ANNUAL REPORT

OF THE

FEDERAL TRADE COMMISSION

FOR THE

FISCAL YEAR ENDED JUNE 30

1934

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INTRODUCTION

ANNUAL REPORT

The Commission also administers the Webb-Pomerene law, or Export Trade Act. This act is intended to promote export trade and exempts associations of American exporters engaged solely in export trade from the provisions of the antitrust laws. Also under section 6 (h) of the Federal Trade Commission Act, the Commission has power--

> 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.

More recently, the Commission has had additional duties arising from the passage of the National Industrial Recovery Act, approved June 16, 1933, and during the fiscal year for which this report is made, the Commission was also charged with the administration of the Securities Act of 1933, approved May 27, 1933. By the provisions of the act known as the Securities Exchange Act of 1934, approved June 6, 1934, administration of the Securities Act of 1933 was transferred to the jurisdiction of the Securities and Exchange Commission, this transfer occurring on September 1, 1934.

The work of the Federal Trade Commission has been substantially increased by reason of the passage of the National Industrial Recovery Act, section 3 (b) of which act provides that violations of codes set up as standards of fair competition by the National Recovery Administration shall be deemed unfair methods of competition within the meaning of the Federal Trade Commission Act.

year. Seventy-six of these cases have been completed and returned to N.R.A. These investigations have ranged from a simple matter of ascertaining the facts

such complaint transmitted to it, institute a proceeding against such persons, partnerships, corporations, or other associations or form of enterprise as it may have reason to believe are engaged in the practices aforesaid, whenever it shall appear to the Federal Trade Commission be that a proceeding by it in respect thereof would be to the Interest of

should be said here, however, that in its effort to bring radio advertising within the bounds of honesty and fairness, the Commission has had the effective cooperation of a great majority of the broadcasting networks, radio stations, and the advertisers and advertising agents as well.

Report on antidumping legislation here and abroad.--The Commission, through its export-trade section, prepared and presented to the Senate a report on Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries, which was printed as Senate Document 112 in January 1934. The report was the result of an inquiry begun in 1933 when certain amendments to the Federal antidumping laws were being considered.

CHANGES IN POLICY AND RULES

The Commission changed its public-information policy during the year by directing that stipulated cases on its informal docket shall be altogether for the public record, instead of making public only the pertinent facts and withholding the names of the parties to such stipulated agreements.

Recently the Commission amended its rules of practice and procedure to speed the disposition of its cases. The changes include the following:

Hearings on complaints issued by the Commission to be fixed within 30 days instead of 40 days following service of complaint on respondent.

Respondents to make answer to charges set out in complaints within 20 instead of 30 days.

Subsequent to the taking of testimony on a complaint, trial examiners to report to the Commission on the facts in 15 instead of 20 days after they receive the stenographic report of the testimony.

Tentative draft of contentions by either side, when invited or permitted by the trial examiner under the rule, in a case pending before the Commission, to be submitted in 5 instead of 10 days following the closing of the taking of testimony.

Commission counsel to file briefs in a case within 20 instead of 30 days from the day of service on the chief counsel or trial attorney of the trial examiner's report; respondent's counsel to file answering brief within 20 instead of 30 days after the date of service upon a respondent or his attorney of the brief filed by Commission counsel.

Commission's meeting time advanced from 10: 30 a..m. to 10 a.m. on business days.

GENERAL INVESTIGATIONS

The Federal Trade Commission Act, under section 6 (a), gives the Commission power "to gather and compile information con-

cerning, 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."

In pursuance of section 6, the Commission conducts general investigations at the request of the President, Congress, the Attorney General, or upon its own initiative, and makes reports in aid of legislation and in regard to alleged violation of the antitrust laws. Approximately 80 such inquiries have been conducted during the Commission's existence.

During the fiscal year 1933-34 the Commission undertook four new general investigations, on corporation salaries, the steel code, prices in the gasoline industry, and the milk industry. Three of these inquiries were completed, namely, salaries, the steel code, and gasoline prices. Work is continuing on the milk investigation and on

corporations having capital and/or assets of more than $1,000,000 and listed on the New York Stock or Curb Exchanges, for the 5-year period, 1928-32.

Steel code inquiry.--The Commission transmitted its report on this investigation to the Senate March 19, 1934, in response to a Senate resolution adopted February 2, 1934, requesting Senate Manu

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Attorney General of the United States. They also arrange settlement by stipulation of applications for complaint, which method is employed particularly in cases where the practice complained of is not so fraudulent or vicious that protection of the public demands the more drastic procedure of complaint.

The economic division, under the chief economist, conducts certain of the general inquiries of the Commission. This division is conducting that part of the power inquiry which deals with the financial structure, organization, and management of the utilities, although the chief counsel's division has charge of the examination in public hearings. The legal division has cooperated with the economic division in studying legal aspects of the chain-store survey.

Investigation of the milk industry and of the activities of the steel industry under the N.R.A. code have been carried on through cooperation of the chief examiner's and the economic divisions. The chief examiner's and the chief counsel's divisions have cooperated in cases involving provisions of the National Industrial Recovery Act which have been referred to the Federal Trade Commission.

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 usually found in Government establishments, the functions of such units being covered largely by general statutes. These units are as follows: Accounts and personnel, disbursing office, docket section, publications, mails and files, supplies, stenographic, hospital, and library.

THE COMMISSIONERS AND THEIR DUTIES

The Federal Trade Commission, one of the Government's independent agencies, is made up of five Commissioners appointed by the President and confirmed by the Senate. Not more than three of the members may belong to the same political party.

The term of office of a Commissioner is 7 years, as provided in the Federal Trade Commission Act. The term of a Commissioner dates from the 26th of September preceding the time of his appointment, September 26 marking the anniversary of the passage of the act in 1914.

At the close of the fiscal year the Commission was composed of the following members: Garland S. Ferguson, Jr., of North Carolina, chairman; Ewin L. Davis, of Tennessee, vice chairman; and Charles H. March, of Minnesota. On that date, June 30, 1934, two members of the Commission, James M. Landis and George C. Mathews, and the Commission's chief counsel, Robert E Healy, were

appointed by President Roosevelt as members of the newly created Securities and Exchange Commission. The President then appointed former Representative W. A. Ayres, of Wichita, Kans., to succeed Mr. Landis as a member of the Federal Trade Commission The vacancy caused by Mr. Mathews' resignation has not been filled. Mr. Landis, a resident of Cambridge, Mass., had been appointed a Federal Trade Commissioner October 7, 1933, succeeding Commissioner Raymond B. Stevens. On the same day the President declared vacant the position formerly held by the late Commissioner William E Humphrey, and appointed Mr. Mathews, of Madison, Wis., to his place.

Commissioner Ferguson was chosen by the Commission as its chairman for the calendar year 1934, succeeding Commissioner March. Each January, a member of the Commission is designated to serve as chairman for that calendar year. The position rotates so that each commissioner serves as chairman at least 1 year during his term of office. The chairman presides at meetings of the Commission and signs the more important official papers and reports at the direction of the Commission.

Official activities of the commissioners are generally similar in character, although each assumes supervisory charge of a different division of the Commission's work. One commissioner may be charged with supervision of the economic division, another the legal division and so on, but every case that is to come before the Commission is first examined by a commissioner and then reported on to the Commission. All matters under the jurisdiction of the Commission are acted upon by the Commission as a whole.

The Commission meets regularly for transaction of business on Mondays, Wednesdays, and Fridays at the Commission's offices in Washington and very frequently on adjournment or call of the chairman. The commissioners hear final arguments in cases before the Commission as well as arguments on motions of counsel for the Commission or respondents. Be[illegible]

PUBLICATIONS OF THE COMMISSION

Publications of the Commission, reflecting the character and scope of its work, vary in content and treatment from year to year, especially documents relating to general business and industrial inquiries.

PART I. GENERAL INVESTIGATIONS

POWER AND GAS UTILITIES

SALARIES

STEEL CODE

GASOLINE PRICES

CHAIN STORES

PRICE BASES

MILK

PART I. GENERAL INVESTIGATIONS

POWER AND GAS UTILITIES

SCOPE OF INQUIRY AND COMPANIES EXAMINED

Pursuant to Senate Resolution 83, Seventieth Congress, first session, and section 6 of the Federal Trade Commission Act,[1] the Commission continued its investigation of large utility holding companies, subholding companies, management, construction, and finance companies and typical operating companies. Toward the close of the second session of the Seventy-third Congress, both branches of the Congress passed a joint resolution extending the inquiry to the first Monday in January 1936 which authorized and directed this Commission to proceed with the investigation of additional electric and gas corporations under the terms of Senate Resolution 83, Seventieth Congress, first session.

The investigation is being conducted to ascertain and report the facts with respect to utility holding companies and their controlled electric and gas operating companies, their financial structures, the growth of capital assets and capital liabilities, methods of issuing and of marketing various stocks and securities and the cost thereof, including organization expenses, commissions, discounts, and redemption charges, the capitalization of interests in management and other types of supervisory and controlling contracts, the methods of creation of capital surplus and the payment of dividends therefrom, the treatment of stock dividends as earnings, the taking over by holding companies of undistributed surpluses of subsidiaries as income, and other practices.

The pertinent facts relating to the various service contracts in use from time to time and the fees charged in connection therewith for management, supervision, servicing, engineering, construction, and financing are also being ascertained. Further examinations have

1 Sec. 6 of the Federal Trade Commission Act provides that-The Commission shall 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 carries subject to the act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

* * * * * * *

(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.

been made of the physical condition and efficiency of the plants and the equipment of the operating companies as well as of the organization and efficiency of management.

During the fiscal year 1933-34, an examination was made of a few companies owning natural gas producing and pipe-line companies, and an engineering and economic study was begun on some of the important problems of the natural-gas industry. It is planned to stress particularly this phase of the inquiry during the next year. Public hearings were held during the fiscal year 1933-34 on companies and groups on dates as shown below:

Company	Hearings began-
ASSOCIATED GAS & ELECTRIC CO. GROUP	
Associated Gas & Electric Securities Co. lac	Mar. 20, 1934
Associated Utilities Investing Corporation (Delaware)	Mar. 29,1934
Broad River Power Co. (engineering)	Apr. 12,1934
Lexington Water Power Co	Do.
W. S. Barstow & Co. (Delaware)	Sept. 11,1933
W. S. Barstow & Co. (New York)	Do.
W. S. Barstow Management Association, Inc	Do.
CENTRAL PUBLIC SERVICE CORPORATION GROUP	
Central Gas & Electric Co	Aug. 8, 1933
CITIES SERVICE CO. GROUP	
Arkansas Natural Gas Corporation	June 21,1933
Arkansas-Louisiana Pipe Line Co	Do.
Little Rock Gas & Fuel Co	Do.
Public Utilities Corporation of Arkansas	Do.
Reserve Natural Gas Co. of Louisiana	Do.
Southern Cities Distributing Co	Do.
Cities Service Co. System (interstate transmission)	Mar. 6,1934
Cities Service Co. (vol. I)	May 22,1934
Cities Service Gas Co	Do.
Cities Service Gas Pipeline Co	Do.
Kansas City Gas Co	
The Gas service Co	June 27, 1934
ELECTRIC BOND & SHARE CO. GROUP	
Electric Bond & Share Co. (operating expenses, etc.)	Jan. 18,1934
Report on sale of Common Stock to officers and other employees of Electric Bond & Share Co. and subsidiaries	June 14,1934
Supplemental financial statements	Do.
INSULL GROUP	
Central & South West Utilities Co	Feb. 1,1934
Central & South West Utilities Co. (intercorporate relations)	Do.
Corporation Securities Co. of Chicago	June 28,1934
Middle West Utilities Co. (supplemental--Sept. 30, 1930, to Apr.14, 1932)	Oct. 16,1933
Midland United Co	Nov. 15,1933
Midland United Group (intercorporate relations)	Nov. 17,1933
Midland Utilities Co	Nov. 15, 1933
Peabody Coal Co	Oct. 12,1933
Southwest L. E Myers Co	May 7,1934
NATURAL GAS PIPELINE CO. OF AMERICA GROUP	
Chicago District Pipeline Co	Jan. 24, 1934
Natural Gas Pipeline Co. of America	Do.
Texoma Natural Gas Co	Do.
NIAGARA HUDSON POWER CORPORATION GROUP	
Adirondack Power & Light Corporation	Aug. 1,1933
Adirondack Realty Holding Corporation	Mar. 1,1934
Buffalo General Electric Co	Feb. 14, 1934
Buffalo, Niagara & Eastern Power Corporation	Aug. 1, 1933

Coboes Power & Light Corporation Nov. 4, 1933
Malone Light & Power Co Feb. 6,1934

Company	Hearings began-
NIAGARA HUDSON POWER CORPORATION GROUP--continued	
Mohawk Hudson Power Corporation	May 25,1934
Municipal Gas Co. of the City of Albany	Nov. 3, 1933
New York Power & Light Corporation	Mar. 1,1934
Niagara Hudson Power Corporation System (interstate transmission)	Feb. 14, 1934
Northeastern Power Corporation	May 3, 1934
Northern New York Utilities, Inc	Nov.27, 1933
Oswego River Power Corporation	June 15,1934
Peoples Gas & Electric Co. or Oswego	Nov. 3, 1933
St. Lawrence County Utilities, Inc	June 28, 1934
St. Lawrence Valley Power Corporation	Do.
The Niagara Falls Power Co	Feb. 15,1934
NORTH AMERICAN LIGHT & POWER GROUP	
North American Light & Power Co. (supplemental)	Jan. 17,1934
STONE & WEBSTER GROUP	
Engineers Public Service Co. (Delaware)	May 22, 1934
Hydraulic Engineering Co	June 28, 1934
Stone & Webster Engineering Corporation	May 23, 1934
Stone & Webster, Inc. (Delaware)	May 21,1934
Stone & Webster, Inc., System (Interstate transmission)	Do.
THE UNITED CORPORATION GROUP	
The United Corporation (engineering)	Aug. 3, 1933
THE UNITED GAS IMPROVEMENT CO. GROUP	
The Northern Connecticut Power Co	Oct. 10, 1933
The United Gas Improvement Group (intercorporate relations)	June 27,1933
UTILITIES POWER & LIGHT CORPORATION GROUP	
Utilities Power & Light Corporation (intercorporate relations)	Mar. 0, 1934.

Testimony and exhibits entered regarding these companies, as well as other companies previously examined, have been or are being printed in volumes as a part of Senate Document No.92, Seventieth Congress, first session, parts 1 to 67, inclusive. Of these parts, numbers 1 through 53, inclusive, are now available to the public, while parts 54 through 67, inclusive, are in the hands of the printer. Testimony and exhibits introduced as a part of the publicity and propaganda phase of the investigation are printed in parts 1 to 20 which are accompanied by separate volumes of exhibits. Additional material on this phase appears in parts 35, 41, 43, 61, and 64.[2]

[2] Material placed in the record during the publicity or propaganda phase was obtained largely from the utility associations and state committees. Expenditures for publicity work of individual groups or companies are being presented in connection with other testimony and facts touching each such group and

company.

Cities Service Gas Pipeline Co	Do.
Kansas City Gas Co	Do.
The Gas Service Co	Do.
Lakeside Construction Co	Part 55.
Public Service Co. of Colorado	Do.

Company	Testimony and exhibits-
Columbia Gas & Electric Corporation group:	
Columbia Gas & Electric Corporation	Part 47.
American Fuel & Power Co	Part 52.
Cincinnati Gas Transportation Co	Part 49.
Columbia Corporation	Part 47.
Columbia Engineering & Management Corporation	Do.
Columbia Gas Construction Co	Do.

Company	Testimony and exhibits--
Natural Gas Pipeline Co. of America group:	
Chicago District Pipeline Co	Part 62.
Natural Gas Pipeline Co. of America	Do.
Texoma Natural Gas Co	Do.
New England Power Association Group:	
Connecticut Valley Power Exchange	Parts 31 and 32
New England Co	Do.
New England Power Association	Do.
Dearfield Construction Co	Do.
International Paper & Power Co	Do.
New England Power Construction Co	Do.
Power Construction Co	Do.
Sherman Power Construction Co	Do.
Niagara Hudson Power Corporation group:	
Adirondack Power Light Corporation	Part 59.
Adirondack Realty Holding Corporation	Part 63.
Buffalo General Electric Co	Part 62.
Buffalo, Niagara & Eastern Power Corporation	Part 56.
Cohoes Power & Light Corporation	Part 59.
Malone Light & Power Co	Part 62.
Mohawk Hudson Power Co	Part 66.
Municipal Gas Company of the City of Albany	Part 59.
New York Power & Light Corporation	Part 63.
Niagara-Hudson Power Corporation System (Interstate transmission)	Part 62.
Niagara, Lockport & Ontario Power Co	Part 54.
Northeastern Power or oration	Part 65.
Northern New York Utilities, Inc	Part 60.
Oswego River Power Corporation	Part 66.
Peoples Gas & Electric Co. of Oswego	Part 59.
St. Lawrence County Utilities Inc	Part 67.
St. Lawrence Securities Co	Part 53.
St. Lawrence Valley Power Corporation	Part 67.
Syracuse Lighting Co	Part 50.
The Niagara Falls Power Co	Part 63.
Utica Gas & Electric Co	Part 53.
North American Co. (The) group:	
North American Co	Parts 33 and 34.
Central Mississippi Valley Electric Properties	Do.
City Utilities Co	Do.
Cleveland Electric Illuminating Co. (engineering only)	Do.
Edison Securities Corporation	Do.
Great Western Power Co. of California	Part 39.
Midland Counties Public Service Corporation	Do.
Mississippi River Power Co	Parts 33 and 34.
North American Edison Co	Do.
North American Utility Securities Corporation	Do.
Pacific Gas & Electric Co. (engineering only)	Part 39.
Power Operating Co	Parts 33 and 34.

North American Co. (The) group:

Niagara-Hu8 only)Do. engineering only)

Kentucky Pipe Line Co. (Kentucky)	Do.
Louisville Gas & Electric Co. (Delaware)	Do.
Louisville Gas & Electric Co. (Delaware) and subsidiaries	Do.
Louisville Gas & Electric Co. (Kentucky)	Do.
Louisville Gas & Electric Securities Co. (Kentucky)	Do.
Louisville Hydro-Electric Co	Do.
Madison Light & Power Co. (Indiana)	Do.
Minneapolis General Electric Co	Part 43.

Company	Testimony and exhibits-
Standard Gas & Electric Co. group--Continued.	
Standard Gas & Electric Co.--Continued.	
Northern States Power Co. (Delaware)	Part 43.
Northern States Power Co. (Minnesota)	Do.
Northern States Securities Corporation	Do.
Oklahoma Gas & Electric Co	Part 36.
Stone & Webster group:	
Engineers Public Service Co. (Delaware)	Part 66.
Engineers Public Service Co., Inc	Part 67.
Hydraulic Engineering Co	Do.
Stone & Webster Engineering Corporation	Part 66.
Stone & Webster, Inc. (Delaware)	Do.
Stone & Webster, Inc. (management and supervision)	Part 67.
Stone & Webster, Inc., System (interstate transmission)	Part 66.
The United Corporation group:	
The United Corporation	Part 52.
The United Corporation (engineering)	Part 56.
The United Corporation (intercorporate relations)	Part 52.
The United Gas Improvement Co. group:	
The Northern Connecticut Power Co	Part 59.
The United Gas Improvement Co	Part 51.
Allentown-Bethlehem Gas Co	Do.
American Gas Co., The	Do.
American Gas Co. of New Jersey, The	Part 54.
Connecticut Electric Service Co., The	Do.
Connecticut Electric Syndicate	Do.
Connecticut Light & Power Co., The	Do.
Connecticut Railway & Lighting Co	Do.
Eastern Connecticut Power Co., The	Do.
Gas Securities Corporation	Part 51.
Philadelphia Gas Works Co., The	Do.
Rockville-Willimantlc Lighting Co., The	Part 54.
United Engineers and Constructors, Inc	Do.
Connecticut Light & 0.0075 Tw oTD -0.0068 Tc I Co., The	

been under discussion, have been present with full privilege to present objections, to cross-examine, and to offer testimony in behalf of such corporations.
Records of the hearings, i

resolution, are transmitted to the Senate on the 15th of each month, and later printed as part of Senate Document No. 92, as mentioned on page 19.

It had been the Commission's purpose to make its final report on the utilities inquiry as of July 1, 1934. It became apparent, however, that if this were done, much information already gathered about other companies would be lost to the record. This situation was laid before the President, who directed that the inquiry be continued until January 1935, by the following letter:

THE WHITE HOUSE,
Washington, April 26, 1934.

GENTLEMEN: I am informed that you have in preparation reports on various electric and gas utilities, operating or holding companies which you have not. yet had an opportunity to put into the record in the investigation which you are conducting under Senate Resolution 83, Seventieth Congress, first session, and that you are conducting studies or investigations of still other companies in which reports cannot be written until the completion of such studies. I consider it important that this work which is under way be completed and made a part of the public record in your utilities investigation.

Accordingly, pursuant to the authority vested in me by section 6 (d) of an act approved September 26, 1914, entitled "An act to create a Federal Trade Com mission, to define its powers and duties and for other purposes" I direct you to complete this work which is under way and to make these reports a part of said public record. I think it is of the greatest importance that your final report to Congress with your recommendations be submitted not later than January 1, 1935.

Very sincerely yours,

(Signed) FRANKLIN D. ROOSEVELT.

FEDERAL TRADE COMMISSION,
Washington, D. C.

Subsequently (June 1, 1934) Congress passed S. J. Res. 115, directing--

That the Federal Trade Commission be, and it is hereby, authorized and directed to proceed under the Senate resolution aforesaid (S. Res. 83, 70th Cong., 1st sess.) until it has investigated such of said corporations as in its judgment should be investigated, but the investigation shall be completed and the Commission's final report, with recommendations, shall be submitted to the Congress not later than the first Monday in January 1936.

GROUPS ON WHICH ACCOUNTING EXAMINATIONS ARE BEING MADE

The field examination of the business and relations of various electric and gas public utility companies continued throughout the year covered by this report, partly in extending the inquiry into groups. which had not then been considered in the bearings, but more especially in broadening the previous inquiry into particular groups on which hearings had already been held and in begun in

and natural gas pipe lines industries.

The public utility groups in which examinations were made during the fiscal year are Associated Gas & Electric Co., Central Public Service Corporation, Cities Service Co., Electric Bond & Share Co., Insull group, Natural Gas Pipeline Co. of America, Niagara Hudson Power Corporation, Stone & Webster, the United Corporation, and the United Gas Improvement Co.

From the beginning of the investigation to the end of the fiscal year of 1933-34, the inquiry covered holding companies having total assets of $3,972,000,000, subholding companies with total assets of $2,467,000,000, and operating companies with total assets of $3,491,000,000, or grand total assets of $9,930,000,000, according to company records.

SALARIES INQUIRY

REPORT CONCERNS CERTAIN COMPANIES LISTED ON NEW YORK STOCK EXCHANGES

This inquiry was initiated by the Commission in response to Senate Resolution 75, Seventy-third Congress, first session. That part of the resolution directed to the Federal Trade Commission reads as follows:

Resolved, That the Federal Trade Commission is requested to prepare and transmit to the Senate, as soon as practicable, a report showing the salary schedule of the executive officers and directors of each corporation engaged in interstate commerce (other than public-utility corporations) having capital and/or assets of more than a million dollars in value, whose securities are listed on the New York Stock Exchange or the New York Curb Exchange.

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The duty of obtaining data from the power utilities engaged in the transportation of electrical energy in interstate commerce, and of other corporations licensed under the Federal Water Power Act, but no other utilities, was assigned to the Federal Power Commission under the resolution, while all public utilities were excluded from the companies to be investigated by the Federal Trade Commission. As a result, other utilities, notably operating gas utilities engaged in interstate commerce, were excluded from the inquiry under the resolution.

The Interstate Commerce Commission furnished to the Senate information relative to compensation paid by railroads and other common carriers which are expressly excluded from the jurisdiction of the Federal Trade Commission by its organic act. The Secretary of Agriculture reported separately to the Senate regarding the compensation paid by packing companies which were transferred to his jurisdiction by the Packers and Stockyards Act of 1921.

The Commission's returns included many companies whose securities were admitted to unlisted trading privileges on the New York Curb Exchange, but the Senate resolution called only for submission of returns of corporations whose securities are listed on the New York Stock Exchange or the New York Curb Exchange; consequently, the Commission did not include in its report to the Senate companies whose securities are traded in on the curb but not fully listed. Where, however, such companies were affiliated with other companies whose securities were listed either on the New York Stock Exchange or the New York Curb Exchange, their reports were used in making consolidations.

A total of 877 schedules, which were pertinent to this inquiry, were returned. Shortly after the returns began to come in, it became obvious that many companies had not included all the indirect compens96 TeTD 0.0509 Tc (iD 0 Tc ( )) Tj 139

whatever information was readily available and to suggest to the company (in a number of instances) specific reasons for a different conclusion regarding its status in this respect. As a reasonably prompt report was imperative, only a limited correspondence was attempted, with results that were sometimes quite inconclusive and at other times definitely unsatisfactory. The main difficulty was with those holding companies which apparently control completely certain companies manufacturing and trading in the general commercial field.

Companies declining to report under the claim that they were not engaged in interstate commerce were as follows: Allied Chemical & Dye Corporation, Koppers Gas & Coke Co., American I. G. Chemical Corporation, the Delaware & Hudson Co., the Hudson Coal Co., the M. A. Hanna Co., Newmont Mining Corporation, Ludwig Baumann & Co., Exchange Buffet Corporation, United Dry Docks, Inc., Pantepec Oil Co. of Venezuela, Venezuelan Petroleum Co., and Penn Mex Fuel Co.

Four companies refusing to make a return to the Mi (Dry) Tj 17.04 0 TD 0 Tc (-) Tj 1.99 0 TD

STEEL-CODE INQUIRY

COMMISSION INVESTIGATES PRACTICES UNDER N.R.A. CODE

Under date of February 2, 1934, the Senate of the United States adopted a resolution directing the Commission to make an investigation and study of the code for the steel industry as approved August 19, 1933. The subjects specifically comprehended by the resolution were "the practice of the steel industry under the code with reference to price fixing, the increase of price of steel products, and such other matters as would give a full presentation of facts touching the industry since it went under the N.R.A. period" (The) Tj 17.28 0 TD 0 Tc 2

Effect of All-Rail Base Calculations on Steel Purchasers Using Truck Transportation, on the Trucking Industry, and on Government Highway Construction.

Code Limitations on Resale Prices.

Code Limitations on Channels of Wholesale Distribution.

Code Limitations on Increase of Producing Capacity.

Scope and Nature of Powers Delegated to Code Authority and Redelegated by It.

General Purpose and Effect of Foregoing System.

The Increase of Price of Steel Products.

General Summary of Price Increases Under the Code.

Comparison of Mill Base Quotations Inadequate and Inconclusive In Deter mining Price Increases.

Indirect Increases in Price Through Increased "Extras."

Direct Increases in Base Price Quotations.

Direct Increases in Price of Pig Iron Resulting from Putting it on Basing Point System Under the Code.

Historical Background of Present Price System.

Certain modifications in the steel code were approved by the President on May 30. The President directed that a study be made by the Commission and the N.R.A. of the effects of the basing-point system under the amended code and that a report be submitted to him within 6 months.

That part of the Executive order of May 30, 1934, approving the amendment to the steel code, which relates to the investigation by the Commission, is as follows:

In connection with the foregoing approval I desire to make two statements:

1. Conditions of economic emergency make necessary the retention in modified form of the multiple basing-point system adopted in the original code and effective in the industry for many years. But revisions made in this code, increasing substantially the number of basing points, and modifications in practice under the code, while alleviating some of the inequities in the existing system, illustrate the desirability of working toward the end of having prices quoted on the basis of areas of production and the eventual establishment of basing points coincident with all such areas, as well as the elimination of artificial transportation charges In price quotations. Therefore, I have directed the Federal Trade Commission and the National Recovery Administration to study further and jointly the operation of the basing-point system and its effect on prices to consumers, and any effects of the existing system In either permitting or encouraging price fixing, or providing unfair competitive advantages for producers, or disadvantages for consumers not based on natural causes. I have requested that the results of this study be reported to me within 6 months, together with any recommendations for revisions of the code, In accordance with the conclusions reached.

* * * * * * *

GASOLINE PRICES

REPORT SHOWS PRICE TRENDS IN 272 CITIES AND TOWNS

The Commission's investigation of prices of gasoline was made pursuant to a resolution adopted by the Senate February 2, 1934 (S. Res. 166, 73d Cong., 2d sess.). The resolution directed:

> That said Federal Trade Commission report to the Senate the increase in the price of gasoline during the last 6 months, and what the increase of price means to the users of gasoline

The legal aspects relate to that part of the Senate resolution directing the Commission to report on: (1) The extent to which the chain-store movement has tended to create a monopoly or concentration of control in the distribution of any commodity, either locally or nationally; (2) evidence indicating the existence of unfair methods of competition in commerce or of agreements, conspiracies or combinations in restraint of trade involving chain-store distribution; (3) whether or not quantity prices available only to chain-store distributors constitute violations of the Federal Trade Commission Act, the Clayton Act, or any other statute; and (4) what legislation, if any, should be enacted for the purpose of regulating and controlling chain-store distribution.

Factual studies of chain-store systems and their methods of operation have been published by the Commission under the following headings:

LIST OF CHAIN-STORE STUDIES

Cooperative Grocery Chains.
Wholesale Business of Retail Chains.
Sources of Chain-Store Merchandise.
Scope of the Chain-Store Inquiry.
Chain-Store Leaders and Loss Leaders.
Cooperative Drug and Hardware Chains.
Growth and Development of Chain Stores.
Chain-Store Private Brands.
Short Weighing and Over Weighing in Chain and Independent Grocery Stores.
Sizes of Stores of Retail Chains.
Quality of Canned Vegetables and Fruits (under Brands of Manufacturers, Chains and Other Distributors).
Gross Profit and Average Sales per Store of Retail Chains.
Chain-Store Manufacturing.
Sales Costs, and Profits of Retail Chains.
Prices and Margins of Chain and Independent Distributors, Washington, D. C.--Grocery.
Prices and Margins of Chain and Independent Distributors, Memphis--Grocery.
Prices and Margins of Chain and Independent Distributors, Detroit--Grocery.
Chain-Store Wages.
Chain-Store Advertising.
Chain-Store Policies.
Special Discounts and Allowances to Chain and Independent Distributors--Tobacco Trade.
Invested Capital and Rates of Return of Retail Chains.
Prices and Margins of Chain and Independent Distributors, Cincinnati--Grocery.
Special Discounts and Allowances to Chain and Independent Distributors--Grocery Trade.
Service Features in Chain Stores.
The Chain Store in the Small Town.
Special Discounts and Allowances to Chain and Independent Distributors--Drug.

Prices and Margins of Chain and Independent Distributors, Cincinnati--Drug.

with respect to the sale and distribution of milk and other dairy products within the territorial limits of the United States by any person, partnership, association, cooperative or corporation, with a view to determining particularly whether any such person, partnership, association, cooperative, or corporation is operating within any milkshed of the United States in such a manner as to substantially lessen competition or tend to create a monopoly in the sale or distribution of such dairy products, or is a party to any conspiracy in restraint of trade or commerce in any such dairy products, or is in any way monopolizing or attempting to

PART II. ADMINISTRATION OF THE SECURITIES ACT OF 1933

PURPOSES OF THE ACT

ACTIVITIES TRANSFERRED TO NEW COMMISSION

EXAMINATION OF REGISTRATION STATEMENTS

DISTRIBUTION OF PROCEEDS

RULES, REGULATIONS AND FORMS FOR REGISTRATION

INVESTIGATION OF ALLEGED VIOLATIONS

PART II. ADMINISTRATION OF THE SECURITIES ACT

PURPOSES OF THE SECURITIES ACT OF 1933

The purposes of the Securities Act of 1933 are to "provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof." The underlying aim of the act is, therefore, to offer protection to the investing public. This protection is sought to be achieved by requiring full disclosure of the facts pertinent to the formation of an intelligent appraisal of the value of a security, and by affording sanctions, civil and criminal, against the parties failing to make such fair disclosure.

The act does not permit judgment by the administrative commission of the value or soundness of a security. That body's function is to see that full and accurate information is made available to purchasers and the public, and that no fraud is practiced in connection with the sale of securities.

Full information concerning new security issues must be filed with the administrative commission by means of a registration statement. Failure to file such information or the filing of misleading or inadequate information imposes civil and criminal liability.

ACTIVITIES TRANSFERRED TO NEW COMMISSION, SEPTEMBER 1, 1934

Prior to September 1, 1934, when administration of the Securities Act was transferred to the new Securities and Exchange Commission, this work was in charge of the Federal Trade Commission. Fifteen months previous, upon approval of the act by President Roosevelt, on May 27, 1933, the Commission, in order properly to perform its duties, organized a new division with the resulting increase in personnel and purchase of new equipment.

At the beginning of administration of the Securities Act it was necessary to require considerable overtime work on the part of employees assigned to the newly organized unit for these reasons: First, the difficulty in making estimates, prior to actual experience in administering the act; second, the great volume of work entailed; and, third, lack of available funds with which to provide an adequate staff. However, with an increased appropriation made available later, the Commission was able to more efficiently organize its securities division.

The securities work of the Commission may be considered under three general headings: (1) Examination of registration statements filed pursuant to provisions of the act requiring the disclosure of pertinent information concerning new offerings of securities; (2) formulation of rules and regulations for e12.917cg p h e o t f h e

company

and two companies registered securities entirely for the account of others. No net proceeds distribution, therefore, can be given for them.)

Working capital, funding, refunding, and conversion, and reservations for subsequent issue in the order named were the next most important proposed uses of capital. But none of these three purposes accounted for as much as 10 percent of the total net proceeds and no other proposed use for as much as 5 percent.

Organization and development	1.2
New company plant construction, etc	3.6
Acquisition of assets	3.4
Acquisition of capital stock of other companies	.8
Old company plant and equipment additions and betterments	2.5
Working capital	9.7
Funding, refunding, and conversion	8.6
Investment	60.9
Reserved for subsequent issue	7.3
Miscellaneous, unclassified, and unaccounted for	2.0
Total	100.0

Registration statements were available for public inspection at the Commission's offices, and from October 11, 1933, to September 1, 1934, a total of 3,305 personal examinations were made of statements on file with the Commission. In addition, 52,681 photostatic pages of registration statement material were furnished to the public at nominal charges between July 7, 1933, and September 1, 1934. Monthly figures of effective registration statements classified as to type of security, character of issuer, and distribution of net proceeds, together with cumulative figures for the year to date, were issued for publication. Such information was also made available in photostatic form upon payment of the regular charge prescribed by the Commission's regulations.

2. RULES, REGULATIONS, AND FORMS FOR REGISTRATION

Pursuant to authority conferred by the act, the Commission adopted forms for registration of various classes of securities and issuers, as well as rules and regulations relating to administration of the act and defining certain accounting, technical, and trade terms used in the act.

A general form (form A-1) was provided for use in registering issues which did not, by reason of their character or that of the issuer, [illegible]

oil and gas royalty interests, were registered on forms applicable to each type. Rules governing the contents of prospectuses to be used in the sale of securities registered on the various forms were also promulgated.

In addition to general regulations relating to administration of the act, the Commission adopted a number of special rules, some of the more important of which were: Rule governing the withdrawal of registration statements and amendments thereto, and requiring that certain powers of amendment, withdrawal, and entry of consent order be conferred upon the person designated as the agent for service of the registrant; rule for newspaper and periodical advertisements of securities registered on form A-1; rule relating to the form of registration statement and prospectus to be used for additional blocks of securities previously registered; regulations for the exemption from registration of offerings of certain classes of securities of not more than $100,000 in the aggregate.

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the act was the filing of a bill of complaint in the United States District Court for the Southern District of New York, asking that an injunction be issued to restrain Maison-Pichel, Inc., New York, importer of wines and liquors, from representing that the Commission had passed upon the merits of, or given approval to, an issue of $100,-000 of preferred and common stock for which a registration statement had been filed. A temporary c o m District

PART III. GENERAL LEGAL WORK

DESCRIPTION OF PROCEDURE

LEGAL INVESTIGATION

LEGAL WORK UNDER N.I.R.A.

CONSOLIDATIONS AND MERGERS

STIPULATION PROCEEDINGS

REPRESENTATIVE COMPLAINTS

ORDERS TO CEASE AND DESIST

TYPES OF UNFAIR COMPETITION

CASES IN THE FEDERAL COURTS

PART III. GENERAL LEGAL WORK

DESCRIPTION OF PROCEDURE

A case before the Federal Trade Commission

law applicable thereto, and makes recommendations as to what action the Commission should take thereon.

The entire record is then reviewed by the chief examiner and, if found to be complete, is submitted, with a brief statement of facts and his conclusions and recommendations, to the Commission for

20 days from service of the complaint, file with the Commission an answer to the complaint. The rules of practice also specify a form of answer for use should the respondent decide to waive hearing on the charges and not contest the proceeding.

Failure to appear or to file an answer within the time specified--

shall be deemed to be an admission of all allegations of the complaint and to authorize the Commission to find them to be true and to waive hearing on the charges set forth in the complaint.

In a contested case, the matter is set down for taking of testimony before a trial examiner. This may occupy varying lengths of time, according to the nature of the charge or the availability and number of witnesses to be examined. Hearings are held

vestigations

The article of the code alleged to have been violated is article XI, which provides that one desiring to establish additional ice production, storage, or tonnage in any given territory must first show, to the satisfaction of the Administrator appointed by the President to administer the National Industrial Recovery Act, that public necessity and convenience require such additional ice-making capacity, storage, or production. The complaint alleged that respondents, without making such required showing of public necessity and convenience, constructed in Lakeland, Fla., an ice-manufacturing plant, equipped the same for the purpose of making ice therein and thereby, and began and have continued to manufacture ice at the plant and to offer the same for sale, and sell the same, to the public.

Issues were joined on the complaint. Respondents did not deny the allegation above referred to, but at great length alleged facts to challenge the validity of the code as against the respondents.

The case has been tried and will be presented before the Commission on briefs and oral argument.

Edward J Ramsey, et al., Docket No. 2206.--The Commission issued complaint against Edward J Ramsey, Edward P. Ramsey, Louise Ramsey, and three corporations owned and controlled by them.

The code alleged to have been violated by respondents is the Code of Fair Competition for the Boot and Shoe Manufacturing Industry as approved on October 3, 1933, by the President.

The article of said code alleged to have been violated is article VIII, section 3, which provides that in no case shall a member of the industry sell his products to wholesalers, department stores, retailers, and others in the trade at a discount in excess of 5 percent.

It was alleged in the complaint that respondents violated the article of the code in this, to wit, that they made sales at discounts as high as 23 percent.

Issues have been joined by answers filed in which several questions are presented.

Certain respondents deny that they are manufacturers and assert that they are not bound by the provisions of the code, but they do not deny sales at discounts above 5 percent.

Edward J Ramsey denied that he makes sales at a discount of more than 5 percent, claiming that he sells only to his correspondents and in compliance with the code.

The answers also alleged facts which challenge the validity of the provisions of the code. The issues as joined present controverted questions both of fact and of law.

By consent of parties, the case is set for trial on November 20, 1934.

CONSOLIDATIONS AND MERGERS

CASES ARISING UNDER SECTION 7 OF THE CLAYTON ACT

Internal reorganization and centralization of subsidiary activities, including recapitalization and some liquidation, continued to prevail in the field of industrial and commercial organizations during the fiscal year ending June 30, 1934. Comparatively few consolidations or mergers of importance were effected during the year. There was, however, considerable movement in the acquisition by established organizations of well-known and favorably located distilling facilities and in the organization of new corporations for the purpose of engaging in the brewing business.

Four preliminary inquiries involving acquisitions, consolidations, and mergers were pending at the beginning of the year; 45 additional inquiries were instituted during the year , and 14 were pending at the close of the year, indicating a disposition of 35 preliminary matters during the year, all of which were filed without docketing.

Three of the 35 matters filed without docketing pertained to proposed acquisitions, consolidations, or mergers which failed of consummation. Twenty of the matters involved acquisition of assets and 12 involved acquisition of capital stocks.

All of the 12 matters involving the acquisition of capital stocks were filed without docketing because the acquisition did not result in a substantial lessening of competition, restraint of trade, or tendency toward monopoly. In 7 of the 12 matters, the products of the organizations were noncompetitive, in 3 the products of the companies were sold in noncompetitive territories

evidence against him in the trial of a complaint which the Commission may issue.

Commodities mentioned in stipulations are of an infinite variety. Taken at random there would be such a list as follows: Hats, shoes, suit goods, fly-catching devices, tombstones, toy airplanes, perfumes, blankets, electrotherapeutic instruments, synthetic beverages, horse-shoes, radio cabinets, sea food, and tooth paste.

Stipulations in which various individuals and companies agreed to cease and desist. from unlawful practices charged were approved and accepted by the Commission during the fiscal year in 115 cases. These cases 2.0n27.6 0 tipulations Stipulatio07

Most of the respondents have filed answers to the Commission's complaints and in most of the cases testimony has been taken. In one case the Commission has taken final action.

RAYON CASES; ALLEGED PRICE FIXING

In a complaint issued in February 1934 the Commission charged the respondents, a group of rayon manufacturers, individuals controlling such, and a firm of accountants, with conspiracy to fix and maintain prices for rayon yarn and prices for rayon cloth made from such yarn. The conspiracy is alleged to have been entered into in October 1931 and as a means for carrying out such conspiracy, it is charged that respondents curtailed production

ALLEGED PRICE DISCRIMINATION BY MANUFACTURERS AND DISTRIBUTORS OF TIRES

In its complaint issued September 13, 1933, the Commission charges a nationally known tire manufacturer with violating the provisions of section 2 of the Clayton Act in that it was then and for several years had been discriminating in the price of a commodity, namely, tires, between a nationally known mail-order house and its dealers, which discrimination was not "on account of. the differences in the grade, quality, or quantity of the commodity sold" and did not "make only due allowances for difference in the cost of selling or transportation", and which was not "made in good faith to meet competition."

The complaint alleges that such discrimination has the effect of substantially lessening competition in the sale of tires between the mail-order house and retail competitors, and that such discrimination tends to create a monopoly of both the mail-order house and the manufacturer.

ALLEGED ACQUISITION OF CAPITAL STOCK O COMPETING CORPORATIONS

In a complaint issued December 6, 1933, against a certain corporation, the Commission charges that the corporation, originally organized several years before as a holding corporation under a different name, by exchange of its capital stock, acquired all of the common stock of a large corporation engaged in the manufacture of newsprint paper and paper products; that the latter corporation was in competition with the respondent and several other corporations, all of which were subsidiaries of the original holding corporation and that thereby the respondent, through such acquisition, acquired a dominant position in the paper and paper products industry, particularly newsprint paper, controlling the manufacture and sale of 80 percent of the output of newsprint in the Pacific Coast States; that such acquisitions were in violation of section 7 of the Clayton Act because of the lessening of competition between the original holding company and its subsidiaries on the one hand and the paper manufacturing corporation so acquired and its subsidiary corporations on the other, and also because of the tendency to restrain interstate commerce and create a ymerpaper produ190.68 -.D 0 Tc ( )-c (08c 0.0/F1 9 Tc 0f 0 TD 0 h29ing corALLEGED COMBIN

1930 to February 1932. Formal complaint was ordered by the Commission in May 1933 upon submission of its final report to the Senate, but its issuance and service were withheld pending negotiations between the Agricultural Adjustment Administration and the industry for adoption of a marketing agreement under the Agricultural Adjustment Act approved May 12, 1933. No such agreement had been concluded at the time the complaint was issued. The complaint charges respondents with creation and maintenance of combination and conspiracy to control and depress the price of cottonseed and to advance the price of cottonseed meal.

of their product by fraudulent representations and thereafter, by transferring trade acceptances to finance companies with which they have been operating in collusion, have precluded resort by defrauded distributors to the legitimate defense that their signatures to contracts and trade acceptances had been secured by fraudulent pretenses.

ALLEGED CONSPIRACY TO LESSEN OR DESTROY COMPETITION

In a typical complaint of this character, the Commission charges a New York corporation, two other concerns,

may desire to have their requirements delivered by motor transportation.

It is also charged that said respondents have sought to prevent manufacturers of cement blocks and like materials from purchasing supplies direct from manufacturers and have sought to require them to purchase raw materials exclusively from respondent members and recognized dealers; and it is further charged that they have sought to confine the sale and distribution of all cement ordered by municipalities and other political subdivisions to their own members or recognized dealers.

These and other acts of respondents, it is charged, are monopolistic practices and methods of competition which are unfair and violative of section 5 of the Federal Trade Commission Act.

ALLEGED RESALE PRICE MAINTENANCE

A nationally known manufacturer of fountain pens, desk sets, ink, and automatic pencils was charged, in a complaint issued January 25, 1934, with enforcing a system of resale price maintenance in the sale to the public of its products.

It is alleged that the respondent sells only to retail dealers, and requires those dealers to resell the company's products to the public at prices which are fixed by it. The company has about 20,000 dealers throughout the United States. The complaint alleges that it enlists and secures the support of its officers, agents, and employees and the cooperation of dealers in enforcing and maintaining the system of resale price maintenance.

ALLEGED MISBRANDING AND ADULTERATION OF PAINT

In September 1933 the Commission issued complaint against a paint manufacturing concern alleging misbranding of various paint products and gross adulteration of the same. An amended and supplemental complaint made additional charges of the same character and the further charge of improper and deceptive use of labels.

It is alleged that in numerous instances, paint, the vehicle of which contained large percentages of water, was manufactured and sold insold

of the cheapest character was sold as high-grade standard paint; that formulas not truly representing ingredients in the paint were printed on trade-name labels; that large quantities of cheap, inadequate substitutes for the requisite elements and proportions of white lead carbonate or sulphate, zinc oxide, or other metallic pigments, and linseed oil were put into the paint to cheapen and adulterate it, such ingredients not being set forth on the labels; that respondents encouraged and aided the opening of "Army", "Factory", and "$1.00" paint stores in various States for the purpose of selling heavily watered and otherwise adulterated paint, and aided and encouraged such stores in selling at $1 a gallon paint that was heavily adulterated with cheap substitutes of highly inferior quality, but which was represented as being high-grade, superior quality house paint.

It is further alleged that the respondent paint manufacturing company, in many instances, avoided or refrained from printing its own name on labels for paint manufactured by it, but instead printed on such labels the names of numerous fictitious companies and corporations having no actual existence, certifying on such labels to the quality and quantity of paint in cans to which the labels were affixed, giving directions for the proper use of the paint, guaranteeing its quality, and, in some instances, guaranteeing the number of years the paint would last.

It is also alleged that respondent paint-manufacturing company furnished its trade-name labels to dealers throughout the country who make a practice of buying paint at bankrupt sales and that such dealers affixed these labels to paint picked up by them at various auction sales; further, that respondent paint-manufacturing company cooperated with its various sales agencies throughout the country in advertising its own products as being those of bankrupt and unclaimed freight stock sales, thereby creating the impression upon the purchasing public that such paints, because obtained through bankruptcy and freight stock sales, constituted a high-grade paint product which was being sold at exceptionally low and attractive prices.

It is alleged that the foregoing acts and practices have placed in the hands of various dealers throughout the United States the means of deceiving ultimate purchasers, have diverted trade from and injured competitors of respondent company, are to the prejudice of the public and respondent's competitors, and constitute unfair methods of competition in interstate commerce.

In their answer the respondents admitted some of the allegations of the complaint, denying others.

OTHER TYPES OF MISREPRESENTATION

Other cases in which the Commission has issued complaints during the year, involving misrepresentation, include a wide range of commodities, among which are: Men's shirts, nursery products, men's clothing, so-called health foods, malt sirups, proprietary medicines, handkerchiefs, depilatory products, encyclopedias, hardware products, window glass, cleaning fluids, toiletries, dental preparations, tobacco products, furs, corrugated paper and fabric boxes, furniture, scalp treatments, spark plugs for gasoline engines, pearls, smoke salt, toys, cedarized chests, burial vaults, extracts, Persian coats, can openers, cutlery, bunion removers, military apparel, Angora yarn, burial monuments, seafood, radioactive minerals, and velvet goods.

PENDING CASES AT THE CLOSE OF THE YEAR

At the end of the fiscal year, 115 cases (formal public record) were pending, involving charges of unfair methods of competition in violation of section 5 of the Federal Trade Commission Act, the acquisition of stock in violation of section 7 of the Clayton Act, and price discrimination tending to create monopoly and substantially lessen competition in violation of section 2 of the Clayton Act. Among the practices embraced in such cases under section 5 were combinations and agreements to fix prices, suppress competition, and restrain trade; lottery schemes; commercial bribery; monopoly by international agreement; and various forms of misbranding and deceptive representations.

ORDERS TO CEASE AND DESIST

UNFAIR TRADE PRACTICES PROHIBITED IN 111 CASES

The Commission issued orders to cease and desist from unfair methods of competition and other practices during the year in 111 cases. Among the respondents were a large manufacturer of gas mantles, a steel company, a distributor of electric light bulbs, a paint and varnish company, a coal-mining company, and others, including 48 candy companies charged with using sales methods held to be in the nature of lotteries or gaming devices. The cases are listed as follows :

ORDERS TO CEASE AND DESIST ISSUED DURING YEAR

Respondent	Location
Acme Shellac Products Corporation	Astoria, Long Island.
Adams, Charles F. (Inc.)	Lancaster, Pa.
Adams Paint Co. (Inc.)	Cleveland.
Advance Candy Co. (Inc.)	New York City.
Amber-Ita	Kalamazoo, Mich.

American Candy Co. (Inc.)	Milwaukee.
American Caramel Co. (Inc.)	Lancaster, Pa.
American College (Inc.) and others	Chicago.
Arnould Co., D.	New York City.
Blackhawk Candy Co. (Inc.)	Davenport, Iowa.
Block Candy Co. (Inc.)	Atlanta.
Blue Hill Candy Co. (Inc.)	St. Louis.
Brux Candy Co. and others	Newark, Ohio.
Bunte Bros. (Inc.)	Chicago.
California Alfalfa Products Co. (Inc.)	Pasadena, Calif.
Canton Mills (Inc.)	New York City.
Carman-Roberts Co. (Inc.)	Pittsburgh.
Case, Paul	Brockton, Mass.
Casper Co., A. B. (Inc.)	Minneapolis.
Charms Co. (Inc.)	Newark, N.J.
Cheeseman Medicine Co., Dr	New York City.
Chic-American Distributing Co	New Brunswick, N.J.
Clark Co., D. L. (Inc.)	Pittsburgh.
Collins Co., J. N. (Inc.)	Philadelphia.
Cook Paint & Varnish Co. (Inc.) and others	Kansas City, Mo.
Cosmopolitan Candy Co. (Inc.)	Chicago.
Croxon (Inc.) and others	New York City.
Cunrier's Tablets (Inc.)	Hollywood, Calif.
Curtiss Candy Co. (Inc.) and others	Chicago.
Delson Chemical Co. (Inc.)	Brooklyn.
Dilling & Co. (Inc.)	Indianapolis.
Drew Corporation	New York City.
Elbee Chocolate Co. (Inc.)	Do.
Elmer Candy Co. (Inc.)	New Orleans.
English, Worth	New York City.
Euclid Candy Co. (Inc.)	Do.
Excelsior Hat Works	Jersey City.
Fishback Candies (Inc.)	Indianapolis.
Fleer Corporation, Frank H	Philadelphia.
Frank Hat Co	Brooklyn.
Goldenberg, D. (Inc.)	Philadelphia.
Gutman Bros. and others	New York City.
Hardie Bros. Co. (Inc.)	Pittsburgh.
Hanlin Hat Co. (Inc.)	New York City.
Heidelberger Confectionery Co. (Inc.)	Philadelphia.
Henry Co., DeWitt P. (Inc.)	Do.
Hires Turner Glass Co. (Inc.)	Do.
International Gum Corporation	Watertown, Mass.
International Optical Co., and others	Chicago.
Ironized Yeast Co. (Inc.)	Atlanta.
Johnson-Fluker Co. (Inc.)	Do.
Karcher Candy Co., A. (Inc.)	Little Rock.
Landis Medicine Co	Cincinnati.
Lewis & Sons, Edgar P. (Inc.)	Boston.
Lewis Bros. (Inc.)	Newark, N.J.
Lightning Co. (Inc.)	St. Paul.
Lindsay Light Co. (Inc.)	Chicago.
Luden's (Inc.)	Reading, Pa.

Lytle, M. B	Delta, Utah.
Macey Co. (Inc.)	Grand Rapids.
Magnecoil Co. (Inc.)	Salt Lake City.
Maisel Trading Post (Inc.)	Albuquerque.
Margarella, Pasquale	New York City.
McGowan & Hall	Minneapolis.
Mears Radio Hearing Device Corporation	New York City.
Mells Manufacturing Co. (Inc.)	Do.
Metro Chocolate Co. (Inc.)	Do.
Minter Bros	Philadelphia.
Modern Hat Works	Jersey City.
Montecatini Distributing Co	Alliance, Ohio.
Morben Hat Works (Inc.)	New York City.
National Candy Co. (Inc.)	St. Louis.
National Silver Co. (Inc.)	New York City.
Northern Fruit & Produce Co. (Inc.), and others	Chicago.
Nurito Co. (Inc.)	Do.
Nuss Research Laboratory	Elkland, Pa.
Overland Candy Co. (Inc.)	New York City.

A number of representative cases resulting in orders to cease and desist issued during the fiscal year are described below. Unless otherwise indicated, these orders pertain to violations of the Federal Trade Commission Act.

COMMERCIAL BRIBERY

Cook Paint & Varnish Co. and others, Kansas City, Mo.-The Commission, in a complaint issued in June 1931, charged that respondents had offered and given to finishers, foremen, and other employees of manufacturers of furniture to whom the Cook Paint & Varnish Co. sold its products, without the knowledge and consent of their respective employers,

MISREPRESENTATION IN SALE OF OPTICAL GOODS

International Optical Co. and Others, Chicago.-After considering a substantial amount of testimony and evidence, the Commission, on April 6, 1934, found that the respondents in this case, who were engaged in the sale of spectacles by mail, had been enjoined from selling as "Shuron" spectacles and frames, certain frames and spectacles of their own manufacture. The Commission further found that while the respondents advertised to furnish spectacles free, they did not do so. It was the practice of the respondents to require a purchaser to send (send) hts e y

makes sold by competitors. For example, salesmen of White Lite Corporation demonstrated its lamp marked "15-watt", which was actually a 27- or 28-watt lamp, against a 25-watt standard lamp of a competitor. The customer was thus led to believe that if he bought respondent's lamp for which he paid twice the purchase price of the standard lamp, he would save in the cost of electric current the difference between the cost of operation of the 15- and 25-watt lamps, respectively. The customers purchasing "Sun-Glo" lamps from respondents thought from the marking on the lamps they were obtaining a 50-watt capacity bulb. Such "Sun-Glo"lamps were found to measure 63.6 and even 69.1 watts.

The Commission further found that Sun-Glo lamps marked 60 watts actually measure 69.8 watts and produced only 569 lumens of light, whereas a standard 50-watt lamp produced 575 lumens of light. In addition, the Commission found that to operate this Sun-Glo lamp at 6 cents a kilowatt-hour would cost $4.19 for 1,000 hours, whereas the cost, at the same rate, for operating the 50-watt standard lamp would he only $3 for 1,000 hours, or $1.19 less.

The Commission ordered the respondent to cease and desist from selling and offering for sale incandescent lamps marked with other than the correct number of watts, and to further cease and desist from representing the lamps as being manufactured to comply with specifications of the United States Bureau of Standards. Respondent was furthered ordered to cease and desist from representing that any trade mark used in the sale of incandescent lamps was registered in the United States Patent Office, unless such registration had actually been made.

MONOPOLY BY INTERNATIONAL AGREEMENT

Lindsay Light Co., Chicago.--The Commission on March 5, 1934, entered an order against Lindsay Light Co. prohibiting the enforcement of an agreement entered into by it with four foreign companies or corporations located in Berlin, London, and Paris, by which agreement the foreign companies contracted not to export "thorium" or any derivative thereof into the United States or Canada, and in return the Lindsay Light Co. agreed not to sell "thorium" or products derived therefrom except in the United States or Canada, and then only upon the condition that its purchasers would agree not to export such thorium and its derivatives, which are used in the manufacture of gas mantles.

By the same order, the Commission enjoined the Lindsay Light Co. from enforcing an agreement with Travencor Minerals, Ltd., of London, by which the latter company agreed not to sell "Monazite sand" to anybody in the United States other than the Lindsay Light

Co. and to prevent any of its foreign customers from shipping such into the United States.

ACQUISITION OF CAPITAL STOCK OF COMPETING CORPORATIONS

Vanadium-Alloys Steel Co., Latrobe, Pa.-In an order issued January 12, 1934, the Commission required the Vanadium-Alloys Steel Co., a Pennsylvania corporation engaged in the manufacture and Sale in interstate commerce of tool and other high-grade steels, to divest itself in good faith of all the capital stock of the Colonial Steel Co., a Pennsylvania corporation also engaged in the manufacture and sale in interstate commerce of tool and other high-grade Steels, which, it was charged, had been illegally acquired under section 7 of the Clayton Act, which forbids the acquisition of the capital stock of a corporation engaged in interstate Commerce by a competing corporation where the effect of such acquisition may be to suppress competition between the two Corporations or tend to restrain trade in any community or tend to create a monopoly in any line of commerce.

The Commission found that the effect of the acquisition of the capital stock of the Colonial Steel Co. by the Vanadium-Alloys Steel Co. was a unification of Sales and production policies and a Substantial lessening of the competition between the two corporations. It was further found that while the increases in the production of the two companies, as a result of the acquisition, did not so substantially increase the respondent's production in its relation to the whole as to enable it to restrain commerce in any section or community and did not tend to create a monopoly in the line of commerce in which the two companies were engaged, nevertheless, there having been substantial competition between the two companies, the lessening of this competition was substantial and its elimination a matter of concern to the consuming public.

MISBRANDING SEED POTATOES

Northern Fruit & Produce Co., Chicago.-On March 8, 1934, the Commission entered an order to cease and desist against the Northern Fruit & Produce Co. and Growers' Produce Exchange, both corporations, and five individual respondents, engaged in the business of buying and selling seed potatoes. Four respondents had admitted the allegations of the Commission's complaint of October 5, 1933, waived hearing on the charges, and consented to the order. The other three failed to answer.

The order was to cease and desist from representing by means of tags attached to the seed potatoes, or in any other manner, that such

potatoes had been inspected or certified with reference to size, quality, or grade when such was not the fact; that they had been inspected for conditions known as "dwarfing", "running out", "Mosaic", or any other potato disease determinable only by inspection of the seed potato plant while growing, when such seed potatoes did not come from plants so inspected; that the seed potatoes had been inspected or reported upon by any department or bureau of the United States Government with reference to size, quality, or grade, when such inspection had consisted of an inspection "for condition only"; or that the seed potatoes were of a grade known and designated as "U. S. No. 1" or "True to Variety", when such was not the fact.

A subsequent investigation by the chief examiner's division disclosed that respondents were complying with this order.

MISBRANDING AND MISLABELING OF COAL

Walker's New River Mining Co., Elkins, W.Va.--The Commission found that the respondent mined its coal in a region some 75 miles from the "New River" district of West Virginia., but that nevertheless it advertised and sold its coal as "New River" coal. The Commission further found that efforts of the operators in the "New River" field to distinguish "New River" coal from other types or grades and to give it a recognized reputation of quality had been quite successful. While the Commission did not find that the respondent's coal was of inferior quality, nevertheless it ordered respondent to cease and desist from designating or labeling its product "New River Coal." The respondent contended that "New River Coal" is not in fact a trade name signifying coal from the "New River" field, but could be appropriately applied to coal mined from any of the seams known geologically as the "New River Group of the Pottsville Series." The Commission, however, found that the practice of the respondent in using the words "New River" in its corporate and trade name and its practice of offering for sale and selling its coal described, designated, or invoiced as "New River Coal", had the capacity and tendency to mislead and deceive the public into the belief that the coal so offered by respondent was mined in the district generally known as the "New River

cease and desist issued under section 5 of the Federal Trade Commission Act.

These do not include Clayton Act violations, which, under the jurisdiction of the Commission, embrace, subject to the various provisions of the statute, price discrimination (sec. 2, Clayton Act), tying and exclusive contracts or dealings, corporate stock acquisitions (sec. 7, Clayton Act), and interlocking directorates (sec. 8, Clayton Act).

The list is as follows :

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

Misbranding of fabrics and other commodities respecting the materials or ingredients of which they are composed, their quality, purity, origin, or source, and selling them under such names and circumstances that the purchaser would be misled in these respects.

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

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

Inducing employees or 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.

Making false and disparaging statements respecting competitors' products, their business, financial credit, etc.

Wide-spread 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.

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.

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, etc., with the capacity and tendency unfairly to divert trade from the competitors, and/or with the effect of so doing to their prejudice and injury and that of the public.

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

Paying excessive prices for supplies for the purpose of buying up same and hampering or eliminating competition.

Using concealed subsidiaries, ostensibly independent, to secure competitive business otherwise unavailable.

Using merchandising schemes based on a lot or chance.

Cooperative schemes and prices for compelling wholesalers and retailers to maintain resale prices fixed by the manufacturer for resale of his product.

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.

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, with capacity and tendency to mislead and deceive many of the purchasing public into buying products involved in such erroneous belief, and/or with the effect so to do, to the injury and prejudice of the public and of competitors, such schemes including--

(1) 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.

(2) 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 taken as a whole.

(3) Use of misleading trade names calculated to create the impression that a dealer is a manufacturer selling directly to the consumer with resultant savings.

(4) Use of pretended exaggerated retail prices in connection with or upon the containers of commodities intended to be sold as bargains at 7s a manufacteectuigg d2.96 TD 0.029

commodity in weights or quantities less than the aforementioned standards, with capacity and tendency to deceive the purchasing public into believing that they are purchasing the quantities generally associated with the standard containers involved, and/or with the effect of so doing, and with tendency to divert trade from and otherwise injure the business of competitors who do not indulge in such practices and/or with the effect of so doing, to the injury of such competitors and to the prejudice of the public.

Concealing business identity in connection with the marketing of one's product, or misrepresenting the seller's relation to others, e.g., 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, etc.

Misrepresenting in various ways the advantages to the prospective customer of dealing with the seller, with the capacity and tendency to mislead and deceive many among the consuming public into dealing with the person or concern so misrepresenting, in reliance upon such supposed advantages, and to induce their purchases thereby, and/or with the effect of so doing, to the injury and prejudice of the public and of competitors, such as--

(1) Seller's alleged advantages of location or size.

(2) False claims of being the authorized distributor of some concern.

(3) Alleged endorsement of the concern or product by the Government or by nationally known businesses.

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

(5) Being manufacturer's representative and outlet for surplus stock sold at a sacrifice, etc.

(6) Representing that the seller is a wholesale dealer, grower, producer, or manufacturer, when in fact such representation is false.

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

Obtaining business through undertakings not carried out and through dishonest and oppressive devices calculated to entrap and coerce the customer or prospective customer, with the result of deceiving the purchasing public and inducing purchases by many thereof, and of diverting and tending to divert trade from competi-

tors who do not engage in such false, misleading, and fraudulent representations, all to the prejudice and injury of the public and competitors, such practices including--

(1) Securing by deceit prospective customer's signature to a contract and promissory note rep resented as simply an order on approval; obtaining agents to distribute the seller's products through promising to refund the money paid by them should the product prove unsatisfactory, and through other undertakings not carried out.

(2) Obtaining business by advertising a "free trial " offer proposition, when, as a matter of fact, only a "money-back " opportunity is offered the prospective customer.

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 stribute the

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Another Supreme Court decision favorable to the Commission was in the case of R. F. Keppel & Bro., Inc., of Lancaster, Pa., involving lottery practices in the candy business. Following this decision, the Commission issued 48 orders requiring candy companies to cease and desist from practices which promoted the use of lotteries in making sales through retail channels.

Cases pending during the fiscal year are described as follows :

The Arrow-Hart & Hegeman Electric Co., Hartford, Conn.--This corporation, on September 29, 1932, filed with the second circuit (New York City) its petition to review and set aside the Commission's cease and desist order, based on findings to the effect that by acquisition of the stock of two competing concerns, this company's predecessor, Arrow-Hart & Hegeman, Inc., had lessened competition between them, and had created a situation whereby there was a tendency to restrain commerce and create a monopoly in the sale of electrical wiring devices, in violation of section 7 of the Clayton Act. The second circuit, May 29, 1933, affirmed the Commission's order (65 F. (2d) 336), saying:

> Congress intended to prevent, by section 7, a corporate control which could be concentrated by prohibited acquisition of stock. Wrongful acquisition of the stock facilitates a merger or consolidation of ofin

sion "lacked authority to issue

the Clayton Act, that stock was used to effectuate a merger of the competing corporations. It is now declared that, however gross the violation of the Clay-ton Act, however flagrant the flouting of the Commission's authority, the celerity of the offender, in ridding itself of the stock before the Commission could complete its hearings and make an order restoring the independence of the competitors, leaves the Commission powerless to act against the merged corporation.

* * * * * * *

I am unable to construe so narrowly a statute designed, as I think, to prevent just such suppression of competition as this case exemplifies.

* * * * * * *

Unless we are to close our eyes to this open chapter in the record of corporate concentration, an examination of the legislative history of the Clayton Act, and that of the earlier Sherman Act, can leave no doubt that the former was aimed at the acquisition of stock by holding companies not only as itself a means of suppressing competition but as the first and usual step in the process of merging competing corporations by which a suppression of competition might be unlawfully perpetuated. Thus one of the evils aimed at, the merger of competing corporations through stock control, was reached in its most usual form by forbidding the first step, the acquisition of the stock of a competing corporation, and by conferring on the Trade Commission authority to deal with the violation.

* * * * * * *

These considerations demand our rejection of the contention that an offender against the Clayton Act, properly brought before the Commission and subject to its order, can evade its authority and defeat the statute by taking refuge behind a cleverly erected screen of corporate dummies.

Artloom Rug Mills, Philadelphia.--The Commission, on December 23, 1932, filed with the Third Circuit (Philadelphia), an application for enforcement of its cease and desist order issued in this case.

The respondent, a Pennsylvania corporation, was charged with misbranding certain of its floor coverings as "Wilton " rugs. The Commission's order, based on findings supported by testimony, required the respondent, among other things, to cease and desist from, directly or indirectly:

Using the word "Wilton" in describing, designating, or labeling any rug fabric on the surface of which is displayed a design or pattern in two or more colors, which is of the same weave construction as the "Bagdad Seamless Ja quard Wilton" rug fabric now manufactured by respondent, or which is of a weave construction in which the warp pile yarns, when not required at the surface for the said design or pattern, are not continued in the subsurface structure of the fabric.

The case was argued May 4, 1933, and decided in favor of the Commission January 30, 1934. Pertinent excerpts from the court's decision (69 F. (2d) 36) follow :

As the statute directly provides that the fact findings of the Commission, if supported by testimony, shall be conclusive, this court is limited to the determination of two questions: First, whether such findings are supported by any evidence; and, second, if they are so supported, whether these facts, as found, justify the conclusion that the sale of the respondent's Bagdad rugs as Wilton rugs constituted unfair competition in commerce.

* * * * * * *

Under the ruling of the Supreme Court in Federal Trade Commission *v.*C

preme Court of the District of Columbia, its bill of complaint against Gen. Hugh S. Johnson, Administrator of the National Recovery Administration, an d others (including the Federal Trade Commission), praying "that the said defendants and all persons acting under their direction, authority, and control and each and every one of them and all persons to whom notice thereof shall come, be enjoined and restrained by temporary writ of injunction pending the trial and determination of this cause, * * * and by final decree and by permanent writ of injunction, upon the determination of this cause, from enforcing as against the complainants' herein the provisions of the Code of Fair Competition for the Coat and Suit Industry as approved on August 4, 1933, by the President of the United States by Executive order, in any manner whatsoever" (specifying, among other things, the "cease and desist " orders of the Commission) "for the reason that said statute is null and void by reason of it being an unconstitutional exercise of the powers of the Congress of the United States, * * *"

The Commission was joined as a party because it is "empowered under and by virtue of section 3-b of the National Industrial Recovery Act to issue 'cease and desist' orders against violators of the provisions of said statute and the codes of fair competition submitted and approved thereunder."

The gravamen of the complaint was that wage scales and classifications imposed by the code place the party

gredient to the extent of not less than 50 percent by weight of the product, from similarly using said words "White Lead", or word or words of like import, unless immediately preceded in equally conspicuous form and color by a word or words clearly indicating that said paint material or paint pigment is not composed wholly of white lead.

(2) From using the words "Zinc Lead", or word or words of like import, upon the containers of, or with which to advertise, brand, label, represent, or describe any such paint material or paint pigment when said product is not in fact zinc lead or is not in fact wholly composed of zinc in combination with lead carbonate or lead sulphate

An order to show cause was signed by the court, and the case set for hearing November 7, 1932. On the latter date, at the instance of counsel for the respondent, the matter was postponed to afford an opportunity for settlement without argument. Efforts to dispose of the case without litigation proving unsuccessful, briefs were filed and the matter formally presented November 6, 1933. The court, on November 20, 1933, in an opinion by Judge Manton, found the corporation guilty of contempt and imposed a fine of $500 (67 F. (2d) 551). The court was of opinion that respondent had violated both paragraphs of the decree supra insofar as ingredients were concerned.

E. Griffiths Hughes, Inc., Rochester, N.Y. --This corporation, on September 15, 1933, filed with the Second Circuit (New York City) its petition asking that the Commission's order to cease and desist be annulled and set aside.

The order in question was based on findings to the effect that this concern, engaged in the sale in interstate commerce of proprietary preparations known as "Kruschen Salts" and "Radox Bath Salts", falsely represented its Kruschen Salts as a cure or remedy for obesity, and that its Radox Bath Salts, when used in the bath and as otherwise directed, radiated oxygen in great quantities and sufficiently to produce an invigorating and energizing effect.

The corporation made unsuccessful attempts in the District of Columbia courts to restrain the Commission from holding public hearings, or making public the contents of its complaint (63 F. (2d) 362).

Developments subsequent to the filing of the petition in the Second Circuit were: (a) Granting of petitioner's motion to dispense with printing of the exhibits, and denial of its motion for correction of certain errata in transcript of testimony-the court taking the position that the latter was a matter to be taken care of before the Commission; (b) filing of the corrected transcript on April 25, 1934; (c) negotiation of stipulations between the parties, due to the illness

of counsel for the petitioner, extending the time for printing the transcript.

Inecto, Inc., New York City.--On June 15, 1933, the Commission filed with the Second Circuit (New York City) an application for the enforcement of its order to cease and desist issued in this case.

action of Judge Manton in entering the order (supra) providing for the condensation of the record, asserting that Judge Manton had acted in excess of his powers, in that the rules of the second circuit provided that the Commission, in applications to the court for the enforcement of its orders, should print the entire record. Brief on behalf of the Commission, in opposition to the petition, was filed October 5. The petition was denied November 6, 1933 (290 U.S. 682).

Subsequent negotiations, looking toward reduction of the record before printing, having proved unsuccessful, the Commission moved the court, March 12, 1934, for leave to present the case without printing the entire record. The motion was denied April 2, in a per curiam decision (70 F. (2d) 370), the court saying:

> The court will have no occasion to resort to the record on which the findings were based, unless it be asserted by the respondent that the order is not supported by the evidence. * * * Upon our review, it will be our duty to ascertain whether such finding is supported by any evidence, if it be challenged. Petitioner asserts that part of the issues of fact tried in this case were determined in favor of the respondent and are no longer in issue; that there will be no occasion to consider any portion of that evidence concerning these issues. The petitioner asks to print only so much of the evidence as it relies upon to support any finding or findings which bear upon the issues to be presented to this court.
>
> Rule 21, subdivision 2 of this court, on application for the enforcement of an order, requires that the transcript of the entire record shall be printed, and unless the parties agree upon printing less we cannot do otherwise than require all the testimony to be printed as constituting the record for our review. Contentions are made by respondent that it would be necessary to examine it all to ascertain if there is a violation of the order to cease and desist. The one way that we can answer that inquiry is by reading the entire record and this we can only do if it is before us in the form required by our rule.

Settlement of the record for printing is being negotiated between counsel, following the completion of which the case will be briefed and argued.

R. F. Keppel & Bro., Inc., Lancaster, Pa.--This concern, a, candy manufacturer, filed with the third circuit (Philadelphia) January 25, 1932, its petition to review and set aside the Commission's order to cease and desist.

The Commission's findings were to the effect that this corporation, in connection with the sale and distribution of its products (penny candies), employed certain methods in the nature of lotteries or gaming devices. For instance, one assortment was composed of a number of pieces of uniform size, shape, and quality, retailing for 1 cent each, a small number of which had concealed within them pieces of money. The prices of individual pieces in another assortment were indicated by printed slips concealed within their wrap-

pers, and a third assortment provided for certain prizes, dependent upon the colors of the centers of the pieces of candy in the box.

A decision, [illegible]

exclusion.'" *Federal Trade Comm'n*. v. *Raladam Co*., supra, 648; compare *Davidson* v. *New Orleans*, 96 U.S. 97, 104.

The argument that a method used by one competitor is not unfair if others may adopt it without any restriction of competition between them was rejected by this court in *Federal Trade Comm'n. v. Winsted Hosiery Co., supra; compare Federal Trade Comm'n v. Algona Lumber Co., ante*, page 67. There it was specifically held that a trader may not, by pursuing a dishonest practice, force his competitors to choose between its adoption or the loss of their trade. A method of competition which casts upon one's competitors the burden of the loss of business unless they will descend to a practice which they are under a powerful moral compulsion not to adopt, even though it is not criminal, was thought to involve the kind of unfairness at which the statute was aimed.

The practice in this case presents the same dilemma to competitors, and we can perceive no reason for distinguishing between the element of chance as employed here and the element of deception involved in labeling cotton goods " Natural Wool", as in the Winsted case. It is true that the statute does not authorize regulation which has no purpose other than that of relieving merchants from troublesome competition or of censoring the morals of business men. But here the competitive method is shown to exploit consumers, children, who are unable to protect themselves. It employs a device whereby the amount of the return they receive from the

Stock Market Finance, Inc., New York City.--See page 42 of this report for reference to this action under the Securities Act of 1933.

U. S. A. ex rel. Warner I. Cubberly v. *F. T. C.* (*Lease-agency Contracts*).--On August 4, 1933, at the instance of the petitioner, the Supreme Court of the District of Columbia issued a rule requiring the Commission to show cause why a writ of mandamus should not issue, compelling it to issue formal complaints in proceedings pending before it based on lease-agency and lease-license contracts entered into by the large oil companies with retail gasoline dealers, or to immediately rule upon and make public its opinion concerning the legality of such agreements.

The Commission, in its answer and return to the rule, denied it had previously gone on record to the effect that the agreements referred to were in violation of law, as contended by the petitioner; alleged that it had not yet had occasion to decide whether or not formal complaints should issue, and stated that investigation in the premises had not been completed by its examining division. It pointed out that the petition did not allege facts from which the court could decide the question of the violation of section 5 of the Federal Trade Commission Act by the companies concerned, but on its face showed the relator's efforts to have the court compel the Commission to decide that it had reasonable cause to believe that certain corporations were violating section 5 of the Federal Trade Commission Act, a matter, like that of the public interest involved, within the statutory discretion of the Commission and therefore not one upon which mandamus could lawfully operate.

The motion was argued August 11, before Mr. Justice Cox, who sustained the Commission's position, granting its motion to dismiss and discharge the rule to show cause. The decision was not appealed.

E. J. Wallace, St. Louis.--The Commission on March 28, 1934, filed with the Eighth Circuit (St. Louis) an application for enforcement of its order to cease and desist issued in this case, together with typewritten transcript of the record.

The order, based on findings supported by evidence, required this respondent, among others, to cease and desist from undertaking and cooperating together and acting in concert in [illegible] others, and [illegible]ctly, ( ) Tj

yellow pine known as *Pinus ponderosa*. Of the 50 complaints, 11 were dismissed before trial or subsequently, while against the remaining 39, orders to cease and desist were entered. Twenty-five companies elected to abide by the orders.

The Commission's orders were based on findings to the effect that the lumber to which respondents applied the phrase "white pine" was not, as above stated, white pine, but a species of yellow pine; that the latter was inferior for certain important uses; had a higher degree of variableness in such qualities as hardness, weight, density, and color; had a large proportion of sapwood; was less durable when exposed to the weather, and had a greater tendency toward shrinking, warping, and twisting.

The Commission further found that respondents' use of the phrase "white pine" was misleading and confusing to the general public, architects and builders, many retail dealers, and to certain millwork manufacturers; and was to the detriment of the public and of competitors selling genuine white pine or selling Pinus ponderosa lumber but not designating it as "white pine." Many of these findings were attacked in the petitions filed in court.

The order made by the court in this case, permitting the filing of petitions for review, required the inclusion, in the record to be certified by the Commission, of a copy of the trial examiner's report upon the facts. The Commission moved to amend the order by striking out this requirement, and the court, on March 7, 1932, granted this motion (56 F. (2d) 774).

The case was argued on the merits, June 24, 1932, and decided against the Commission, April 4, 1933 (64 F. (2d) 618).

The ninth circuit, after rather extensive references to the record, said:

> It is the conclusion of the court that, viewing the testimony in the light of all the facts of the case, it is insufficient to support findings that petitioners' use of the commercial name "California White Pine" is an unfair method of competition or that its prevention would be in the interest of the public.

A petition for writ of certiorari was docketed with the Supreme Court of the United States on July 3, and granted October 9, 1933 (290 U.S. 607). After a n d 6 f 3

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sell it under the name of "California white pine", and under that name, or at times "white pine " simply, it goes to the consumer. In truth it is not a white pine, whether the tests to be applied are those of botanical science or of commercial practice and understanding.

* * * * * * *

The confusion and abuses growing out of these interlocking names have been developed in the findings. Many retail dealers receiving orders for white pine deliver California white pine, not knowing that it differs from the lumber ordered. Many knowing the difference deliver the inferior product because they can buy it cheaper. Still others, well informed and honest, deliver the genuine article, thus placing themselves at a disadvantage in the race of competition with the unscrupulous and the ignorant. Trade has thus been diverted from dealers in white pine to dealers in *Pinus ponderosa* masquerading as white pine. Trade has also been diverted from dealers in *Pinus ponderosa* under the name "Pinus ponderosa" to dealers in *Pinus ponderosa* under the more attractive label. The diversion of trade from dealers of one class to dealers of another is not the only mischief. Consumers, architects, and retailers have also been misled. They have given orders for the respondents' product, supposing it to be white pine and to have the qualities associated with lumber of that species. They have accepted deliveries under the empire of that belief. True indeed it is that the woods sold by the respondents, though not a genuine white pine, are nearer to that species in mechanical properties than they are to the kinds of yellow pine indigenous to the South. The fact that for many purposes they are half-way between the white species and the yellow makes the practice of substitution easier than it would be if the difference were plain. Misrepresentation and con-fusion flourish in such a soil.

* * * * * * *

"The findings of the Commission as to facts, if supported by testimony, shall be conclusive." 15 U.S.C., sec. 45. The Court of Appeals, though professing0.0189 Tc 0 Tw (shall) Tj 18.72 0 Tcd80093nsv68

But saving to the consumer, though it be made out, does not obliterate the prejudice. Fair competition is not attained by balancing a gain in money against a misrepresentation of the thing supplied. The supplied.T

PART IV. TRADE-PRACTICE CONFERENCES

PART IV. TRADE-PRACTICE CONFERENCES

RULES ACCEPTED BY 2,400 MEMBERS OF INDUSTRIES

Trade-practice rules adopted by various industries at conferences held under auspices of the Federal Trade Commission were accepted during the fiscal year by approximately 2,400 individuals, firms, and corporations. This is tantamount to saying that these persons and organizations signed "acceptances " to observe rules of fair competition because the rules they agreed to observe were designed to do away with many unfair trade practices complained of in the industries concerned. A large percentage of these persons and firms had been either present at the trade-practice conferences held for their industries or were represented through their trade associations or otherwise.

During the fiscal year the following trade-practice conferences were held under the Commission's auspices:[1]

Barre granite industry.--The conference for quarries and manufacturers of Barre granite was held at. Barre, Vt., July 8, 1933. Almost 100 percent of the industry was present or represented. The rules approved by the Commission as a result of this conference were published November 30, 1933. It is reported that the total value of the finished product of this industry in a recent year was more than $11,000,000.

Baby-chick industry.--The producers of baby chicks throughout the United States held a conference; at Grand Rapids, Mich., August 10, 1933. is werepublished

chicks issiq

Rabbit and cavy breeders.--A conference for rabbit and cavy breeders was held in Chicago, October 13, 1933. Rules approved by the Commission as a result of this conference were published April 30, 1934. Approximately 150,000 firms and individuals are engaged in this industry, many of them being members of national, State, or local associations.

Uniform manufacturers.--Members of the uniform-manufacturing industry met under Commission auspices in New York City, December 13, 1933. The rules were promulgated by the Commission March 15, 1934. Almost 80 percent of the industry was represented at the conference. Three hundred and sixty firms in this industry, with a capital investment of approximately $25,000,000, do an annual business of about that amount.

TRADE-PRACTICE RULES FOR INDUSTRIES PUBLISHED

During the year the Commission promulgated rules for the following industries for which trade-practice conferences had been held prior to the fiscal period:

Manufacturers and

RESULTS ATTAINED FROM THE TRADE-PRACTICE CONFERENCE

Trade-practice conferences sponsored by the Federal Trade Commission have proven of incalculable benefit to the public by the voluntary elimination of unfair methods of competition, and have resulted in a great saving of time and expense by obviating the necessity of investigation and trial by complaint.

Trade-practice conferences result in a generally recognized and clearly marked trend toward the use of higher standards of business conduct. Many persons engaged in a given business and industry may not be aware, until a trade-practice conference is held, that some competitive methods often used by them are actual violations of law. Neither do they realize that the unnecessary cost of unfair competition and wasteful practices, if abandoned at one and the same time by voluntary agreement of all in the industry, may be converted from an item of expense to a substantial profit without adding to the price paid by the consumer.

The value of the trade practice conference plan is recognized in legislation enacted by the State of California, providing for the enforcement of certain conference rules pertaining to an industry in that State. This is the general dairy law of California, approved June 15, 1923, and amended May 31, 1927.

TRADE-PRACTICE CONFERENCE PROCEDURE

The first requisite of a trade-practice conference is an expression of desire on the part of a sufficiently large number in an industry to eliminate unfair methods of competition and trade abuses and to improve competitive conditions. The procedure is as follows:

I. Method of Applying for a Trade-practice Conference.--In authorizing a trade-practice conference, the Commission must first be assured that the holding of such conference would be desirable and to the best interest of the industry and the public. An application, in the form of a petition or informal communication, should contain the following information:

1. A brief description of the business for which the conference is intended, the products manufactured, or the commodities distributed. The annual volume of production, value of production, capitalization of the industry, and like items should be approximated in order to furnish an idea of the size and importance of the industry.

2. The authority of the person making the application must also be shown. If made by an association executive, a resolution showing the action of the association should be submitted, together with a statement of the percentage of the entire industry represented by the association membership.

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

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

5. The application should be accompanied by a complete and accurate list of the names and addresses of all firms in the industry, or such list may be furnished shortly thereafter. It should be divided or symbolized to indicate association or nonassociation members, and as to types of concerns, such as manufacturers, distributors, etc.

II. Procedure following authorization by Commission.--After the conference has been authorized by the Commission and a commissioner designated to preside, a time and place are arranged for the meeting and invitations are sent to all members of the industry affected. At these conferences, anyone in the industry may participate. In order to give the widest possible range to the discussion of practices which may be proposed and to preserve the voluntary character of the conference, the attendants are requested to complete the organization of the conference by electing a secretary.

Resolutions are then introduced, discussed, and finally acted on by members of the conference.

Following the conference, the proceedings are reported to the Federal Trade Commission by the director of trade practice conferences with his recommendation.

If, after consideration by the Commission, the rules are approved, they are sent to a committee of the industry appointed by the conference, with the request that the committee report to the Commission whether it is willing to accept on behalf of the industry the rules as approved by the Commission. Thereafter, if and when these rules

have been so accepted, every member of the industry is furnished with a record of the Commission's action,

PART V. SPECIAL PROCEDURE IN CERTAIN TYPES OF ADVERTISING CASES

NEWSPAPER, PERIODICAL, AND RADIO ADVERTISING

PUBLISHERS AND ADVERTISING AGENCIES COOPERATE

PART V. SPECIAL PROCEDURE IN CERTAIN TYPES OF ADVERTISING CASES

However, this advance has not come about solely through reform or a desire to maintain high ethical standards. In fact, it is apparent that a number of the authors of questionable advertising matter, having been dissuaded from continuing their appeals to the reading public, have gone to the radio and it is in that field that the Commission began a careful survey preliminary to working out a comprehensive plan for checking and ultimately preventing fraudulent and unfair advertising practices.

The Commission, on May 16, 1934, requested all networks, transcription companies, and individual broadcasting stations to file with it duplicate copies of their advertising continuities. To this request all of the 10 networks, all of the 596 broadcasting stations, and practically all of the transcription companies which make commercial continuities have responded. This cooperation has been most gratifying. The Commission has already received approximately 180,000 continuities, of which it has made preliminary detailed examination of almost 150,000. Of the latter number, more than 125,000 were found unobjectionable and filed without further action, while about 21,000 were distributed among members of the special board of investigation for further checking. There remained approximately 33,000 continuities to be examined. In all cases where false and misleading advertising is found, the Commission is applying substantially the same procedure as is followed in cases of false and misleading advertising in newspapers and periodicals.

This scrutiny of radio advertising is being

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PUBLISHERS AND ADVERTISING AGENCIES COOPERATE

In the proper prosecution of its complaints against advertisers in newspapers or periodicals, the Commission has found it advisable to join the advertising agencies and the publishers involved as Co. respondents with the advertiser. Usually, the publishers and advertising agencies elect to abide by the Commission's action without becoming or being made parties respondent.

When the Commission receives information of unfair advertising practices, it initiates an investigation. A questionnaire may be sent to the advertiser and request made for the advertising copy and for the quantitative

PART VI. FOREIGN-TRADE WORK

THE WEBB-POMERENE LAW, OR EXPORT TRADE ACT

WEBB LAW EXPORTS IN 1933

FORTY-FIVE ASSOCIATIONS

ANTIDUMPING LEGISLATION

TRUST LAWS AND UNFAIR COMPETITION ABROAD

PART VI. FOREIGN-TRADE WORK

Foodstuffs such as milk, meat, sugar, flour, fresh fruit, dried fruit, and canned fruit	$28,000,000
Other manufactured goods, rubber, paper, abrasives, cotton goods, buttons, and chemicals	34,000,000
Total	143,000,000

From the group of associations exporting metals and metal products, reports show better prices and a much larger volume of business in 1933 than in 1932. One association reports that--

We are now on the upward trend * * * there is no doubt in the minds of the member companies that with a general improvement in worldg e n e r

exporters in competitive markets.

An association reporting an increase in both volume andand

Pacific Flour Export Co., care of Fisher Flouring Mills Co., Seattle.
Phosphate Export Association, 393 Seventh Avenue, New York City.
Pipe-Fittings & Valve Export Association, Branford, Conn.
Redwood Export Co., 405 Montgomery Street, San Francisco.
Rubber Export Association, The, 19 Goodyear Avenue, Akron, Ohio.
Shook Exporters Association, Stahlman Building, Nashville, Tenn.
Sulphur Export Corporation, 420 Lexington Avenue, New York City.
Textile Export Association of the United States, 40 Worth Street, New York City.
United States Alkali Export Association, Inc., 11 Broadway, New York City.
United States Handle Export Co., The, Piqua, Ohio.
Walnut Export Sales Co., Inc., Twelfth Street and Kaw Riv

FOREIGN -TRADE WORK

Under the Combines Investigation Act and the Criminal Code, a group of importers of British anthracite coal in Quebec were convicted and fined in December 1933.

A new Federal Companies Bill, designed to check fraudulent stock promotion, is under consideration, and steps have been taken toward agreement among the provincial administrations for uniformity in company regulation.

Chile.--Agricultural Export Board authorized by law of February 1, 1934, to control exports and imports of whea

FISCAL AFFAIRS

FISCAL AFFAIRS

APPROPRIATIONS, ALLOTMENTS, AND EXPENDITURES

Appropriations available to the Commission for the fiscal year ended June 30, 1934, under the Independent Offices Act approved June 16, 1933, were $920,000; under the Fourth Deficiency Act approved June 16, 1933, $265,000; under the Independent Offices Act approved March 28, 1934, $22,027.80; under the Independent Offices Act 1935, immediately available clause, $70,566.76; in all, $1,277,594.56. This sum was made up of two separate items: (1) $1,237,344.56 for salaries of the Commissioners and general work of the Commission, and (2) $40,250 for printing and binding.

In addition, there were allotted funds from the National Recovery

	Salary	Travel expense	Other	Total
Administration:				
Office of secretary	$23,466.73			$23,466.73
Accounts and personnel section	19,981.51			19,981.51
Disbursement section	3,008.89			3,008.89
Docket section	28,213.32			28,213.32
Hospital	1,472.85			1,472.65
Labor	2,896.46			2,896.46
Library section	6,977.17			6,977.17
Mail and files section	10,967.30			10,967.30
Messenger service	8,921.92			8,921.92
Public relations	4,764.25			4,764.25
Publications section	21,351.95			21,351.95
Purchases and supplies section	7,083.70			7,083.70
Stenographic section	39,569.38			39,569.38
Communications			$5,894.25	5,894.25
Equipment			28,593.98	28,593.98
Heat and light			50.34	50.34
Miscellaneous			204.62	264.62
Rents			6,306.86	6,306.86
Repairs			1,009.06	1,009.06
Reporting service			11,514.72	11,514.72
Supplies			12,067.38	12,067.38
Transportation of things			429.21	429.21
Witness fees			1,223.70	1,223.70
Total	178,675.23		67,354.12	246,029.35
Legal:				
Applications for complaints	114,323.87	$9,254.74	288.41	123,867.02
Complaints	121,109.75	16,076.40	254.40	138,664.25
Export trade	6,516.11			6,516.11
National Recovery Administration	52,549.80	5,071.78	57.93	57,679.51
Preliminary inquiries	77,936.60	9,366.08	105.68	87,408.36
Trade-practice conferences	19,274.25	570.51		19,844.76
Total	391,710.38	40,339.51	706.42	433,980.01
General investigations:				
Agricultural Adjustment Administration	1,610.20			1,610.20
Building materials	349.73	1.50		351.23
Cement	41.73			41.73

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EXHIBITS

FEDERAL TRADE COMMISSION ACT

SHERMAN ANTITRUST ACT

CLAYTON ACT

EXPORT TRADE ACT

NATIONAL INDUSTRIAL RECOVERY ACT

RULES OF PRACTICE

teen 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. That the words defined in this section shall have the following meaning when found in this Act, to wit :

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

"Corporation" means any company, or association incorporated or unincorporated, which is organized to carry on business for its own profit and has shares of capital or capital stock, and any company, 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" means all documents, papers, and correspondence, in existence at and after the passage of this act.

"Acts to regulate commerce" means the Act entitled "An Act to regulate commerce," approved February fourteenth, eighteen hundred and eighty-seven, and all Acts amendatory thereof and supplementary thereto 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 second, eighteen hundred and ninety; 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 twenty-seven,

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to the circuit court of appeals of the United States, within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the such

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

tendance 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 United States shall have juris

payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

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

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

Approved, September 26, 1914.

SECTIONS OF THE CLAYTON ACT ADMINISTERED BY THE FEDERAL TRADE COMMISSION

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. That it shall he unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *P United*

the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

* * * * *

SEC. 11. That authority to enforce compliance with sections two, three, seven, and eight of this Act by the persons respectively subject thereto is hereby vested: in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

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

If such person fails or neglects to obey such order of the commission, authority, or board while the same is in effect,

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

EXPORT TRADE ACT

An Act to promote export trade, and for other purposes

Be it enacted by the Senate and *House of Representatives of the United States of America in Congress assembled*, That the words "export trade" where-ever 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 declaring

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

SECTIONS OF THE NATIONAL INDUSTRIAL RECOVERY ACT IN

respect

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

VII. INTERVENTION.

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

(*b*) Applications to intervene must be on one side of the paper only, on paper not more than 8 ½ inches wide and not more than 11 inches long, and weighing not less than 16 pounds to the ream, folio base, 17 by 22 inches, with left-hand margin not less than 1 ½ inches wide, or they may be

XII. HEARINGS ON INVESTIGATIONS.

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

(*b*) The chief counsel or one of his assistants, or such other attorney as shall be designated by the commission, shall attend and conduct such hearings, and such hearings may, in the discretion of the commissioner holding same, be public, unless otherwise ordered by the Commission.

RULE XIII. HEARINGS BEFORE TRIAL EXAMINERS

(*a*) Where evidence is to be taken in a proceeding upon complaint issued by the Commission, a trial examiner shall be designated by the Commission for that purpose. It shall be the duty of the trial examiner to complete the taking of evidence with all due dispatch and he shall state the place, day, and hour to which the taking of evidence may from time to time be adjourned.

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

(*c*) The trial examiner shall, within 15 days after the receipt of the steno-graphic report of the testimony, make his report on the facts, and shall forthwith serve copy of the same on the parties or their attorneys, who, within 10 days after the receipt of same, shall file in writing their exceptions, if any, and said exceptions shall specify the particular part or parts of the report to which exception is made, and said exceptions shall include any additional facts which either party may think proper. Seven copies of exceptions shall be filed for the use of the Commission. Citations to the record shall be made in support of such exceptions. Where briefs are filed, the same shall contain a copy of such exceptions. If exceptions are to be argued, they shall be argued at the final argument on the merits.

(*d*) The report of the trial examiner is not a decision, finding, or ruling of the Commission, and is not a part of the record in the proceeding. The Com-mission's findings as to the facts are based upon the record.

(*e*) When, in the opinion of the trial examiner engaged in taking evidence in any formal proceeding, the size of the transcript or complication or importance of the issues involved warrants it, he may of his own motion or at the request of counsel, at the close of the taking of evidence, announce to the attorney for the respondent and for the Commission that the examiner will receive, at any time before he has completed the drawing of the trial examiner' s report upon the facts, a statement in writing (one for either side) in terse outline setting forth the contentions of each as to the facts proved in the proceeding.

(*f*) These statements are not to be exchanged between counsel amid are not to be argued before the trial examiner.

(*g*) Any such statement submitted by either side shall be submitted within 5 days after the closing of the taking of evidence and not later, which time shall not be extended.

RULE XIV. DEPOSITIONS

(*a*) The Commission may order evidence to be taken by deposition in any proceeding or investigation pending at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths.

(*a*) Any party any((p D 0.06 Tc 0 .04 0 TD 0.*a*TD 0.02ed r

the person before whom the witness is to testify, but such time and place and the person before whom the deposition is to be taken, so specified in the Commission's order, may or may not be the same as those named in said application to the Commission.

(*c*) The

be not represented by attorney, at the proper post-office address. Written acknowledgment of services,
or the verified return of the party or

INDEX

[Index includes power-company groups but not subsidiaries listed on pages 18 to 23, inclusive. It does not include companies listed under the salaries investigation on page 27, nor orders to cease and desist listed at pages 61-63, other than those specially treated in the report, nor export trade associations listed at page 109, nor the titles of trust laws and legislation on unfair competition in foreign countries presented beginning at page 110]

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