertising the words "Converters, Not Manufacturers of Textiles." * * * We accordingly hold that these words descriptive of the nature of the petitioner's business should be added to the corporate title on all stationery, folders, labels, cartons, and advertising without the necessity of amending the certificate of incorporation.

Belmont Laboratories, Inc., Philadelphia, manufacturers of "Mazon," for *treating* skin ailments, on March 23, 1938, petitioned the Third Circuit (Philadelphia) to review and set aside the Commission's order directed against it.

The Commission's findings were to the effect that the petitioner's Statements concerning the effectiveness of its product as a remedial agent in the treatment of eczema, psoriasis, alopecia, ringworm, tinea sycosis, acne, and other diseases were not justified by the evidence recorded; that its advertising resulted in deception of purchasers, and that trade had been diverted to the petitioner from its competitors who truthfully represented the therapeutic value of their products.

The court, on March 29, 1939, affirmed the Commission's order after modification in certain particulars (103 F. (2d) 538), and, in its decision, after quoting extensively from one of the company's leaflets, said:

Such a claim is medically untrue. It falls to recognize the scientific necessity for the application of internal remedies to diseases, which, by their etiology (the science of causes), proceed from internal disorders. * * * Once the internal cause of the disease is established, it does not take a doctor to point out the futility of an outward application to an interior evil. Such application can do no more than alleviate by modifying the exterior symptoms. Accordingly, petitioner's advertisements, in their assertion of elimination, are bad in medicine and, fortunately for the public, bad also in law.

Petitions for rehearing filed by both the petitioner and the Commission were denied.

Berry Seed Co. and others, Clarinda, Iowa, on November 5, 1938, petitioned the Eighth Circuit (St. Louis) for review of the Commission's cease and desist order directing discontinuance of misleading representations to the effect that the petitioners' seed was free from weed seed and other foreign matter; that all of their seed possessed high germinating power and was cleaned with their own equipment; that every shipment had tags or labels attached to show the purity and gemination tests of the. seed, and that the seed was of a stated variety. As of June 30, 1939, the case awaited printing of the transcript, briefing, and argument.

Biddle Purchasing Co., New York, and others, operating market information and purchasing services, on September 2, 1938, petitioned the Supreme Court for a writ of certiorari to review the decision of the Second Circuit (New York) of May 2, 1938 (96 F. (2d) 687), denying the petitioners' prayer that the Commission's order under the brokerage clause of the Robinson-Patman Act be set aside. This was the first case involving the legality of an order by the Commission under that act to reach the Federal courts. The Commission, September 22, 1938, filed with the Court its memorandum in which it stated that "although the respondent (the Commission) submits that the decision of the court below is correct, it believes that the case merits review and so does not oppose the granting of a writ of certiorari." The petition for writ of certiorari was denied October 17, 1938 (305 U. S. 634).

Bourjois, Inc., and Barbara Gould Sales Corporation, New York, on May 19, 1938, jointly petitioned the Second Circuit (New York) to review and set aside the Commission's order against them. The court dismissed the case on stipulation of the parties, December 12, 1938. The Commission's order had directed the respondents to cease misrepresentation of the therapeutic value and place of origin of certain cosmetics manufactured and sold by them, including "Barbara Gould Irradiated Face Powder," "Barbara Gould Irradiated Skin Food," "Barbara Gould Irradiated Skin Cream," and "Evening in Paris Talcum."

Dr. W. B. Caldwell, Inc., Monticello, Ill., manufacturer and dis tributor of "Dr. Caldwell's Syrup Pepsin," "Syrup Pepsin," and "Syrup of Pepsin," petitioned the Seventh Circuit (Chicago), May 2, 1939, to set aside the Commission's order of March 8, 1939, prohibiting misleading representations concerning the therapeutic effect of "Syrup Pepsin" and use of the word "pepsin" to designate or refer to a preparation which did not contain a sufficient quantity of pepsin as an active ingredient to possess substantial therapeutic value. As to the products' principal ingredients, senna and cascara sagrada, the respondent was ordered to cease using any term or name, in referring to or designating a preparation containing these two drugs as its active ingredients, which conceals or minimizes their presence. As of June 30, the case awaited the printing of the transcript, briefing, and argument.

California Lumbermen's Council and others, Fresno, Calif., including affiliated California lumber retailers' associations, on September 22, 1938, petitioned the Ninth Circuit (San Francisco) to review the Commission's order against them prohibiting a combination to fix prices and restrain trade. The Commission filed with the court a certified transcript of the proceedings lately pending before it, where

upon the petitioners, January 30, 1939, moved for an order: (1) Striking such transcript from the files; (2) requiring the Commission to file a "proper" record; (3) vacating the Commission's cease and desist order; and (4) for general relief. The matter was argued February 13 and affidavits were filed by both parties The motion was denied April 14, 1939 (103 F. (2d) 304). In the course of its opinion, the court said:

> An examination of the petition and supporting affidavits reveals that such record is a true record of the evidence received, but that the real complaint is that the hearing was so conducted by the examiner as not to allow petitioners to make of record matters properly included in the record. * * * A motion to strike the transcript is not, however, the manner in which to bring such a question before us, for its determination requires an examination of the merits of the case that we may know the pertinency of the excluded matter in its relationship to the case as a whole. This case is not now before us on the merits.

Petitioners' motion for an order requiring the Commission to file a supplemental transcript of record was denied June 5 (101 F. (2d) 855), the court again stating that it was "of the opinion that the matters in the motion can be properly considered by us only in connection with our consideration of the merits of the petition to review the cease and desist order made by the respondent."

As of June 30, the case awaited printing of the transcript, briefing, and argument.

Findings of the Commission in this case were that the dealers involved purchased their requirements principally from producers and distributors in Oregon and Washington; that they constituted a group so large as to substantially influence trade in lumber and other building materials within and to the particular trading areas in which they operated; that the primary purpose and object of their methods and practices used were to confine retail distribution to the members of the respondent organizations and prevent direct sales to nonmember and to States and other political subdivisions. It was also found that other objectives were to limit sales and distribution by members to their respective districts and prevent other dealers from trading in the territory of the dealer member.

The order to cease and desist prohibited, in substance, the use of a white list; interference with the source of supply of nonmember dealers; fixing uni form prices; dividing business on a quota basis; and other practices designed to accomplish the above-mentioned purposes and objectives.

California Rice Industry, an association, its officers and members, San Francisco, on May 20, 1938, petitioned the Ninth Circuit (San Francisco) to review and set aside the Commission's order of March 26, 1938, which directed them to cease and desist from (1) fixing and

maintaining uniform prices; (2) compiling, publishing, and distributing any joint or uniform list or compilation of prices; (3) adopting any joint or uniform price list or other device which fixes prices; (4) discussing through the. medium of meetings of the California Rice industry or its Marketing and Crop Boards, or in any similar manner, uniform prices, terms, discounts, agreements upon prices, by resolution or otherwise, or employing any similar device which fixes or tends to fix prices, or which is designed to equalize or make uniform the selling prices, terms, discounts, or policies of respondent millers, and (5) fixing or determining the quotas or percentages of the rice crop that the miller respondent may mill or process which, thereby, unlawfully restricts or hinders the sale of rice or rice products in interstate commerce.

The Commission had concluded that the purposes, practices, and policies of the several respondents constituted an unlawful agreement to fix and maintain prices of rice and rice products in commerce; that competition in the sale of these products had been restricted and suppressed; and that the respondents had acquired a monopoly in the sale of California-Japan type rice of which the average annual crop is about 3 million 100-pound bags of paddy (unhusked) rice, which is equivalent to 1,500,000 bags of clean rice.

The court, March 17, 1939, affirmed paragraphs 1 to 4, inclusive, of the order, and set aside paragraph 5. In the course of its opinion, it said (102 F. (2d) 716):

> We take Judicial notice of the public interest involved in the elimination of all price competition by a group of sellers to the public of substantially the entire supply of such a volume of one of the preferred staple foods.
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> * * * * * * *
>
> Each of the petitioners is a potential competitor of each other In the sale of' this food of the common people. This potential competition is prevented not only by the mutual promises of the millers but by the sanction of a substantial fine on any miller violating the agreement by selling his rice at a price less than that fixed by the Marketing Board.
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> * * * * * * *
>
> There is no question that a destruction by the use of economic power by one interstate vendor of the freedom of his competitor's trade, if not accomplished by a contract or other combination with the latter, would warrant the Commission's order to cease and desist.

Paragraph 5 of Commission's order (supra) was reversed on the ground that the practice there referred to is not interstate commerce, and that authority under the Federal Trade Commission Act does not include practices which merely "affect" interstate commerce.

Candy Lottery Cases-New York, Chicago, Philadelphia, St. *Louis, Seattle, and Tacoma, Wash., Ogden, Provo, and Salt Lake City,* Utah.--Eighteen cases involving lottery methods in the sale of candy

and candy products were litigated in the Federal courts during the fiscal year, as follows:

In the consolidated case of Helen Ardelle, Inc., Canterbury Candy Makers, Inc., Imperial Candy Co., and the Rogers Candy Co., all of Seattle, and Brown & Haley, Tacoma, Wash., the Ninth Circuit (San Francisco), on February 14, 1939, modified and affirmed the Commission's orders. Pertinent excerpts from its opinion follow (101 F. (2d) 718) :

Petitioners' brief states: "* * * that the record in these cases wholly fails to sustain the finding of the Commission that this 'punchboard' method of distribution is considered to be an unfair method of competition in the Pacific Northwest, the area in which these petitioners conduct their business. * * *" Hence, it is argued, "the finding of the Commission that the 'punchboard' method of candy distribution in the Pacific Northwest constitutes an unfair method of competition within the meaning of section 5 of the Federal Trade Commission Act cannot be sustained."

The argument assumes, erroneously, that whether petitioners' method of competition-- which, admittedly, involves the use of a lottery or gambling device--is fair or unfair is a question of fact to be determined by testimony. Actually, it is a question of law to be determined by the courts. * * * Testimony of witnesses as to how, in their opinion, the question should be determined, would be useless and improper. The Supreme Court has, in the *Keppel case,* declared the law on this subject, not for one State or one Circuit only, but for the entire United States, including the Pacific Northwest.

Petitions to review and set aside the Commission's orders were filed October 3, 1938, with the Tenth Circuit (Denver) by the Shupe-Williams Candy Co., of Ogden, Utah, the Startup Candy Co., of Provo, Utah, and the Ostler Candy Co. and Glade Candy Co., both of Salt Lake City. Petition for review filed by the Startup Candy Co. was dismissed March 31, 1939, at the instance of the petitioner, which had gone into receivership. The other cases were argued on the merits at Denver on June 19-20, 1939.

Cases of the National Candy Co., St. Louis, the March of Time Candies, Inc., and the Dietz Gum Co., both of Chicago, were argued April 26, 1939, before the Seventh Circuit (Chicago), which, on June 2 (104 F. (2d) 999), in a comprehensive opinion by Circuit Judge Sparks, unanimously affirmed the several orders. Among other things, the court said:

Petitioner's contention is that the amendment of section 5 of the act [10] transformed the Commission's previous administrative quasijudicial order into a legislative regulation of the candy interest trade; and that, as legislation it is void for unconstitutional discrimination against petitioner as between it and. its competitors against whom no such order has been made.

* * * * * * *

[10] Federal Trade Commission Act.

We think the order attacked is not legislative in its character, and that if it were it would not be discriminatory because the statute and all orders thereunder apply equally to all persons In like conditions.

* * * * * * *

The provision for a Judicial review of an administrative order constitutes due process of law *(Bourjois, Inc.,* v. *Chapman,* 301 U. S. 183), and we are convinced that section 5 as amended does not offend the due process clause.

The several petitioners also attacked the Commission's orders on the ground that they were too broad, relying in this particular on the decision of the same court in the *McLean case* (84 F. (2d) 910) where the Commission's order prohibiting the interstate sale and shipment of candy "so packed and assembled that sales of such candy to the general public are to be made or may be made by means of a lottery," was modified by the substitution of "are designed to" for the word "may." With respect to this contention, the court, after adverting to authorities submitted by the Commission, stated:

We deem this suggestion (by the Commission) worthy of consideration review of the fact that the development of plans calculated to evade the intent of the statute, as Illustrated by those here presented, convinces us that the substitution we made In the McLean case lacks effectiveness in carrying out the intention of Congress.

* * * * * * *

Regardless of the substitution made by us in the McLean case, we affirm the order of the Commission as here presented. We regard it as inapplicable to "straight" candy or to any candy that does not carry an unfair appeal to retail dealers and retail purchasers because of the element of chance involved in the sale thereof.

With respect to petitioners' contention that their businesses, as conducted, were not in competition with sellers of "straight" candy, the court said:

We do not concede this to be true, but if true, such sales are contrary to the established public policy of the Federal Government. * * * This Is sufficient even in the absence of competition, for in the Keppel case the court said that a method of competition which is contrary to the established public policy of the United States is an unfair method of competition within the Intent and meaning of section 5 of the statute. A violation of a public policy is an injury to the public, and It is in the public interest to prevent the use of a method of competition which is contrary to an established public policy of the Federal Government, even if injury to competitors be not alleged or proved.

Concerning Minter Brothers and Douglass Candy Co., both of Philadelphia, the cases were argued before the Third Circuit (Philadelphia), November 1, 1938, and the court, February 14, 1939 (102 F. (2d) 69), in an opinion by Circuit Judge Clark, dismissed the petition to set aside the Commission's order in these words:

This case seems to us a futile continuation of earlier litigation. The trade-practices of these

petitioners have already been expressly condemned in a

unanimous opinion of the United States Supreme Court, *Federal Trade Commission* v. *Keppel Bro.*, 291 U. S. 304, February 5, 1934.

* * * * * * *

The petitioners and the other practitioners of this type of merchandising have followed that ancient precept of the sea, "women and children first," except that they pervert instead of protect weakness. Taking candy from children has never been highly regarded. Forcing It upon them through their possession of an instinct that the adult world recognizes and has always recognized as at the bottom of many of its troubles, seems to us shameful.

The case of Bunte Brothers, Inc., Chicago, was argued April 27, 1939, before the Seventh Circuit (Chicago), which, on May 17, 1939, unanimously affirmed the Commission's order, saying (104 F. (2d) 990):

Petitioner's attack upon the Commission's order as it affects the "punchboard assortments" is somewhat difficult for us to comprehend.

* * * * * * *

To us it is devoid of all logic. The customer who spends his dollar on a candy punchboard does so with the expectation of acquiring a box of candy. If he succeeds he has procured a box of candy which otherwise he would have purchased as a cash sale. If, however, he spends his dollar on the punchboard and wins nothing, his money is gone and there will be no cash sale of a box of candy. In either event the dealer who offers his candy for cash has been deprived of a sale and his business reduced and interfered with to that extent. We think it is a fallacy to say there has been a diversion but no competition. It is difficult for us to understand how a competitor could be injured except by diverting his business. The one who is responsible for that diversion is a competitor and if the diversion is occasioned by a gambling apparatus which is contrary to public policy, per se, we think, unquestionably, such a method constitutes unfair trade practice as defined by the act.

Bunte Brothers, Inc., also, November 5, 1938, petitioned the Seventh Circuit (Chicago) for a review of an order of the Commission in another case, prohibiting unfair trade practices in intrastate commerce which injuriously affect interstate commerce. This case was pending on June 80, 1939.

The Sweets Co. of America, New York, February 6, 1939, docketed with the Second Circuit (New York), its petition to review and set aside the Commission's order. By stipulation, the petitioner was granted until September 25, 1939, for printing the transcript, following which the case was to be briefed and argued.

E J. Brach & Sons, Chicago, May 13, 1939, petitioned the Seventh Circuit (Chicago), for a reversal of the Commission's order. Following the decision of the *National Candy Co. case* (supra), this case was, on Juno 30, 1939, dismissed, by stipulation of the parties.

A case involving the Sweet Candy Co., Salt Lake City, docketed with the Tenth Circuit (Denver), May 19, 1938, was still pending on June 30, 1939, as a result of a stipulation withholding further action until after final adjudication of the cases involving the Ostler

Candy Co., Glade Candy Co., and the Shupe-Williams Candy Co., argued in that Court June 19-20, 1939.

Capon Water Co., Philadelphia, and Capon, Springs Mineral Water, Inc., Capon Springs, W. Va., on May 19, 1938, petitioned the Third Circuit (Philadelphia) to review and set aside the Com-mission's order of January 20, 1938.. The order directed them to cease and desist from representing, directly or by implication, that the use of their product "Capon Springs Water" alone, either externally or internally, will cure kidney troubles, nephritis, rheumatism, arthritis, and some 30 other diseases and ailments. The case was argued on the merits June 9, 1939, and at the close of the fiscal year awaited decision.

Carter Carburetor Corporation, St. Louis, one of the largest manufacturers of automobile carburetors, on March 15, 1939, petitioned the Eighth Circuit (St. Louis), to review and set aside the Commission 's order requiring the respondent to cease and desist from making or renewing contracts with service stations or other retail dealers, on the condition that they shall not use or deal in the products of the respondent's competitors; from fixing prices to be charged or discounts to be allowed such purchasers on the same condition, and from notifying them that if they deal in competing products they will be required to pay a higher price for Carter products, or their service-station contracts will be terminated, and other practices deemed to be in violation of section 3 of the Clayton Act. As of June 30, the case awaited the printing of the record, briefing, and argument..

Century Metalcraft Corporation, Chicago, on June 28, 1939, petitioned the Seventh Circuit (Chicago) to review and set aside the Commission's order, which prohibited representations that doctors or hospitals have endorsed the kitchen utensils distributed by the respondent, unless such endorsements are made by doctors who are dietary experts or hospitals acting through dietary experts; circulation of disparaging statements concerning the respondent's competitors, or representing that the utensils designated by it as "Silver Seal" contain no aluminum or are more durable or easily cleaned, than aluminum or granite utensils; that they will not pit, and that the method of cooking made possible by the utensils is new and revolutionary, or that the utensils were used generally by the United States Army during the World War. On June 30, the case awaited certification and printing of the transcript, briefing, and argument.

Educators Association, lnc., and others, New York.--Petition for review of the Commission's order of March 9, 1939, was docketed with the Second Circuit (New York), April 5. The association sells and distribute a school reference book designated "The Volume Library," employing as many as 1,500 agents and canvassers a year. The prac-

tices prohibited by the order are: Representing, through use of the term "Educators Association" or any other means or device, that the petitioners constitute a group of educators or teachers formed into an association, or that the business operated by them is anything other than a private business enterprise for profit; representing to prospective representatives that they will refund deposits or pay any specific sums of money or salary to such representatives, unless they fully disclose all the terms upon which refunds or payments are actually made, and representing or implying that they or their representatives, agents or canvassers are connected in any manner with public schools or other educational institutions. On June 30, the case awaited the printing of the record, briefing, and argument.

El Moro Cigar Co., Greensboro, N. C.--Petition for review was filed with the Fourth Circuit (Richmond), April 22, 1939. The Commission's order directs the company to stop employing the word "Havana" or other words or picturizations indicative of Cuban origin to designate cigars not made from tobacco grown in Cuba. It was found that the company's "Havana Counts" cigars were made entirely of domestic tobacco. As of June 30, the case awaited printing of the transcript, briefing, and argument.

Fashion Originators Guild of America, Inc., and others, New York.--Petitions for review of the Commission's order of February 8, 1939, were filed with the Second Circuit (New York), April 6, with the Sixth Circuit (Cincinnati), April 8, and with the Seventh Circuit (Chicago), April 6.

The order required the Guild, its officers and directors, and membership composed of 225 manufacturers of textiles and women's garments, to cease and desist from certain boycotts and monopolistic practices. Other respondents include the National Federation of Textiles, Inc. (New York), comprising about 100 manufacturers, converters, dyers, and printers of silk and rayon fabrics, and Chicago, Minneapolis, and Baltimore retailer organizations and their respective officers, directors, and members, together with approximately 12,000 cooperating retailers, all of whom were found to have cooperated with Fashion Originators Guild of America in effectuating its unlawful policies.

The Commission found that the Fashion Originators Guild, usually referred to as F. O. G.A., had a membership whose sales of women's garments in the wholesale price range of $10.75 and up amounted to about 84 percent of the total sales of women's garments, and that this domination made it necessary for retailers to carry their lines to meet the public demand. It was found that F. O. G. A. brought about agreements that its members would sell only to cooperating retailers and the retailer organizations agreed that their members would re-

frain from purchasing from manufacturers not cooperating with F. O. G. A.; that cooperation of retailers was obtained by F. O. G. A. through threats that its members would refuse to sell to noncooperating dealers; that F. O. G. A. designated the respondent National Federation of Textiles as the official bureau for registering textile designs, and that the garment manufacturers agreed to buy only textiles registered with the federation and textile members agreed to sell only to cooperating garment manufacturers.

On June 30 the case awaited certification and printing of the record, briefing, and argument.

Fioret Sales Co., Inc., New York, in connection with the interstate sale and distribution of perfumes, was directed to cease and desist from representing, directly or through implication, through the use of such words as "Les Parfums des Jardine de Fioret," or through the use of any foreign words or phrases, or in any manner, that perfumes manufactured or compounded in the United States are made or compounded in France or in any other foreign country, or are imported. The company, May 17, 1938, petitioned the Second Circuit (New York) to review and set aside the Commission's order.

The case was argued November 21, 1938, and decided in favor of the Commission December 5, 1938 (100 F. (2d) 358). The following extract from the court's opinion is pertinent:

> The findings, sufficiently supported by the evidence, Justify the conclusion that petitioners do not Import a perfume, but only some of its ingredients, which are then combined with American alcohol to produce a marketable product known as perfume. Concentrates alone are not what petitioners usually sell, but their dilutions with alcohol, and it is the alcohol that makes the finished product.
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> * * * * * * *
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> By representing their product as an imported perfume, petitioners unfairly compete. The purchaser is unversed in the art of making a finished perfume and to say that a given perfume is imported must mean to him that the entire fluid is imported, not that only 5 percent of it is. To the purchasers of perfumes imported products are preferable to domestic products. By their conduct, petitioners are infringing upon the interest of the consuming public which purchases under the mistake that it is buying an imported perfume, a product rendered marketable and fit for use. They also compete unfairly with those importers of perfumer whose concentrates and alcohol are blended in France and with those tradesmen who import, like petitioners, the concentrates and dilute them with domestic alcohol but who, unlike petitioners, sell their products accurately represented and advise the purchasing public that they are selling a domestic perfume.

A decree was entered December 16, 1938, and on December 23 the court denied the Commission's application to amend it. The Commission afterwards moved for resettlement of the decree, with the result that its motion was, on April 28, 1939, granted and the decree submitted by it was signed, superseding that previously entered.

Goodyear Tire & Rubber Co., Akron, Ohio.--After reargument on the merits on

December 9, 1938, the Sixth Circuit (Cincinnati),

February 16, 1939, in an opinion by Circuit Judge Simons, set aside the Commission's order in this case. This was the second opinion by this Court, the first one, November 5, 1937, having held that the controversy between the Goodyear Co. and the Commission had become moot, and the Supreme Court, in turn, May 16, 1938, having reversed the lower court and remanded the case for determination on the merits.

The Commission s order had directed the Goodyear Co., its subsidiaries, and their officers and agents, to cease and desist from discriminating in price, in violation of section 2 of the Clayton Act, [11] between Sears, Roebuck & Co. and the Goodyear Co.'s retail-dealer customers by selling automobile tires to Sears, Roebuck & Co., at net realized prices lower than those at which the Goodyear Co. sold the same sizes of tires of comparable grade and quality to individual tire dealers or other purchasers.

The Court concluded its opinion with the statement--

> that the Commission had no power to command discontinuance of price differentials reasonably based on quantity, and there is no finding which properly construed determines that those here involved are not so based, since no standard for the making of such finding is recognized.

In a dissenting opinion, Circuit Judge Hamilton took the position that--

> it was not intended that the prohibition--against discrimination in price--should be canceled by the "permitting discrimination by reason of difference in quantity." Such an interpretation would lead to an absurdity, and if the rule of liberality applied in the majority opinion is applicable to the proviso, it sets up a method of evasion not intended by the Congress.

Petition for writ of certiorari, on behalf of the Commission, was filed with the Supreme Court on May 16, 1939.

Great Atlantic & Pacific Tea Co., New York, on March 18, 1938, petitioned the Third Circuit (Philadelphia) to review and set aside the cease and desist order of January 25, 1938. This was the second Commission case involving the legality of the Robinson-Patman Act to reach the courts. The order directed the respondent company to cease and desist from various practices (listed in the Commission's Annual Report for 1938, pp.84 and 85) held to be in violation of the brokerage section of the Robinson-Patman Act. The case was argued June 7, 1939, and on June 30 awaited decision.

Justin Haynes & Co., Inc., New York.-Petition for review of the Commission's order prohibiting certain alleged misrepresentations concerning the therapeutic value of a medication designated "Aspirub," was docketed with the Second Circuit (New York) June

11 The Commission order in the Goodyear case was issued prior to enactment of the Robinson-Patman Act which amended section 2 of the Clayton Act.

10, 1938. The Commission's findings were to the effect that the company's advertising representations had a tendency to and do mislead and deceive buyers into the mistaken belief that the company's preparation has substantial therapeutic and curative value. The case was argued on the merits June 5, 1939, and on June 30 awaited decision.

Hershey Chocolate Corporation, Hershey, Pa.; Peter Cailler Kohler Swiss Chocolate Co., Inc., Fulton, N. Y.; Lamont, Corliss & Co., New York; Sanitary Automatic Candy Corporation, New York; Berlo Vending Co., Philadelphia; and Confection Cabinet Co., Newark, N. J.--These companies, which include two of the largest chocolate candy-bar manufacturers, a sales corporation, and the three largest vending-machine operators, on May 12, 1939, petitioned the Third Circuit (Philadelphia) to review and set aside the Commission's order of March 14, 1939, directed against restraint of trade agreements in the sale of candy bars to the vending-machine trade. The Commission found that the Cabinet company, operating machines in theaters throughout the United States, the Sanitary Corporation in the New York metropolitan area and on the West coast, and the Berlo company in the Middle Atlantic States, entered into agreements with the Hershey and Kohler companies that the special chocolate bars made by these companies would be sold only to the respondent vending-machine companies and that the result was that competing vending-machine operators had difficulty in getting and keeping their vending machines in theaters, because they could not buy the Hershey and Nestle chocolate bars at a price that would permit sufficient profit. The order required the termination of these exclusive distributor arrangements. On June 30, the case awaited printing of the transcript, briefing, and argument.

H. N. Heusner & Son, Hanover, Pa., on May 18, 1938, petitioned the Third Circuit (Philadelphia) to review and set aside the Commission's order of May 29, 1937, which directed it to cease and desist from "representing, through the use of the words 'Havana' or 'Habana,' alone or in conjunction with any other word or words, or through the use of any other words of similar import and effect, or in any other manner, that cigars not manufactured entirely from tobacco grown on the Island of Cuba are Havana cigars." The Commission found that the petitioner's "Heusner's Havana Smokers," and "Marthez Havana Smokers," have not at any time contained Havana tobacco, but have been manufactured entirely from domestic tobacco grown in the United States. After briefs had been filed, the case was argued March 21, 1939, and on June 30 awaited decision.

International Art Co., American Discount Co., and John C. Kuck, Chicago.--These Illinois corporations and their president, principal.

owner, and managing director, petitioned the Seventh Circuit (Chicago) on February 14, 1939, to set aside the Commission's cease and desist order of December 16, 1938, which was directed against alleged false and misleading representations in connection with the advertising and sale, in interstate commerce, of tinted or colored enlargements of family and other photographs, and of frames therefor. On June 30, 1939, the case awaited certification and printing of the record, briefing, and argument.

Geo. H. Lee Co., Omaha, Nebr., on August 24, 1938, petitioned the Eighth Circuit (St. Louis) for review of the Commission's cease and desist order of June 30, 1938, which *was* directed against what the Commission had found to be misleading claims as to the efficacy of "Gizzard Capsules," a remedy for worms in poultry. On March 10, 1939, the Court denied the company's motion "for a special order in this case directing that, in the first instance and until further order, the printing of record and the filing of briefs and the arguments in this case be limited to the question of judicial estoppel, or res judicata, raised by the petition * * *." The company claimed that the Commission was estopped from issuing its order because of a prior decision by a district court involving the same subject matter. On March 25, the Court entered an order continuing the case to the October term.

Millinery Creators' Guild, Inc. and others, New York, on November 19, 1937, filed with the Second Circuit (New York) their petition for review and reversal of the Commission's cease and desist order of April 29, 1937, directed against certain "cooperative" practices having the alleged effect of lessening competition in the interstate sale of women's hats. The transcript has been printed and the Commission filed a cross petition requesting the court to affirm and enforce the Commission's order to cease and desist. As of June 30, 1939, the case a waited briefing and argument.

Moretrench Corporation, Rockaway, N. J.--This corporation, a manufacturer of well points, pumps, and equipment used in drawing water from wet soil during excavation work, petitioned the Second Circuit (New York), April 6, 1939, to set aside the Commission's order issued against it on February 6, 1939. The order prohibits. the disparagement of competitive products through various means. On June 30, the case awaited printing of the transcript, briefing, and argument.

National Biscuit Co., New York.--The United States District Court, New York, November 28, 1938, handed down an opinion (25 F. Supp. 329) directing a verdict for the National Biscuit Co. in this case. The action was brought under section 10 of the Federal Trade Commission Act to recover penalties aggregating $40,000 for

delay in furnishing information to the Commission in connection with its agricultural income investigation.

A previous decision by the same court (February 16, 1937) upheld the Commission in its petition for writ of mandamus to require the company to supply certain data required for use in this investigation.

The court held in the instant case that the "annual or special reports" referred to in section 10 of the statute, the failure to file which affords basis for penalty suits, do not include answers to a questionnaire (provided for under section 6-b of the act) and that consequently the action for penalties could not be sustained. At the same time, however, it made it clear that the suit for penalties was "not precluded on constitutional grounds, nor by an election of remedies due to the proceeding for a mandamus."

National Silver Co., New York, on September 24, 1938, petitioned the Second Circuit (New York) to review and set aside the Commission's modified cease and desist order (a petition to review the original order had been filed May 17, 1938) forbidding the company from "using the word 'Stainless' as a trade name, brand, stamp, label or part thereof, or otherwise, upon or for knives and flatware cutlery, or in advertising or representing the same unless such knives and flatware cutlery are made of steel containing from 9 to 16 percent of chromium and containing not more than 0.7 percent carbon." The modified order prohibited the use of the word "Stainless" "unless such knives and flatware cutlery are made from an alloy commonly known in the trade as 'stainless steel,' produced from iron, chromium, and carbon or other alloying elements, said alloy having the ability to resist corrosion, high temperatures, erosion and abrasion." On motion of the petitioner, both petitions were withdrawn May 1, 1939, and the proceedings dismissed.

The National Silver Co. also petitioned the Second Circuit on September 24, 1938, to set aside another Commission order entered July 29, 1938, directing the company to cease and desist from misleading representations as to special or reduced prices or quality of its silver-plated ware, or from aiding, abetting or assisting retailers in making such misrepresentations; and from representing itself as a manufacturer when such was not the case. On June 30, 1939, this case awaited printing of the transcript, briefing and argument.

Oliver Brothers, Inc., New York, and other.--A petition to review and set aside the Commission's order of December 31, 1937, was docketed with the Fourth Circuit (Richmond, Va.) on May 20, 1938.

The Commission's order prohibited practices found to have been in violation of the brokerage section of the Robinson-Patman Act and named as respondents this New York corporation which sells

a market information service and purchasing services principally to wholesalers, and certain companies for which Oliver Brothers either purchases or sells commodities, including automobile, electrical, radio, mill, ma chine, plumbing, steam, and hardware supplies.

The case was argued on the merits January 12, 1939, and the Commission's order unanimously affirmed March 25, 1939 (102 F. (2d) 763).

The opinion is a definite determination of the most important questions which have arisen in connection with interpretation of the brokerage section (sec. 2-c) of the Robinson-Patman Act. It unequivocally holds that this section is constitutional as applied independently of the other sections of the act. It holds in effect that an intermediary may collect brokerage fees only from the party to whom he renders a service; that the buyer in no case can render a selling service to the seller; and that in no case is the buyer entitled to receive brokerage fees directly or indirectly from the seller.

Quality Bakers of America, and others, New York.--On June 16, 1939, this trade association, composed of approximately 70 member wholesale baking concerns located in various sections of the United States, petitioned the First Circuit (Boston) to review and set aside the Commission's order of April 27, 1939, directed against an alleged violation of the brokerage clause of the Robinson-Patman Act.

The respondents, including Quality Bakers of America, Inc., a purchasing agent for the associated baking companies, were ordered to cease and desist from receiving or accepting brokerage fees or discounts in lieu thereof in connection with the purchase of commodities by any member baker and from transmitting directly or indirectly any such fees to the members or stockholders of the association. Certain named members of the association were ordered to cease and desist, from receiving or accepting the prohibited fees, and Pillsbury Flour Mills Co., Minneapolis, and Consolidated Flour Mills Co. and *The* Kansas Milling Co., both of Wichita, Kans., were ordered to cease paying, directly or indirectly, prohibited brokerage or discounts in lieu thereof.

On June 80, 1939, the case awaited printing of the transcript, briefing, and argument.

Raladam Co., Detroit, engaged in the interstate sale of a desiccated thyroid preparation described as "Marmola," on May 16, 1938, petitioned the Sixth Circuit (Cincinnati) to review and set aside the Commission's order of January 21, 1937, directed against what the Commission found to be unwarranted and extravagant claims as to the value of Marmola as a weight-reducing agent. The Commission found that the acts and practices of the Raladam Co. were to the prejudice of the public and of the company's competitors, and con-

stituted unfair methods of competition in interstate commerce. As of June 30, 1939, the case awaited printing of the record, briefing, and argument.

Benjamin D. Ritholz and others, trading as Dr. Ritholz Optical Co. and National Optical Stores Co., Chicago.--Involving various misrepresentations in the sale of optical goods, the Commission's complaint was issued June 4, 1937, and tried in Dayton, Ohio, Knoxville, Tenn., Atlanta, Ga., and Chicago, where, on April 4, 1938, the Commission's case was completed. Hearings on behalf of the respondents were scheduled to begin August 9, but on August 3 the respondents, in the United States District Court, Washington, D. C., instituted proceedings to enjoin the Commission from further prosecuting the case. The Commission moved for dismissal and was sustained September 2. In its decree, entered November 17, the District Court recited that the Federal Trade Commission Act provided the respondents with an adequate legal remedy in the event of an adverse ruling by the Commission, namely, an appeal to the United States Circuit Court of Appeals, and that such right of review barred remedy by injunction. The respondents, on January 10, 1939, appealed to the United States Court of Appeals, Washington, D. C., which denied motion for temporary injunction and, in a unanimous opinion delivered by Chief Justice Groner on June 26, affirmed the District Court in sustaining the Commission's motion to dismiss the suit.

With respect to the principal question raised by the suit for injunction, I. e., "Did the amendment of section 5 of the Federal Trade Commission Act of 1914 repeal former section 5 so as to terminate the Commission's authority to proceed against persons for unfair competition occurring before the date of amendment ?"--the court concluded:

> In the case we have here, the act of Congress which constituted the Federal Trade Commission and defined its duties was changed by the amendment so as to enlarge the Commission's field of operations and to revamp the procedure for enforcement of its orders. Both before and after the amendment the Commission had precisely the same power to issue complaints, to make findings, and to render a decision, and that is what appellants now ask us to restrain. The Commission is not seeking to penalize appellants for prior acts but, as we have seen, is carrying on an administrative proceeding which at most can result in an order prospective in effect. The prior acts afford merely the occasion for the institution of the proceedings. If we need any indication that it was the intent of Congress that the new method of enforcement is to apply to pending complaints, we have it in section 5 (a) of the amending act-that as to orders already issued the new 60-day period for review is to date from the enactment.

Sheffield Silver Co., Jersey City, N. J., on March 17, 1938, filed with the Second Circuit (New York) its petition to set aside the

Commission's cease and desist order. The company, a manufacturer of silver-plated hollow-ware, had been ordered to cease using the word "Sheffield" in its corporate name or in any other manner, so as to represent or imply that its electroplated products were "Sheffield" or made by the Sheffield process, which originated in England about 200 years ago. The case was argued on the merits, June 7' 1938. The Commission's order was vacated July 18, 1938 (98 F. (2d) 676), the Court taking the position that the record did not support the findings upon which rested the Commission's conclusion of unfair methods of competition.

Standard Education Society and others, Chicago .--This group, September 20, 1938, filed with the Supreme Court a petition for writ of certiorari, to obtain, if possible, a review of the per curiam decision of the Second Circuit of June 13, 1938 (97 F. (2d) 513) denying the motion of the Standard Education Society and its associates for resettlement of the decree and adopting the form of decree submitted by the Commission. Brief in opposition, on behalf of the Commission, was filed October 17; and the petition was denied November 7, 1938. (See Annual Report of the Commission, 1938, p.89. For prior decisions, see 86 F. (2d) 692, 302 U. S. 112, 302 U.S. 779, 302 U.S. 661.)

United States *Steel Corporation, American Bridge Co., Carnegie Illinois Steel Corporation, the American Steel & Wire Co. of New Jersey, and Tennessee Coal, Iron & Railroad Co.*--These corporations, May 18, 1938, petitioned the Third Circuit (Philadelphia) to review and set aside the Commission's cease and desist order of July 21, 1924, which was directed against so-called "Pittsburgh plus" prices for rolled-steel products, in violation of section 2; the price-discrimination section of the Clayton Act, and of section 5 of the Federal Trade Commission Act, as an unfair method of competition. A separate petition was filed simultaneously with the Fifth Circuit (New Orleans) by the Tennessee Coal, Iron & Railroad Co. By stipulation of the parties, it was provided that the judgment and decree of the Fifth Circuit may be made in conformity with such decision as may be rendered in the Third Circuit or in the Supreme Court. Further proceedings have been suspended until January 2, 1940.

The Webb Crawford Co., and others, Athens, Ga.--This group, on November 12, 1938, petitioned the Fifth Circuit (New Orleans) to set aside the Commission's order of October 20, 1938, directed against alleged violation of the brokerage section of the Robinson-Patman Act. The Commission found that through the medium of the respondent Daniel Brokerage Co., Athens, Ga., in which firm three of its officers and majority stockholders were partners, The Webb Crawford Co., a wholesale grocery house, placed orders for and purchased a substantial portion of its merchandise requirements from various

selling companies, those named in the order having been Godchaux Sugars, Inc., J. Aron & Co., Inc., and Myles Salt Co., Ltd., all of New Orleans, Chas. F. Cates & Sons Inc., Faison N. C. and Morton Salt Co. Chicago. The order directed these five seller respondents, in connection with the sale of commodities to The Webb Crawford Co., to discontinue paying any fees or commissions as brokerage, or any allowance in lieu thereof, to The Webb Crawford Co. and to the respondents Ed. D. Wier, E L. Wier, and Carter W. Daniel (officers and majority stockholders of The Webb Crawford Co.) either as partners in Daniel Brokerage Co. or in their individual capacities. The order also directed The Webb Crawford Co. and the individual respondents to cease accepting and receiving such brokerage from sellers upon the purchases of The Webb Crawford Co. On June 6, 1939, the Commission filed its cross petition asking the court to affirm its order and command obedience thereto. Answer to the cross petition was filed June 17, and, as of June 80, the case awaited printing of the transcript, briefing, and argument.

Allen B. Wrisley Co. and others, Chicago.--These petitioners, June 2, 1939, docketed with the Seventh Circuit (Chicago) their petition to review and set aside the Commission's order of April 6, 1939, directed against the alleged misrepresentation of the olive-oil content of soaps manufactured and distributed by them. Among the brands of soap manufactured, labeled, wrapped and distributed by the respondents were Wrisley's Olivilo, Wrisley's Oliv-Skin, Royale Olive Oil Pure, Palm and Olive Oil Soap, and Purito Olive Oil Castile. Findings of the Commission were to the effect that these brands. contained only from 5 to 15 percent olive oil or olive oil foots. On. June 30 the case awaited certification and printing of the transcript, briefing, and argument.

COURT PROCEEDINGS INVOLVING FALSE ADVERTISING

(SECTION 13 A, FEDERAL TRADE COMMISSION ACT)

Ten suits for injunctive relief in cases involving alleged false advertising under the Wheeler-Lea amendment to the Federal Trade Commission Act were instituted successfully in the United States District Courts during the fiscal year.

In order to afford greater protection to the consumer, section 12 of the amended act declared that the dissemination of any false advertisement to induce the purchase of food, drugs, devices, or cosmetics was unlawful. Section 13 (a) authorized the Commission to bring suit for injunction in the United States District Courts whenever it had reason to believe (1) that any person, partnership, or corporation was engaged or about to be engaged in disseminating any advertisement in violation of section 12 and (2) that the enjoin-

ing of such a party pending issuance and final disposition of a Com-mission complaint would be in the public interest. Section 14 (a) provided penalties for violation of section 12 (a) when "the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead."

The 10 injunction cases involved medicinal preparations. In 8 of these cases the injunction decrees prohibited dissemination of advertisement which represented the preparations as being competent, safe, and scientific treatments for delayed menstruation and as having no ill effects, and which failed to reveal that use of the preparations, under the conditions prescribed in the advertisements or under customary and usual conditions, might cause serious or irreparable injury to health. The courts also enjoined a Chicago drug chain from disseminating advertisements designed to induce purchase of a weight-reducing compound the use of which might cause loss or serious impairment of eyesight, and a Seattle group from advertising a remedy for alcoholism the use of which might result in dangerous illness.

Each court decree was to remain in effect pending issuance and final disposition of complaints entered against the defendants by the Commission. In each case there was a temporary restraining order, issued within the fiscal year, followed by a preliminary injunction which in some cases was granted shortly after the close of the year.

The defendants in each case, the commodities advertised, and the dates of the court and Commission actions, were as follows:

lsabella Laboratories (Harry Gorov), Hartman Wholesale Drug Co. and others, Chicago.--Gorov, trading as Isabella Laboratories, was the distributor of "281," which was sold as a weight-reducing compound in the Hartman chain of drug stores, Chicago. Temporary restraining order, United States District Court, Chicago, September 8, 1938; preliminary injunction, September 16; Commission complaint, September 28; order to cease and desist, January 7, 1989; order to cease and desist final as to respondents except Gorov, March 7, and as to Gorov, May 15.

Western Chemicals, Inc., Maffett Sales Corporation, Bartell Drug Co., and Frank L. Wilson, N. B. Wilson, and Reuel K.Yount, officials of the companies, Seattle.--"Alcoban," described as a treatment for alcoholism. Complaint issued by Commission, March 9, 1939; temporary restraining order, United States District Court, Seattle, March 15; preliminary injunction, March 27.

Lewyn Drug, Incorporated, Hollywood, Calif.--"Dr. Hailer's Prescription 5000" and "Dr. Haller's Prescription 2000," represented as a

treatment for delayed menstruation Temporary restraining order, United States District Court, Los Angeles, March 31, 1989; preliminary injunction, April 7; Commission's amended and supplemental complaint, March 9; order to cease and desist, June 6.

J. V. Cordes and Mrs. J. H. Cordes, trading as *Martha Beasley Associates, Detroit*.--"Martha Beasley Compound Formula No.2,". also sold as "Special Relief Compound," and "Special Package Number 2," and "Martha Beasley Compound Formula No.3," also sold as "Special Relief Compound" and "Special Package Number 3," represented as treatments for delayed menstruation. Temporary restraining order, United States District Court, Detroit, June 19, 1939; preliminary injunction, June 29; Commission complaint, June 30.

Leland F. Benham, trading as The Zelle Co., Chicago.--"Zellets No. 1" and "Zellets No.2," represented as treatments for delayed menstruation.- Temporary restraining order, United States District Court, Chicago., June 19, 1939; preliminary injunction, July 5; Commission complaint, July 17.

Irving Sofronski, trading as Dr. Ron-Al Medicine Co., Dr. Penn's Products Co., Penn Products, and Dr. Albar's Medicine Co., Philadelphia.--"*Dr.* Ron-Al's Relief Compound," "Relief Compound," and "Regulator," represented as treatments for delayed menstruation. Temporary restraining order, United States District Court, Philadelphia, June 23, 1939; preliminary injunction, June 30; Commission complaint., July 13.

Earl Aronberg, trading as Positive Products Co. and Rex Products Co., Chicago.--"Triple-X Relief Compound" and "Reliable Perio Compound," also known *as* "Perio Pills" and "Perio Relief Compound," represented as treatments for delayed menstruation. Temporary restraining order, United States District Court, Chicago, June 27, 1939; preliminary injunction, July 6; Commission complaint, July 20.

Harry S. Benham, trading as America's Medicine and Nu-Mode. Co., Chicago.--"America's Medicine XX Compound," "Nu-Mode *XX* Compound," "America's Medicine *XXX* Compound," "Nu-Mode *XXX* Compound," and "Kotess Periodic Relief Compound," represented as treatments for delayed menstruation. Temporary restraining order, United States District Court, Chicago, June 28, 1939; preliminary injunction, July 5; Commission complaint, July 15.

Robert C. Oberlin, trading as Research Products Co., Cleveland Heights, Ohio.--"Dupree Pills," "Dupree Double Strength Pills,". and "Dr. Gordon's Special Formula Double Strength Pills," represented as treatments for delayed menstruation. Temporary restraining order, United States District Court; Cleveland, June 29, 1939; preliminary injunction, June 30; Commission complaint, August 5.

Edward L. Jenkins and Mildred Jenkins, trading as Antisepto Products Co., Antisepto Products, Educational Products Co., and Sanitol Products Co. Chicago.--"Guaranteed Antisepto Anti-Delay Compound Regular" and "Guaranteed Antisepto Anti-Delay Compound Super Strength," represented as treatments for delayed menstruation. Temporary restraining order, United States District Court, Chicago, June 30, 1939; preliminary injunction, July 11; Commission complaint, August 7.

TABLES SUMMARIZING WORK OF THE LEGAL DIVISIONS AND COURT PROCEEDINGS 1915-39

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	1938	1939
Pending beginning of year	0	4	12	32	19	29	61	68	147	102	191	176	298	328	224	260	409	307	423	478	760	185	111	152	116
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	527	433
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	679	549
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	4	
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	453	379
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	110	36
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	563	419
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	116	130

CUMULATIVE SUMMARY--TO JUNE 30, 1939

Inquiries instituted		27, 493
Consolidated with other proceedings	4	
Closed after investigation	19,504	
Docketed as applications for complaints	7,855	
Total disposition		27,363
Pending June 30,1939		130

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	1938	1939
Pending beginning of year	0	104	130	188	280	389	554	467	458	572	5665		488	420	457	530	843	753	754	440	4	469	634	685	964 1,190
Complaints docketed	112	134	153	332	535	724	426	382	416	337	340	273	292	334	679	535	511	378	404	376	9	1,221	1,477	1,402	1,257
Rescissions:																									
To complaints	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2	0	3	0	0	0	3	0	0
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	1	1	1	0	2	2	3	5	3	3	4	10	18	27	35	44
Settled by acceptance of T. P.C. rules	0	0	0	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	0	0	0
Dismissed for lack of merit	0	0	0	0	0	0	0	5	6	4	3	4	0	0	0	3	4	1	0	3	1	12	12	14	5
Closed for other reasons	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	3	3	9	5
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	8	1,394	1,888	2,205	2,424	2,501
To complaints	0	3	16	80	125	220	156	104	121	143	118	57	45	58	100	171	110	90	52	98	2	382	290	310	371
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	3	5	102	80	68	118	275	203	332	181	201	3	544	614	564	466
Settled by acceptance of T.P.C. rules	0	0	0	0	0	0	0	0	0	0	0	2	3	19	17	32	5	6	3	0	1	0	0	4	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	0	0	26
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	9	66	4	0	0
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	356 369
Total disposition during year	8	108	95	240	426	559	513	396	308	389	421	346	255	263	369	636	523	696	374	390	7	1,203	1,241	1,234	1,232
Pending end of year	104	130	188	280	389	554	467	458	572	656	488	420	457	530	843	753	754	440	476	469	6	685	694	1,190	1,269

CUMULATIVE SUMMARY--TO JUNE 30, 1939

Applications docketed	13,983	
Rescissions:		
To complaints	10	
Settled by stipulations to cease and desist	159	
Settled by acceptance of T.P.C. rules	6	
Consolidated with other proceedings	0	
Dismissed for lack of merit	77	
Closed for other reasons [1]	19	
Total for disposition		14,254
To complaints	3,479	
Settled by stipulations to cease and desist	4,113	
Settled by acceptance of T.P.C rules	92	
Consolidated with other proceedings	26	
Dismissed for lack of merit	3,863	
Closed for other reasons [1]	1,412	
Total disposition		12,985
Pending June 30, 1939		1,269

[1] This classification includes such reason as death, business or practices discontinued, private controversy, controlling court decisions, etc.

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	1938	1939
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	358	396
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	308	370
Rescissions:																									
Orders to cease and desist	0	0	0	0	0	0	1	0	0	5	0	0	1	1	0	0	0	1	0	0	1	12	10	12	
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	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	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	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	0	1
Total for disposition	0	5	14	164	221	441	415	423	402	392	396	282	230	212	285	370	385	318	261	241	396	616	725	675	770
Complaints rescinded	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	2	1	3	0	0	0	3	0	0
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	245	288
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	0	6	3	1	3	3	3	0	1	1	2	1	1	17	5	2
Settled by acceptance of T.P.C. rules	0	0	0	0	0	0	0	0	0	0	0	0	5	5	1	0	1	0	6	0	0	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	13	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	13	16	38	16	22
Total disposition during year	0	0	4	78	88	155	153	166	170	128	176	130	83	76	87	95	160	110	117	126	178	197	367	279	324
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	396	448

CUMULATIVE SUMMARY--TO JUNE 30, 1939

Complaints	3,841	
Rescissions:		
Orders to cease and desist	47	
Settled by stipulations to cease and desist	0	
Settled by acceptance of T. P.C. rules	0	
Dismissed for lack: of merit	4	
Closed for other reasons [1]	1	
Total for disposition		3,893
Complaint rescinded	12	
Orders to corn and desist	2,437	
Settled by stipulations to cease and desist	49	
Settled by acceptance of T. P. C. rules	18	
Dismissed for lack of merit	825	
Closed for other reasons [1]	101	
Total		3,447
Pending lime 30, 1939		446

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

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	1938	1939	
Pending beginning of year					0	2	8	13	9	4	14	9	8	8	8	85	3	8	15	2	1	8	8	3	27
Appealed					4	9	18	5	5	15	6	5	4	4	34	1	10	22	3	1	5	8	2	29	25
Total for disposition					4	11	26	18	14	19	20	14	12	7	37	38	13	30	18	3	6	9	7	82	52
Decisions for Commission					1	0	1	4	5	1	6	5	4	3	1	4	3	1	2	2	3	4	3	3	15
Decisions for others					1	3	11	5	4	4	3	1	2	1	1	28	1	11	13	0	0	0	0	0	2
Petitions withdrawn					0	0	1	0	1	0	2	0	3	0	0	3	1	8	1	0	0	0	1	2	4
Total disposition during year					2	3	13	9	10	5	11	6	9	1	2	33	5	15	16	2	3	4	4	5	21
Pending end of year					2	8	13	9	4	14	9	8	8	3	35	3	8	15	2	1	3	5	3	27	31

CUMULATIVE SUMMARY-TO JUNE 30, 1939

Appealed		213
Decision for Commission	71	
Decisions for others	[1] 89	
Petitions withdrawn	22	
Total disposition		182
Pending June 30, 1939		31

1 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 38.

NOTE.--During the period 1919-38, inclusive, 58 petitions by the Commission for enforcement of orders to cease and desist were passed upon by courts. Of these proceedings, 54 were decided in favor of the Corn. mission; 4 in favor of adversaries. Petitions for enforcement were subsequently made unnecessary by amendment of the Federal Trade Commission Act making orders finally effective unless review is sought by respondents within 60 days after service of an order.

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	1920	1927	1928	1929	1930	1931	1932	1933	1934	1935	1938	1937	1938	1939
Pending beginning of year	0	0	1	3	3	1	0	4	6	1	0	1	0	0	0	1	0	0	1	0	0
Appealed by Commission	0	2	2	4	5	0	5	2	1	0	0	1	1	0	8	1	2	0	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	2	1
Total for disposition	0	2	3	7	10	2	6	9	8	1	2	2	1	1	8	14	0	4	1	2	2
Decisions for Commission	0	0	0	2	0	0	0	0	3	0	0	0	0	0	0	13	0	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	0	0
Petitions withdrawn by Commission	0	0	0	0	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	2	1	0	1	2	1	0	0	0	0	0	1	0	0	0	0	0	0
Certiorari denied others	0	0	0	0	2	1	1	1	1	1	1	0	0	1	0	0	0	3	1	2	1
Total disposition during year	0	l	0	4	9	2	2	3	7	l	l	2	l	l	7	14	0	3	l	2	l
Pending end of year	0	l	3	3	l	0	4	6	l	0	l	0	0	0	l	0	0	l	0	0	l

CUMULATIVE SUMMARY-TO JUNE 30, 1939

Appealed by Commission	44	
Appealed by others	19	
Total appealed		63
Decisions for Commission	24	
Decisions for others	12	
Petitions withdrawn by Commission	2	
Certiorari denied Commission	8	
Certiorari denied others	16	
Total disposition		62
Pending Jun, 30,1939		l

TABLE 6.--*Court proceedings--Mandamus, injunction, etc.--Lower courts*

1919	1920	1921	1922	1922	1924	1925	1925	1927	1928	1929	1930	1931	1932	1933	1934	1935	1938	1937	1938	1939	
Pending beginning of year							0	1	4	5	6	4	4	4	4	5	3	2	1	1	2	1	0	0	1	0	1
Appealed by Commission							1	2	0	3	5	0	1	0	1	0	2	0	1	0	1	0	0	4	2	5	10
Appealed by others							1	2	2	3	0	0	0	1	1	2	1	2	0	2	0	2	0	1	1	1	2
Total for disposition							2	5	8	11	11	4	5	5	6	7	6	4	2	3	3	3	0	5	4	6	13
Decisions for Commission							1	0	1	3	0	0	0	0	1	1	4	1	1	1	2	2	0	4	3	2	8
Decisions for others							0	1	0	1	7	0	0	0	0	1	0	1	0	0	0	0	0	0	0	3	1
Petitions withdrawn by Commission							0	0	0	0	0	0	1	1	0	2	0	0	0	0	0	0	0	0	0	0	0
Petitions withdrawn by others							0	0	0	1	0	0	0	0	0	0	0	1	0	0	0	1	0	0	1	0	0
Total disposition during year							1	1	1	5	7	0	1	1	1	4	4	3	1	1	2	3	0	4	4	5	9
Pending end of year							1	4	5	0	4	4	4	4	5	3	2	1	1	2	1	0	0	1	0	1	4

CUMULATIVE SUMMARY--TO JUNE 30, 1919-39

Appealed by Commission	38	
Appealed by other	24	
Total appealed		62
Decisions for Commission	35	
Decisions for other	15	
Petitions withdrawn by Commission	4	
Petitions withdrawn by others	4	
Total disposition		58
Total June 30, 1939		4

TABLE 7.--*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	1938	1939
Pending beginning of year	0	0	0	0	0	8	4	1	1	0	0	0	0	0	0	0	0	0	0	0	0
Appealed by Commission	0	0	0	0	6	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0
Appealed by others	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0
Total for disposition	0	0	0	0	6	6	4	1	2	0	0	1	0	0	0	1	0	0	0	1	0
Decisions for Commission	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0
Decisions for others	0	0	0	0	0	2	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Certiorari denied others	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0
Total disposition during year	0	0	0	0	0	2	3	0	2	0	0	1	0	0	0	1	0	0	0	1	0
Pending end of year	0	0	0	0	0	4	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0

CUMULATIVE SUMMARY TO JUNE 30, 1939

Appealed by Commission	8	
Appealed by others	2	
Total appealed		10
Decisions for Commission	2	
Decision for others	5	
Certiorari denied Commission	1	
Certiorari denied others	2	
Total disposition		10
Pending June 30,		0

PART III. TRADE PRACTICE CONFERENCES

PURPOSES OF TRADE PRACTICE CONFERENCE PROCEDURE

TRADE PRACTICE CONFERENCE ACTIVITIES

TYPES OF PRACTICES COVERED IN RULES

TRADE PRACTICE CONFERENCE PROCEEDINGS PENDING

RULES OF PRACTICE APPLICABLE

GROUP I AND GROUP II RULES DEFINED

PART III. TRADE PRACTICE CONFERENCES

PURPOSES OF THE TRADE PRACTICE CONFERENCE PROCEDURE

The trade practice conference procedure has for its purpose the establishment, by the Commission, of trade practice rules [12] for the protection of industry, trade, and the purchasing public against unfair competitive practices. Under this procedure effective means are made available for the voluntary participation and cooperation, with the Commission, of industry groups and other interested or affected parties in the establishment and observance of rules of fair practices. Thus cooperative action among competitors within the law and under Commission supervision may properly be taken to end trade abuses. Through such procedure the forces for good in an industry may be more effectively organized and directed. Consumer representatives are likewise afforded effective means, under the procedure, for participation in the establishment and carrying out of the rules in the interest of the public.

The different competitive practices or methods, which under the statutes and the various decisions of the courts or the Commission are considered to fall within the inhibitions of the law, may be clarified and listed in the form of specific rules applicable to the particular conditions existing in the industry concerned. Such clarification and codification of legal requirements and the organization of such cooperative endeavor under supervision of the Commission in the elimination of undesirable practices and the maintenance of fair competitive conditions is of vast importance to industry, to the public, and to the Government. It leads to the wholesale elimination and abandonment of unfair and illegal methods of competition, thereby bringing to legitimate business and the purchasing and consuming public relief and protection from harmful exploitation and the waste and burdens of such methods. This voluntary cooperation in the elimination of harmful practices also effectuates a large saving to the Government and to business in the expense which otherwise would have to be incurred in instituting a multiplicity of compulsory legal proceedings against individual offenders to require a cessation of the illegal practices in question.

Rules which may receive the Commission's approval or sanction may include not only provisions for the prevention of practices which

[12] A booklet containing current trade practice rules will be available in the near future.

are illegal per se or are contrary to the general public interest, but also provisions for fostering and promoting practices which are designed to aid the maintenance of fair competitive conditions and to elevate the standards of business ethics in harmony with public policy.

The Division of Trade Practice Conferences is charged with the duty of conducting the various activities relative to the formulation and approval of trade practice rules, the holding of industry conferences in respect thereto, and all other staff duties incident to the trade practice conference procedure.

TRADE PRACTICE CONFERENCE ACTIVITIES DURING THE YEAR

During the fiscal year trade practice Conference proceedings were before the Commission in respect to a large number of industries. Of these, proceedings in the following industries had reached the point of final promulgation of rules by the Commission: (1) macaroni and related products industry; (2) tomato paste manufacturing industry; (3) oleomargarine manufacturing industry; (4) silk industry; (5) baby chick industry; (6) paint and varnish brush manufacturing industry; (7) infants' and children's knitted outerwear industry; (8) ribbon industry; (9) wine industry; and (10) putty manufacturing industry. In addition, rules for the mirror manufacturing industry and for the radio receiving set manufacturing industry were given final approval by the Commission during the fiscal year and their promulgation was directed. The rules were released on July 19 and July 22, 1939, respectively.

In accordance with the regular procedure and prior to promulgation of trade practice rules for the foregoing industries, drafts of the proposed rules were made available, pursuant to public notice, to all interested or affected parties, affording them opportunity to pre-sent, for the consideration of the Commission, such pertinent views, suggestions, or objections as they might desire to offer, and to be heard in the premises.

The annual volume of sales of the products of those industries for which rules were promulgated during the fiscal year is estimated to be, in the aggregate, approximately 3 ½ billion dollars. One of the largest of these groups, the silk industry, is reported to have a capital investment of more than $500,000,000, and to afford direct employment in the United States to approximately 250,000 persons. Raw silk, which is imported into the United States, is converted by American mills and factories into more than 60 varieties of finished goods with a total annual retail sales value of approximately $600,000,000.

The first year of the operation of rules for the fur industry has just ended. Much progress has been made in that time in correcting

the unfair or harmful practices against which the rules are directed. More than 500 matters of alleged misleading or deceptive advertising of furs and fur garments have been examined. The cooperation of industry members in promptly correcting and harmonizing selling methods to conform to the requirements of law as expressed in the rules is highly satisfactory. This has greatly lessened the need of resorting to the compulsory processes of the law to force recalcitrants to give up dishonest methods.

Similar encouraging results have been obtained through the Operation of other rules promulgated and made effective during the fiscal year.

TYPES OF PRACTICES COVERED IN RULES

Following are some of the subjects covered by provisions of the rules against unfair trade practices as promulgated for the industries mentioned: Misbranding and misrepresentation in various forms, including deceptive packaging and false or misleading advertising of industry products; defamation of competitors and disparagement of their products; impersonation or misrepresentation to obtain trade secrets of a competitor; harassment of competitors by circulation, in bad faith, of threats of infringement suits; full-line forcing as a monopolistic weapon; selling below cost with the purpose and where the effect may be to suppress competition, restrain trade, or create monopoly; use of "loss leaders" as a deceptive or monopolistic practice; price discriminations to injure, prevent, or destroy competition; harmful discrimination in the matter of rebates, refunds, discounts, credits, brokerage, commissions, services, promotional allowances, etc.; commercial bribery; inducing breach of a competitor's contracts; false invoicing ; imitation of a competitor's trade-marks, trade names, labels, or brands; adulteration; substitution or passing off ; lottery schemes ; abuse of so-called "free goods" deals; and use of consignment distribution to close competitors' trade outlets. Other provisions of the rules require disclosure of fiber content of textile products to prevent unfair competition and deception of purchasing public ; disclosure of fact that apparently new products are not new, but rebuilt or renovated ; disclosure that products are artificial or imitations and not real or genuine; disclosure of country of origin of imported products; disclosure as to remaining shrinkage in so-called preshrunk merchandise; prevention of the marketing of substandard or imitation products as and for the standard or genuine, and the specification of minimum requirements for standard or genuine product; and proper nomenclature for, and disclosure as to character of, industry products, and the prevention of deceptive or misleading designations; and other unfair methods of competition and unfair or deceptive acts or practices in commerce.

TRADE PRACTICE CONFERENCE PROCEEDINGS PENDING

Of those trade practice conference proceedings which were pending and had not reached the stage of final promulgation of rules before the close of the fiscal year, many had progressed to advanced positions in their respective proceedings. In various instances, general industry conferences had been held and in some cases rules had received the tentative action of the Commission and public hearings had either been held or ordered to be held at specified times and places. In other cases, the necessary preliminary study and Consideration were progressing preparatory to further action.

The industries as to which such trade practice conference proceedings were pending are national in scope and importance. Illustrative of this group are: petroleum products industry, automobile industry, umbrella manufacturing industry, artificial limb manufacturing industry, tuna canning industry, sardine packing industry, ripe olive canning industry, curled hair industry, hosiery industry, and linen industry.

The Commission, through its Trade Practice Conference Division, had pending before it at the close of the fiscal year inquiries from a large number of other industry and trade groups, involving preliminary considerations looking to possible application of the trade practice conference procedure in such industries.

Trade practice rules relative to fiber identification of textile merchandise.--During the fiscal year the Commission continued its work relative to fiber identification of textile merchandise. The Corn-mission's purpose in this work is to make the trade practice conference procedure available in providing fiber identification rules, to the extent possible under existing law, for the guidance of industry and the buying public and for the more effective correction and prevention of deceptive concealment, misrepresentation, and other unfair competitive practices. Among the rules promulgated during the fiscal year, those for the following industries contain such fiber identification provisions: Silk industry, infants' and children's knitted outerwear industry, and ribbon industry. Fiber identification rules are also under consideration for various other industries for which trade practice conference proceedings are in progress.

Administration and enforcement of trade practice rules.--Such work of administration and enforcement applies to all trade practice rules promulgated for various industries and still in effect, including those of the current fiscal year and of preceding years. It involves the handling of much correspondence in supplying information and interpretation as to the rules and, in general, assisting industry members in the application and observance of the rules to promote the

genuine interests of industry and the public. It also embraces certain compliance activity under trade practice rules. In a majority of complaints received during the fiscal year, correction of the alleged infractions complained of was accomplished promptly, with little expense and without the necessity of resorting to compulsory litigation by the issuance of formal complaints. However, in the comparatively few cases where compulsory process appeared to be needed to protect the public interest, necessary steps were initiated.

Surveys conducted periodically as to observance of the rules reveal a marked improvement in competitive conditions in the various industries, with substantial benefit to industry and the public consequent upon the adoption and promulgation of the fair trade practice rules.

RULES OF PRACTICE APPLICABLE

The procedural steps pertaining to trade practice conference matters are outlined in the Commission Rules of Practice, rule XXIV, text of which appears at page 200.

GROUP I AND GROUP II RULES DEFINED

Trade practice rules, as finally promulgated, are classified by the Commission as group I and group II rules, respectively.

Group I rules.--The unfair trade practices which are embraced in the group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited, within the purview of the Federal Government, by acts of Congress, as construed in 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, by any person, partnership, corporation, or other organization, of such unlawful practices in or directly affecting interstate commerce.

Group II rules embrace the wholly voluntary or recommended industry practices as distinguished from compulsory requirements. No such industry rule is received by the Commission unless the provision is in harmony with law and the public interest, and is constructively in support of the maintenance of fair competitive conditions in the industry.

PART IV. SPECIAL PROCEDURE IN CERTAIN TYPES OF ADVERTISING CASES

RADIO AND PERIODICAL ADVERTISING

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PART IV. SPECIAL PROCEDURE IN CERTAIN TYPES OF ADVERTISING CASES

RADIO AND PERIODICAL ADVERTISING

False and misleading advertising matter as published in newspapers, magazines, catalogs, and almanacs and as broadcast over the radio is surveyed and scrutinized by the Commission Radio and Periodical Division. This division, which supersedes the former Special Board of Investigation, was established in October 1938, in order more effectively to discharge the additional duties that devolved upon the Commission with the enactment of the Wheeler-Lea amendment to the Federal Trade Commission Act.

The surveying of magazine and newspaper advertising was inaugurated by the Commission in 1929, and the surveying of commercial advertising continuities broadcast by radio was started in 1934. During the last year the survey has been extended to include mail-order catalogs and domestic newspapers published in foreign languages.

Each misrepresentations detected from this survey is carefully investigated; and where the facts warrant and informal procedure does not result in the elimination of misleading claims and representations, formal procedure is instituted. While many orders have been issued requiring respondents to cease and desist from the dissemination of false and misleading advertising, in a large majority of cases the matters have been adjusted by the advertisers signing stipulations to discontinue the misleading advertisements.

In cases of advertising involving food, drugs, devices, and cosmetics, the Commission has directed the negotiation of stipulations with the advertising agencies which have disseminated those advertisements as well as with the advertisers in whose behalf the agencies acted.

In its examination of advertising, the Commission's only purpose is to prevent false and misleading advertisements. It does not undertake to dictate what an advertiser shall say, but rather indicates what he may not say under the law.

The Commission believes that its work in this field contributed substantially to the improvement that has been evident in recent years in the character of all advertising generally and that with the increased facilities and personnel provided by the newly created division, to-

gether with a gradual increase in the extent of its survey over the advertising field, such gains as have been made will not only be maintained but continually increased.

Newspaper and magazine advertising.--In examining advertisements in current publications, the Commission, through its Radio and Periodical Division, has found it advisable to call for some newspapers and magazines 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 survey, continuously, all advertisements of a doubtful nature; also, it has been found unnecessary to examine all the issues of publications of recognized high ethical standard whose publishers carefully censor all copy before acceptance.

With this situation in mind, the Commission has found it of material value to continue the procuring of 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 appearance are thus assembled and reviewed to advantage in a related manner.

Generally, copies of current magazines and newspapers are procured on a staggered monthly basis, at an average rate of 3 times yearly fr each publication, the frequency of the calls for each publication depending upon its circulation and character of advertisements.

Through these systematic calls for magazines and newspapers during the fiscal year ended June 30, 1939, the Commission procured 1,441 editions of representative newspapers of established general circulation and 1,516 editions of magazines and farm journals, of interstate distribution, representing a combined circulation of 136,197,002 Among these periodicals were included representative foreign-language publications having a combined circulation of 1,325,937 copies.

The Commission examined 220,760 advertisements appearing in the aforementioned newspapers and magazines and noted 26,176 as containing allegations that appeared to be false or misleading. The 26,176 questioned advertisements provided current specimens for check with existing advertising cases as to their compliance with actions, stipulations, and orders of the Commission, and also formed the bases of prospective cases not previously set aside for investigation.

Almanac advertising.--As an important supplement to its review of periodical advertising, the Commission examines almanacs of wide distribution which are used as advertising media for distributors of drugs, devices, and other commodities sold for the treatment of various ailments.

Mail-order advertising.--In January 1939, the Commission extended its examination of current published advertisements, to include a con

tinuous systematic survey of advertising matter appearing in mail-order catalogs and circulars. Thereafter, during the remainder of the fiscal year, the Commission procured mail-order catalogs and circulars containing an aggregate of 13,046 pages, being distributed periodically by mail-order companies. Of the 52 mail-order houses included in this survey, 5 represent combined annual gross sales of over $750,000,000 worth of merchandise.

In the subsequent examination of 10,927 pages of the mail-order advertising, 773 pages have been marked as possibly false, misleading, and deceptive by the preliminary reviewing staff, and set aside for investigation. A wide variety of commodities (including food and drugs) is included in this latter questioned advertising.

Radio advertising.--The Commission, in its systematic review of advertising copy broadcast over the radio, issues calls to individual radio stations, generally at the rate of 4 times yearly for each station. However, the frequency of calls to individual broadcasters is varied from time to time, dependent principally upon transmittal power, the service radius or area of specific stations, and the advertising record of certain types of stations, as disclosed in analyses of previous advertising reviews.

National and regional networks 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 monthly returns of typed copies of the commercial portions of all recordings produced by them for radio broadcast. This material is supplemented by periodical reports from individual stations listing the programs of recorded commercial transcriptions and other essential data.

The combined radio material received furnishes representative and specific information on the character of current broadcast advertising which is proving of great value in the efforts to prevent false and misleading representations.

During the fiscal year ended June 30, 1939, the Commission received 626,293 copies of commercial radio broadcast continuities, amounting to 1,384,448 pages of typewritten script. These comprised 860,908 pages of individual station script and 523,540 pages of network script.

The staff read and marked 643,796 commercial radio broadcast continuities, amounting to 1,384,353 pages of typewritten script. These comprised 492,540 pages of network script and 891,813 pages of individual station script. An average of 4,539 pages of radio script were read each working day. From this material 29,143 commercial broadcasts were marked for further study as containing representa-

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tions that might be false or misleading. The 29,143 commercial continuities provided current specimens for check with existing advertising cases as to their compliance with actions, stipulations, and orders of the Commission, in addition to forming the bases for prospective cases which may not have previously been set aside for investigation.

Corporation of radio and publishing industries.--In general, the Commission has received the helpful cooperation of Nation-wide and regional networks, and transcription producers, in addition to that of some 616 active commercial radio stations, 457 newspaper publishers, and 533 publishers of magazines and farm journals, and has observed an interested desire on the part of such broadcasters and publishers to aid in the elimination of false, misleading, and deceptive advertising.

Source of Radio and Periodical Division's cases.--Examination of current newspaper, magazine, radio, and direct mail order house advertising, in the manner described, has provided the basis for 75 percent of the cases handled by the Commission through its Radio and Periodical Division during the fiscal year ended June 30, 1939. Information received from other sources or referred from other divisions of the Commission, and from other Government agencies, formed the basis of the remainder of this work.

Analysis of questioned advertising.--An analysis of the questioned advertising which was assembled by cases and given legal review discloses that it pertained to the following classification of commodities in the proportions indicated.

CLASSIFICATION OF PRODUCTS

Name of commodity:	*Percent*
Drugs, including preparations recommended for the treatment of: Respiratory, sinus (asthma, headaches, colds, hayfever), blood, rheumatic, nerve system, ulcer, stomach and intestinal disorders, skin diseases (eczema, athlete's foot, etc.), emmenagogue, women's ailments, laxative preparations, poultry and livestock diseases, weight reducing, cancer, tuberculosis, epilepsy, glands	42.4
Cosmetics and toiletries	10.4
Food products (including beverages)	7.8
Health devices, Instruments, apparatus, and contrivances	2.1
Commodity sales-promotion plans, with agency and employment offers, and specialty, and novelty goods	6.8
Automobile, radio, refrigerator, and other equipment lines	5.3
Correspondence courses	3.3
Other merchandise and Industrial products, including apparel, tobacco products, pet breeding, poultry raising, gasoline and lubricants, specialty building materials, etc	21.9
Total	100.0

Drug preparations, cosmetics, health devices, and contrivances and food products

accounted for 62.7 percent of the advertised articles given legal review during the fiscal year.

In the item of drug preparations listed above, which comprised 42.4 percent of the advertised products, a substantial proportion of the related advertising contained flagrant misrepresentations or representations which disclosed possible injurious results to the public and for that reason were given preferred attention.

Requests for advice.--Many requests have been received from radio stations, advertisers, and advertising agencies for advice and in-formation concerning certain advertisers and their products. The Commission cannot give the information requested in many cases either because the matter may be under investigation or it is not fully advised of all the facts and cannot render opinions therein ; and, in any case, it is not the Commission policy to pass on the merits of products advertised. It treats as confidential all proceedings prior to acceptance of a stipulation or issuance of a complaint. After a stipulation has been accepted and approved, or a complaint issued, the facts concerning such proceedings are for the public record and available to anyone who may request them.

Number of cases handled.--During the fiscal year ended June 30, 1939, the Commission, through its Radio and Periodical Division, sent questionnaires to advertisers in 679 cases and to advertising agencies in 44 cases, negotiated 230 stipulations accepted and approved by the Commission for discontinuance of misleading representations, and settled or closed by its various methods of procedure 394 such cases. In 26 cases the issuance of complaint was recommended, 18 for failure to stipulate and 8 without giving the advertiser an opportunity to stipulate because of gross deception or danger to the public involved in the practice. In 15 cases previously settled by stipulation complaints were recommended for violation of the terms of those stipulations.

In 135 cases the division 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. Four cases were closed because the Post Office Department had issued fraud orders against the advertisers and 11 because the Post Office Department had accepted affidavits of discontinuance of business from the parties concerned.- Others were closed because, prior to the Commission's contact, the advertisers had discontinued advertising or selling without intent to resume, and others because the advertisers were able to justify their claims.

On April 26, 1938, the Commission directed that all vendor-advertisers who signed stipulations should report within 60 days the manner and form of their compliance therewith, as had theretofore been required of respondents against whom cease and desist

orders had issued, During the current fiscal year 236 such compliance reports were received and filed by the Commission in cases originating in the Radio and Periodical Division. Fifty-four of these compliance reports related to stipulations approved during the preceding fiscal year.

Following preliminary examination of the advertising matter concerning 29 products, reports were submitted to the Commission. recommending investigations to determine whether injunctive or criminal procedure was warranted.

Four hundred and fourteen cases were pending before the division on July 1, 1938 ; 743 on June 30, 1939.

Commission has access to scientific services.--Effective cooperation. continued with other departments of the Government. The Commission has access to the laboratories, libraries, and other facilities. of Federal Government agencies, including the National Bureau of Standards, United States Public Health Service, and the Food and Drug Administration, Bureau of Home Economics, and Bureau of Animal Industry of the Department of Agriculture, to any of which it may refer a matter for scientific opinion.

Since the passage of the Wheeler-Lea amendment to the Federal Trade Commission Act, the Commission has established the nucleus of a competent medical staff under the supervision of a physician assigned to it by the United States Public Health Service, so that therapeutic claims of advertisers can be competently and carefully examined in the light of quantitative formulas.

When necessary, the Commission obtains medical and other scientific information and opinions from nongovernmental 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 Radio and Periodical Division.

Procedure in advertising cases.--If a published or broadcast advertisement coming to its attention appears on its face to be misleading, the Radio and Periodical Division 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 requesting copies of all advertisements published or commercial continuities broadcast (if such continuities are not already on file) during a specific period, together with copies of all booklets, folders, circulars, form letters, and other advertising literature used.

Upon receipt of these data, the claims, sample, and formula are referred to an appropriate technical agency of the Government for a

scientific opinion. Upon receipt of the opinion the advertising is carefully scrutinized, and portions of the copy that in the light of the evidence at hand, still appear to be false or misleading, are marked as excerpts and numbered. A copy of this numbered list and a copy of the opinion received, are sent to the advertiser, who is extended the privilege of submitting such evidence as he may desire in support of the representations found in his advertising. He may answer by letter or, upon his request, may confer with the Radio and Periodical Division in person or through counsel.

If, after a consideration of all available evidence at hand and furnished by the advertiser, the questioned claims appear to be true, the division reports the matter to the Commission with the recommendation that the data be filed without action.

If, on the other hand, it appears from the evidence before it that the advertising is false or misleading, the division refers the matter to the Commission with recommendation that application for complaint be docketed, and either complaint issued or the matter returned to the division for negotiation of a stipulation, provided the matter is one appropriate for stipulation procedure and the advertiser desires to dispose of it by such voluntary agreement to cease and desist from the objectionable representations involved.

If the Commission approves according opportunity to stipulate, the division prepares a stipulation and forwards it to the advertiser for execution. Should he object to any of its provisions, he may discuss them by mail or in person. If and when he agrees upon the terms of the stipulation and signs and returns it, the matter is again reported to the Commission with recommendation that the stipulation be accepted and the case closed without prejudice.

Simplified methods adopted.--The object of all Commission procedure is to prevent unfair methods of competition and unfair and deceptive acts and practices in commerce, and experience has shown that this can be accomplished not only by cease and desist orders, but by the stipulation method, which is effective and speedy as well as inexpensive for both Government and advertiser.

PART V. FOREIGN-TRADE WORK

Foreign trade work of the Commission includes administration of the Export Trade Act (Webb-Pomerene law) and inquiries under section 6 (h) of the Federal Trade Commission Act, by the Export Trade Section, under direction of the Chief Counsel.

THE EXPORT TRADE ACT

The Export Trade Act, approved April 10, 1918, provides that the Sherman Anti-Trust Act shall not be construed as declaring to be illegal an association (which may be a corporation or a combination of two or more persons, partnerships or corporations) engaged solely in export trade or an agreement or act of such an association in the course of export trade ; provided that any such association, agreement or act is not in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, and that such an association does not, in the United States or elsewhere, enter into any agreement or conspiracy or do any act which artificially or intentionally enhances or depresses prices within the United States or substantially lessens competition within the United States. Organization papers and further reports are filed with the Federal Trade Commission.

EXPORTED GOODS VALUED AT $161,244,820 IN 1938

Total exports by Webb law groups have varied from a low point of $91,180,000 in 1921 to a high point of $724,100,000 in 1929 (including in that year the petroleum associations since dissolved and the copper association not now active.) Exports in 1937 totaled $197,875,832, and in 1938 $161,244,820.

The associations may be roughly divided into five groups:

1. Associations exporting metals and metal products, and machinery. These now include steel products, metal lath, pipe fittings and valves, screws, electrical apparatus, railway signal apparatus, railway steel springs and tires, and there is also a copper association not now in operation. This group of 10 associations now represents 67 companies shipping to foreign countries. Exports by this class have varied in value from the high point of $271,000,000 in 1929 (which included copper exports) to the lowest figure of $20,250,000 in 1935. The total in 1937 was $93,958,850 and in 1938 $67,000,000.

2. Exporters of products of mines and wells, including phosphate rock, sulphur, carbon black, and potash. At one time this group included petroleum companies, since dissolved. In the 5 associations now operating, 24 companies are represented. Exports under this classification have varied from a high point of $315,000,000 in 1930 (including petroleum exports) to a low point of $5,556,000 in 1921. Their exports in 1937 totaled $32,580,219, and in 1938 $20,920,491.

3. Exporters of lumber and wood products-pine, fir, redwood, hardwood, walnut, plywood, barrel and box shooks, tool handles, and naval stores. There are now 9 associations representing 140 mills, scattered from coast to coast. Exports of lumber and wood products in 1925 totaled $38,000,000; this dropped to $8,000,000 in 1932. The total in 1937 was $7,456,922 and in 1938 $5,881,028. Some of this decrease has been due to depletion of pine forests in the Southern States.

4. Exporters of food products. Associations now Operating export meat products, canned milk, fruit, rice, and sugar. The 9 associations represent 101 companies. Exports of foodstuffs by Webb law groups have varied from a high point of $80,400,000 in 1928 to a low point of $5,839,000 in 1921. The total for 1937 was $19,921,343, and in 1938 $21,487,274.

5. Exporters of miscellaneous manufactures, such as paper, textiles, rubber products, abrasives, chemicals, and glass. The 10 associations in this group now represent 93 companies producing these goods for export trade. Total exports under this classification have run from $2,334,000 in 1921 to $90,000,000 in 1929, $43,958,498 in 1937, and $45,956,027 in 1938.

The Webb law association lists show some changes each year. The number of associations has varied from 43 in 1920 to a high point of 57 from 1929 to 1931. It dropped during the depression years to 43 in 1935, 45 in 1936 and 1937, 44 in 1938, and again 43 in 1939.

There are four associations that have been in operation since 1918, the first year that the law was passed. These are the American Paper Exports, Douglas Fir Export Co., Redwood Export Co., and the Walnut Export Sales Co. Seven associations have been in operation since 1919, just 20 years: the American Provisions Export Co., American Soda Pulp Export Association, Florida Hard Rock Phosphate Export Association, General Milk Co. (at first called the American Milk Products Corporation), Phosphate Export Association, Pipe Fittings & Valve Export Association, and the U. S. Alkali Export Association. The first steel association operated from 1919 to 1923 ; the second steel group, Steel Export Association of America, has been in operation since 1928. The first copper group was also formed in 1919 and operated until 1933. The second copper group, Copper

Exporters, Inc., was formed in 1926 and is still filing papers although not in active operation. The rubber and sulfur groups were formed in 1922, the petroleum associations in 1929, the textile group in 1930, and the electrical association in 1931. Other groups have been organized, some each year, as listed in the Commission's annual reports.

The following associations were formed during the fiscal year ended June 30, 1939: Potash Export Association, Inc., comprising the American Potash and Chemical Corporation, U. S. Potash Co., and Potash Co. of America, with headquarters in New York ; and the International Wood Naval Stores Export Corporation comprising the Chemical Products Co., Continental Turpentine & Rosin Corporation, Phoenix Naval Stores Co., Dixie Pine Products Co., Crosby Naval Stores, Inc., Southern Naval Stores Co., Alabama Naval Stores Co., and Mackie Pine Products Co., with headquarters at Gulfport, Miss.

FORTY-THREE EXPORT ASSOCIATIONS ON FILE, JUNE 30, 1939

At the close of the fiscal year, June 30, 1939, 43 export associations were on file with the Federal Trade Commission under the Export Trade Act, representing 425 mills, mines, factories, and producers, scattered throughout the United States, from coast to coast, shipping American products to all corners of the globe:

American Box Shook Export Association, Barr Building, Washington, D. C.
American Hardwood Exporters, Inc., Carondelet Building, New Orleans.
American Paper Exports, Inc., 75 West St., New York.
American Provisions Export Co., 80 E Jackson Boulevard, Chicago.
American Soda Pulp Export Association, 230 Park Avenue, New York.
American Spring Manufacturers Export Association, 80 Church St., New York.
American Tire Manufacturers Export Association, 80 Church St, New York.
California Alkali Export Association, 523 West 6th Street, Los Angeles.
California Dried Fruit Export Association, 1 Drumm St., San Francisco.
California Prune Export Association, 1 Drumm St., San Francisco.
Carbon Black Export, Inc., 500 Fifth Avenue, New York.
Cement Export Co., Inc., The, 150 Broadway, New York.
Copper Exporters, Inc., 50 Broadway, New York.
Douglas Fir Export Co., Henry Building, Seattle.
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 St., Providence, R. I.
Florida Hard Rock Phosphate Export Association, Savannah Bank and Trust Building, Savannah, Ga.
General Milk Co., Inc., 19 Rector Street, New York.
Goodyear Tire & Rubber Export Co., The, 1144 East Market Street, Akron, Ohio.
Grapefruit Distributors, Inc., Daven port, Fla.
International Wood Naval Stores Export Corporation, Gulfport, Miss.
Metal Lath Export Association, The, 47 West 84th St., New York.

Northwest Dried Fruit Export Association, Title & Trust Building, Portland, Oreg.
Pacific Forest Industries, Tacoma Building, Tacoma, Wash.
Pacific Fresh Fruit Export Association, 838 Pine Street, San Francisco.
Phosphate Export Association, 393 Seventh Avenue, New York.
Pipe Fittings and Valve Export Association, The, 1421 Chestnut Street, Philadelphia.
Plate Glass Export Corporation, Grant Building, Pittsburgh.
Potash Export Association, Inc., 21 East 40th Street, New York.
Redwood Export Co., Street, San Francisco.
Rice Export Association, Queen & Crescent Building, New Orleans.
Rubber Export Association, The, 19 Goodyear Avenue, Akron, Ohio.
Shook Exporters Association, 301 Margaret Street, Pekin, Ill.
Signal Export Association, 420 Lexing ton Avenue, New York.
Steel Export Association of America, The, 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., The, 405 Montgomery Piqua, Ohio.
Walnut Export Sales Co., Inc., 12th St. and Kaw River, Kansas City, Kans.
Walworth International Co., 60 East 42d Street, New York.

SERVICES RENDERED BY THE ASSOCIATIONS

Each Webb law association is formed to meet the needs of the particular industry to be served. There is therefore considerable variance in the functions adopted. Most of the groups have become incorporated for their own convenience, although the law does not require it. Most of them operate on an expense basis, the profits accruing to the individual members.

Some associations purchase the members' products for the purpose of selling them to foreign buyers at terms agreed upon by the members. Others serve as central selling agents for the members, taking orders, negotiating sales, and handling the shipment of the goods. In Some cases, the member companies negotiate the sales under direction of the association. Offices are maintained and agents employed, in this country and abroad. Special agents are appointed to exploit the members' products in new markets. Joint advertising and joint trade-marks are used, or the members' brands and patented goods promoted.

The members may agree upon price, terms, and Sales policies solely for export Shipment, adopting uniform contracts. In some cases a minimum price is agreed upon; in others members are free to quote price but agree to report to the association any change in price. More often the price is finally determined by the foreign agent of the association, varying in different markets to meet the local conditions in this connection, it may be of interest to quote from a re-

port recently received from a well-established association which has been in active operation for a number of years:

The establishment of prices is a distinct function of the association. It has to be under our form of operation. Prices are established and maintained by responsible foreign agents over whom supervision is exercised by an association official who travels abroad. Prices must depend upon economic conditions in each market versus maximum consuming power of that market under normal conditions. In other words, purchasing power is an important factor to be considered with respect to maximum sales. Another factor is competition; still another is quality and a study of the needs of important consumers in accordance with their processes of manufacturing. Prices necessarily fluctuate in different parts of the world, being controlled by innumerable conditions, both political and economic. In some instances the return exceeds domestic levels here; in others it is about the same; and in others it will occasionally dip lower. Consequently we work on a final average annual price for export, which in turn is distributed equitably in proportion to each factory's shipments.

Credits range according to market practices and the standing of customers. Exchange is a chapter In itself. There is the problem of covering future exchange, spot exchange, and operating with no exchange whatsoever. We have a free movement of exchange, semiembargoes and complete embargoes. This involves much in the way of difficult financing.

In one country we have operated at a maximum of one year without securing one dollar of exchange, allowing our funds to accumulate and eventually liquidating them through an easement in exchange regulations over a period of a year thereafter. These adversities cause much in the loss of interest, and at times much more in depreciated exchange, when available, as compared to the rate when sales were made. Where possible we cover exchange futures as far in advance as 6 months; in other cases local trends indicate spot coverage over different periods; aga in customers have been permitted to hedge exchange and provide necessary guarantees against loss in our acceptance of local currency. Sales are made in Sterling to markets with a different standard of currency.

Constant changes in foreign tariffs come to us telegraphically and in ample time for us to adopt necessary safeguards by advance shipments in order to save large sums of money.

At the very least, a maintained price level can return from 20 to 30 percent less than circumstances seem to warrant, and even reach a point where exports are blocked completely over certain periods. This involves heavy stocking of warehouses abroad in advance, increased expenses and uncertainty regarding even an approximated price return.

This fact alone illustrates the tremendous advantage of associated activity in contrast to individual effort.

Some associations divide their export business among the members in predetermined proportions, or quotas, agreed upon by the members. For this purpose, the capital-stock holdings of the members may serve as a basis, or the volume of export business over some past period, or perhaps periodical reports by the members as to amounts available for export. Some quota systems are more complicated, including consideration of quality as well as quantity,

shipping and loading facilities, and other export factors. Provision is usually made for readjustment of quotas to meet changing conditions.

Other functions that have been adopted by the export associations include standardizing products for export and improving the quality of the goods; maintaining inspection service, employing claims agents, and settling disputes over export sales; establishing rules and regulations for packing and shipping the goods; arranging for freight rates, cargo space, and shipping dates; consolidating the shipments of the members; taking out insurance and shipping documents; providing for storage during transit and warehousing abroad; collecting and disseminating trade information as to market conditions abroad, foreign credits, stocks available for export, exchange problems, tariff requirements, shipping rules and regulations, foreign laws that affect our foreign trade, and other data of value to American exporters.

ADVANTAGES OBTAINED BY THE EXPORT ASSOCIATIONS

The more functions the association adopts, the greater economy may be effected through cooperative action. The central selling agency for all members operates with much less overhead than if each member company were selling independently. The expense of exploitation or development of new markets can be divided among all the members with benefit to each. The association may fill large orders by drawing on the resources of the members; and by pooling the Shipments may obtain better cargo space and more reasonable transportation rates. Agreement upon trade practices has eliminated abuses, improved relations with foreign buyers, and reduced claims for unsatisfactory shipments.

The association is in a position to obtain for its members information concerning credits and market conditions abroad, which may be changing frequently; no one member could obtain this information as quickly or with as little expense.

The experience of the associations, in actual operation, may best be shown by a few quotations from their reports to this office:

One of the first lumber groups to be formed reports that:

> The association has effected orderly merchandising of lumber exports, eliminating unnecessary competition, and providing by united action financial support for trade development. Standard contracts are agreed upon with uniform terms and conditions of sale. Brands are standardized; shipments consolidated ; cargo space arranged; insurance handled; all shipping documents prepared; effecting savings in export. Market reports are received from foreign correspondents, credits checked through reliable sources, exchange abroad and tariffs closely watched ; sample shipments are sent abroad in the development of business.

Another lumber group reports:

The outstanding advantage of operation under the association plan lies in the ability to supply the foreign markets promptly and satisfactorily by drawing upon the entire group of mills through a central organization rather than depending upon each unit, the most of which under normal conditions would not be able to furnish a full cargo of export lumber at one loading. As it is, what one mill cannot supply is readily procured from another and the export markets are supplied promptly and uniformly.

An association formed to ship heavy cargo material, reports the following advantages obtained through cooperative action:

Stabilized export prices at profitable levels, uniform sales terms, standardization of grades, reduction in selling expenses, saving on ocean freight, saving on insurance, reduction of credit losses, elimination of unfair claims from buyers, better ability to meet foreign competition in the export field, and better ability to meet centralized buying by centralized selling. Only by combination under the Webb law and acting as a unit, can the American producers in this industry successfully meet the competition of foreign producers. There is little doubt, we think, that if the American producers bad not been able or bad neglected to take full advantage of the provisions of the Webb-Pomerene law to combine and make a joint effort, this American product would have been driven out of foreign markets many years ago.

A group organized to ship specialized metal products reports that:

Success of this company, as a Webb-Pomerene organization, is due chiefly to the fact that we have gone into the business of foreign trade in what we feel is an intelligent manner and have followed a consistent policy year in and year out, in good times, and in poor times, of maintaining a foreign field organization. Through such organization, we have been enabled to build up and maintain a recognition of the quality of our brand. This quality reputation, together with the goodwill created by the maintenance of a continued foreign sales force, has enabled us to continue to secure business even in the face of foreign price competition of a very serious type.

An association comprising mills scattered through several States in the Middle West, gathers its members' products together for exportation, and reports that:

By combining the resources of stocks, experience, etc., of the several mills, we at one time reduce the costs of exporting as compared with individual operation (cost of the association operation is estimated as about one-fourth of the previous costs to the members) ; increase the ability to supply practically all items in our line, enjoy the effects of greater prestige in the foreign markets, and control in a greater measure the standards of measurement and quality.

An association organized in 1933 and successful even in the depression years, reports:

Formed to meet chaos in prices, terms, and conditions of sale in all foreign markets when business was dull, and uneven stability when business was good, the association is now the exclusive distributor for the member producers in export trade. It sells on a uniform contract

agreed upon, and guarantees to each producer a fixed quota of the association's total export business, also.

agreed upon. Sales are made to distributors, delivered at foreign ports ; It is therefore able to effect economies in consolidating shipments, arranging freight rates, cargo space and shipping dates, consolidating insurance, and preparing shipping papers.

An association shipping food products since 1925, reports that:

Uniform sales terms and sound trade customs continue to be outstanding advantages of association operation. The association was formed primarily to correct chaotic conditions which had arisen in this industry as a result of activities of both organized and unorganized buying factors in Europe. The association facilities include the development of uniform contracts and terms of sale, the definition of trade custom, provision for inspection of goods shipped and certification thereof, arbitration, and promulgation of rules, regulations, and policies relating to the conduct of export trade, including the elimination of abuses.

The association offers to its members a method of presenting their claims before boards and conferences. One reports that:

During negotiations with the Conferences and Steamship Lines, this association, particularly this year, found of great value the control of the tonnage exported by its different members and was able to obtain a satisfactory ocean freight rate for the year 1939.

Another states that its ability to deal with large purchasing combines abroad has been of material benefit. Some of the associations have presented data to the United States Government in connection with proposed reciprocal trade treaties, that could only have been compiled by cooperative action.

As an illustration of association action during disturbed conditions in Europe in 1938, one reports :

We were able to take advantage early in the year of strengthened exchange abroad and improve our selling prices in several countries. Later with war clouds on the horizon, we were enabled to keep careful track of shipments en route, divert them to different ports or hold them in warehouses at European ports until the situation cleared and we could complete delivery. Thus no credit losses were sustained from territories which were taken over by Germany.

SUPPLEMENTAL REPORT ON ANTIDUMPING LEGISLATION

Under section 6 (h) of the Federal Trade Commission Act, a Supplemental Report on Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries, covering the years 1934 to 1938, was presented to Congress in June 1938. Copies are now available for distribution, upon request.

TRUST LAWS AND UNFAIR COMPETITION IN FOREIGN COUNTRIES

Also under section 6 (h), the Commission follows current trust legislation and unfair competition in foreign countries. The following measures are noted:

Algeria.-A decree in 1938 required formation of syndicates by all commercial producers of citrus fruit, to enforce regulations pertain-

ing to the planting, cultivation, sale, and transportation of the fruit. The French law of October 5, 1938, noted elsewhere in this report, is applicable to Algeria.

Argentina.--The Grain Board was reorganized and the minimum price guaranty program reestablished under laws passed in September and November 1938. A decree on December 8, 1938, extended the program to include cattle, under administration of the National Meat Board. Subsidies paid to producers of grain and cattle are covered by profits from control of exchange. An antidumping bill was sent to Congress in September 1938 but failed to pass before adjournment on September 30. A provincial law in Buenos Aires in 1939 declared the business of supplying electric current, a public service, to be administered by a Bureau of Electric Services.

Australia.--The Motor Industry Bounty Act and the Newsprint Paper Bounty Act became effective in December 1938. The bounty payable on exports of citrus fruits was continued. Under a plan adopted in 1938, a tax will be levied on all wheat milled for consumption in Australia ; funds derived therefrom will be used to make up the difference between the export price and the domestic price if the latter is maintained above world prices.

Austria.--Under a decree dated July 14, 1938, the German cartel legislation was introduced in Austria.

Belgium.--In September 1938, a series of emergency measures were made effective to safeguard domestic supplies of foodstuffs, raw materials, and other necessities. The Minister of Economic Affairs was authorized to grant export permits, to prohibit the use in animal feedstuffs of any products that might serve as food for human beings, to inventory stocks of merchandise and regulate their use, and to regulate production, manufacture, and distribution of products for human consumption.

A royal decree dated January 18, 1939, limited the period of special sales in the retail trade in order to protect traders and consumers from unfair competition. Another decree, March 22, 1939, prolonged authority of the Government to regulate the use of designations under which products are sold in commerce, when the interests of producers, distributors, or consumers so demand.

Bolivia.--Under a constitution adopted in October 1938, all mineral wealth, public lands, and their natural resources, waters, and sources of power, are the property of the Nation. The state is empowered to regulate commerce and industry in the public interest.

Brazil.--The Monopoly Act, No. 869 of 1938, declared violation thereof a criminal offense, punishable by fine and imprisonment. No bail will be allowed and no pardon or conditional freedom granted. All such crimes will be tried before the Tribunal of Na-

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tional Safety: destruction or illegal use of raw material or products necessary for consumption of the people; abandonment of tilled land or the closing of factories in return for payment to restrain competition; promotion or participation in combinations or agreements to restrain competitors in material used in production, transportation, or commerce, for the purpose of increasing profits; retaining or monopolizing raw material, means, or production, or products necessary for the consumption of the people, for the purpose of dominating the market and causing increase in prices; selling merchandise below cost price for the purpose of restraining competitors; using false news, fictitious operations, or other fraudulent means to increase or decrease prices, the value of public bonds, articles of value, or salaries; the use of false indications or statements in the sale of bonds or shares; interlocking directorates or officers of companies in the same line of business for the purpose of restraining competitors; operating fraudulently banks, banking and capitalization societies, insurance companies, savings banks, mutual benefit societies, aid and pension societies, or cooperative societies, by causing their bankruptcy or insolvency, or by breach of contract resulting in loss to interested parties; fraudulent entries, registration, or reports for the purpose of concealing profits, dividends, or percent ages, or the fraudulent use of reserve funds; entering into agreements to impose a resale price or demand that the buyer shall not purchase from another; departure from official prices of merchandise; attempting to obtain illicit gain by fraudulent processes such as "chains," etc.; violation of contracts of sale or installments, cheating in the drawing of lots, failing to deliver without return of the installments paid, in case of a contract rescinded by the buyer; fraudulently tampering with weights or measures standardized by law; and usurious practices such as charging interest in excess of that permitted by law, or obtaining a profit exceeding one-fifth of the current or fair value of the installment made or promised.

Under a presidential decree of December 15, 1938, flour mills will be required to purchase home-grown wheat at a fixed price and in quantities to be determined on a quota basis. Imports will be limited, and the Government's efforts to increase wheat production to the point of self-sufficiency will be continued.

Canada.--The Canadian Grain Act was amended on April 7, 1988. The Dominion Government submitted to Parliament in April 1939, a report presenting a new wheat marketing policy in the form of a crop insurance plan. To facilitate the plan, bills have been introduced for the regulation of the Winnipeg Grain Exchange and the encouragement of cooperative marketing ; the Wheat Board would operate as a central selling agency for cooperative organizations.

The Dairy Industry Act, Farmers Creditors Arrangement Act of 1934, and the Seeds Act of 1937, were amended on July 1, 1938. An Act to Assist the Provinces of Alberta and Saskatchewan in Financing the Cost of Seed and Seeding Operations for the Crop Year 1938, was passed on April 7, 1938. An Act to Assist in the Alleviation of Unemployment and Agricultural Distress, supplemental to acts passed in 1936 and 1937, was passed on May 25, 1938.

An Act to Regulate the Inspection and Sale of Binder Twine and to Establish Weight of Bushel for Certain Commodities, was passed on June 24, 1938 ; the Inspection and Sale Act of 1927 was repealed. The Food and Drugs Act was amended on April 5, 1939, and the Meat and Canned Foods Act on May 2, 1939. The Radio Act of July 1, 1938, provided for regulation of broadcasting stations. The Transport Act, July 1, 1938, created a Board of Transport Commissioners to regulate transportation by railways, ships and aircraft. The Shipping Act of 1934 was amended on June 24, 1938.

Under the Combines Investigation Act, report was issued on August 31, 1938, on an inquiry into an alleged combine in the distribution of tobacco products. The Combines Commission found that retailers and wholesalers had been refused supplies for the purpose of maintaining fixed prices and monopolistic trade restrictions. Resale price maintenance, certain standardization of packaging, and other uniform trade practices, had contributed to a lessening of price competition. As a result of the inquiry, action was brought under section 498 of the Criminal Code, charging monopoly by 35 corporations and 10 individuals, including manufacturers and wholesale distributors in the tobacco industry. Hearings were held in the Superior Court at Edmonton in April 1939; the case was to be continued at a later sitting of the court.

A report by the Combines Investigation Commission on an alleged combine in the manufacture and sale of paperboard shipping containers, was submitted on March 14, 1939. The Commission found that two combinations had operated to the detriment of the public through a series of written agreements under which prices were fixed and maintained, and a system of sales allotments or quotas developed, with penalties imposed if a member sold beyond his quota. An alleged combine in the distribution of fruits and vegetables in Western Canada is now under investigation by the Commission.

A provincial investigation of farm-implement prices and distribution resulted in a report by a legislative committee in Saskatchewan in 1939. Several plans were proposed to bring about lowered prices of agricultural implements, including a recommendation for prosecution under the Combines Investigation Act, and adoption of a purchasing plan through a cooperative association with Government

financial assistance. A provincial law was passed on April 1, 1939, authorizing the Saskatchewan Cooperative Wholesale Society, Ltd., to do retail as well as wholesale business ; this organization might be used to further the agricultural-implement plan. The Saskatchewan Cooperative Associations Act of 1930 was also revised in 1939.

A Natural Products Marketing Act passed in Manitoba on April 17, 1939, empowered a board to control transportation, packing, storing, and marketing of any natural product within the province. Prices fixed by the British Columbia Milk Producers' Clearing House Cooperative Association, organized as a selling agency under the Natural Products Marketing Act of that province, were attacked in the courts in 1939 ; an injunction issued against the association in April was set aside by the supreme court of the province in May.

Colombia.--A law passed in 1938 provided for the establishment of plants for the manufacture of iron and steel, by companies in which the Government may hold a majority of the capital stock.

Czechoslovak Republic.--A temporary governmental decree effective on November 8, 1938, provided for the licensing of trades, professions, and industrial enterprise. Its purpose is said to be to effect business reorganization in the State, and to avoid too hasty removal of industries from Austria and the Sudeten region.

Dominican Republic.--A decree issued on November 7, 1938, provided for the regulation of production. preparation, and marketing of rice.

Ecuador.--Under a decree of July 8, 1938, Government regulation of the banana industry will be effected. No one company may own more than 80,000 hectares of land; holdings in excess of that must be disposed of to Ecuadoreans within 5 years or they will become the property of the State without compensation. Exportation will be supervised by the Ministry of Social Welfare.

Egypt.--A law passed on August 1, 1938, provided regulatory control for the cultivation of cotton. An advisory council was established on December 18, 1938, to study the cotton situation and assist in formulating a policy. Minimum prices have been fixed and short selling discouraged. Barter agreements with other countries, and plans for collection of debts owed to Egyptian exporters by countries with currency restrictions, are under consideration.

Finland.--A new grain law effective from September 15, 1938, to January 1944, will regulate the use of imported wheat and rye.

France.--A law dated October 5, 1938, authorized the Government to issue decrees having the force of law, and to take measures intended to bring about the immediate economic and financial rehabilitation of the country. A number of decrees have been issued. The system of price control instituted in 1937 has been modified. Any

increase in the retail price of goods or in the charges for services rendered to individuals, above existing levels, is prohibited unless authorized by price supervisory committees (certain food and perishable goods excepted). Increase in the wholesale or semiwholesale price of industrial products may be prohibited by decree, especially if the sales are made through cartel organizations or under agreements between producers, including international agreements ; or if the goods are imported and subject to quota regulations. Decrees also include regulations as to marking of prices and goods offered for retail sale. The Government is authorized to raise the selling prices of monopoly products and to increase direct and indirect taxes in order to adjust them to present prices of goods and services.

A law on March 19, 1939, authorized the Government to issue decrees approved by the Council of Ministers, which may be necessary for the defense of the country. A decree on April 21, 1939, limited profits which may be made by suppliers of materials to be used for the national defense ; the Government may collect certain percentages of profits, varying with the amounts of the transactions.

The National Economic Council issued a report on January 1, *1939,* recommending a self-sufficient agricultural policy covering a hist of farm products of importance in France and its possessions.

Germany.--A law dated February 25, 1938, provided for reorganization of the Reich Economic Court, and transfer to it of the functions of the German Cartel Court. A Reich Committee for Increasing Industrial and Economic Efficiency has been established by the Minister of Economic Affairs, to further cooperation between the State and economic organizations. Numerous orders have been issued by the president of the German Trade Development Board in regulation of commercial advertising.

Great Britain.--The Coal Mines Act of July 29, 1938, strengthened provisions of the act of 1930 for compulsory amalgamations, provided for the purchase and administration of coal royalties, and prolonged to December 1942, part I of the 1930 law which was the legal basis for the quota system and selling schemes.

The Prevention of Fraud (Investments) Act of April 28, 1939, added to blue sky laws of Britain, further provisions intended to put a stop to “share pushing” and similar fraudulent practices in the sale of securities.

The Essential Commodities Reserves Act passed in June 1938, empowered the Board of Trade to obtain from traders, information as to their stocks and facilities for storing commodities essential in time of war. The Board was also authorized to create reserves of these products. A comprehensive Ministry of Supplies bill was presented to Parliament in June 1939.

The Bacon Industry Act, 1938, set up a new board to regulate the sale and purchase of bacon pigs, guaranteeing that for 3 years the price shall be adjusted to differences in the cost of feeding stuffs, and that the curer shall receive a standard price.

Administrative powers of marketing boards and schemes under the Agricultural Marketing Acts, Coal Mines Act, and the Herring Industry Act, are considered in a report issued in 1939 by a committee appointed to study this phase of regulation.

The Export Guarantees Act of 1939 replaced prior laws in effect since 1920, to provide export credit insurance.

Greece.--Law No.1490 passed in 1938 required registration of exporters, prosecution of defaulting exporters, and control of the quality of exported merchandise, treating adulteration of exported goods as a criminal offense.

Italy.--Under wheat and flour regulations, in 1938, the service of delivery of grain to the mills is under control of the Minister of Corporations.

Japan.--A Commerce and Industry order effective on July 9, 1938, provided that ordinances may be issued to prohibit increase in the price of articles designated, above those ruling on the date of the order. A number of products have been named. A far-reaching program adopted in 1939 by the Central Price Commission will include more rigid control over costs of raw materials, freight, labor wages, and other relating cost factors. A 10-year plan has been announced in Taiwan for increase in agricultural production and diversification of crops other than rice.

Latvia.--Under a law passed in December 1938, syndicates are to be established for the purpose of rationalizing branches of trade and industry. An Institute of Economic Research will make recommendations for rationalization plans.

Mexico.--A decree published August 12, 1938, provided for a, Regulatory Committee for the Control of Commodities, and further regulation of the supply, distribution, and prices of the necessities of life. Departments will be formed to regulate customs tariffs, taxes, subsidies, transportation, crop credits, clearing houses, produce exchanges, and other factors bearing on the price of food. When necessary, the committee may buy, sell, and store commodities in order to regulate the price.

Under a decree of October 4, 1938, the Government may fix the maximum price at which sales shall be made to consumers in the country. There are also production groups formed under the Ministry of National Economy, which are subject to instruction as to their production plans, and must sell through a central organization. The National Commission for Foreign Trade has been directed to

assist in the organization of exports, preparation of trade agreements, and control of the quality of goods exported.

Executive orders published in August 1938 incorporated into the national reserves all potassium salts and phosphate rock deposits not theretofore covered by concessions, including deposits lying under surfaces of privately owned property.

Norway.--A committee has been organized for the purpose of investigation and study of the various unfair trade practices, with a view toward revision of the Unfair Competition Act of 1922.

Poland.--The Law for the Encouragement of Private Investments, April 9, 1938, and regulations thereunder, granted special tax exemptions on investments, for a 5-year period, to build up industries deemed of national importance, including industrial plants, agricultural projects, mineral and petroleum prospecting and refineries, and building plans. A law dated August 5, 1938, empowered the Minister of Agriculture and Agrarian Reform to secure the supply of articles of prime necessity (food, clothing, and fuel), to store such products, and to fix prices, in order to prevent undue increase in price.

Peru.--A law dated July 27, 1938, provided for Government control of the prices of articles or services to the public ; and prohibited an increase in prices at that time prevailing, without permission of the Minister of Public Welfare.

Portugal.--Under decrees in 1938, a board was established to control standards and exportation of cotton from the colonies ; and a minimum price was fixed. If the handed cost of American cotton in Portugal is lower than the fixed price for the colonial product, the difference is to be refunded to the purchaser of colonial cotton by the Cotton Board. To provide funds for the payment of this subsidy, a tax is collected on all foreign cotton imported.

Salvador.--A new constitution was signed on January 20, 1939.

Switzerland.--A federal decree dated July 8, 1938, placed all war materials under Government regulation, including arms, ammunition, explosives, aviation equipment, and chemical products.

Turkey.--The Tobacco Monopoly Act of June 10, 1938, created a State monopoly for control of the culture, manufacture, transportation, and sale of tobacco products.

Venezuela.--A petroleum law published January 6, 1939, declared the petroleum industry to *be* a public utility. The right to explore, exploit, manufacture, refine, and transport petroleum products, may be exercised by the Government or through concessions granted for that purpose. The National Coffee Institute was reorganized and granted new powers, under an executive decree of January 18, 1939.

Yugoslavia.--A Government regulation issued June 24, 1938, provided for formation of a joint stock company, under Government ownership and direction, which shall acquire and operate steel mills, iron foundries, and iron and coal mines.

On April 1, 1938, the Minister of Agriculture was authorized to draft plans for a system of public warehouses for farm products. A Privileged Company for Warehouses was registered on August 15, and a special board set up for the purpose of fixing standards for farm products to be warehoused. Government loans will be granted on products placed in storage. A decree effective on July 1, 1938, authorized a permanent fund for land conservation projects, flood control, and soil improvement. A decree published on July 12, 1938, included regulations for control of fruit intended for exportation.

A petroleum decree published July 1, 1938, declared mineral oils, resins, and gases found in the earth or on its surface, to be the property of the State. Prospecting and exploitation may be conducted by the Autonomous State Monopolies Administration, or concessions may be granted under regulatory conditions. Expropriation by the State is permitted. Imports and exports are under Government control, and maximum wholesale prices may be fixed by the Minister of Finance.

CONSUMER PROTECTION

COMMISSION ACTIVITIES ON BEHALF OF THE PURCHASER

TRADE PRACTICE CONFERENCE RULES

LEGAL ENFORCEMENT AND ECONOMIC INQUIRIES

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CONSUMER PROTECTION

COMMISSION ACTIVITIES ON BEHALF OF THE PURCHASER SHOW STEADY INCREASE

The functioning of the Commission is directly concerned with affording protection to the purchasing public, as well as to business, from the destructive effects of harmful trade practices, such as unfair methods of competition, deceptive selling practices, and monopolistic restraints. As originally enacted and as subsequently amended by the Wheeler-Lea Act of March 21, 1938, the Federal Trade Commission Act provides that the Commission's corrective proceedings are to be instituted in the interest of the public. Not only sellers, but consumers as well, are embraced within the protective arm of such broad public interest served by the Commission.

The Commission work for consumer protection has been increasing steadily, both in volume and in effectiveness. Increased effectiveness. has been achieved largely as a result of the above-named amendment to the Federal Trade Commission Act, and also as a result of the growing understanding on the part of industry generally, and of consumer groups, of the value to the public and to business of eliminating unfair practices and harmful restraints from trade and commerce and of dealing fairly and honestly with the buying public.

When an unfair trade practice is employed by a concern, it has an injurious effect upon the purchasing public as a result of the elements of dishonesty, fraud, oppression, or exploitation which often characterize such methods. It likewise has a harmful effect upon the entire industry and upon scrupulous concerns, in particular, because of the tendency in such practices to divert trade from competitors unfairly, to destroy goodwill and purchaser confidence in the integrity of the industry as a whole, and to bring about competitive burdens which are of stifling and restraining nature in relation to the free flow of trade and commerce. Thus, in the work of maintaining and protecting the ethical standards of fair competitive practice, both industry and trade on the one hand and consumers or the buying public on the other have a common interest as beneficiaries of the constructive results achieved. They have a

common interest in maintaining the applicable principle enunciated by the Supreme Court to the effect that--

> The careless and the unscrupulous must rise to the standards of the scrupulous and diligent. *(Federal Trade Commission* v. *Algoma Lumber Co.,* 291 U.S. 67, 79.)

Consumer interest in this field of Commission activity is advancing rapidly and the work thus far accomplished shows noteworthy progress in the cause of fair dealing as visualized in the policy of the law directed toward protecting the interest of the public.

The following are cited as concrete illustrations of Commission proceedings of special importance from the standpoint of consumer protection from unfair trade practices or methods which would deprive purchasers of those benefits of honest merchandising and of free and fair competition to which they are entitled under the law.

TRADE PRACTICE CONFERENCE RULES

The Commission's work in this field is reported at pages 127 to 131. It involves the utilization of cooperation and collaboration between members of industry, the Commission, and the purchasing public in establishing and maintaining observance of fair trade rules. Such rules are directed toward eliminating and preventing the use of unfair competitive practices or trade abuses that the purchasing public and business itself might be protected from the injurious tendencies and effects flowing therefrom, and that the good of all may be promoted on the basis of sound and honorable business principles. Action of this character has resulted in establishment of rules for many industries, certain of which are of special interest from the standpoint of consumer protection.

Rayon.--Trade practice rules have been set up by the Commission making provision for the proper disclosure of fiber content of the innumerable articles of clothing and other textile products which contain rayon in whole or in part. The rules officially define the scope of the word "rayon" as a generic term and make detailed provision for labeling articles containing rayon so as to correctly inform the public of the composition of the fabric and to avoid misrepresentation, misinformation, and deceptive concealment. Provision is also made against advertising designations and selling methods which tend to confuse the fiber with silk, wool, cotton or other material and which mislead the public or deprive purchasers of the benefits of honest and above-board merchandising. Experience has demonstrated that such rules and their observance generally have been of tremendous benefit to consumers as well as to the business concerns engaged in the marketing of merchandise containing this widely used

textile fiber, of which the annual production in this country exceeded 340,000,000 pounds (1937 figures).

Silk.--Similar fiber identification rules have been promulgated the Commission covering the large variety of articles of clothing and other merchandise which contain silk in whole or in part. The wearing apparel, household and other textile commodities embraced in these rules, cover more than 60 industry classifications of finished products which are produced in this country and aggregate approximately $600,000,000 in annual retail sales value. The rules make provision for the proper labeling and disclosure of fiber content of the merchandise. The rules also contain specific provision for the proper application of the term "pure" or "pure dye" silk, and for the proper identification and disclosure of weighted silk and silk noil. False advertising, misbranding, loading, and adulteration of the product, deceptive concealment of deterioration or damage to merchandise,. and many other unfair practices harmful to the buying public and to business are proscribed. (Proceedings for the adoption of rules covering textile products composed of fibers other than silk or rayon are pending.)

Shrinkage of woven cotton products.--On this subject, specific and detailed provision is made in trade-practice rules for proper labeling in respect to the preshrunk character or shrinkage properties of woven cotton goods, the legal principles of the rules being also applicable to wearing apparel or other merchandise made of woven cotton goods. Unless and until processes are found and applied which will remove all shrinkage, the rules require that the product shall not be labeled or represented as shrinkproof or nonshrinkable, or by advertising or labeling claims of similar import. They also provide that in case the merchandise is labeled or represented as having been preshrunk or shrunk, full disclosure shall be made in connection therewith of the percentage of additional shrinkage the merchandise will undergo when laundered or used by the consumer. Thus the purchaser is to be apprised of the fact that, although having been pre-shrunk to a degree, the goods will shrink still more, and he is to be told what the extent of such additional shrinkage will be. Observance of these rules means the elimination of the chaotic, confusing, and misleading conditions in advertising and labeling which had sprung up in the matter of control of shrinkage of woven cotton merchandise of all kinds marketed annually to the extent of many hundreds of millions of dollars.

Other industries.--In addition to the rules for these several indus tries, trade practices rules for numerous other industries have been promulgated by the Commission. These cover many products of importance to the buying public, and include the following: Fur;

dresses; cotton converting; infants' and children's knitted outerwear; ribbon; radio receiving sets, parts and accessories; putty; paint and varnish brushes; toilet brushes; baby chicks; preserves; macaroni; tomato paste; oleomargarine; mirrors; private home study schools; jewelry; and rubber tire.

LEGAL ENFORCEMENT WORK AND ECONOMIC INQUIRIES

These activities of the Commission are of direct benefit to the consumer in many ways. Report of the work in its several phases is given at pages 19 to 124.

Radio and periodical advertising.--Radio and periodical advertising of commodities is scrutinized by *a* division of the Commission with a view to detecting advertising claims which are false or mis leading and to protecting the buying public against their harmful effects. (This work is more particularly described on pages 135 to 141.) During the last fiscal year 220,760 advertisements appearing in newspapers and magazines, having a combined circulation of over 136,000,000, were examined. Advertisements in mail-order catalogs were likewise scrutinized for the purpose of protecting the buying public from false or misleading representations. In addition, 1,384,353 typewritten pages of commercial radio continuities were examined and claims or representations appearing to be of questionable character were taken up for corrective action and elimination of their deceptive or misleading character in all cases where their veracity was not established. As a result of this work, the ethical tone of commercial advertising has been raised substantially with material benefit to the buying public.

Cease and desist stipulations and orders.--Whenever compulsory action becomes necessary against specific offenders to compel them to discontinue business practices which are contrary to the interest *of* the public, correction is brought about through the use of a cease and desist order or stipulation requiring such person or concern to cease and desist from the practices complained of. As indicated above, such orders and stipulations have for their broad general purpose the objective of requiring that the unfair traded practice, whether it be false advertising, deceptive concealment, or other unfair method of competition or illegal business conduct, shall be discontinued so that the buying public and scrupulous business may be protected from its harmful effects. During the last fiscal year there were 887 cases in which such cease and desist orders or stipulations were entered against concerns found, upon investigation, to have been indulging in unlawful business methods contrary to the public interest. The total number of such orders and stipulations entered by the Commission, since it was created in 1914, is in excess

of 7,000. Almost every variety of consumer goods has been involved in the proceedings, and the rulings and decisions therein constitute a fund of official determinations supplying constructive guidance to business and the public as to the propriety or impropriety of innumerable types of trade abuses. A description of typical cases of this character in which cease and desist orders were issued during the fiscal year may be found at page 58. Reference to the stipulation cases is made at pages 44 and 135.

Congressional inquiries and economic studies.--An important function of the Commission is to make investigations and reports to Congress and to the President on large economic and legal problems. In the course of performing these duties, many subjects have been explored and Commission reports in respect thereto have been published. A list of such inquiries and a brief description of the scope of the reports are set forth at pages 19 and 203. The data and business information collected and presented in these studies and reports have been of much value to consumers not only as making available a fund of useful, factual information, but also in leading to price reductions and correction of trade abuses under existing legal processes or through the force of public opinion, and in Various instances bringing about corrective legislation in the interest of the public. For example, the investigation of the meat-packing industry ; the investigation of the grain trade ; the electric, gas, and utility investigation, and the chain-store inquiry, are among specific Commission studies which have contributed to or resulted in enactment of remedial legislation of large benefit to the consuming public.

FISCAL AFFAIRS

ACTS PROVIDING FUNDS FOR COMMISSION WORK

APPROPRIATIONS AND EXPENDITURES FOR FISCAL YEAR

APPROPRIATIONS AND EXPENDITURES, 1915-1939

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FISCAL AFFAIRS

APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Act, 1939 (Public, No.534, 75th Cong.) approved May 26, 1938, provided funds for the fiscal year 1939 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 expense 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 ; $2,134,000: *Provided,* That the Commission may procure supplies and services without regard to section 3709 of the Revised Statutes (41 U.S. C. 5) when the aggregate amount involved does not exceed $50.

For all printing and binding for the Federal Trade Commission, including such parts of the report on principal farm products of the agricultural income inquiry made pursuant to Public Resolutions Nos. 61 and 112, Seventy-fourth Congress, as the Federal Trade Commission may direct, $61,700, of which $15,000 shall be immediately available.

Total, Federal Trade Commission, $2,195,700.

APPROPRIATIONS AND EXPENDITURES FOR FISCAL YEAR

Appropriations available to the Commission for the fiscal year ended June 30, 1939, under the Independent Offices Act approved May 23, 1938, $2,195,700, of which the sum of $15,000 was made available for printing and binding and expended in the fiscal year 1938, leaving a net amount available for expenditure in the fiscal year 1939 of $2,180,700 ; in addition to this amount the Commission had the sum of $102,795 allotted by the President for work in connection with the Temporary National Economic Committee, in all, $2,283,495. This sum is made up of four separate items: (1) $50,000 for salaries of the Commissioners, (2) $2,084,000 for the general work of the Commission, (3) $46,700 for printing and binding, and (4) $102,795 for work of the Temporary National Economic Committee.

Appropriations, Allotments, Expenditures, Liabilities, and Balances

	Amount available	Amount expended	Liabilities	Expenditures and liabilities	Balances
Federal Trade Commission, 1939, salaries, Commissioners and all other authorized expenses	$2,134,000. 00	$2,001,193.69	$48, 485.71	$2,047,679.40	$86,320.60
Printing and binding, Federal Trade Commission, 1939	48,700.00	14,367.09	32,332.91	46,700.00	
Temporary National Economic Committee (transferred to Federal Trade Commission), 1939, Jan. 3, 1941	90,795.00	90,795.09		90,795.00	
Temporary National Economic Committee (no year)	12,000.00	8,990.81	3,000.19	12,000.00	
Total fiscal year 1939	2,283,495.00	2,115,346.59	81,827.81	2,197,174.40	86,320.69
Unexpended balances:					
Printing and binding, Federal Trade Commission, 1938 and 1939	15,000.00	15,000.00		15,000.00	
Federal Trade Commission, 1938	181,531.02	133,415. 61	601.33	134,016.94	47,514.08
Printing and binding, Federal Trade Commission, 1918	22,402.83	17,789.15	4,500.00	22,289.15	113.08
Federal Trade Commission, 1937	45,781.38	1 59.45	93.02	33.57	45,747. 81
Printing and binding, Federal Trade Commission, 1937	1,727.99	1,727.90		1,727.99	
Federal Trade Commission, 1936	18.20	15.00		15.00	3.20
Federal Trade Commission, 1935	1.25	1.25		1.25	
Federal Trade Commission, 1934	1 64.21	1 64.21		1 64.21	
Total	2,549,893.37	2,283,171.84	84,012, 97	2,367,184.81	182,708.50

1 Credit.

Detailed Statement of Costs for the Fiscal Year Ending June 30, 1939

	Salary	Travel expense	Other	Total
Commissioners.	$49, 999.20	$597.59		$50,596.79
Clerks to Commissioners	15,828.01			15,828.01
Messengers to Commissioners	5,553.91			5,553.91
Total	71,331.12	597.59		71,978.71
Administration:				
Office of Secretary	35,937.44			35,937.44
Accounts and personal section	32,350.53			32,350.53
Detail: Civil person Service Commission	64.86			64.86
Detail: House Appropriation Committee Investigating W.P.A.	388.71			388.71
Docket	53,033.14			53,033.14
Hospital	1,665.48			1,665.48
Labor	2,729.16			2,729.16
Legal research and compiling	10,073.29			10,073.21
Library	17,547.31			17,547.39
Mails and files	21,631.23			21,631.23
Messengers	20,990.97			20,990.97
Public relations	17,413.09			17,413.09
Publications section	37,386.25			37,386.25
Purchases and supplies	20,247.72			20,247.72
Stenographic	117,164.50			117,164.50
Communications			$11,898.20	11,898.20
Contract service			9,864.47	9,864.47
Court charge			1,309.16	1,309.16
Equipment			119,227.00	119,227.00
Miscellaneous			1,672.26	1,672.26
Repairs			5,485.57	5,485.57
Reporting service			1,238.42	1,238.42

Supplies		40,928.03	40,926.03
Transportation of things		897.99	897.99
Witness fees		2,055.00	2,055.00
Total	388,621.68	194,574.01	581,197.89

Detailed Statement of Costs for the Fiscal Year Ending June 30, 1939--Continued

	Salary	Travel expense	Other	Total
Legal:				
Application for complaints	$213,224.57	$35,487.64	$1,302.84	$270,015.05
Complaints	385,288.56	42,970.69	2,941.46	431,200.71
Detail Department of Justice	960.28	32.40		992.65
Export trade	5,989.12	51.75		6,040.87
Preliminary	299,643.43	15,055.89	433 74	315,133.96
Robinson-Patman Act	131,255.98	7,746.07		139,002.65
Newsprint paper investigation	4,681.01	1,309.62	13.65	6,004.28
Trade practice conference	73,135.97	1,575.79		74,711.76
Total	1,134,178.92	104,230.45	4,001.69	1,243,101.05
General investigations:				
Agricultural income	160.08			160.08
Farm machinery	786.08	10.25		796.33
Detail: Joint Committee on the Investigation of the Tennessee Valley Authority	4,051.85	397.15	5,349.00	
Fruits and vegetables	570.31	5.00		575.31
Industrial corporations reports	11.60			11.60
Motor-vehicle investigation	131,926.40	28,373.00	1,008.11	161,307.51
Power and gas	677.81			677.81
Resale price maintenance, 1939	34,509.84	356.30	34,866.14	
Temporary National Economic Committee	125,541.16	6,029.60	695.64	132,266.46
Total	299,135.13	35,171.36	1,703.75	336,010.24
Printing and binding			48,884.14	48,884.14
Total			48,884.14	48,884.14
Summary:				
Commissioners	71,381.12	597.59		71,978.71
Administration	388,623.68		194,574.01	583,197.69
Legal	1,134,178.92	104,230.45	4,691.69	1,243,101.06
General investigations	299,135.13	35,171.36	1,703.75	336,010.24
Printing and binding			48,884.14	48,884.14
Total	1,893,318.85	139,999.40	249,853.59	2,283,171.84

RECAPITULATION OF COSTS BY DIVISIONS

Administrative	$489,006.96	$1,300.51	$238,855.57	$729,223.04
Economic	207,592.26	30,975.67	1,008.11	299,576.04
Chief counsel	326,298.86	28,763.67	7,342,04	362,404.57
Chief examiner	493, 550.81	65,922.18	1,883.82	561,366.81
Special board of investigation	35,222.78		37.30	35,250.08
Radio and periodical	81,778.29	86.75	91.55	81,956.59
Trial examiner	98,474.93	11,022.00		109,498.93
Trade practice conference	69,691.59	1,599.00		71,290.59
Temporary National Economic Committee	31,632.37	329.02	635 20	32,597.19
Total	1,893,318.85	139,999.40	249,853.59	2,283,171.84

APPROPRIATIONS AND EXPENDITURES, 1915-39

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

Year	Nature of appropriations	Appropriations	Expenditures and liabilities	Balance
1915	Lump sum	$184,016.23	$90,442.05	$93,574.18
	Printing and binding	12,386.76	9,504.10	2,882.60

1916	Lump sum	430,964.08	379,927.41	51,636.67
	Printing and binding	15,000.00	14,997.55	2.45
1917	Lump sum	542,025.92	448,890.66	93,135.26
	Printing and binding	25,000.00	23,610.54	1,389.48
1918	Lump sum	1,578,865.92	1,412,280.19	166,585.73
	Printing and binding	30,000.00	11,114.06	18,885.94
1919	Lump sum	1,693,622.18	1,491,637.39	201,984.97
	Printing and binding	14,934.21	14,934.21	0

Year	Nature of appropriations	Appropriations and liabilities	Expenditures	Balance
1920	Lump sum	1,206, 587.42	1,007,593.30	198,994.12
	Printing and binding	28,348.97	28,348.97	0
1921	Lump sum	938,609.94	842,991.24	95,618.70
	Printing and binding	37,182.56	37,182.56	0
1922	Lump sum	952,505.45	878,120.24	74,385.21
	Printing and binding	22,801.73	22,801.73	0
1923	Lump sum	952,020.11	948,293.07	3,727.04
	Printing and binding	22,460.21	22,400.21	0
1924	Lump sum	990,000.00	900,020.93	29,979.07
	Printing and binding	20,000.00	19,419.25	580.75
1925	Lump sum	990,000.00	988,082.37	1,917.63
	Printing and binding	20,000.00	19,866.14	133.86
1926	Lump sum	990,000.00	976,957.02	13,042.98
	Printing and binding	18,000.00	18,000.00	0
1927	Lump sum	980,000.00	943,881.99	36,118.01
	Printing and binding	17,000.00	17,000.00	0
1928	Lump sum	967,850.00	951,965.15	15,884.85
	Printing and binding	16,500.00	16,500.90	0
1929	Lump sum	1,135,414.83	1,131,521.47	3,893.36
	Printing and binding	27,777.69	27,777.69	0
1930	Lump sum	1,440,971.82	1,430,084.17	10,887.65
	Printing and binding	35,363.58	35,363.58	0
1931	Lump sum	1,932,857.81	1,808,463.35	124,454.46
	Printing and binding	39,858.73	39, 858.73	0
1932	Lump sum	1,808,097.19	1,749,484.00	58,612.59
	Printing and binding	30,000.00	30,000.00	
1933	Lump sum	1,421,714.70	1,378,973.14	42,741.56
	Printing and binding	30,000.00	20,000.00	10,000.00
1934	Lump sum	1,273,763.49	1,273,006.38	157.11
	Printing and binding	40,250.00	40,250.00	0
1935	Lump sum	2,063,398.01	1,922,313.34	141,084.67
	Printing and binding	34,000.00	34,000.00	0
1936	Lump sum	1,998,665.58	1,788,729.76	209,935.82
	Printing and binding	36,800.00	32,996.05	3,803.95
1937	Lump sum	1,895,571.94	1,850,673.82	44,898.12
	Printing and binding	43,353.95	43,353.95	0
1938	Lump sum	1,950,000.00	1,895,519.47	54,480.35
	Printing and binding	46,000.00	46,000.00	0
1939	Lump sum	2,236,795.00	2,150,474.40	86,320.60
	Printing and binding	46,700.00	46,709.00	0

APPENDIXES

FEDERAL TRADE COMMISSION ACT

CLAYTON ACT

ROBINSON-PATMAN ACT

EXPORT TRADE ACT

SHERMAN ACT

MILLER-TYDINGS ACT

RULES OF PRACTICE

STATEMENT OF POLICY

INVESTIGATIONS, 1915-1939

FEDERAL TRADE COMMISSION ACT

(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 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, prose-cute any inquiry necessary to its duties in *any* part of the United States.

SEC. 4. 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. (a) Unfair methods of competition in commerce, and unfair or deceptive acts or practices 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, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, [1] and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

(b) 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 or unfair or deceptive act or practice 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

1 By subsection (f), Section 1107 of the "Civil Aeronautics Act of 1938," approved June 23, 1938, Public No.706, 75th Congress, Ch. 601, 3d Sess., S. 3845, 52 Stat. 1028, Section 5 (a) of the Federal Trade Commission Act was amended by inserting before the words persons" (and following the words "to regulate commerce"), the following: "air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938."

to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission to intervene and appear In said proceeding by counsel or in person. The testimony In any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice 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 or such act or practice. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the transcript of the record in the proceeding has 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. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time, after notice and opportunity for bearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever In the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require: Provided, however, That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate circuit court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days [2] from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the Commission. Upon such filing of the petition and transcript the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall there-upon issue its own order commanding obedience to the terms of such order of the Commission. 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 evidence, shall be conclusive, and its recommendation, if any, for the modification or

[2] Section 5 (a) of the amending Act of 1938 provides :

SEC. 5. (a) In case of an order by the Federal Trade Commission to cease and desist, served on or before the date of enactment of this Act, the sixty-day period referred to In section s (C) of the Federal
Trade Commission Act, as amended by this Act, shall begin on the date of the enactment of this Act.

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 240 of the Judicial Code.

(d) The jurisdiction of the circuit court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.

(e) 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 court to enforce the same shall in any wise relieve or absolve any person, partnership, or corporation from any liability under the Antitrust Acts.

(f) 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 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 residence or 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 residence or 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.

(g) An order of the Commission to cease and desist shall become final--

(1) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the Commission may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b) ; or

(2) Upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed, or the petition for review dismissed by the circuit court of appeals, and no petition for certiorari has been duly filed; or

(3) Upon the denial of a petition for certiorari, if the order of the Com-mission has been affirmed or the petition for review dismissed by the circuit court of appeals; or

(4) Upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Commission be affirmed or the petition for review dismissed.

(h) If the Supreme Court directs that the order of the Commission be modified or set aside, the order of the Commission rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(I) If the order of the Commission is modified or set aside by the circuit court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered in accordance with the mandate of the circuit court of appeals shall become final on the expiration of thirty days from the time such order of the Commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(j) If the Supreme Court orders a rehearing ; or if the case is remanded by the circuit court of

appeals to the Commission for a rehearing, and if (l) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission has been rendered.

(k) As used in this section the term “mandate,” in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

(l) Any person, partnership, or corporation who violates an order of the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

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 corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

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

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation. 3

(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.

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

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

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

SEC. 7. That In any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust Acts, the court may, upon the

3 Public No.78, 73d Cong., approved June 16, 1933, making appropriations for the fiscal year ending June 16, 1934, for the "Executive Office and sundry independent executive bureaus, boards, commission," ect., made the appropriation for the Commission contingent upon the provision (48 Stat. 261; 15 U. S. C. A., sec. 46a) that "hereafter no new investigations shall be initiated by the Commission as to the result of a legislative resolution, except the same be a concurrent resolution of the two Houses of Congress."

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

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

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

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

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question ; and any failure to obey such order of the court may be punished by such court 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 Untied States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made In pursuance thereof.

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

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

No person shall be excused from attending and testifying or from producing documentary

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

Sec. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his

power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or 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 punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

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

SEC. 12. (a) It shall be unlawful for any person, partnership, or corporation to disseminate, or cause to be disseminated, any false advertisement--

(l) By United States mails, or in commerce by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics ; or

(2) By any means, for the purposes of inducing, or which is likely to induce directly or indirectly, the purchase in commerce of food, drugs, devices, or cosmetics.

(b) The dissemination or the causing to be disseminated of any false advertisement within the provisions of subsection (a) of this section shall be an unfair or deceptive act or practice in commerce within the meaning of section 5.

SEC. 13. (a) Whenever the Commission has reason to believe--

(l) that any person, partnership, or corporation is engaged in, or is about to engage in, the dissemination or the causing of the dissemination of any advertisement in violation of section 12, and

(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of

section 5, would be to the interest of the public, the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or In the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing a temporary injunction or restraining order shall be granted without bond. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business.

(b) Whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals--

(l) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and

(2) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement,

the court shall exclude such Issue from the operation of the restraining order or injunction.

Sec. 14. [4] (a) Any person, partnership, or corporation who violates any provision of section 12 (a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions pre-scribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than $5,000 or by imprisonment for not more than six months, or by both such fine and imprisonment; except that if the conviction is for a violation committed after a first conviction of such person, partnership, or corporation, for any violation of such section, punishment shall be by a fine of not more than $10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment : *Provided,* That for the purposes of this section meats and meat food products duly inspected, marked, and labeled In accordance with rules and regulations issued under the Meat Inspection Act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

(b) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of advertising, except the manufacturer, packer, distributor, or seller of the commodity to which the false advertisement relates, shall be liable under this section by reason of the dissemination by him of any false advertisement, unless he has refused on the request or the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the United States, who caused him to disseminate such advertisement. No advertising agency shall be liable under this section by reason of the causing by it of the dissemination of any false advertisement, unless it has refused, on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, or seller, residing in the United States, who caused it to cause the dissemination of such advertisement.

SEC. 15. For the purposes of section 12, 13, and 14--

(a) The term "false advertisement" means an advertisement, other than labeling, which is misleading in a material respect ; and In determining whether any advertisement Is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such

representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement or, under such conditions as are customary or usual. No advertisement of a drug shall be deemed to be false if it is dis seminated only to members of the medical profession, contains no false repre-

[4] Section 5 (b) of the amending Act of 1938 provides :

Sec. 5 (b) Section 14 of the Federal Trade Commission Act, added to such Act by section 4 of this Act, shall take effect on the expiration of sixty days after the date of the enactment of this Act.

sentations of a material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

(b) The term "food" means (l) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(c) The term "drug" means (l) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them ; and (2) articles Intended for use In the diagnosis, cure, mitigation, treatment, or prevention of disease In man or other animals ; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals ; and (4) articles intended for use as a component of any article specified in clause (l), (2) , or (3); but does not Include devices or their components, parts, or accessories.

(d) The term "device" (except when used in subsection (a) of this section) means instruments, apparatus, and contrivances, including their parts and accessories, intended (l) for use In the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals ; or (2) to affect the structure or any function of the body of man or other animals.

(e) The term "cosmetic" means (l) articles to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof intended for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

Sec. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (l) of section 5, It shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection.

SEC. 17. If any provision of this Act, or the application thereof to any person, partnership, corporation, or circumstance, Is held invalid, the remainder of the Act and the application of such provision to any other person, partnership, corporation, or circumstance shall not be affected thereby.

SEC. 18. This Act may be cited as the "Federal Trade Commission Act."

Original act approved September 26, 1914.

Amended act approved March 21, 1938.

SECTIONS OF THE CLAYTON ACT ADMINISTERED BY THE FEDERAL TRADE COMMISSION

(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. 2.1 (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 in June, 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 foregoing 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 sh all be affirmatively shown, the Commission is authorized to issue an order terminating 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

1 This section of the Clayton Act contains the provisions of the Robinson-Patman Anti-Discrimination Act. approved June 19, 1936. amending Section 2 of the original Clayton Act, approved October 15, 1914. For certain exemptions from the provisions of the later act concerning cooperatives and purchases for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, see the later act as published at p.168.

of any products or commodities manufactured, sold, or offering for sale by such person, unless such payment or consideration is available on proportionately 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. 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 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 Civil Aeronautics Authority where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938 2; 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

2 By subsection (g) of Section 1107 *of* the “Civil Aeronautics Act of 1938,” approved June 23, 1938. Public, No. 706, 75th Congress. Ch. 601. 3d Sess., S. 3845, 52 Stat. 1028, Section 11 of the Act of October 15, 1914, the Clayton Act. was amended hy inserting after the word “energy’ (in the tenth line from the beginning of the paragraph, rending “communication or radio transmission of energy:”). the following: “in the Civil Aeronautics Authority where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938:” and by inserting after the word “commission” wherever it appears in that section a comma and the word “authority,”.

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 of 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-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" (etc., as published on p. 176 as the text of sec. 2, namely, subparagraphs (a) to (f), inclusive, ending with the words "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 amendatory 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, he 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. [1]

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" whereever 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 Art 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

1 By Public. No.550, 75th Congress, Chapter 283. Third Session (H. R. 8148), approved May 26, 1938. it was further provided “That nothing in the Act approved June 19, 1936 (Public, Number 692. Seventy-fourth Congress, second session), known as the Robinson-Patman Anti-Discrimination Act, shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.”

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 com-mission 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 [1]

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

AN ACT To protect trade and commerce against unlawful restraints and monopolies

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

1 Published as amended by Miller-Tydings Act (Pub., No.314, 75th Cong.. H. R. 7472. approved Aug. 17, 1937).

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.

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 convicted 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 in 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 [2] 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 in 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 in 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.

2 Act of March 3, 1911, c. 231, 36 Stat 1167, abolishes the courts referred to, and confers their powers upon the district courts.

SEC. 7. Any person who shall he 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 three-fold 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.

MILLER-TYDINGS ACT

(Approved August 17, 1937, as a rider to the District of Columbia revenue act)

SECTION 1 of the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890 [the Sherman Act], is amended to read [see Sherman Act, sec. 1, p.192]

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, 548 Federal Office Building, San Francisco, Calif.; Federal Trade Commission, 801 Federal Building, Seattle, Wash.; Federal Trade Commission, 321 Federal Office Building, New Orleans, La.

Hours.--Offices are open on each business day, except Saturday, from 9 a. m. to 4: 30 Pm., 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 is the executive officer of the Commission and shall have the legal custody of its seal, papers, records, and property; and all orders of the Commission shall be signed by the Secretary or such other person as may be authorized by 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. 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.

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.

No former officer, examiner, attorney, clerk, or other former employee of this Commission shall appear as attorney or counsel for or represent any party in any proceeding resulting from any investigation, the files of which came to the personal attention of such former officer, examiner, attorney, clerk, or other former employee during the term of his service or employment with the Commission.

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 (8) inches by ten and one-half (10 ½) inches; left margin, one and one-half (11/2) inches; right margin, one (l) 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 docu-

ments 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]aw 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.

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 allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true. Respondent by such answer shall be deemed to have waived a bearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law or laws as charged In the complaint to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application In writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in

oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

RULE VIII. MOTIONS

Motions before the Commission or the trial examiner shall state briefly the purpose thereof and all supporting affidavits, records, and other papers, except such as have been previously filed, shall be filed with such motions and clearly referred to therein.

Three copies of the motion shall be filed.

RULE IX. CONTINUANCE AND EXTENSION OF TIME

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

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

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 proper.

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 taking of evidence 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 hearing before the Commission, a Commissioner, or a trial examiner, shall be given by the Commission to counsel of record or to 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, if authorized by the Commission, may conduct or hold conferences or hearings thereon, 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 shall be public, unless otherwise ordered by the Commission.

RULE XIV. TRIAL EXAMINERS

Duties.--When evidence is to be taken in a proceeding upon complaint issued by the Commission, a trial examiner may 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 15 days after receipt by him of the complete stenographic transcript of all testimony in a proceeding, make his report upon the evidence.

A copy of such report shall forthwith be served upon each attorney for the Commission, upon each attorney for respondents, and upon each respondent riot represented by counsel.

The trial examiner's report upon the evidence is not a decision, finding, or ruling of the

Commission. It is not a part of the formal record in the proceeding, and is not to be included in a transcript of the record.

RULE XIV. EXCEPTIONS

Attorneys or other persons served with a copy of the report of the trial examiner, within ten (10) days after receipt of such copy of report, file, in writing, their exception, if any, to the report.

They shall specify the particular part 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 copies of the exceptions, signed, in ink, shall be filed.

A copy of such exceptions shall forthwith be served upon each of the other attorneys and respondents who were served with a copy of the trial examiner's report.

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits.

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 of evidence, announce to attorneys for the Commission and for respondents that the trial examiner will receive within such time as he shall fix, a statement in writing from attorneys for the Commission and attorneys for respondents setting forth, in concise outline, the contentions of each as to the facts proved in the proceeding. The time so fixed shall not change the times limited in Rule XIII for filing report by the trial examiner or Rule X for the filing of briefs.

Such statements shall are not to be exchanged between counsel, are not argued before the trial examiner, and 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 the presiding trial examiner or a member of the Commission. Application therefor may be made either to the Secretary of to the presiding trial examiner.

Subpoenas for the production of the documentary evidence will be issued only upon application in writing to the Commission. The application must specify, as exactly as possible the documents desired, and show their competence, relevancy, and materiality. The application by a respondent shall be verified by oath or affirmation.

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 disposition 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 S hall be taken except after at least five (5) days' notice to the parties within the United States, and fifteen (15) days' notice when 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 bef ore 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 b y 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 Com-mission 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 (8) inches by ten and one-half (10 ½) inches; left margin, one and one-half (l 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 evidence before a trial examiner, a Commissioner, or the Commission, shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument or debate thereon except as ordered by the trial examiner, a Commissioner, or the Commission. Rulings on such objections shall be part of the transcript.

RULE XX. BRIEFS

Filing.--Any party to a proceeding may file a brief with the Secretary of the Commission, in support of his contentions, within the time limits fixed by these rules.

Briefs not filed on or before the time fixed in the rules will be received 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 shall be filed by the attorney supporting the complaint within twenty (20) days after service upon him of a 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 in support of the complaint, shall contain, in the following order:

(a) A concise abstract or statement of the case.

(b) A brief of the argument, exhibiting a clear statements 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 with permission of the Commission, and shall be strictly in answer to brei on behalf of respondent.

Form.--Briefs on behalf of respondent shall be printed on 10 or 12 point type; on good, unglazed paper; size 8 by 10 ½ inches; left margin of 1 ½ inches, right margin of 1 inch; width

double-leaded text and single-leaded citations.

RULE XXI. ORAL ARGUMENTS

Oral arguments before the Commission shall be had as ordered, on written application of the chief trial 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 enlarging time for oral argument.

RULE XXII. REPORTS SHOWING COMPLIANCE WITH ORDERS AND WITH STIPULATIONS

In every case where an order to cease and desist is issued by the Commission for the purpose of preventing violations of law and in every instance where the Commission approves and accepts a stipulation in which a party agrees to cease and desist from the unlawful methods, acts , or practices involved, the respondents named in such orders and the parties so stipulating shall file with the Commission, within sixty days of the service of such order and within sixty days of the approval of such stipulation, a report, in writing, setting forth in detail the manner and form in which they have complied with said order or with said stipulation ; provided, however, that if within the said sixty (00) day period respondent shall file petition for review in a circuit court of appeals, the time for filing report of compliance will begin to run de *novo* from the final judicial determination ; and provided further, that where the order prevents the use of a false advertisement of a food, drug, device, or cosmetic, which may be injurious to health because of results from such use under the conditions prescribed in the advertisement, or under such conditions as are customary or usual, or if the use of such advertisement is with intent to defraud or mislead, an interim report stating whether and how respondents intend to comply shall be filed within ten days.

Within its sound discretion, the Commission require any respondent upon whom such order has been served may and any party entering into such stipulation, to file with the Commission, from time to time thereafter, further reports in writing, setting forth in detail the manner and form in which they are complying with said order or with said stipulation.

Reports of compliance shall be signed in ink by respondents or by the parties stipulating.

RULE XXIII. REOPENING PROCEEDINGS

In any case where an order to cease and desist or an order dismissing a proceeding has been issued by the Commission, the Commission may (*a*) in the case of an order to cease and desist , at anytime until the transcript of the record in the proceeding has been filed in a circuit court of appeals of the United States upon a petition for review or enforcement, or after the expiration of the statutory time for filing of a petition for review where no such petition has been filed, or (*b*) in the case of an order dismissing a proceeding at any time thereafter, give reasonable notice to all respondents and to all intervenors, if any, of a hearing as to whether the said proceeding should be reopened. If after said hearing the Commission shall have reason to believe that conditions of fact or of law have so changed since the said order was made as to require, or that the public interest requires, the reopening of such proceeding, the Commission will issue an order for the reopening of the same.

RULE XXVII. TRADE PRACTICE CONFERENCE PROCEDURE

(*a*) *Purpose*.--The trade practice conference procedure has for its purpose the establishment, by the Commission, of trade practice rules in the interest of industry and the purchasing. public. This procedure affords opportunity for voluntary participation by industry groups or other interested parties in the formulation of rules to provide for elimination or prevention of unfair methods of competition, unfair or deceptive acts or practices and other illegal trade practices. They may also include provisions to foster and promote fair competitive conditions and to establish standards of ethical business practices in harmony with public policy. No provision or rule, however, may be approved by the Commission which sanctions a practice contrary to law or which may aid or abet a practice contrary to law.

(b) *When authorized*.--Trade practice conference proceedings may be authorized by the Commission upon its own motion or upon application therefor whenever such proceedings

appear to the Commission to be in the interest of the public. In authorizing proceedings, the Commission may consider whether such proceedings appear to have possibilities (1) of constructively advancing the best interests of industry on sound competitive principles in consonance with public policy, or (2) of bringing about more adequate or equitable observance of laws under which the Commission has jurisdiction, or (3) of other-wise protecting or advancing the public interest.

(*c*) *Application.*--Application for a trade practice conference may be filed with the Commission by any interested pers on, party or group. Such application shall be in writing and be signed by the applicant or the duly authorized representative of the applicant or group desiring such conference. The following information, to the extent known to the applicant, shall be furnished with such application or in a supplement thereto:

(1) A brief description of the industry, trade, or subject to be treated.

(2) The kind and character of the products involved.

(3) The size or extent and the divisions of the industry or trade groups concerned.

(4) The estimated total annual volume of production or sales of the commodities involved.

(5) List of membership of the industry or trade groups concerned in the matter.

(6) A brief statement of the acts, practices, methods of competition or other trade practices desired to be considered, or drafts of suggested trade practice rules.

(7) Evidence of authority to so act, where the application is signed by a person or organization acting in behalf of others.

(*d*) *Informal discussions with members of the Commission's staff.*--Any interested person or group may, upon request, be granted opportunity to confer in respect to any proposed trade practice conference with the Commission's trade practice conference division, either prior or subsequent to the filing of any such application. They may also submit any pertinent data or information which they desire to have considered. Such submission shall be made during such period of time as the Commission or its duly authorized official may designate.

(*e*) *Industry conferences.*--Reasonable public notice of the time and place of any such authorized conference shall be issued by the Commission. A member of the Commission or of its staff shall have charge of the conference and shall conduct the conference pursuant to direction of the Commission and in such manner as will facilitate the proceeding and afford appropriate consideration of matters properly coming before the conference. A transcript of the conference proceedings shall be made, which, together with all rules resolutions, modifications, amendments or other matters offered, shall be filed in the office of the Commission and submitted for its consideration.

(*f*) *Public hearing on proposed rules.*--Before final approval by the Commission of rules for an industry, and upon such reasonable public notice as to the Commission seems appropriate, further opportunity shall be afforded by the Commission to all interested persons, corporations or other organizations, including consumers, to submit in writing relevant suggestions or objections and to appear and be heard at a designated time and place.

(g) Promulgation of rules.--When trade practice rules shall have been finally approved and received by the Commission, they shall be promulgated by official order of the Commission and published, pursuant to law, in the Federal Register. Said rules shall become operative thirty (30) days from date of promulgation or at such other time as may be specified by the Commission. Copies of the final rules shall be made available at the office of the Commission. Under the procedure of the Commission a copy of the trade practice rules as promulgated by the Commission is sent to each member of the industry whose name and address is available, together with an acceptance form providing Opportunity to such member to signify his intention to observe the rules in the conduct of his business.

(*h*) *Violations.*--Complaints as to the use, by any person, corporation or other organization, of any act, practice or method inhibited by the rules may be made to the Commission by any person having information thereof. Such complaints, if warranted by the facts and the law, will receive the attention of the Commission in accordance with the law. In addition, the Commission may act upon its own motion in proceeding against the use of any act, practice or method contrary to law.

STATEMENT OF POLICY

POLICY AS TO PRIVATE CONTROVERSIES

It is the policy of the Commission not to institute proceedings against alleged unfair methods of competition or unfair or deceptive acts or practices where the alleged violation of law is a private controversy redressable in the courts, except where said practices tend to affect the public. In cases where the alleged injury is one to a competitor only and is redressable in the courts by an action by the aggrieved competitor and the interest of the public is not involved, the proceeding will not be entertained.

SETTLEMENT OF CASES BY STIPULATION

Whenever the Commission Shall have reason to believe that any person has been or is using unfair methods of competition or unfair or deceptive acts or practices in commerce, and that the interest of the public will be served by so doing, it may withhold Service of complaint and extend to the person opportunity to execute a stipulation satisfactory to the Commission, in which the person, after admitting the material facts, promises and agrees to cease and desist from and not to resume such unfair methods of competition or unfair or deceptive acts or practices. All such stipulations shall be matters of public record, and shall be admissible as evidence of prior use of the unfair methods of competition or unfair or deceptive acts or practices involved in any subsequent proceeding against such person before the Commission. It is not the policy of the Commission to thus dispose of matters involving intent to defraud or mislead; false advertisement of food, drugs, devices, or cosmetics which are inherently dangerous or where injury is probable; suppression or restraint of competition through conspiracy or monopolistic practices; violations of the Clayton Act; violations of the Wool Products Labeling Act of 1939 or the rules promulgated thereunder; or where the Commission is of the opinion that such procedure will not be effective in preventing continued use of the unlawful method, act, or practice. The Commission reserves the right in all cases, for any reasons which it regards as sufficient, to withhold this privilege.

STATUS OF APPLICANT OR COMPLAINANT

The so-called “applicant” or complaining party has never been regarded as a party in the strict sense. The Commission acts only in the public interest. It has always been and now is the rule not to publish or divulge the name of an applicant or complaining party, and such party has no legal status before the Commission except where allowed to intervene as provided by the statute.

INVESTIGATIONS BY THE COMMISSION, 1915-39

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 110 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 members for those of the reports that were ordered printed by Congress. Publications not designated by such document members were published as Commission reports. Although available in reference libraries, many of the publications mentioned are now out of print and are so designated herein. Those available my be attained from the Superintendent of Documents, Government Printing Office, Washington, D. C.

Accounting Systems.--This inquiry was made on motion of the Commission, with a view to improving accounting practices, and led to the publication in 1916 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).

Agricultural Implement and Machinery Industry.--This inquiry was made pursuant to Public Resolution No.130 (Senate Joint Resolution No.277), Seventy-fourth Congress, second session, approved June 24, 1936. Adoption of the resolution was a result of widespread complaints in 1936 and prior years concerning the disparity between prices of farm products, which, in 1932, reached record lows, and the prices of many farm implements and machines and their repair parts, which had been maintained at a high level. The report showed that a concentration of control in the hands of a few large companies had resulted largely from acquisition of the capital stock or of the assets of competitors prior to enactment of the Clayton Act and thereafter In the purchase of assets of competitors rather than in the purchase of their capital stock. The Commission recommended amendment of section 7 of the Clayton Act as related on pages 19 and 29 of its annual report for 1938. The report, *Agricultural Implement and Machinery Industry*, was submitted to Congress June 6, 1938. In two parts and subsequently printed in one volume as House Document No.702, Seventy-fifth Congress, third session (1,176 pages) - (See also Farm Implements and independent Harvester.)

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.112, Seventy-fourth Congress.) The first resolution called for an inquiry with respect to "principal farm products," and the last one with respect to "table and juice grapes, fresh fruits and vegetables." The chief topics to be 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.

Five reports were submitted to Congress: (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) Agricultural Income Inquiry, Part I, Principal Farm Products, March 2, 1937, of which the first two chapters, (1) summary, and (2) conclusions and recommendations, were first printed as Senate Document No. 54, Seventy-fifth Congress, first session (40 pages), the complete report (1,134 pages) later being printed by the Commission; (4) Part II, Fruits, Vegetables and Grapes, June 10, 1937, printed by the Commission (906 pages), and Part III, Supplementary Report, November 8, 1937, printed by the Commission (154 pages). (See also Price Deflation.)

Automobiles.--See Motor Vehicle Industry.

Bakeries.--This inquiry was made on the basis of President Wilson's order of February 7, 1917, calling for a general inquiry relating to foodstuffs, the Commission investigated the cost of bread and other related factors, and made a brief report to the United States Food Administration, November 3, 1917. With other data the report was printed by that Administration as United States Food Administration, Report of the Federal Trade Commission on Bakery Business in United States, (pp. 5-13, out of print). (See Bread and Flour, Flour Milling, and Food Investigation.)

Bread and Flour.--This inquiry was made pursuant to Senate Resolution No. 163, Sixty-eighth Congress, first session, adopted February 16, 1924. The 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 dealt with competitive conditions in the 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: Competitive Conditions in Flour Milling, submitted May 3, 1926, and printed as Senate Document No. 97, Seventieth Congress, first session (140 pages) ; Bakery Combines and Pro fits, submitted February 11.1927, and printed as Senate Document No.212, Sixty-ninth Congress, second session (95 pages) ; and Competition and Profits in Bread and Flour, submitted January 11, 1928, and printed as Senate Document No. 98, Seventieth Congress, first session (509 pages). A supplementary report, Conditions in the Flour Milling Business, covering data withheld during court proceedings (Millers' National Federation against Federal Trade Commission) was submitted 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, adopted January 23, 1923. It appeared that the cause of such prices was the sudden increase in demand rather than any restraints of trade. The report, *Calcium Arsenate Industry*, was submitted to the Senate March 3, 1923, and printed as Senate Document No.345, Sixty-seventh Congress, fourth session (21 pages).

Cement Industry.--This inquiry was made pursuant to Senate Resolution No. 448, Seventy-first Congress, third session, adopted 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 dealers' 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. The report, Cement Industry, reiterated certain findings and conclusions of the Commis-

sion's earlier report on the cement industry made as a part of the price bases inquiry (see Price Bases and Steel Investigations herein for further reference to basing-point Systems) The cement report was submitted to the Senate June 9, 1933, and printed as Senate Document No.71, Seventy-third Congress, first session (160 pages).

Chain Stores.--This inquiry Was made pursuant to Senate Resolution No.224, Seventieth Congress, first session, adopted May 12, *1928.* 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 almost every phase of chain-store operation.

Subtitles[1] of the chain store reports, their dates of submittal, and the document numbers under which they were printed, are as follows:

Cooperative Grocery Chains, 199 pages, July 13, 1931, Senate Document No. 12, Seventy-second Congress, first session.

Wholesale Business of Retail Chains, 38 pages, December 22, 1931, Senate Document No.29, Seventy-second Congress, first session.

Sources of Chain-Store Merchandise, 76 pages, December 22, 1931, Senate Document No.30, Seventy-second Congress, first session.

Scope of the Chain-Store Inquiry, 33 pages, December 22, 1931, Senate Document No. 31, Seventy-second Congress, first session.

Chain-Store Leaders and Loss Leaders, 57 pages, January 15, 1932, Senate Document No.51, Seventy-second Congress, first session.

Cooperative Drug and Hardware Chains, 28 pages, April 18, 1932, Senate Document No. 82, Seventy-second Congress, first session.

Growth and Development of Chain Stores, 81 pages, June 11, 1932, 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, January 13, 1933, Senate Document No.170, Seventy-second Congress, second, session.

Gross Profit and Average Sales 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, 44 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-third Congress, second session.

pages, December 21, 1932, Senate Document No.156, Seventy-second Congress, second session.

Quality of Canned Vegetables and Fruits (Under Brands of Manufactur-

Prices and Margins of Chain and Independent Distributors, Cincinnati-Drug, 43 pages December 30, 1933, Senate Document No. 95, Seventy-third Congress, second session.

1 The Commission published Chain Store System of Marketing and Distribution (Progress Report), May 12, 1930, printed as Senate Document No.146, Seventy-first Congress, second session (6 pages).

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-ties 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 No. 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 (out of print), December 14, 1934, Senate Document No. 4, Seventy-fourth Congress, first session.

Coal, Anthracite and Bituminous.--This investigation was conducted pursuant to Senate Resolution No.217, Sixty-fourth Congress, first session, adopted June 22, 1916, and Senate Resolution No.51, Sixty-fifth Congress, first session, adopted May 1, 1917. A rapid advance in the prices anthracite at the mines, as compared with costs, and the overcharging of anthracite jobbers and dealers. Current reports of operators' and retailers' selling prices were obtained, and this was believed to have substantially benefited the consumer. The preliminary report, *Anthracite Coal Prices*, was submitted to Congress May 4, 1917, was printed as Senate Document No.19, Sixty-fifth Congress, first session (4 pages, out of print). The general report and summary, *Anthracite and Bituminous Coal*, submitted to Congress June 19, 1917, was printed as a Commission publication and as Senate Document No.50, Sixty-fifth Congress, first session (420 pages, out of print) ; and the summary, under the title *Anthracite and Bituminous Coal Situation*, dated June 19, 1917, was printed separately as House Document No. 193, Sixty-fifth Congress, first session (29 pages, out of print).

Coal, Anthracite.--This inquiry, made on motion of the Commission, 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 was

submitted to Congress July 6, 1925, and printed (97 pages), dated July, 1925, was submitted to Congress and printed.

Coal, Bituminous.--An inquiry was made on motion of the Commission. The reports on investment and profit in soft-coal mining were prepared and submitted to Congress in the belief that the Information would be of timely value in the consideration of pending legislation regarding the coal trade. The data covered the years 1916 to 1921, inclusive. Reports were submitted in two parts dated May 31, 1922, and July 6, 1922, respectively, and published by the Commission in one volume, entitled Investment and Profit in Soft-Coal Mining. Part I. Summary and Conclusions and Part II. Explanatory and Statistical Material Supporting

Part I (222 pages), and by the Senate in two volumes as Senate Document No.207, Sixty-seventh Congress, second session Part I, (10 pages), and Part II, (208 pages).

Coal, Bituminous.--This inquiry was made pursuant to House Resolution No.352, Sixty-fourth Congress, first session, adopted August 18, 1916. The resolution called for an investigation of the alleged depressed condition of the coal industry, but subsequent to its adoption of the resolution there was a marked advance in 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. 152, Sixty-fifth Congress, first session (8 pages, out of print), May 19, 1917.

Coal Reports--Cost of Production.--This inquiry was made at the direction of President Wilson, who, prior to passage of the Lever Act in August 1917, called upon the Commission 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. After the war this information was summarized for the principal coal-producing States or regions in a series of reports dated June 30, 1919, and printed under the titles: Cost Reports of the Federal Trade Commission--Coal . No. 1. Pennsylvania--Bituminous (103 pages); No. 2. Pennsylvania--Anthracite (145 pages, out of print) ; 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 (286 pages); and No. 7. Trans-Mississippi States--Bituminous (459 pages). (See also War-Time Cost Finding.)

Coal--Current Monthly Reports.--In December 1919, the Commission, provided with a special appropriation by Congress, initiated a system of current monthly returns from the soft-coal industry somewhat similar to those required from coal-producing companies during the World War. An injunction to prevent the Commission from calling for such reports (denied about 7 years later) led to their abandonment. Reports of the results were published in monthly bulletins beginning with Federal Trade Commission, Bulletin No. 1--Bituminous Coal--Preliminary (January, 1920 costs), published April 20, 1920; Bulletin No. 2 (February, 1920 costs), May 24, 1920; Bulletin No. 3 (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. (All out of print.)

Coal--Retail Situation.--An inquiry was made on motion of the Commission into the retail coal situation In Washington, D. C. A release was issued August 11, 1917, entitled *Washington, D. C., Retail Coal Situation* (5 pages, processed, out of print).

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 on Commercial Bribery, dated May 15, 1918, and 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, the

Commission submitted to the Senate a report 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, initiated on motion of the Commission, involved inquiries made by the Commission regarding the cooperative movement in 15 European countries. The report, Cooperation in Foreign Countries (202 pages, out of print),dated December 2, 1924, was printed as

Senate Document No.171, Sixty-eighth Congress, second session. It contained recommendations for further developments of cooperation in the United States.

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 operation of cooperatives. The report included 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 submitted to the Senate April 30, 1928, and printed as Senate Document No.95, Seventieth Congress, first session (721 pages, out of print).

Copper.--This inquiry was a part of the wartime 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 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).

Cost of Living.--This inquiry was made upon the request of President Roosevelt as contained in a published letter dated November 16, 1937, and a confidential report was submitted to him a few months thereafter. A resolution of the Commission, concerning its undertaking of the investigations, was adopted November 20, 1937.

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 submitted to the Senate January 20, 1925, and printed, as Senate Document No.194, Sixty-eighth Congress, second session (38 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 Sen-ate 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 un-lawful 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. Thus 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. A preliminary report dated February 28, 1930, was printed as Senate Document No.91, Seventy-first Congress, second session (4 pages, out of print).

Cotton Trade.--An inquiry was made pursuant to Senate Resolution No. 262, Sixty-seventh Congress, second session, adopted March 29, 1922. A preliminary report, Cotton Trade, discussed especially the causes of the decline in cotton prices during the period 1920-22. The report was submitted to Congress February

26, 1923, and printed as Senate Document No.311, Sixty-seventh Congress, fourth session (28 pages, out of print).

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. The report, entitled The Cotton Trade, contained, respectively, the report and the transcript of hearings. It was submitted to the Senate April 28, 1924, and printed in 2 volumes as Senate Document No. 100, Sixty-eighth Congress, first session, Part I (280 pages), Part II (230 pages), both 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 of the Federal Trade Commission on Du Pont Investments was processed (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 below, Interstate Power Transmission, and Utility Corporations.

Electric Power.--This inquiry, made pursuant to Senate Resolution No.329, Sixty-eighth Congress, second session, adopted February 9, 1925, resulted in two reports on the control of electric-power Industry. The first dealt with the organization, control, and ownership of commercial electric-power companies, and showed, incidentally, the dangerous degrees 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, and "Supply of Electrical Equipment and Competitive Conditions" (282 pages), printed as Senate Document No.46, Seventieth Congress, first session, were submitted to the Senate February 21, 1927, and January 12, 1928, respectively. (See also Interstate Power Transmission and Utility Corporations).

Farm Implements.--The high prices of farm implements and machinery led to this inquiry which was made pursuant to Senate Resolution No.223, Sixty-fifth Congress, second session, adopted May 13,1918. The report 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 of the Federal Trade Commission on the Causes of High Prices of Farm Implements (713 pages, out of print), was submitted to the Senate May 4, 1920.

Farm Implements and Machinery Industry.--See Agricultural Implements and Machinery,

and Independent Harvestor Co.

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 inn the trade were eliminated. The Report of the Federal Trade Commission on Commercial Feeds (206 pages), was submitted 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. The report, Fertilizer Industry (269 pages), was submitted 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.807, 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, Fertilizer Industry (87 pages, out of print), was submitted 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 in-creases in the prices of American flags due to the war-time demand. The report, Prices of American Flags, printed as Senate Document No.82, Sixty-fifth Congress, first session (6 pages, out of print), was submitted 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 sizes of flour packages. The report, Wheat Flour Milling Industry (130 pages), was submitted 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. The report, Commercial Wheat Flour Milling, dated September 15, 1920 (118 pages), was printed. (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, submitted a report entitled "Food Investigation, Report of the Federal Trade Com-mission 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) . Al so, 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, entitled “Report of the Federal Trade Commission on Canned Foods, 1918. Corn, Peas, String Beans, Tomatoes and Salmon” (86 pages) . (See War-time Cost Finding.)

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, submitted 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 ex-changes 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 (833 pages) September 15, 1920; III. Terminal Grain Marketing (332 pages), December 21, 1921 ; IV. Middlemen's Profits and Margins (215 pages, out of print), September 26, 1923 ; V. Future Trading Operations in Grain (347 pages, 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 stockyards, 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. The 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 of Combination Among Packers, submitted November 25, 1918 (294 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 of the Packers, submitted June 28, 1919 (110 pages) ; and Part VI, Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of 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 car lines, both for meats and for fruits and vegetables, including a study

of the effect on competition of the ownership of such facilities. Certain remedial measures were recommended. The report, Food Investigation, Report of the Federal Trade Commission on Private Car Lines (271 pages), dated June 27, 1919, was printed.

Foreign Trade--Antidumping Legislation.--The inquiry was begun in the spring of 1933, on motion of the Commission, when amendments to the anti-dumping 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. The report, Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries, dated January 11, 1934, was printed as Senate Document No.112, Seventy-third Congress, second session (100 pages) . In June 1938 the Commission presented to Congress its Supplemental Report on Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries, which brought to date the material in the report mentioned above. A summary of the supplemental report (4 pages), and later the complete report (111 pages), dated June 27, 1938, were made available in processed form.

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, dated June 30, 1916, was printed 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). The summary was printed May 2, 1916, as Senate Document No.426, Sixty-fourth Congress, first session (7 pages, out of print). The concluding chapter was printed separately by the Commission In 1916 (14 pages, 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 submitted 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 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. The preliminary report, "Investigation of the Price of Gasoline," dated April 10, 1916, was printed

as Senate Document No.403, Sixty-fourth Congress, first session (15 pages, out of print) .

Gasoline.--Pursuant to the direction of President Coolidge as of February 7, 1924, the Commission made an investigation of the sharp advance in gasoline prices, reporting in the form of its "Letter of Submittal and Summary of Report on Gasoline Prices in 1924," dated June 4, 1924 (processed, 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 and eight subsequent paragraphs.)

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 submitted 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, "Gasoline," submitted May 10, 1934, and 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 was 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.11, Speculation, Competition, and Prices" (264 pages), were submitted to the Senate May 10, 1922, and June 18, 1923, respectively, and printed. (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 of the Federal Trade Commission on Wheat Prices for the 1920 Crop (91 pages), was submitted 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 as of May 27, 1920 (68 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. III, Kitchen Furnishings and Domestic Appliances" (347 pages), were submitted to the Senate January 17, 1923, October 1, 1923, and October 6, 1924, respectively, and printed. 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. The summary, entitled "Federal Trade Commission Report to the Senate on the Independent Harvester Co." (processed, 5 pages, out of print), was submitted to the Senate May 15, 1918. (See also Agricultural Implements and Machinery, and Farm Implements.)

Interstate Power Transmission.-- 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 development 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, Interstate Movement of Electric Energy, was printed as Senate Document No.238, Seventy-first Congress, third session (134 pages), and submitted to the Senate December 20, 1930. The printed report includes interim reports 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 leather and shoes. The report on Leather and Shoe Industries (180 pages), was published August 21, 1919. Previously, as of January 23, 1918, the Commission had published Hide and Leather Situation. A preliminary report to the Report on Leather and Shoe Industries (5 pages, 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 of the Federal Trade Commission on Shoe and Leather Costs and Prices (212 pages), and a summary were printed and submitted to the House June 10, 1921.

Lumber--Costs.--The wartime 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 the Report of the Federal Trade Commission on War-Time Costs and Profits of Southern Pine Lumber Companies, submitted to Congress May 1, 1922, and printed (94 pages) . (See also War-Time Cost Finding.)

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. The 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' and 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 Hemlock 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 Mountain and Mississippi Valley Territory" (22 pages, out of print) . The three associations were: Western Red Cedar Association, Lifetime Post Association, and Western Red Cedar Men's Information Bureau. This report was printed as Senate Document No. 293, Sixty-seventh Congress, fourth session, and as a Commission publication entitled "Western Red Cedar Association" (22 pages) .

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 (see next paragraph above), was conducted on motion of the Commission in conjunction with the inquiry into open-price associations. (See Open-Price Associations.) The report on the lumber trade associations comprises chapter VIII of Open-Price Trade Associations, submitted to the Senate February 13, 1929, and printed as Senate Document No.220, Seventieth Congress, second session.

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, Maximum Profit Limitation on Meat-Packing Industry (179 pages), was submitted to the Senate August 24, 1919, and subsequently 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 discriminatory practices, resulted in a report showing marked concentration of control and of questionable practices by butter manufacturers in the buying and handling of cream, many of which practices have since been recognized as unfair by the trade itself. The Report of the Federal Trade Commission on Milk and Milk Products, 1914-18 (234 pages), was submitted to the Senate June 6, 1921, together with a summary (19 pages). Both were printed.

Milk and Dairy Products.--This inquiry into conditions with respect to the sale and distribution of milk and other dairy products was made pursuant to House Concurrent Resolution No. 32, Seventy-third Congress, second session, adopted June 15, 1934. The titles of 7 reports issued are: "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 with testimony as House Document No.152, Seventy-fourth Congress, first session (901 pages), and without testimony as a Commission publication (105 pages) ; "Connecticut and Philadelphia Milksheds," dated December 31, 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, St. Louis," dated June 4, 1936, and printed as House Document No.501, Seventy-fourth Congress, second session (243 pages) ; "Twin City Sales Area," dated June 13, 1936, and printed as House Document No. 506, Seventy-fourth Congress, second session (71 pages) ; "New York Milk Sales Area," dated September 30, 1936, and printed as House Document No.95, Seventy-fifth Congress, first session (138 pages, out of print); 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 (39 pages) .

Millinery Industry.--President Roosevelt requested that an investigation be made of distribution methods in the millinery industry. (For details of the investigation, see p.28.)

Motor--Vehicle Industry.--In response to Public Resolution No.87, Seventy-fifth Congress, third session, approved by the President on April 13, 1938, the Commission Investigated "the policies employed by manufacturers in distributing motor vehicles, accessories, and parts, and the policies of dealers in selling motor vehicles at retail, as these policies affect the public interest;" the extent of concentration of control and of monopoly, and the extent, if any, to which fraudulent practices were employed, or the Federal antitrust laws violated. The report, "Motor Vehicle Industry," was submitted to Congress June 5, 1939, and printed as House Document No. 468, Seventy-sixth Congress, first session (1,077 pages). The summary chapter, "Motor Vehicle Industry Summary and Conclusions" (24 pages), was processed for distribution. (For details of the investigation, see p.19.)

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 their distribution among various classes were also given. The report on “National Wealth and Income” was submitted 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. The report, "Open Price Trade Associations," was submitted to the Senate February 13, 1929, and printed as Senate Document No. 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 submitted 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 submitted to the Senate June 13, 1917, and August 21, 1917, entitled, respectively, "Book Paper Industry--A Preliminary Report" (11 pages), Senate Document No. 45, Sixth-fifth Congress, first session (out of print), and "Book Paper Industry--A Final Report" (125 pages), printed as 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 Paper Industry," submitted March 3, 1917, was printed as Senate Document No.3, Sixty-fifth Congress, special session (12 pages, out of print) . The "Report of the Federal Trade Commission on the Newsprint Paper Industry" (162 pages), was submitted to the Senate June 13, 1917, and printed as Senate Document No.47, Sixty-fifth Congress, first session. 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. The report, "Newsprint Paper Industry," was submitted to the Senate June 30, 1930, and printed as Senate Document No. 214,

Seventy-first Congress, special session (116 pages).

Paper--Newsprint.--This inquiry was undertaken in response to the Attorney General's request of January 24, 1938, that the Commission investigate the manner in which certain newsprint manufacturers have complied with a consent decree entered against them on November 26, 1917, by the United States District Court for the Southern District of New York, and further to determine whether there were any violations of the antitrust laws by the newsprint industry that were not prohibited by the decree.

Peanut Prices.--This inquiry was made pursuant to Senate Resolution No.139, 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, "Prices and Competition Among Peanut Mills," was submitted 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 request of the Attorney General made April 16, 1930, 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 rest rain Interstate trade and commerce in the manufacture, transportation, or sale of gasoline in violation of the Sherman Antitrust Act. The Commission submitted its report to the Attorney General on April 2, 1937. (See Gasoline and three subsequent paragraphs.)

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, and 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 of the Federal Trade Commission on Foreign Ownership in the Petroleum Industry" (152 pages), was submitted to the Senate February 12, 1923, and printed.

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 oil companies to raise or depress prices of refined products. The report, "Petroleum Industry-Prices, Profits, and Competition" (360 pages), was submitted 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 188, 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" (276 pages) and "Part II, Prices and Competitive Conditions" (262 pages) were submitted to the Senate April 7 and November 26, 1921, respectively, each with a summary, and printed.

Petroleum--Panhandle.--This inquiry into conditions in the Panhandle (Texas) oil fields was made on a motion of the Commission of October 6, 1926, and 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 of the Federal Trade Commission on Panhandle Crude Petroleum (19 pages), dated February 3, 1928, and printed.

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 on Pipe-Line Transportation of Petroleum (467 pages, out of print), which was submitted 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-ties A volume entitled "Letter of Submittal and Summary and Conclusions," dated February 28, 1916, was also printed (27 pages)

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 Advance In the Prices of Petroleum Products (57 pages), was submitted 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 of the Federal Trade Commission on the Petroleum Industry of Wyoming (54 pages, out of print) dated January 3, 1921, covered the production, pipeline transportation, refining, and wholesale marketing of crude petroleum and petroleum products in the State of Wyoming.

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, Petroleum Trade in Wyoming and Montana (4 pages), was dated July 13, 1922, and printed as Senate Document No.233, Sixty-seventh Congress, second session.

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 on 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 processed report, "Study of Zone-Price Formula in Range Boiler Industry," was dated March 30, 1936 (5 pages) . (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 submitted 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. 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. The "Report of the Federal Trade Commission on the Radio Industry" (847 pages), was submitted 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 dis-

aster to the growers. The Commission recommended changes to conform to the law. These were adopted by the raisin growers. The report in the form of a letter, entitled "California Associated Raisin Co.," was made to the Attorney General June 8, 1920 (26 pages, processed, out of print).

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 advantage 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 submitted 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 submitted on June 22, 1931, and printed.

Resale Price Maintenance--1939.--An investigation of resale price maintenance as practiced under the various State Fair Trade Acts was authorized by the Commission in a resolution adopted April 25, 1939. (For details of the investigation, see p.27.)

Salaries Inquiry.--This inquiry was made pursuant to Senate Resolution No. 75, Seventy-third Congress, first session, adopted May 29, 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, the securities of which 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, and entitled "Report of the Federal Trade Commission on Compensation of Officers and Directors of Certain Corporations," was issued in processed form (15 pages). It was submitted 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 submitted 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, Southern Livestock Prices, was submitted to the Senate February 2, 1920, and printed as Senate Document No.209, Sixty-sixth

Congress, second session (11 pages, out of print).

Steel Code Inquiry.--This inquiry was made pursuant to Senate Resolution No.166, Seventy-third Congress, second session, adopted February 2, 1934. The resolution 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 wider 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, Practices of the Steel Industry Under the Code, was submitted 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 joint study of the effect of the multiple basing-point system under 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 natural 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 submitted 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.

As of March 15, 1935, there was published in processed 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 published 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, processed, 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, dated 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. They 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-Time Profits and Costs of the Steel Industry" (138 pages), which was submitted to Congress February 18, 1925, and printed. (See also War-time cost finding.)

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, 1986, 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 (processed) 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. The 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 divi-

dends, 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 submitted 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 of the Federal Trade Commission on Sugar Supply and Prices (205 pages), was submitted 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 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, "Taxation and Tax-Exempt Income," was submitted 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 submitted 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 having an aggregate investment of almost $1,200,000,000. The following reports were printed, except where hereinafter designated as processed:

Report of the Federal Trade Commission on *Textile Industries.--Part* I. Investment and Profit, December 81, 1934 (26 pages); Part II. The Cotton and Textile Industry, March 8, 1985 (34 pages) ; Part III. The Woolen and Worsted Textile Industry, January 1935 (21 pages); Part IV. The Silk and Rayon Textile Industry, February 1935 (87 pages) ; Part V. Thread, Cordage, and Twine Industries, February 18, 1935 (14 pages), and 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, out of print.)

Report of the Federal Trade Commission on the Textile Industries in 1933 and 1934.--Part I. The Cotton Textile Industry, August 1, 1935 (34 pages) ; Part II. The Woolen and Worsted Textile Industry, September 25, 1935 (30 pages, processed); Part III. The Silk and Rayon Textile Industry, November 29, 1935 (44 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, March 24, 1936 (46 tables, processed, out of print), and Cotton Spinning Companies Grouped by Types of Yarn Manufactured during 1933 and 1934, January 31, 1936 (18 tables, processed,. out of print).

Textile Industries in the First Half of 1935.--Part I. The Cotton Textile Industry, Including Thread, Cordage and Twine, May 22, 1936, (52 pages, processed) ; Part II. The Woolen and Worsted Textile Industry, July 20, 1936 (39 pages, processed, and Part II. The Silk and Rayon Textile Industry, August 22, 1936 (47 pages, processed).

Textile Industries Last 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), and 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), and Part III. The Silk and Rayon Textile Industry, February 11, 1987 (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 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, The American Tobacco Co. and the Imperial Tobacco Co., was submitted 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 Districts of the States of North Carolina and Georgia (54 pages, processed), 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 resolution asked for an investigation of the cause of the decline of loose-leaf tobacco prices following the harvesting of the 1919 crop. The report attributed the decline in prices of some grades of tobacco to a combination of 3

factors: (1) a lessening of foreign purchases due to unfavorable exchange rates and the contraction of domestic credits, resulting in unfavorable financial condition ; (2) an increase in quantity of low grades for domestic absorption due to crop conditions and failing foreign markets, and (3) purchasing methods of large buyers. The Commission recommended that the decree of 1911 dissolving the old Tobacco Trust be modified to prohibit permanently the use of common

purchasing agencies by certain of the tobacco companies and to prohibit their purchasing tobacco under any but their own names. A better system of grading tobacco was also recommended. The Report of the Federal Trade Commission on the Tobacco Industry (162 pages) was submitted 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 investigated were the low prices of leaf tobacco and the high prices of manufactured tobacco products. From evidence gathered it was alleged that several large companies were engaged in conspiracies with their customers, the jobbers, to enhance the selling prices of tobacco. Proceedings were instituted by the Commission. In its report, the Commission renewed the recommendations for prohibiting the use by certain of the tobacco companies of common purchasing agencies and their purchasing of tobacco under any but their own names, as made in the report of December 11, 1920 (see next paragraph above) . The report, "Prices of Tobacco Products" (109 pages) was submitted to the Senate, January 17, 1922, and printed as a Commission document and as Senate Document No.121, Sixty-seventh Congress, second session.

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 submitted to the President under date of June 30, 1916.

Utility Corporations.--This inquiry was made pursuant (1) to Senate Resolution No.83, Seventieth Congress, first session, adopted February 15, 1928, (2) Public Resolution No.46, also known as Senate Joint Resolution No.115, Seventy-third Congress, second session, adopted June 1, 1934, and (3) to section 6 of the Federal Trade Commission Act. Senate Resolution No.83 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 therefor, 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 submittal 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 15, 1934, 618 pages: No. 71-A, Efforts by Associations and Agencies of Electric and Gas Utilities to Influence Public Opinion, December 12, 1934, 486 pages ; No. 71-B, Index of Association Publicity and Propaganda and Index of Names in Parts 1 to 20, Inclusive, and Accompanying Exhibit Volumes, November 27, 1934, 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 of Federal Legislation, Conclusions and Recommendations and Legal Studies in Support Thereof, January 28, 1935, 218 pages ; No. 77-A, Index of Testimony in Parts 21 to 45, Numerical List of Exhibits, Index of Exhibits, Index to Record on Company Publicity and Propaganda--Parts 21 to 45, inclusive, May 16, 1935, 840 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 ; No. 84-B, Legal Appendixes to Final Report, (No. 84-A * * * ,December 31, 1935, 118 pages ; No. 84-C, Economic Appendixes to Final Report (No. 84-A) * * *, December 31, 1935, 126 pages, and No. 84-D, General Index to Parts 21 to 84-C, Inclusive, August 12, 1937, 1360 pages.

A list of the companies investigated and the volume numbers of the reports concerning them is 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 $7,245,100,464.

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 Commission's annual reports for 1918 and 1919. Subsequent to the war a number of reports dealing with costs and profits were published based on these wartime inquiries. (See Coal Reports--Cost of Production, Copper, Food Investigation-Food Canning, Lumber-Costs, and Steel Industry--Costs and Profits) .

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