

ANNUAL REPORT  
OF THE  
FEDERAL  
TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30  
1935

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON: 1935

For Sale by the Superintendent of Documents, Washington, D. C. - - - Price 15 cents (Paper cover)



## **LETTER OF SUBMITTAL**

*To the Congress of the United States:*

I have the honor to submit herewith the Twenty-second Annual Report of the Federal Trade Commission for the fiscal year ending June 30, 1936.

By direction of the Commission:

# CONTENTS

## INTRODUCTION

	Page
Powers and duties of the Commission	3
General legal activities	5
Trade-practice conferences	6
Commission activities under National Industrial Recovery Act	8
General investigations	9
Transfer of the securities work	10
Commissioners and their duties	11
How Commission work is handled	12
Commission publications	13
Recommendations	14

## PART I. GENERAL INVESTIGATIONS

Electric and gas utilities	19
Textile	28
Milk	30
Chain stores	32

## PART II. GENERAL LEGAL WORK

## PART V. FOREIGN-TRADE WORK

	Page
The Export Trade Act (Webb-Pomerene law)	107
Functions of a Webb-Pomerene law group	108
Forty-three associations file papers	109
Exports during 1934	110
Trust laws and unfair competition abroad	111

## FISCAL AFFAIRS

Appropriations, allotments and expenditures	121
---	-----

## EXHIBITS

Federal Trade Commission Act	127
Sherman Act	133
Clayton Act	134
Export Trade Act	138
Rules of practice	140
Investigations, 1913-35	147
Index	159

## **INTRODUCTION**

POWERS AND DUTIES OF THE COMMISSION

GENERAL LEGAL ACTIVITIES

TRADE PRACTICE CONFERENCES

COMMISSION ACTIVITIES UNDER N. I. R. A.

GENERAL INVESTIGATIONS

TRANSFER OF THE SECURITIES WORK

COMMISSIONERS AND THEIR DUTIES

HOW COMMISSION WORK IS HANDLED

COMMISSION PUBLICATIONS

RECOMMENDATIONS







hibiting the sale of candies largely for ultimate resale through schemes of chance. The Court pointed out that in defining the powers of the Commission Congress advisedly adopted this phrase, "which, as this Court has said, does not admit of precise definition, but the meaning and application of which must be arrived at by what this Court elsewhere has called 'the gradual process of judicial inclusion and exclusion.'"<sup>2</sup>

In this general connection, it should be observed that under the provisions of section 5 of the Federal Trade Commission Act the Commission is to proceed only if it appears to it that the particular proceeding would be "to the interest of the public." It accordingly does not concern itself with purely private competitive controversies, with no public significance.

Besides its organic act, the Commission enforces sections 2, 3, 7, and 8 of the Clayton Act dealing, respectively, with unlawful price discriminations, so-called "tying" contracts, stock acquisitions which lessen competition or tend to create a monopoly, and interlocking directorates

The Commission also administers the Webb-Pomerene law, or Ex-port 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 anti-trust laws.

The economic work of the Commission arises chiefly under section 6 (a) (b) and (d) of the organic act giving the Commission power--

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

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, \* \* \* to file with the commission in such form as the commission may prescribe annual or Special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. \* \* \*

(d) Upon the direction of the President or either House of Congress<sup>3</sup> to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

<sup>2</sup> Typical methods of competition condemned by the Commission as unfair are described on p. 67.

<sup>3</sup> Public, No. 78, 73d Congress, approved June 16, 1933, making appropriations for the fiscal year ending June 30, 1934, for the "Executive Office and sundry independent executive bureaus, boards, commissions", etc., made the appropriation for the Commission contingent upon the provision (48 stat. 291; 15 U. S. C. A., sec. 46a) that "hereafter no new investigations shall be initiated by the Commission as the result of a legislative resolution, except the same be a concurrent resolution of the two Houses of Congress."

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.

Concerning the Commission, the Supreme Court recently said that--

it was created with the avowed purpose of lodging the administrative functions committed to it in a "body specially competent to deal with them by reason of information, experience, and careful study of the business and economic conditions of the industry affected", and it was organized in such a manner, with respect to the length and expiration of the terms of office of its members, as would "give to them an opportunity to acquire the expertness in dealing with these special questions concerning industry that comes from experience."

### **GENERAL LEGAL ACTIVITIES**

Under authority of the Federal Trade Commission Act and those sections of the Clayton Act which it administers, the Commission, during the last fiscal year, has continued to direct its efforts toward the correction and elimination of unfair methods of competition and other unlawful practices.

It made preliminary investigations in 1,384 individual cases initiated under these acts and settled by stipulation a total of 391 cases, of which 151 were of a special class in which false and misleading advertising in newspapers, magazines, or by radio broadcasts was the principal practice involved. During the fiscal year last preceding 272 cases were settled by stipulation.

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

During the last fiscal year the Commission issued 280 complaints against companies and individuals, alleging various forms of unfair competition or other, practices, this number having been an almost threefold increase over the 97 complaints issued during the year last preceding. In 125 cases the Commission served upon respondents its orders to cease and desist from unfair practices which had been alleged in complaints and which were found to have been engaged in by the respondents. This was also a substantial increase over the number of orders issued during the fiscal year 1934. Representative cases are described at pages 52 and 58.



Since termination of the National Recovery Administration



**GENERAL INVESTIGATIONS**

In pursuance of section 6 of the Federal Trade Commission Act, the Commission may gather information concerning corporations and investigate their organization and

mately 48,000 typewritten pages of testimony and 6,400 exhibits had been introduced in the public hearings held during this investigation. Final summary reports on the inquiry, with conclusions and recommendations concerning the holding company and other utility problems, were submitted to Congress. During the last fiscal year the Commission has examined the affairs of several natural gas companies. The Commission will transmit to Congress in January 1936 a report on this investigation covering the natural gas industry.

*Textile inquiry.*--Undertaken pursuant to an Executive order of September 26, 1934, this inquiry involves investigation and report on labor costs, profits, and investments of companies and establishments of the textile industries in order to show what effect increased wages and other costs might have on such industries. A preliminary report, based on 765 companies, was issued in six parts, and, pursuant to a letter from the President dated January 25, 1935, the Commission extended its investigation to cover the 6-month period ending December 31, 1934.

*Milk investigation.*--A report was transmitted to the Congress and printed as House Document No. 152, Seventy-fourth Congress, first session, showing results of the Commission's investigation in the Connecticut and Philadelphia milk sheds. At the close of the fiscal year, Commission examiners were obtaining data on the production and marketing of milk in the Chicago area, a report on which will be submitted to Congress at its next session.

*Chain-store inquiry.*--Final report on this investigation, including recommendations and conclusions of the Commission, was transmitted to the Senate in December 1934 and was printed as Senate Document No.4, Seventy-fourth Congress, first session. Among other recommendations, the Commission suggested amendments to the Clayton and Federal Trade Commission Acts to clarify the sections relating to price discriminations, corporate acquisitions of stock, and unfair practices in commerce.

## **TRANSFER OF WORK UNDER THE SECURITIES ACT**

During the first 2 ~~Ann~~o





Official activities of the Commissioners are generally similar in character,

section 6 of the Federal Trade Commission Act, the chief examiner supervises such parts of such investigations as may be assigned to his division by the Commission.

Members of the chief trial examiner's division are appointed to preside at the trial of formal complaints and at the taking of testimony in investigations conducted by executive direction, pursuant to congressional resolutions, upon the Commission's own initiative, or at the request of the Attorney General of the United States. They also arrange settlement by stipulation of applications for complaint, subject to approval of the Commission, which method is usually employed in cases where the practice complained of is not so fraudulent or vicious that the protection of the public interest demands the more drastic procedure of complaint.

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

The economic division, under the chief economist, conducts certain of the general inquiries of the Commission. This division has conducted that part of the electric and gas utility inquiry which deals with the financial structure, organization, and management of the utilities, although the chief counsel's division conducted the public hearings and had charge of the propaganda phase of the investigation. The investigation of the textile industry has been in charge of the economic division. The milk investigation has been conducted by the chief examiner's division and by the economic division, while the public hearings were in charge of the chief counsel's division.

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

The Commission has a public relations and editorial service for the distribution of information, for the preparation and editing of reports, and the answering of inquiries.

### **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. Such studies are illustrated by appropriate charts, tables, and statistics. These fact-finding studies, reports, and recommenda-



This recommendation is made in order to give the Commission clear jurisdiction over a practice which is unfair or deceptive to the public and is not necessarily unfair to a competitor. There are times when such a practice is so universal in an industry that the public is primarily injured rather than individual competitors. In such cases it is very difficult, if not impossible, to show injury to competitors, but the injury to the public is manifest.

The Commission' therefore recommends that the first two paragraphs of section 5 be amended to read as follows:

SEC. 5. Unfair methods of competition in commerce *ands that*

The situation disclosed in its chain-store inquiry, involving the frequent making of special discounts and allowances by manufacturers to chain stores without any definite relation to cost of selling, leads the Commission to suggest that consideration be given to the enactment of legislation supplementing section 2 so as to require all manufacturers of merchandise, other than perishables, selling in interstate commerce, to report promptly to the Federal Trade Commission whenever they make special discounts and allowances which are not openly and generally made and published to the trade; failure to make such reports or the making of willfully incorrect reports to be subjected to penalty. However, it is readily apparent that the volume of work flowing from the requirements of such reports would necessitate substantial

**PART I. GENERAL INVESTIGATIONS**

ELECTRIC AND GAS UTILITIES

TEXTILE

MILK

CHAIN STORES

## **PART I. GENERAL INVESTIGATIONS**

### **ELECTRIC AND GAS UTILITIES**

#### **INQUIRY CONDUCTED IN RESPONSE TO SENATE RESOLUTIONS**

Pursuant to Senate Resolution 83, Seventieth Congress, first session; Senate Joint Resolution 115, Seventy-third Congress, second session; and also pursuant to section 6 of the Federal Trade Commission Act,<sup>1</sup> the Commission continued its investigation of large utility holding companies, subholding companies, management, construction, service and finance companies, and typical operating companies.

Senate Joint Resolution 115 directed the Commission to proceed under Senate Resolution 83 “until it has investigated such of said corporations as in its judgment should be investigated”, and provided that “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 1986.” The purpose of this extension was to make





ration Apr. 15, 1935  
General Water, Gas & Electric  
Co. group (International Utilities  
Corporation):  
General Water Works & Elec-

ment, supervision, and servic  
ing contracts)  
Stone & Webster service Cor-  
poration

July 5, 1934  
Sept. 27, 1934



Cities Service Gas Pipe Line Co  
Cities Service Power & Light Co  
Kansas City Gas Co  
The Gas Service Co  
Lakeside Construction Co  
Public Service Co. of Colorado

Do.  
Pt. 73.  
Pt. 67. Do.  
Pt. 55.  
Do.



Central & South West Utilities Co. (intercorporate relations)  
Corporation Securities Co. of Chicago  
Do. 1

Pt. 62.

Pt. 67.

Pt. 50.

1 The material in these reports was taken from reports by auditors to the receivers of the respective companies.

LIST OF COMPANIES AND REPORTS CONCERNING THEM--Continued  
Company

Testimony and  
exhibits

Insull group--Continued.

Middle West Utilities Co. (from Sept 30 1930, to Apr.14, 1932)--Continued.

Electric Management & Engineering Corporation

Do

Pt. 40.

Pt. 71.

## LIST OF COMPANIES AND REPORTS CONCERNING THEM--Continued

Company	Testimony and exhibits
North American Co. (The) group--Continued. North American Co.--Continued.	
North American Edison Co	Pts. 33 and 34
North American Utility Securities Corporation	Do.
Pacific Gas & Electric Co (engineering only)	Pt. 39.
Power Operating Co	Pts. 33 and 34.
San Joaquin Light & Power Corporation (engineering only)	Pt. 39.
Union Electric Light & Power. (Illinois)	Pts. 33 and 34.
Union Electric Light & Power Co. (Missouri)	Do.
West Kentucky Coal Co	Do.
Western Power Corporation	Do.
Western Power Corporation (engineering)	Pt. 39.
60 Broadway Building Corporation	Pts. 33 and 34.
North American Light & Power Co. group:	
North American Light & Power Co	Pt. 39.
North American Light & Power Co. (engineering)	Pt. 50.
North American Light & Power Co. (supplemental engineering)	Pt. 62.
Peoples Light & Power Corporation group:	
Peoples Light & Power Corporation	Pt. 69.
Tri-Utilities Corporation	Pt. 68.
Tri-Utilities Corporation (interstate transmission)	Do.
Southeastern Power & Light Co. group--	
Control, Management and Service Relations of Southeastern Power & Light Co	Pt. 27.
Southeastern Power & Light Co	Do.
Alabama Power Co	Pt. 30.
Appalachian Development Co	Pt. 27.
Dixie Construction Co	Do.
Georgia Light, Power & Railways Co	Pt. 28.
Georgia Power Co	Do.
Southeastern Engineering Co	Pt. 27.
Southeastern Fuel Co	Do.
Southeastern Realty Co	Do.
Southeastern Securities Co	Do.
Standard Gas & Electric Co. group:	
Standard Gas & Electric Co	Pt. 36.
Byllesby Engineering & Management Corporation	Pt. 71.
Ivyton Oil & Gas Co. (Delaware)	Pt. 37.
Ivyton Oil & Gas Co. (Kentucky)	Do.
Kentucky Coke Co	Do.
Kentucky Pipe Line Co. (Indiana)	Do.
Kentucky Pipe Line Co. (Kentucky)	Do.
Louisville Gas & Electric Co. (Delaware)	Do.
Louisville Gas & Electric Co. (Delaware) and subsidiaries	Do.Tri-UtilCo.(Delaware)4Missouri)

## LIST OF COMPANIES AND REPORTS CONCERNING THEM--Continued

Company	Testimony and exhibits
The United Gas Improvement Co. group--Continued.	
The United Gas Improvement Co.--Continued.	
Rockville-Willimantic Lighting Co., The	Pt. 54.
United Engineers & Constructors, Inc	Do.
Waterbury Gas Light Co., The	Do.
The United Gas Improvement Co. group (intercorporate relations)	Pt. 55.
Utilities Power&Light Corporation group:	
Utilities Power & Light Corporation	Pt. 54. Utilities Power&Light Corpora <del>Pt</del> 54.



electric-power and gas industries, printed as part 71A of the reports toOf

(2) The milking of operating companies through the device of numerous forms of contracts and arrangements. The

The Commission's recommendations were summarized as follows:

The Federal Trade Commission respectfully recommends utility holding company legislation along the lines hereinbefore discussed, pursuant to whatever general policy Congress may see fit to adopt. The order of presentation of the four groups of recommendations, namely (1) taxation, (2) direct

ments in reports. This schedule requested data as to the number of spindles and looms in place and operated; balance sheets; a combined expense, income, and surplus statement, and raw material and finished-goods inventory statements. These data were requested for three 6-month periods beginning January 1, 1933, and for a 2-month period from July 1, to August 31, 1934. These periods were selected because they reflect the operations for the 6-month period just preceding the adoption of the codes, the 6 months during which the codes became effective, a 6-month period after the codes became fully effective and the 2-month period immediately preceding the textile strike of September 1934.

*Cooperation of industries with the Commission.*--Cooperation of the industries with the Commission was excellent. A large proportion of the concerns furnished their reports with exceptional promptness, considering the amount of work involved. More than 2,300 replies were received. Measured by the reports of the Bureau of the Census of the United States Department of Commerce, more than 90 percent of the spindles and looms of the cotton and woolen and worsted industries, and about two-thirds of the silk and rayon industries were covered by these reports. This general cooperation was no doubt influenced by the favorable attitude of trade associations of the various branches of the industries.

Within less than 2 months from the date of the Executive order, reports containing usable data for each of the four periods had been received from 765 companies, and tabulations for a preliminary report were closed November 24, 1934.

The preliminary report based on these 765 companies was issued in six parts. As rapidly as these parts were completed, copies were forwarded to the President, the Labor Advisory Board, and other interested Government officials, textile trade associations, and labor executives, and made available to the press and the public. The titles of these parts are:

#### **TITLES OF PRELIMINARY REPORT**

- I. Investment and Profit.
- II. The Cotton Textile Industry.
- III. The Woolen and Worsted Textile Industry.
- IV. The Silk and Rayon Industry.
- V. file0 TD9.0262 Tc (tradeTj 3.36 0 TD -09.6e Silk and Rxtile ndu.36 0 Resul6 0 TD 9 -1

and w e r e



*Report submitted to Congress.*--The report, entitled "Sale and distribution of milk products, Connecticut and the Philadelphia milksheds", which was transmitted to Congress, April 5, 1935, was based on the field investigation by attorneys and accountants and upon the evidence submitted at the public hearings.

It was estimated that farmers shipping milk to dealers in Philadelphia and certain cities in Connecticut were underpaid by an amount exceeding \$600,000 during 1934, through practices of certain distributors for most of which it is difficult to find justification.

Prices of milk and milk products to consumers, as well as prices paid the farmer for milk, were fixed by agreements arrived at through negotiation by farmers' cooperative organizations and milk dealers in both the Connecticut and Philadelphia milksheds. Under these agreements, while prices paid the producers and those charged to the consumers fluctuated, the gross margin to the dealer on milk sold for fluid consumption remained substantially the same over a number of years.

In both areas investigated, large milk distributors have been able to substantially lessen competition by the acquisition and absorption of independent dealers.

The investigation disclosed that serious conditions existed among many milk producers in both the Connecticut and Philadelphia milksheds. Many farmers who depended largely upon receipts for their milk for a livelihood were reduced to financial distress, due at least in part to the low-average price received for their milk. Some farmers were in default in the payment of interest on mortgages, and others abandoned dairy farming and disposed of their herds.

Milk dealers in both areas made smaller rates of return, on the total capital employed in the milk and milk-products business during the years 1932 to 1934 than they did during 1929 to 1931. However, some of the large distributors were able to pay high salaries and substantial dividends throughout the period covered the investigation.

Evidence was developed indicating that in both Connecticut and Philadelphia milksheds, distributors have at times been, at least in part, responsible for the creation of a milk surplus by the importation of milk from other producing areas mostly in the form of cream, which has tended to depress the price of milk to local producers.

The five States shipping milk into Philadelphia have enacted laws and regulations governing the sanitary conditions under which milk is

ities, as well as dealers, and the requirement upon the producer to meet the different interpretations of the varying regulations, have worked considerable hardship. on the producers in the Philadelphia milkshed

*Work is begun in Chicago area.*--The Commission is continuing the milk investigation, having sent investigators into the Chicago sales area where field work was still in progress at the close of the fiscal year. A report dealing with conditions in the sale and distribution of milk and other dairy products in the Chicago area will be submitted to the Congress at its next session.

### **CHAIN-STORE INQUIRY**

#### **FINAL REPORT WITH CONCLUSIONS TRANSMITTED TO THE SENATE**

In December 1934 the Commission sent to the Senate its final report on the chain-store investigation, conducted in response to Senate Resolution 224, Seventieth Congress, first session. This report briefly summarizes many of the important features of earlier reports on the inquiry and also presents certain conclusions and recommendations.

*Recommendations and conclusions.*--When the Commission came to consider the social and economic advantages and disadvantages of chain-store merchandising from

sales is the province of the States, 31 of which have antiprice-discrimination laws.

*Proposed amendments to Clayton and Federal Trade Commission Acts.*--There was only one part of the *chains'* competitive advantage in lower selling prices which the Commission thought should be canceled by force of Federal law. It consisted of the discrimination in prices and terms by manufacturers against independents and in favor of chains, a practice accounting for a most substantial part of the chains' ability to undersell independents and coming within the general principle of an existing statutory provision, i.e., section 2 of the Clayton Act. It was concluded that many of the low buying prices of the chains had little, if any, relation to differences in quantity or cost of selling. For that and other reasons, the Commission recommended an amendment of section 2 which would eliminate the provisos regarding such differences and other permissible discriminations, substitute a broad prohibition of unfair and unjust discrimination, and thus make it a judicial rather than a legislative matter. This would also facilitate a constitutional test of the question whether discrimination may be prohibited which is in good faith to meet competition. At the same time it was suggested that even discriminations justifiable on account of quantity or cost of selling might, nevertheless, in the long run lead to monopoly.

The Commission also recommended amendment of section 5 of its organic act so as to prohibit, not only unfair methods of competition, as at present, but unfair or deceptive acts or practices in or affecting interstate commerce.

The report reviewed



assets after the issuance of complaint by the Commission. In order to make the remedy as broad as the evil denounced by section 7, an amendment of section 11 was proposed in order to give the Commission power to order divestiture of assets illegally acquired as well as of stock.

The following reports have been issued as a result of this inquiry:

#### 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 Sale 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 Price 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 Trade.  
 Prices and Margins of Chain and Independent Distributors, Cincinnati Drug.  
 Prices and Margins of Chain and Independent Distributors, Detroit-Drugs. Prices and Margins of Chain and Independent Distributors; Memphis Drugs.  
 Prices and Margins of Chain and Independent Distributors, Washington, D. C.--Drug.  
 Miscellaneous Financial Results of Retail Chains.  
 State Distribution of Chain Stores.  
 Final report.

*Selling prices.--After*

pendent establishments averaged appreciably higher in every one of the lines of business found in those towns.

Considering the fact that salaries, wages, and bonuses represented from 40 to 60 percent roughly of the total operating expenses of chain-stores, depending upon the type of chain, and averaged something over half of the total operating costs for all chains combined, the higher wages of independent stores may be regarded as a further partial explanation of the higher selling prices in such establishments.

*Rent.*--It is probable that the chain stores pay a very much higher rental than the independent stores, on the average. The predilection of the chains, at least in the past, for corner locations in densely populated sections has been more or less notorious, and there are indications that these organizations have frequently been made to pay amply for such locations.

*Special discounts and allowances.*--The lower selling prices of chains as compared with independent distributors are largely possible because of the lower buying prices enjoyed by the chains as compared with the independent wholesaler, cooperative chain, or the independent retail buyer in those cases where the retailers buy directly from the manufacturer. In these lower buying prices, special discounts and allowances play an important part.

In the first place, the Commission's figures indicate that more manufacturers make allowances to chains than to wholesalers. Secondly, although the number of wholesale customer accounts involved in the Commission's study of discounts and allowances was far greater than the number of chain accounts, the proportion of chain accounts carrying allowances was far greater than the proportion of wholesale accounts.

Third, in all three of these lines of

than the total quantities bought by each of these types of distributors, respectively.

*Total chain buying advantage.*-The total buying advantage of the chain is not always represented by special discounts and allowances because the terms of the regular trade and quantity discounts and allowances offered may be such as to permit the chains by reason of their larger buying power, or otherwise, to obtain lower buying prices on the average even before the deduction of special discounts and allowances. The chains apparently bought groceries to much better advantage than the wholesalers before considering special discounts and allowances, but this was not the case in the drug trade.

For groceries and drugs in certain cities, it is possible to estimate how much of the difference in selling prices between chain and independent distributors was represented by the differences in the buying prices. Based on the unweighted figures of grocery items purchased by consumers at chain and independent stores, it would appear that as high as 45 percent of the difference in favor of the chains between chain and independent selling prices on standard grocery items may have been due to the differences in buying prices in favor of the chains on these items.

In the drug trade the total buying advantage of the chains was apparently very much less than in the case of groceries.

Data procured by the Commission in the grocery trade indicates that an appreciable proportion of the buying advantages of the chains can be bethe

over one-third of the stores, reported that they had employed this practice during the period in question.

On leaders sold below total cost, including the cost of doing business, during a representative week the average loss reported by grocery and grocery and meat chains was approximately 10 percent and that reported by the drug chains was 14 percent. Eighteen percent of these items in grocery and meat chains, 13 percent of those in grocery chains', and over 40 percent of those in drug chains carried losses of 16 percent or more.

*Short weighing.*--The Commission's study of short and over weights in the grocery trade indicates that probably some small part of the lower selling prices of the chain as compared with the independent retailer was due to weighing in the case of commodities sold by weight. According to these analyses, (1) the chains weighed exactly a far higher proportion of the purchases made from them (15.6 percent than the independents' (8.4 percent); (2) somewhat higher proportions of the purchases from chains than from independent retail stores were short weight; and (3) somewhat lower proportions of the purchases from chains than from independent retailers were overweight. In the four cities studied, 50.3 percent of the total purchases from all chains combined were short weight and only 34.1 percent over weight as compared with 47.8 short and 43.8 over weight from independent and cooperative retailers combined.

On the average, therefore, the consumer seems somewhat more likely to get short weight than over weight in a chain than in an independent store and appreciably more likely to get excess weight in the latter than in the former establishment.

*Private brands.*--Another advantage to chain-store systems in various lines of business as compared with independents may result from the distribution of merchandise under their own private brands or labels.

The advantage of these private brand items, from the point of view of the chain store, lies in the fact that most of the chains handling this type of merchandise are apparently able to mark it up by a percentage over cost as high, or higher, than competing standard-brand merchandise, but tend to sell it either as low in prices, or lower, than the competing standard-brand items.

*Quality of private brands.*--As

this study, however, the chains averaged substantially lower than the national advertising manufacturers in the proportions of both "fancy" and "choice" (or "extra standard") grades. In canned vegetables the national advertisers averaged a somewhat better quality than the chains, but on canned fruits the reverse was true.

*Wholesaling.*--Many chains engaged in wholesaling, and insofar as there are profits in the wholesale business for any chains, such profits either result in a higher total dollar net profit than the chain earns from its retail business.

In the case of operating expenses, chains in 11 kinds of business show only indeterminate results, according to the number of stores operated, those in the remaining lines being about evenly divided between chains showing a tendency for operating expenses to increase and those showing a tendency for operating expenses to decrease with the size of the chain.

Similar indeterminate results are shown for percentages of net profit on sales and inventory turnover.

Finally, an examination of the comparative selling prices of the larger and smaller grocery and drug chains in various cities fails to furnish very strong evidence that the large chains sold at lower prices than the smaller, at least so far as standard-brand merchandise is concerned. The figures on which this analysis is based are unweighted and weighting by the actual quantities purchased might conceivably change the results shown. They also take no account of prices on private-brand items either purchased or manufactured by the chains. It does seem to be true that larger proportions of the large than of the small chains owned private brands, but it is not so clear that the larger chains sold very much larger proportions of such merchandise than the smaller ones.

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

DESCRIPTION OF PROCEDURE

LEGAL INVESTIGATION

LEGAL WORK UNDER N. I. R. A.

CONSOLIDATIONS AND MERGERS

CASES SETTLED BY STIPULATION

REPRESENTATIVE COMPLAINTS

COMPLAINTS ON RELATION OF' N. R. A.

ORDERS TO CEASE AND DESIST

TYPES OF UNFAIR COMPETITION

CASES IN THE FEDERAL COURTS

TABULAR SUMMARY OF LEGAL WORK



## **PART II GENERAL LEGAL WORK**

### **DESCRIPTION OF PROCEDURE**

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

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

### **INFORMAL PROCEDURE**

When an application for complaint is received, the Commission, through its chief examiner, considers the essential jurisdictional elements. Under section 5 of the Federal Trade Commission Act it must be shown that a proceeding involves the use of an unfair method of competition and that such proceeding “would be to the interest of the public.” The provisions of section 5 are also extended to foreign trade of American exporters by the Export Trade Act. Sections 2, 3, 7, and 8 of the Clayton Act make unlawful, under the circumstances therein set forth, discrimination in price, tying and exclusive dealing contracts, agreements, or understandings, corporate acquisitions of stock in competing companies, and interlocking directorates. The Federal Trade Commission, the Interstate Commerce Commission, the Federal Communication Commission, and the Federal Reserve Board are empowered to enforce compliance with such sections in the respective fields of those agencies.

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

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

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

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

The 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 its consideration. The chief examiner may recommend: (1) Dismissal of the application and closing of the case for lack of evidence in support of the charge or for the reason that the practice does not violate any law over which the Commission has jurisdiction, or (2) closing of the application upon the signing by the respondent of a stipulation of the facts and an agreement to cease and desist from the unlawful practice as charged, or (3) issuance of formal complaint.

If, after consideration of the chief examiner's recommendations, the Commission decides that formal complaint should issue, the case is transmitted to the chief counsel for preparation of formal complaint and trial of the case. Or, if the Commission should direct stipulation, the case is referred to the chief trial examiner for negotiation of such agreement.

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

All proceedings prior to issuance of formal complaint or publication of Cn1c (complaint) d29.4 0



**CASES MAY BE TAKEN TO FEDERAL COURTS**

m o d i s p o n i b l e

No penalty is attached to an order to cease and desist, but a respondent against whom it is directed is required within a specified time, usually 60 days, to report in writing the manner in which the order is being obeyed. If the respondent fails to obey an order while it is in effect, the Commission may apply to a United States Circuit Court of Appeals for enforcement of its order. Also the respondent may petition for review. The statutes provides that "such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited."

The circuit court has power to affirm, modify, ~~affirm, modify, set aside, or set aside~~ 10 . 4 4 . ( 2

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

The legal investigation work of the Commission is directed from its central office in Washington and conducted through that office and four branch offices, located at 45 Broadway, New York City; 433 West Van a40i ( ) Tj 2.88 0 TD 0.023wi8 Tc ( ) Tj 2pein th

**CONSOLIDATIONS AND MERGERS****CASES ARISING UNDER SECTION 7 OF THE CLAYTON ACT**

The year was probably more important with respect to corporate activities relating to recapitalization and internal reorganization

Three of the 25 matters filed without docketing pertained to proposed acquisitions, consolidations, or mergers which failed of consummation, 12 involved acquisitions of assets, and 10 involved acquisitions of capital stocks.

All of the matters involving the acquisition of capital stock were filed without docketing because the acquisitions did not result in a substantial lessening of competition, restraint of trade, or tendency toward monopoly. In 5 of the 10 matters so filed the products were sold in noncompetitive territory, in 2 there was no competition due to the community of interest between or among the corporations involved prior to the acquisition, and in 1 the acquired company was in process of liquidation.

During the year two matters pertaining to acquisitions, consolidations, and mergers were docketed as applications for complaint, of which one was subsequently dismissed, while the other went to complaint. No docketed applications were pending at the close of the year.

One complaint involving section 7 was pending before the Commission at the beginning of the year, 1 was issued during the year, and 1 was dismissed, leaving 1 pending at the close of the year.

No orders of divestiture of capital stock were issued, nor were any cases involving capital-stock acquisitions pending in the courts at the close of the year.

At the beginning of the year, there was pending before the Commission the complaint against Crown-Zellerbach Corporation of San Francisco, occupying an important position in the paper and paper products industry on the Pacific coast. This complaint was dismissed during the year.

The Commission issued a complaint against the Van Kannel Revolving Door

alleged unfair methods set forth therein. The question of whether a respondent shall be permitted to sign a stipulation is entirely within the discretion of the Commission, as the disposition of a case by stipulation is not a right but a privilege extended by the Commission.

Should a potential respondent decide to abandon a practice of which complaint has been made rather than go through with trial and other formal procedure, and the Commission approve such a course, the respondent may sign an agreement to “cease and desist forever” from the alleged unfair practice. This is done with the understanding that should the respondent resume such practice, the facts as stipulated may be used in evidence against him in the trial of a complaint which the Commission may issue.

The Commission believes that its stipulation procedure is protecting the American consumer from numerous unfair methods of competition which, in the aggregate, are all important consideration, reaching, by reason of the simplicity and economy of the procedure, a very much larger number of ab09121Tc (12.96 TD Tc 7pTc ( ) Tc ( ) Tj 2D 0.023 Tc



which liquor dealers not operating distilleries nevertheless unfairly used the word "distilleries" to describe their business.

Other typical instances include: A knit-goods mill stipulates that it will no longer designate garments composed only partly of wool as "100 percent pure wool" or "100 percent virgin. wool"; an importer of shoestrings agrees not to label them as "mercerized" unless they have actually gone through that process, while the shoes in which they might be strung will not be stamped for example as "Dr. Mercer" to indicate untruthfully that they are designed according to special orthopedic standards, and so on.

Some firms have entered into stipulations because they marked their domestic-made products as imported and others because they labeled their foreign-made goods "Made in U. S. A.", the degree of misrepresentation depending on the consumer preference and good will created for a domestic-made or a foreign-made article.

The range of commodities mentioned in stipulation proceedings and other legal proceedings before the Commission suggests a list almost as wide and varied as the material needs of humanity itself.

#### TOTAL NUMBER OF STIPULATIONS

Stipulations in which van oils individuals and companies agreed to cease and desist from unlawful practices charged were approved and accepted by the Commission during the fiscal year in 240 cases, in addition to 151 stipulation% in cases involving false and misleading advertising.<sup>1</sup>

During the 9½ years in which the stipulation system had been in effect on June 30, 1935, a total of 2,257 stipulations had been approved and accepted by the Commission.

June 30, 1935, having been 280 as against 97 for the year ending June 30, 1934.

All but one of these 280 complaints charged the use of unfair methods of competition in violation of section 5 of the Federal Trade Commission Act. The remaining complaint charged the respondent with violation of section 7 of the Clayton Act, prohibiting acquisition of the capital stock of competing companies. No complaints were issued during the year under sections 2, 3, or 8 of the Clayton Act, involving, respectively, price discrimination, tying contracts, and interlocking directorates. No complaint was issued under section 5 of the Federal Trade Commission Act as extended by section 4 of the Export Trade Act.

Herewith are presented brief summaries of the charges contained in a few of the complaints issued by the Commission during the fiscal year. Unless otherwise

7c(1) unless otherwise

f 08113 of 042 dj. 6365 Jm (70 chard) Tj 257201 3FD 11.0046 6.72c0 164TCs (slowly copy) Fc (fy 508) Jnt 360 the D4

Roebuck & Co. as compared with the price at which it sold tires to independent tire dealers, and that the effect of this discrimination has been to suppress competition and tend to create a monopoly.

The Commission's attorneys began to take testimony in January, 1934, at Akron, Ohio, and also conducted hearings in Chicago, Cincinnati, Memphis, St. Louis, Kansas City, St. Paul, Washington, and New York City, at which hearings a large number of witnesses testified and exhibits were introduced. The Commission's case-in-chief was closed on April 30, 1934.

After a recess, counsel for the respondent began to take testimony in Akron, June 25, 1934. hearings were also conducted in Cleveland, Chicago, Washington, and New York City. At these hearings, the respondent examined numerous witnesses and introduced a very large number of exhibits, closing its case on December 15, 1934.

The Commission attorneys introduced rebuttal testimony in New York City, Akron, and Washington, at which hearings several additional witnesses testified and additional exhibits were introduced. The Commission closed its rebuttal on March 18, 1935.

The trial examiner submitted his report, June 22, 1935, and it was expected the case would be finally disposed of in the fall of 1935.

Some idea of the importance in the tire industry of the arrangement between Goodyear and Sears, Roebuck & Co. may be gained from the fact that from 1926 through 1933, Goodyear sold to Sears, Roebuck & Co. more than 19,000,000 automobile tires and 17,000,000 automobile tubes, receiving therefor more than \$100,000,000 for the tires and approximately \$15,000,000 for the tubes.

This case is also important because there are other industries where so-called cost-plus contracts have been entered into between manufacturers of nationally advertised articles and mail-order houses and chain stores at prices lower than these manufacturers sell to their ordinary and regular customers.

#### **RADIO SETS AND RADIO TUBES-ALLEGED APPROPRIATION OF GOOD NAME OF OTHERS**

The Commission changed various groups of persons, partnerships, and corporations selling radio sets and radio tubes in interstate and foreign commerce with appropriating and using prominent, well-established and favorably known names long in use by others, as marks on brands on radio sets and radio tubes manufactured and sold by respondents. It was alleged that surnames of individuals

and brand names of concerns well known and established in the electric, sound transmission, and radio fields had



and other matter printed and published for advertising purposes. The respondent was charged with publishing a certain book on refrigeration and selling it principally to dealers in ice, who resold or otherwise disposed of it to the public. It was alleged that respondent's book falsely represented that foods kept in electric refrigerators lost their nutritive properties to such an extent that distorted diets and disarranged food balances would result, leading to indigestion, constipation, and numerous other ailments.

Also, it was alleged that the book falsely represented that gases and other volatile matter and odors given off from foods kept in electric refrigerators contaminated other foods, rendering them insanitary and dangerous to health. Such misrepresentations were detrimental to the sellers of electric refrigerators, according to the complaint.

#### **VARIETY APPEARS IN ALLEGED FALSE ADVERTISING CASES**

False and misleading advertising was alleged in a larger number of complaints issued during the year than any other practice. These complaints referred to a great variety of commodities and alleged misrepresentations, most of the commodities being articles for use in furnishing homes or for the personal use of those who live in private homes. They included articles of furniture, bathroom accessories, chinaware, silver ware, earthenware, glassware, silver-plated ware and hollow ware, baking powders, flavoring extracts, canned tomatoes, toothpicks, coffee, coffee substitutes, olive oil, fur coats, garments, lingerie, sportswear, knit goods, hosiery, narrow ribbons, hats and caps, military uniforms, suits, shoes containing mercerized laces, cosmetics, perfumes, rugs, carpets, upholstery fillings, radio receiving sets, magazines, stogies, cigars, pipes, encyclopedias, history books, maps, atlases, motion picture films, cleaning fabrics, soap, beer taps, self-heating irons, metal measuring tapes, paints, roof coatings, red cedar shingles, flower seeds, field and grass seeds, crushed shell for poultry, automobile replacement parts and accessories, new tires and tubes, reconditioned tires, reconditioned spark plugs, spark-plug cable sets and chamois skins.

#### **MISCELLANEOUS CASES**

In one such case it was alleged that the respondent purchased machine-made rugs and then employed a few blind persons to do the "fringe tying" thereon. It was alleged that respondent represented by the name under which the business was conducted, and otherwise, that such rugs were made wholly by the blind, when such was not the fact. It was also alleged that the respondent made represent-



be deemed an unfair method of competition in commerce within the meaning of the Federal Trade Commission Act." In such cases the complaints charged violation of section 5 of the Federal Trade Commission Act by and through the violation of the provisions of the several codes of fair competition, and recognized counsel for the National Recovery Administration to have charge of the prosecution of such complaints.

Trial of the case against the Purity Ice Co. and others (Docket No. 2203), commenced in the previous fiscal year, was concluded, and the matter presented to the Commission upon briefs and oral argument. The Commission found the acts charged in the complaint did not involve transactions in or affecting interstate or foreign commerce within the meaning of section 3 (b) of the National Industrial Recovery Act, and, for this reason, the case was dismissed.

Other complaints issued by the Commission at the request of National Recovery Administration, and on its relation were prosecuted by counsel for National Recovery Administration, but none had been presented to the Commission for decision prior to the Supreme Court's decision in *Schechter Poultry Corporation, and others, v. United States* (295 U. S. 495), on May 27, 1935, which involved the scope of the provisions of the National Industrial Recovery Act and the powers vested thereby in officers charged with the enforcement of the codes of fair competition established under such Act. Following the Supreme Court decision, counsel for the National Recovery Administration recommended to the Commission that all pending complaints issued on relation of National Recovery Administration be dismissed. This recommendation was approved, and orders of dismissal were entered in such cases.

## ORDERS TO CEASE AND DESIST

### UNFAIR TRADE PRACTICES PROHIBITED IN 125 CASES

The Commission issued orders to cease and desist from unfair methods of competition and other practices in 125 cases during the fiscal year. They are listed as follows:

#### LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Akron Candy Co	Akron, Ohio.
Akron Lamp Co	Do.
American Drug Corporation	St. Louis.
American Memorial. Co	Atlanta, Ga.
American Merchandise Co., Inc., and others	New York City.
Aqua Seal Corporation, and others	Do.
Battle Creek Appliance Co., Ltd., and others	Battle Creek, Mich.
Bayer Co., Inc	New York City.





<i>Respondent</i>	<i>Location</i>
Kahn Corporation, Edward M Kaumagraph Co., and others	New York City.
Leipzig Importing Co	Do.

ORDERS TO CEASE AND DESIST

61

<i>Respondent</i>	<i>Location</i>
Stempel Bros., Inc	New York City.
Sutton Brothers, Inc	Do.
Thayer Pharmacal Co., and others	Chicago.
Thinshell Candies, Inc	Do.
Ucanco Candy Co., Inc	Davenport, Iowa.
Union Concession Co	Chicago.
United Remedies, Inc	Do.
United States Envelope Co	Springfield, Mass.
Universal Parts Manufacturing Corporation	Chicago.
Universal Theatre Concession Co	Do.
Van Dye Way Corporation	New York City.
Wallace Co., Hugh	Detroit.

rate unless the box has stamped thereon a certificate of the boxmaker to the effect that it meets certain standard strength tests.

Respondent, a dealer in, but not the manufacturer of, fiber-board boxes, was found to be purchasing fiber-board boxes from a manufacturer upon which it caused the manufacturer to stamp this "Certificate of boxmaker" in the name of the respondent. Respondent then sold the boxes bearing this false certificate to shippers. Respondent was ordered to cease and desist buying and selling in inter-state commerce boxes so falsely stamped, or from in any other manner representing itself to be the maker of boxes made by others.

**stamped,**

The special committee demanded of the wholesalers, particularly those located in eastern Massachusetts, that they inform the retail dealers to whom they supplied current issues that they could no longer handle both current and back-number magazines, and that if the retailers did not cease handling the back numbers further supplies of current issues would be denied them. The result was that approximately half the dealers in back-number magazines in that area discontinued handling them. The special committee also sought to interfere with the sources of supply of the distributors of back numbers.

The Commission ordered the respondents to cease and desist from preventing or seeking to prevent, by agreement, combination or concert of action, any person, firm or corporation from selling to distributors thereof or dealers therein second-hand or back-number ma

doctor, or contained special scientific or orthopedic features which were the result of medical advice, or services, when such was not the fact.

The Commission found that this respondent had caused the words "Doctor Gordon's Health-O-Pedic" to be stamped on the sole of a certain brand of shoes sold by him in interstate commerce, and that he caused two other brands to be labeled as "Dr. Gray's Style-Fit Health Shoe", and "Dr. Williams' Arch Support."

It was further found that these shoes were not made in accordance with any design or under the supervision of a doctor and did not contain special orthopedic or scientific features that were the result of medical advice, nor was such footwear manufactured or constructed for the purpose of correcting or alleviating any foot trouble or weakness

clothes moths, and also unless they maintained a concentration of vapor from cedar oil sufficient, as a fumigant, to kill young moth larvae during any part of a 7-month storage period.

Certain competitive chests, according to the findings, were made substantially airtight and of red cedar wood in the body proper, ranging from a minimum of 70 percent of three-quarter inch thick-ness of this wood up to 100 percent.

Chests containing the 70 percent minimum of red cedar wood were found to furnish an atmosphere that prevented moth larvae from developing into clothes moths. It was brought out that even air-tight wood chests of the same size as Odora cardboard chests, if they contained only 40 percent of three-quarter inch cedar board, did not prevent eggs of clothes moths from developing into larvae which would damage stored clothes.

Storage receptacles manufactured by Odora were made of kraft corrugated cardboard, each chest containing a piece of paper called a cedar retainer which was sprayed with one ounce of cedar and pine oil compound. According to the findings, cardboard is permeable to air and to gas or vapor from the cedar and pine oils and, in addition, the chests have openings at their joints large enough for air and moths to enter.

#### **MISBRANDING AND MISLABELING-- HUDSON SEAL”**

*Great Northern Fur Dyeing & Dressing Co., Inc., Long Island, N. Y., and others.*-- The Commission, on May 16, 1935, entered a modified cease and desist order directing nine respondents engaged in the dressing and dyeing of furs in New York City and vicinity to cease and desist from certain misleading representations.

The modified order provides that the term “Hudson Seal” may be used to describe the color or character of the dye of muskrat fur, such as “Hudson Seal-dyed Muskrat”, but the word “Hudson”, alone or in connection with other words, may not be used to describe dyed cony (rabbit) fur. The order provides that the description for cony dyed to simulate seal shall be “Seal-dyed Cony.”

The modified order applies to the following respondents: Great Northern Fur Dyeing & Dressing Co., Inc., and others, Long Island, N. Y.; Mendoza Fur Dyeing Works, Inc., and Van Dye Way Corporation, of New York City; Oakland Fur Dyeing, Inc., and Iceland Fur Dyeing Co., of Brooklyn, N. Y.; Bayonne-Newland Fur Dressers & Dyers, Inc., Jersey City, N.J.; A. Hollander & Son, Inc., and others, Joseph Hollander, Inc., and Philip A. Singer & Bro., Inc., all of Newark, N. J.

### USE OF EXCESSIVE MARK-UP LABELS

*Nachman Spring--Filled Corporation and the Schultz & Hirsch Co., both of Chicago.*--During the fiscal year, cease and desist orders were issued by the Commission against both of these concerns, the former being a manufacturer and distributor of spring units, known as "Nachman Springs", for use in and as part of inner-spring mat-tresses and box-spring mattresses or upholstered box Springs; and Schultz & Hirsch Co. being a manufacturer and distributor of the finished mattresses.

In both instances, the complaint charged the respondents with using excessive mark-up labels which, in the hands of the dealers, it was alleged, had a tendency to deceive purchasers into believing that the articles were being offered at greatly reduced prices, when this was not true.

Both respondents waived hearing on the complaints and consented to the issuance of cease and desist orders. These orders required that no price marks or labels shall be used which do not represent a true estimate of the price at which the finished mattresses are to be offered for resale in order to prevent ultimate purchasers from being given a wrongful impression as to price concessions.

### MISREPRESENTATION-COUNTRY OF ORIGIN

*United States Envelope Co., Springfield, Mass.*--This company, a manufacturer and importer of paper used in printing books and for stationery, was charged by the Commission with using trade names which had a tendency to deceive the purchasing public into believing that paper made in the United States was manufactured in certain foreign countries and imported. The Commission's order directed the respondent to:

Cease and desist from the use of the words "Japan", and "Oxford" and from the use of each of them, and of any other word or words which may imply or import foreign origin of the paper, as the brand name or as part of the brand name or designation of paper made in the United States, either in the watermark of the paper or in advertisements in news-papers, periodicals, sample books or other publications, or otherwise, unless and until the words or phrase "Made in U. S. A." be printed in legible letters immediately in connection therewith.

### FALSE AND MISLEADING ADVERTISING--DEPILATORIES

*Jean Jordeau, Inc., South Orange, N. J., and Bertha E. Lefrie, New York City.*--Selling a wax-like substance called "Zip Epilator" and "Zip Depilatory Cream", these respondents were directed to cease advertising or otherwise representing that either product, by



application for removal of superfluous or other hair from the body, will cause such hair to be removed, so that, after its removal, hair will not again grow at the place where either of the depilatories was applied.

Jean Jordeau, Inc., manufactures its products in South Orange, N. J., selling them in various States and maintaining a salon for their sale in New York City. This place of business is in charge of Bertha E Lefne, vice president of Jean Jordeau, Inc., who is known to patrons as "Madame Berthe."

These respondents were also ordered to discontinue representing that their preparations destroy the cause of the growth of hair, or that application brings lasting results in preventing growth of superfluous or other hair. They were also not to assert that "Zip Epilator" is pleasant to use or that "Zip Depilatory Cream" is safe or harmless and leaves no irritation of the skin. Relying on medical opinion, the Commission reported that the two products would not accomplish the things attributed to them, but that the "Zip Epilator" would cause pain to some persons, while the cream was not safe and harmless in all cases and might cause irritation of the skin from which dermatitis might result for some persons.

## **TYPES OF UNFAIR COMPETITION**

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

The following partial list shows unfair methods of competition condemned by the Commission from time to time in its orders to 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 (sec. 3, Clayton Act), corporate-stock acquisitions (sec. 7, Clayton Act), and inter-locking directorates (sec. 8, Clayton Act).

The list is as follows:

1. The use of false or misleading advertising, calculated to mis-lead and deceive the purchasing public to their damage and to the injury of competitors.
2. Misbranding of fabrics and other commodities respecting the materials or ingredients of which they are composed, their quality, purity, origin, source. or qualities, properties, history or nature of manufacture, and selling them under such names and circumstances that the purchaser would be misled in these respects.
3. Bribing buyers or other employees of customers and prospective customers, without the latter's knowledge or consent, to secure or hold patronage.

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

5. 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.

6. Making false and disparaging statements respecting competitors' products, their value, safety, etc., and competitors' business, financial credit, etc., in some cases under the guise of ostensibly disinterested and specially informed sources or through purported scientific but in fact misleading demonstrations or tests.

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

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



- (e) Being manufacturer's representative and outlet for surplus stock sold at a sacrifice, etc.
- (f) Representing that the seller is a wholesale dealer, grower, producer, or manufacturer, when in fact such representation is false.

20. 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.

21. Obtaining business through undertakings not carried out and thorough 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 competitors 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--

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

(b) 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; and

(c) 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.

22. Giving products misleading names so as to give them a value to the purchasing public or to a part thereof which they would not otherwise possess, with the capacity and tendency to mislead the public into purchasing the products concerned in the erroneous beliefs thereby induced, and with the tendency to divert and/or with the effect of diverting business from and otherwise injuring and prejudicing competitors who do not engage in such practices, all to the prejudice of the public and of competitors, such as names implying falsely that--

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

(b) They are composed in whole or in part of ingredients or materials, respectively, contained only to a limited extent or not at all; or

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

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



There were no cases pending in the Supreme Court of the United States.

Eight of the ten cases in which the circuit courts sustained the Commission were formal affirmances. In two cases the Court dismissed the applications for enforcement On joint motions of the Commission and the defendants because the latter had made satisfactory compliance with the Commission's orders to cease and desist. These two cases were: L. A. Crancer and G. B. Fleischman, of. St Louis, and George H. Lee Co., Omaha. The eight cases in which the courts affirmed the Commission's orders were: Armand Co., Inc., of Des Moines; Civil Service Training Bureau, Inc., Cleveland; Er Griffiths Hughes, Inc., Rochester, N. Y.; Inecto, Inc., New York City; Ironized Yeast Co., Atlanta; Walter H. Johnson Candy Co., Chicago; Maisel Trading Post, Inc., Albuquerque, N. Mex.; and E J. Wallace, of St. Louis.

*Armand Co., Inc., Des Moines, Iowa.*--This corporation, engaged since 1916 in the manufacture, preparation, and sale in interstate commerce of toilet articles and cosmetics, on October 8, 1934, filed with the second circuit (New York City) its petition to review and set aside the Commission's order to cease and desist in this case.

The Commission's order, based on extensive findings supported by evidence, required the company, " its officers, agents, representatives, and employees, in connection with the sale or offering for sale of its products in interstate commerce between and amon



use of



Commission's order forbade representations to the effect that respondents, or any company the name of which might be employed by them, were manufacturers, and that purchasers from them would save the middleman's profit, when such was not the fact.

On joint petition filed by counsel for the Commission and respondents, March 20, 1935, the court entered an order dismissing, without prejudice, the Commission's application for enforcement. The petition recited that since the institution of the suit, the respondents had filed with the Commission a supplemental report showing compliance with the order for the enforcement of which the proceeding was instituted. Upon this basis, the Commission joined with respondents and asked for withdrawal of the suit (76 F. (2d) 1008).

*Fairyfoot Products Co., Chicago.*--This corporation, on January 14, 1935, petitioned the seventh circuit (Chicago) to set aside the Commission's order concerning the company's sale and distribution of a medicated pad called "Fairyfoot" as a treatment for bunions. The Commission found that respondent's representations had the capacity and tendency to and did deceive retail merchants and the using public, and diverted business from competitors honestly representing their products and preparations.

The Commission order directed the respondent, and its officers, agents, and employees, to cease and desist from representing in advertising matter circular letters, radio broadcastings, or otherwise, in connection with the interstate sale of its product:

That the treatment is approved by leading physicians and surgeons; that, by the use of "Fairyfoot", bunions are dissolved, pain is stopped instantly, or almost instantly, and permanent relief follows; the foot again resumes its natural appearance and shape; bunion suffering is ended completely, the normal functions are stimulated; the absence of irritation and the continuous massage of the plaster plus the special "Fairyfoot" formula gradually reduces the bunion hump; that "Fairyfoot" gently dissolves the swelling caused by inflammation and should restore the foot to its normal appearance; it brings sure and certain relief from bunion suffering and the user can know the pleasure of bunion-free feet, etc.

At the close of the year, the record had been printed, and petitioner's brief filed.

*Hires Turner Glass Co., Philadelphia.*--On August 24, 1934, the Commission filed with the third circuit (Philadelphia) an application for the enforcement of its order in this case. There were also filed the printed transcript and brief for the Commission.

The order directed the respondent to ~~cease and desist~~ ~~from representing~~ ~~in advertising matter~~ ~~circular letters,~~ ~~radio broadcastings,~~ ~~or otherwise,~~ ~~in connection with the interstate sale of its product:~~

The Commission found the respondent to be in competition in interstate commerce with the makers of the electrolytic type of copper-back “ mirrors and also with the makers of ordinary mirrors. The findings held that “the representations of respondent as aforesaid in regard to its said mirrors have had and do have the tendency and



of Ironized Yeast Co., on September 19, 1934, filed with the sixth circuit (Cincinnati) a petition to review and set aside the Commission's order to cease and desist entered against them.

The Commission's order, which was based on findings supported by evidence, required the respondents to cease and desist from making certain extravagant assertions concerning the medicinal properties of their product "Ironized Yeast" i. e., that the use of this product would cause to vanish over night, indigestion, constipation, (assenserv)

same composition as those designated as “Germozone” and “Gizzard Capsules”, to cease and desist from directly or indirectly representing:

(1) With reference to “Germozone” that its use alone constitutes a proper and sufficient treatment or remedial or preventive measure for those certain specific diseases and conditions in poultry known as bacillary white diarrhoea, pullorum disease, blackhead, limber neck, coccidiosis, diphtheria, and aspergillosis, and

(2) With reference to “Gizzard Capsules” that their use alone will serve to rid fowls of either pin worms or tape worm heads.

On joint motion of the parties, April 10, the court entered an order dismissing the application for enforcement (76 F. (2d) 1008).

Dismissal was requested because the Lee company, since issuance of the order, “has made substantial changes in the constituent ingredients of the certain remedial preparation referred to in said order to cease and desist, to wit : Gizzard Capsules, for the purpose of increasing the efficacy thereof, according to the joint motion. These changes were deemed to have “removed said product from the scope of the terms of said order to cease and desist”, and it was said that “there is no public interest to be served by the further prosecution of this case.”

*Maisel Trading Trhp2 Tc (GPs, fher prosecution of-15esist ( ) Tj 5.2) Tj*



association, or groups thereof, as the vendor or purchaser of coal, or designating or causing to be designated, their shipments of coal, by using or causing to be used denunciatory, scurrilous, abusive,





TABULAR SUMMARY OF LEGAL WORK 83

TABLE 3.--Applications for complaints

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year	0	104	130	188	280	389	554	467	458	572	555
Applications docketed	112	134	153	332	535	724	426	382	416	377	340
Rescissions:											
To complaints	0	0	0	0	0	0	0	0	0	0	0
Settled by stipulations to cease and desist-C. T. E	0	0	0	0	0	0	0	0	0	1	1
Settled by stipulations to cease and desist-S. B. I	0	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	0	0	0	0	0	0	5	6	4	3
Closed for other reasons	1	0	0	0	0	0	0	0	0	0	0
Total for disposition	112	238	283	520	815	1,113	980	854	880	954	909
To complaints	0	3	16	80	125	220	156	104	121	143	118
Settled by stipulations to cease and desist-C. T. E	0	0	0	0	0	0	0	0	0	3	5
Settled by stipulations to cease and desist-S. B. I	0	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	8	105	79	160	301	339	357	292	187	243	298
Closed for other reasons	1	0	0	0	0	0	0	0	0	0	0
Total disposition during year		8	108	95	240	426	559	513	396	308	389
Pending end of year	104	130	188	280	389	554	487	458	572	565	488
		1926	1927	1928	1929	1930	1931	1932	1933	1934	1935
Pending beginning of year			488	420	457	530	843	753	754	440	476
Applications docketed		273	292	334	679	535	511	378	404	376	913
Rescissions:											
To complaints			0	0	0	0	2	2	0	0	0
Settled by stipulations to cease and desist-C. T. E		1	0	2	2	3	5	3	3	1	6
Settled by stipulations to cease and desist-S. B. I		0	0	0	0	0	0	0	0	3	4
Settled by acceptance of T. P. C. rules		0	0	0	1	3	2	0	0	0	0
Dismissed for lack of merit		4	0	0	0	0	3	4	1	0	3
Closed for other reasons		0	0	0	0	0	0	0	0	0	1
Total for disposition		766	712	793	1,212	1,389	1,277	1,136	850	859	1,394
To complaints		57	45	58	100	171	110	90	52	98	259
Settled by stipulation to cease and desist-C.T.E		102	80	68	118	244	160	123	96	111	228
Settled by stipulations to cease and desist-S.B.I		0	0	0	0	31	48	209	85	90	129
Settled by acceptance of T.P.C. rules		2	3	19	17	32	5	6	3	0	1
Dismissed for lack of merit		185	127	118	134	158	205	268	138	91	66
Closed for other reasons		0	0	0	0	0	0	0	0	0	77
Total disposition during year			846	255	268	369	636	523	696	374	390
Pending end of year		420	457	530	843	753	754	440	475	469	634

CUMULATIVE SUMMARY TO JUNE 30, 1935

Applications docketed	8,626
Rescissions:	
To complaints	7
Settled by stipulations to cease and desist-C. T. E	28
Settled by stipulations to cease and desist-S. B. I	7
Settled by acceptance of T. P. C. rules	6
Dismissed for lack of merit	34
Closed for other reasons	4
Total for disposition	8,709
To complaints	2,126
Settled by stipulations to cease and desist-C. T. E	1,338
Settled by stipulations to cease and desist-S. B. I	587
Settled by acceptance of T. P. C. rules	88
Dismissed for lack of merit	3,859

Closed for other reason  
Total disposition  
Pending June 30, 1935

77  
8,075  
634

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

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

TABLE 4.--*Complaints*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year											
Complaints docketed	0	5	9	154	135	308	177	111	144	257	232
Orders to cease and desist:											
Contest	0	0	0	0	0	0	0	0	0	0	4
Consent	0	0	0	0	0	0	0	0	0	0	1
Default	0	0	0	0	0	0	0	0	0	0	0
Settled by stipulation, to cease and desist	0	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of T.P.C. rules	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit.	0	0	0	0	0	0	0	1	0	1	1
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	0	0
Total for disposition	0	5	14	164	221	441	465	423	402	392	396
Complaints rescinded	0	0	0	0	0	0	0	0	0	0	0
Orders to cease and desist:											
Contest	0	0	3	71	75	110	116	74	28	45	30
Consent	0	0	0	0	0	0	0	17	54	47	43
Default	0	0	0	0	0	0	0	0	0	0	0
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	0	8
Settled by acceptance of T.P.C. rules	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	0	1	7	13	44	37	75	88	36	97
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	0	0
Total disposition during year	0	5	10	86	133	287	312	257	232	264	220
Pending end of year	0	5	10	86	133	287	312	257	232	264	220
		1926	1927	1928	1929	1930	1931	1932	1933	1934	1935
Pending beginning of year											
Complaints docketed	82	220	152	147	136	198	275	225	208	144	115
Orders to cease and desist:											
Contest	0	0	1	0	0	0	0	0	0	0	0
Consent.	0	0	0	0	0	0	1	0	0	0	0
Default	0	0	0	0	0	0	0	0	0	0	1
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of T.P.C. rules	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	1	0	0	0	0	0	0	0	0	0
Closed for other reasons	0	0	0	0	0	0	0	0	0	0	0
Total for disposition	282	229	212	285	370	385	318	261	241	396	
Complaints rescinded	0	0	0	0	3	2	1	3	0	0	
Orders to cease and desist:											
Contest	28	34	38	56	36	87	39	37	39	54	
Consent	16	18	8	7	11	14	18	25	61	70	
Default	0	0	2	4	1	7	6	4	11	2	
Settled by stipulations to cease and desist	3	1	3	3	3	4	2	1	1	1	
Settled by acceptance of T.P.C. rules	0	5	5	1	0	1	0	6	0	0	
Dismissed for lack of merit	83	24	20	16	41	45	44	41	13	38	
Closed for other reasons	0	0	0	0	0	0	0	1	13		
Total disposition during year	152	147	136	198	275	225	208	144	115	218	
Pending end of year	152	147	136	198	275	225	208	144	115	218	

## CUMULATIVE SUMMARY TO JUNE 30, 1935

Complaints	2,484
Orders to cease and desist:	
Contest	5
Consent	2
Default	1
Settled by stipulations to cease and desist	0
Settled by acceptance of T.P.C. rules	0
Dismissed for lack of merit	4
Closed for other reasons 1	0
Total for disposition	2,496
Complaints rescinded	9
Orders to cease and desist:	
Contest	1,000
Consent	409

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

CUMULATIVE SUMMARY TO JUNE 30, 1935--*Continued*

Settled by stipulations to cease and desist	28
Settled by acceptance or TPC rules	18
Dismissed for lack or merit	763
Closed for other reasons <sup>1</sup>	14
Total disposition	2,278
Pending June 30, 1935	218

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

**COURT PROCEEDINGS--ORDERS TO CEASE AND DESIST**

TABLE 5.--*Petitions for review--lower courts*

	1919	1920	1921	1922	1923	1924	1925	1925	1927
Pending beginning of year	0	2	8	13	9	4	14	9	8
Appealed	4	9	18	5	5	15	6	5	4
Total for disposition	4	11	26	18	14	19	20	14	12
Decisions for Commission	1	0	1	4	5	1	6	5	4
Decisions for others	1	3	11	5	4	4	3	1	2
Petitions withdrawn	0	0	1	0	1	0	2	0	3
Total disposition during year	2	3	13	9	10	5	11	6	9
Pending end of year	2	8	13	9	4	14	9	8	3

  

	1928	1929	1930	1931	1932	1933	1934	1935
Pending beginning of year	3	3	35	3	8	15	2	1
Appealed	4	34	1	10	22	3	1	5
Total for disposition	7	37	36	13	30	18	3	8
Decisions for Commission	3	1	4	3	1	2	2	3
Decisions for others	1	1	26	1	11	13	0	0
Petitions withdrawn	0	0	3	1	3	1	0	0
Total disposition during year	4	2	33	5	15	16	2	3
Pending end of year	3	35	3	8	15	2	1	3

CUMULATIVE SUMMARY TO JUNE 30, 1935

Appealed	151
Decisions for Commission	46
Decisions for others	87
Petitions withdrawn	15
Total disposition	148
Pending June 30, 1935	3

This table lists a cumulative total of 87 decisions against the Commission in the United States Circuit Courts of Appeals. However the Grand Rapids furniture (vener) group (with 25 different docket numbers) is in reality 1 case, with 25 different subdivisions. It was tried, briefed, and argued as 1 case, and was so decided by the court of appeals. The same holds true of the curb-pump group (with 12 different subdivisions), the Royal Milling Co. group (with 6 different subdivisions), and the white Pine cases (12 subdivisions). In reality, therefore, these 55 docket numbers mean but 4 cases and, if cases and not docket numbers are counted, the total of adverse decisions would be 36.

TABLE 6.--*Petitions for review--Supreme Court of the United States*

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

## CUMULATIVE SUMMARY TO JUNE 30, 1935

Appealed by Commission	43
Appealed by others	12
Total appealed	55
Decisions for Commission	24
Decisions for others	12
Petitions withdrawn by Commission	2
Certiorari denied Commission	8
Certiorari denied others	9
Total disposition	55
Pending June 30, 1935	0

TABLE 7.--*Petitions for enforcement--Lower courts*

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	0	0	0	0	0	1	0	2
Appealed	0	0	0	0	1	1	1	8	2
Total for disposition	0	0	0	0	1	1	2	3	4
Decisions for Commission	0	0	0	0	1	0	2	0	0
Decisions for others	0	0	0	0	0	0	0	1	0
Petitions withdrawn	0	0	0	0	0	0	0	0	1
Total disposition during year	0	0	0	0	1	0	2	1	1
Pending end of year	0	0	0	0	0	1	0	2	3



TABLE 9.--Court proceedings-miscellaneous lower courts

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	1	4	5	6	4	4	4	4
Appealed by Commission	1	2	0	3	5	0	1	0	1
Appealed by others	1	2	2	3	0	0	0	1	1
Total for disposition	2	5	6	11	11	4	5	5	6
Decisions for Commission	1	0	1	3	0	0	0	0	1
Decisions for others	0	1	0	1	7	0	0	0	0
Petitions withdrawn by Commission	0	0	0	0	0	0	1	1	0
Petitions withdrawn by others	0	0	0	1	0	0	0	0	0
Total disposition during year	1	1	1	5	7	0	1	1	1
Pending end of year	1	4	5	6	4	4	4	4	5

  

	1928	1929	1930	1931	1932	1933	1934	1935
Pending beginning of year	5	3	2	1	1	2	1	0
Appealed by Commission	0	2	0	1	0	1	0	0
Appealed by others	2	1	2	0	2	0	2	0
Total for disposition	7	6	4	2	3	3	3	0
Decisions for Commission	1	4	1	1	1	2	2	0
Decisions for others	1	0	1	0	0	0	0	0
Petitions withdrawn by Commission	2	0	0	0	0	0	0	0
Petitions withdrawn by others	0	0	1	0	0	0	1	0
Total disposition during year	4	4	3	1	1	2	3	0
Pending end of year	3	2	1	1	2	1	0	0

## CUMULATIVE SUMMARY TO JUNE 30, 1935

Appealed by Commission	16
Appealed by others	19
Total appealed	35
Decisions for Commission	17
Decisions for others	11
Petitions withdrawn by Commission	4
Petitions withdrawn by others	3
Total disposition	35
Pending June 30, 1930	0

TABLE 10.--Court proceedings-Miscellaneous--Supreme Court of the United States

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	0	0	0	0	6	4	1	1
Appealed by Commission	0	0	0	0	6	0	0	0	1
Appealed by others	0	0	0	0	0	0	0	0	0
Total for disposition	0	0	0	0	6	6	4	1	2
Decisions for Commission	0	0	0	0	0	0	0	0	1
Decisions for others	0	0	0	0	0	2	3	0	0
Certiorari denied Commission	0	0	0	0	0	0	0	0	1
Certiorari denied others	0	0	0	0	0	0	0	0	0
Total disposition during year	0	0	0	0	0	2	3	0	2
Pending end of year	0	0	0	0	8	4	1	1	0



TABLE 10.--*Court proceedings-Miscellaneous--Supreme Court of the United States--Continued*

	1928	1929	1930	1931	1932	1933	1931	1935
Pending beginning of year	0	0	0	0	0	0	0	0
Appealed by Commission	0	0	0	0	0	0	0	0
Appealed by others	0	0	1	0	0	0	1	0
Total for disposition	0	0	1	0	0	0	1	0
Decisions for Commission	0	0	0	0	0	0	0	0
Decisions for others	0	0	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	0	0	0	0	0
Certiorari denied others	0	0	1	0	0	0	1	0

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

HISTORY AND PURPOSE OF PROCEDURE

WHOLESALE DRUG CONFERENCE

RULES ACCEPTED BY INDUSTRIES

OUTLINE OF TRADE CONFERENCE PROCEDURE

GROUP I AND GROUP II RULES



### WHOLESALE DRUG CONFERENCE IN CHICAGO

During the last fiscal year, an important conference was held, namely, that for members of the wholesale drug industry, in Chicago, December 6, 1934. Commissioner Charles H. March presided, assisted by George McCorkle, director of the Commission's division of trade-practice conferences. Rules adopted by the industry, and later approved by the Commission, were published and released to all members of the industry on December 13, 1934.

Based on the annual volume of business, almost 90 percent of the industry was represented at the conference, more than 400 concerns in the industry having had delegates present or having been otherwise represented at the conference. It was reported at the time of the conference that the annual volume of merchandise distributed by wholesale druggists amounted approximately to a half billion dollars, and that more than 25,000 persons were employed in various capacities in this branch of the drug industry.

In the relatively short time since these rules became effective, several hundred members of the industry have filed individual acceptances with the Commission pledging themselves to observe the rules. Several cases which had previously been suspended by the Commission pending this trade-practice conference were removed from the suspense calendar and the proceedings closed by the Commission because the parties concerned had accepted the rules of the conference.

Among trade practices which the wholesale drug industry condemned at this conference were the following: Selling below cost with intent and effect of injuring competitors; using false and mis-leading statements by way of advertisement or otherwise; commercial bribery; defamation of competitors and disparagement of competitors' products; unlawful price discrimination; posing as a wholesale druggist when not qualified to be so classified; imitation of trade marks, trade names, or other identifying marks of competitors; using "marked-up" or "fictitious" prices; representing certain prices and terms as "special" when in fact they are "regular" prices and terms; substitution, without permission, of drugs or allied products for those ordered by customers, the practice having a tendency to mislead e

cause the rules by which they agreed to abide were designed to eliminate many unfair trade practices complained of in the industries concerned.

During the fiscal year, only 34 complaints of alleged violations of trade-practice conference rules were filed with the Commission of these, 20 were adjusted through correspondence, and 14 referred to the Commission's chief examiner for 14 for were

filed files

of a trade-practice conference. This, however, does not limit discussion at the conference to the particular subjects thus proposed, as the conference itself constitutes an open forum wherein any practice existing in the industry may be brought forward as a proper subject for consideration. Any resolutions submitted by a committee or member of 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 presenting new or different resolutions.

If convenient, 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. This list should be divided or symbolized to indicate the types of concerns; i. e., manufacturers, distributors, etc., which are to be included in the conference.

*II. Procedure following authorization the Commission.*--After a conference has been authorized by the Commission, a the and place are arranged and anyone engaged in the industry may participate. Resolutions are introduced at the conference, freely discussed, and, if necessary, amended.

Following the conference, the proceedings are reported to the Federal Trade Commission with appropriate recommendations. If the rules are approved by the Commission, they are sent to a committee of the industry appointed to cooperate with the Commission, with the request that this committee report to the Commission whether it is willing to accept, on behalf of the industry, the rules as approved by the Commission. Following acceptance of the rules by such committee, every member of the industry is furnished with a copy of the Commission's action, together with a form for his acceptance.

After a trade-practice conference has been held, the Commission retains an active interest in the observance of the rules adopted by the industry and approved by the Commission.

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

Rules approved by the Commission relate to practices violative of the law and are designated group I. Other resolutions adopted by the industry, and received by the Commission as expressions of the trade on the subjects covered, are classified as group II.

*Explanation of group I rules.*--The unfair trade practices which are embraced in group I rules are considered to be unfair methods of competition within the decisions of the Federal Trade Commission and the courts, and appropriate proceedings in the public in-

terest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

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

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

NEWSPAPER, MAGAZINE, AND RADIO ADVERTISING



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

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

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

Misrepresentation of commodities sold in interstate commerce is a type of unfair competition with which the Commission has dealt under authority of the Federal Trade Commission Act since its organization in 1915. By 1929 it had become evident that misrepresentation embodied in false and misleading advertising in the periodical field was of such volume that it should receive specialized attention from the Commission.

Since that the time Commission, through its special board, has examined the advertising columns of newspapers and magazines, noting misleading representations, and has received complaints of false and misleading advertising from competitors and consumers. Each instance has been carefully investigated, and where the facts have warranted, and informal procedure has not resulted in the prompt elimination of misleading claims and representations, formal procedure has been resorted to and the cases tried. While a number of orders have been issued requiring the respondents to cease and desist from advertising practices complained of, in a majority of cases the matters have been adjusted by means of the respondent signing a stipulation agreeing to abandon the unfair practices.

The Commission believes its

informalof23

view all the issues of publications of a high ethical standard where the publishers carefully censor all copy before acceptance.

With this situation in mind, the special board has found it of material value to procure plueto

from the advertiser, the Commission institutes proceedings against the advertiser by the issuance of a formal complaint under the law.

In a large majority of cases, advertisers have entered into stipulations with the Commission to cease and desist from publishing the misleading statements. In only a relatively few cases do advertisers refuse to stipulate, making it necessary for formal complaints to be issued.

In many cases the advertiser immediately cancels all advertising complained about upon receipt of the first communication from the Commission, and does not advertise again until his matter has been adjudicated.

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

Consequently, starting in September 1934, calls have been issued to individual radio stations according to their location in the five radio zones established by the Federal Communications Commission. These returns cover specified 15-day periods.

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

To complete the observations of radio advertising, the producers of electrical-

character of radio advertising which has proven of great value in its efforts to curb false and misleading trade representations.

Up to June 30, 1935, 439,253 radio continuities had been received by the Commission. Of these a preliminary review had been completed on 376,53 resulting in 38,873 being referred, as possibly false and misleading, to the members of the board and their legal assistants for further consideration and possible action.

In all cases where false and misleading advertising is detected in radio broadcasts, the Commission is applying substantially the same procedure as is followed in cases of false and misleading advertising in newspapers, magazines, or other periodicals. This scrutiny of radio advertising is being conducted with a minimum of expense to the Government as well as to the industry because of the cooperation of members of the industry and the system of procedure developed.

In its examination of radio continuities, as well as of newspaper, magazine, and other periodical advertising, the Commission's sole purpose is to curb unlawful abuses of the freedom of expression guaranteed by the Constitution. It does not undertake to dictate what an advertiser shall say, but rather indicates what he may not say. Jurisdiction is limited to cases which have a public interest as distinguished from a mere private controversy, and which involve practices held to be unfair to competitors in interstate commerce.

Effective cooperation has obtained throughout the last year as for many years, with other departments of the Government. Cases involving what appear to be fraudulent schemes in violation of the postal laws are referred to the Post Office Department. Action by the Commission in such cases as are found to be under investigation by that Department is suspended pending the outcome of such proceedings. Valuable scientific opinions have been rendered by the Food and Drug Administration, Bureau of the Public Health Service, and the Bureau of Standards. Also analyses and comments regarding the therapeutic properties of various preparations have been furnished by the Food and Drug Administration. In a number of cases, Commission action against advertisers of medical preparations has been undertaken at the request of the Department of Agriculture.

**PART V. FOREIGN-TRADE WORK**

THE EXPORT TRADE ACT (WEBB-POMERENE LAW)

FUNCTIONS OF A WEBB-POMERENE LAW GROUP

FORTY-THREE ASSOCIATIONS FILE PAPER

EXPORTS BY ASSOCIATIONS DURING 1934

TRUST LAWS AND UNFAIR COMPETITION ABROAD

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

Foreign-trade work of the Commission includes administration of the Export Trade Act and inquiries into trade conditions in foreign countries under section 6 (h) of the Federal Trade Commission Act. This work is done by the Commission's export trade section under direction of the chief counsel.

### **THE EXPORT TRADE ACT (WEBB-POMERENE LAW)**

The Export Trade Act, commonly known as the "Webb-Pomerene law", was passed by Congress, April 10, 1918, for the promotion of export trade. Exemption from antitrust laws is granted to a combine or association which, under the terms of the act, must be entered into for the sole purpose of engaging in export trade, and actually engaged solely in such export trade.

An export association organized under the act files with the Commission a first report and copies of its organization papers, including certificate of incorporation, if it is incorporated, articles of association, bylaws, membership agreement, or other contracts and regulations under which the group proposes to operate. These papers are placed on file in the export trade section, together with annual reports and such other reports or information as the Commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals.

If the Commission has reason to believe that a Webb-Pomerene law association or an agreement or act done by such association is in restraint of trade within the other pap54 (

## FUNCTIONS OF A WEBB-POMERENE LAW GROUP

The Commission is frequently asked just what the associations do and how they operate.

The two general types of organization are the central selling agency corporation, selling in foreign markets for the member companies, and the more loosely drawn group that leaves the actual negotiation of sales to the member companies, but still is engaged in export trade work for the member companies. The two types may be combined if the association proposes to negotiate sales in some foreign markets but not in others, or if diminished business in some parts of the world make it necessary or desirable to pool orders through all association agent rather than maintain separate agencies for the individual companies. The more numerous the functions adopted by a Webb-Pomerene law group, the more economy may be effected in operating cost.

Several years ago the Commission published a list of functions adopted by Webb-Pomerene law groups. This list is repeated in revised form as follows, although no one association may adopt all of these functions:

Serving as export sales agent for the member companies in all foreign markets or in certain markets to be agreed upon.

Maintaining a quota system agreed upon by the members, under which the export business of the association is divided among them in equal or other determined proportions. (Some associations do not agree upon quota.)

Recording and allocating export orders and sales of the members; keeping copies of invoices and other documents.

Agreeing upon price for export terms of sale, sales policies in foreign markets, and uniform forms of contracts. In some cases only a minimum price is agreed upon; in others, members are free to quote price but are required to report to the association any change in price.

Establishing rules and regulations for packing and shipping the goods in export.  
Standardizing products for export.

**FORTY-THREE ASSOCIATIONS FILING PAPERS WITH THE COMMISSION**

Forty-three Webb-Pomerene law groups were on file with the Federal Trade Commission, June 30, 1935. These include three associations organized during the last fiscal year, as follows: Carbon Black Export, Inc., with offices in New York City; Pacific Forest Industries, exporting plywood and other forest products, with offices in Tacoma, Wash. and the Inter-America Exporters, Inc., exporting fruits, with offices in New York. The list is as follows :

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

American Locomotive Sales Corpora-  
ti on, 30 Church Street, New York  
City.

American Paper Exports, Inc., 75  
West Street, New York City.

American Pitch Pine Export Co.,  
Pere Marquette Building. New Orleans,

Florid Hard Rock Phosphate Ex-  
port Association, Savannah Bank &  
Trust Building, Savannah, Ga.

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

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

Grapefruit Distributors, Inc., Daven-  
port, Fla.

Hawkeye Pearl g. ftTn Bport



Sugar Export Corporation, 120 Wall Street, New York City.

Sulphur Export Corporation, 420 Lexington Avenue, New York City.

Textile Export Association of the United States, 320 Broadway, New York City.

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

United States Handle Export Co., Piqua, Ohio.

Walnut Export Sales Co., Inc., Twelfth Street and Kaw River, Kansas City, Kans.

Walworth International Co., 60 East Forty-second Street, New York City.

Western Plywood Export Co., Tacoma Building, Tacoma, Wash.

Webb-Pomerene law exports in 1934 are tabulated as follows:

**ASSOCIATION EXPORTS DURING 1934 TOTAL \$115,800,000**

Metal and metal products, copper, iron and steel, metal lath, zinc,

## TRUST LAWS AND UNFAIR COMPETITION ABROAD

prises of insurance; mines or other riches of the subsoil shall be subject to federal authorization or concession; and the government shall encourage assistance to production, and shall establish conditions of labor.

A federal foreign-trade council to promote exports was created by a decree of June 20, 1934. A new mining code was established under a decree, July 10, 1934. A decree dated June 29, 1934, regulating industrial designs and models, commercial names and titles of establishments, provided for criminal or civil action in repression of unfair competition and lists certain practices that shall be considered unfair.

*Canada.*--The act of June 29, 1934, is cited in the report of the Commission for 1934, p. 322. The act of June 29, 1934, is cited in the report of the Commission for 1934, p. 322.

Act, and Labor and Public Welfare Act; the Alberta Trade and Industry Act; the Manitoba Unfair Trade Practices Act; the Ontario Milk Control Act; the Public Enquiries Act in Nova Scotia; and laws in Nova Scotia and New Brunswick to limit competitive practices in the oil industry.

*Chile.*--Law No. 5454, July 31, 1934, authorized an emergency plan for the economic reconstruction of the country, and organization of an industrial company of the State, and a Mineral company of the State.

*Cuba.*--Law No.14, March 16, 1935, established control of imports; raw materials and other articles of prime necessity are exempt. A special antidumping committee may recommend increases in tariff duties to offset bounty or exchange dumping. Law No. 148 published on April 18, 1934, prohibited the exchange of trade coupons in sale of cigarettes. Decree Law No.486, published September 15, 1934, established the Cuban Coffee Stabilization Institute to study all matters relating to the production and sale of coffee.

*Czechoslovakia.*--A law passed on June 21, 1934, effective until June 30, 1935, extended the enabling act of 1933, giving to the Government absolute power during the economic crisis to pass economic legislation by decrees, including authority to change duties, and control prices. Under the Cartel Act of 1933, 712 agreements were in force on May 1, 1935. A compulsory cartel act was under consideration.

*France.*--An interministerial economic committee was deliberating a plan for the organization and regulation of French industry, through trade agreements for the control of production, working hours, and disposition of stocks. The existing syndicates of producers would be maintained and encouraged and their resolutions made binding by law. A law to regulate joint stock companies, in order to protect investors, was also under consideration in France.

*Germany.*--The law of February 27, 1934, for the reconstruction of industry and commerce, led to formation of a Federal Chamber of Economy; and further legislation on November 27, 1934, included an elaborate plan for coordination of the various branches of industry into organized groups, each under direction of a leader.

In the summer of 1934, measures were taken for the purpose of encouraging the voluntary transformation of so-called "capital enterprises" into enterprises with higher personal responsibility, or those in which there exists the individual responsibility of the entrepreneur. Two laws were passed on July 5, 1934; the second, later supplemented by executive decrees, provided lighter taxes for those concerns that availed themselves of the reorganization plans set out in the first law.



*Guatemala.*--Decree No. 1580, September 18, 1934, amended the mining law and declared the mining industry to be a public utility, providing for government concessions to individuals.

*International.*--Ratifications of the treaty for elimination of double taxation, between the United States and France, Signed in April 1932, were exchanged at Paris, April 9, 1935.

A little entente 4-year plan has been concluded which provides for an exchange of goods between Czechoslovakia, Rumania, and Yugoslavia, to open the way to an eventual customs union between those countries.

An agreement on industrial property, between Czechoslovakia and Russia, effective April 15, 1935, provided

tion of “articles of prime necessity”, the prices of which may be fixed by the Ministry of National Economy. The mining law of 1930 was amended by a decree Dated August 28, 1934. The law of business organizations, August 28, 1934, and regulations thereunder, provided for a new type of “public interest “ business organization to





**FISCAL AFFAIRS**

**APPROPRIATIONS, ALLOTMENTS, AND EXPENDITURES**

## **FISCAL AFFAIRS**

### **APPROPRIATIONS, ALLOTMENTS, AND EXPENDITURES**

Appropriations available to the Commission for the fiscal year ended June 30, 1935,  
under



Securities and Exchange Commission  
Total

1,369,878.17

264,337.80 264,337.80  
133,897.21 413,534.97 1,917,310.35

1 Credit.

*Recapitulation of costs by divisions*

	Salary	Travel expense	Other	Total
Administrative	\$286,701.81	\$95.67	\$128,935.51	\$415,732.99
Economic	370,443.31	52,460.09	2,796.86	425,700.26
Chief counsel	169,371.18	17,014.88	11,334.53	197,720.59
Chief examiner	381,960.79	55,981.97	1,874.24	439,817.00
special board of investigation	30,066.00			30,066.00
Trial examiner	62,397.35	6,929.24		69,326.59
Trade practice conferences	21,993.55	385.25	24.71	22,403.51
Securities	46,944.18	1,030.11	231.32	48,205.61
Transferred to chief disbursing officers, Treasury Department			4,000.00	4,000.00
Securities and Exchange Commission			264,337.80	264,337.80
Total	1,369,878.17	133,897.21	413,534.97	1,917,310.35

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

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

## **EXHIBITS**

FEDERAL TRADE COMMISSION ACT

SHERMAN ACT

CLAYTON ACT

EXPORT TRADE ACT

RULES OF PRACTICE

INVESTIGATIONS, 1913-1935

## FEDERAL TRADE COMMISSION ACT

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

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission) , which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed : *Provided, however,* That upon the expiration of his term of office a commissioner shall continue to serve until ~~1939~~ <sup>1939</sup> Tc 0 TctEgp91- Tjr1 T

dred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the Commission in the exercise of the powers, authority, and duties conferred on it by this Act.

The principal office of the Commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The Commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in *any* part of the United States.

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

“Commerce” means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such 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, eighteen hundred and nintey-four; also the Act entitled “An Act to amend sections 73 and 76 of the Act of August twenty-seven, eighteen hundred and nintey-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 the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October fifteenth, nineteen hundred and fourteen.

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

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

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



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

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

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

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

Complaints, orders, and other processes of the commission under this section may be served by anyone

end (anyone) Tj 43 9Tc 0 Tw (end) Tj 13:08 0 TD 0 P Tc 0.5122 Tw (f the UnTD 0.008 Tc 0 Tw (anyone) Tj -

commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

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

(d) Upon the direction of the President or either House of the United States, in any designated place of hearing. And in case

may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

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

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

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

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

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which

concern shall be accounted shall subject (a) 364.32-10.52 TD -0.0144 Tc 0008190, or evidence on which a person is to be prosecuted, subject to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which

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.

04

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless in any direction, disclosure, or any direction, any

direction

any



**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 restraints 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 be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided,* That nothing herein contained shall prevent discrimination in price between purchasers, of commodities, on account of differences of account possession

of such lease, sale, or contract for sale or such condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

\* \* \* \* \*

SEC. 7. That no corporation engaged







## **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, America*

the names and addresses of all its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated, a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and

# **RULES OF PRACTICE**

## **I. SESSIONS**

*(a)*

believe that there is a violation of law over which the Commission has jurisdiction, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, the Commission shall issue, and serve upon the party complained of, a complaint stating its charges and containing a notice of a hearing upon a day and at a place therein fixed, at least 80 days after which





## 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 hearings thereon, either alone or with other commissioners who may sit with him, and reasonable notice of the time and place of such hearings shall be given to parties in interest and posted.

(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 Commission'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



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 testimony of the witness shall be reduced to writing by the officer before whom the deposition is taken, or under his direction, after which the deposition shall be subscribed by the witness and certified in usual form by the officer. After the deposition has been so certified, it shall, together with three additional copies thereof made by such officer or under his direction, be forwarded by such officer under seal in an envelope addressed to the Commission at its office in Washington, D. C. Such deposition, unless otherwise ordered by the Commission for good cause shown, shall be filed in the record in said proceeding and a copy thereof supplied to the party upon whose application said deposition was taken, or his attorney.

(d)

be not represented by attorney, at the proper post-office address. Written acknowledgment of services, or the verified return of the party making the service, shall constitute proof of personnel services hereinbefore provided and mailed shall constitute proof of the service of the same.

(j) Oral arguments may be had only as ordered by the Commission on written application of the chief

## INVESTIGATIONS, 1913-35

**Antidumping Legislation in the United States and Foreign Countries** (on motion of the Commission).--The inquiry was begun in the spring of 1933 when amendments to the antidumping laws of this country were under consideration by Congress. Authority for this study is found in sections 5 and 6 (h) of the Commission's organic law. The several recognized types of dumping--(1) real or ordinary dumping, (2) bounty dumping, (3) freight dumping, (4) dumping of materials, (5) consignment dumping, (6) exchange dumping, and (7) social dumping, were studied, as well as more general provisions which may be used to prevent the dumping of goods from foreign countries. International action in suppression of dumping was briefly mentioned, and the legislation of each country was studied separately. The study was ordered printed on January 11, 1934, as Senate Document No. 112, Seventy-third Congress, second session.

**Book Paper** (S. Res. 269, 64th Cong., 1st sess., Sept. 7, 1916. See also Newsprint Paper.)--The inquiry into book paper, which was made shortly following the newsprint inquiry, which started in 1915, was completed in 1916.

**Chain Stores** (S. Res. 224, 70th Cong., 1st Sess., May 12, 1928)--Under the resolution the Commission was directed to ascertain the advantages and disadvantages of chain-store distribution as compared with other types of distribution and how far the increase in the former system depended upon quantity prices and whether or not such quantity prices were in violation of law and what legislation, if any, should be enacted regarding them. The resolution also called for a report upon the extent to which the chain stores had tended to monopoly or concentration of control, the existence of unfair methods, and agreements in restraint of trade. The factual dan





**Flags** (S. Res. 35, 65th Cong., 1st sess., Apr. 16, 1917) .--This inquiry resulted from unprecedented increases in the prices of American flags due to the wartime demand. Report transmitted July 26, 1917.

**Flour Milling** (S. Res. 212, 67th Cong., 2d sess., Jan. 18, 1922. See also Bread Y.-A report on the inquiry into the flour-milling industry was sent to the Senate in May 1924. It showed the costs of production of wheat flour and the profits of the flour-milling companies in recent years. It also discussed the disadvantages to the miller and consumer arising from an excessive and confusing variety in the sizes of flour packages. Transmitted May 16, 1924.

**Food Canning.**--As a part of a general food investigation ordered by the President in 1917, the Commission made a study of canned food, and in 1918 published two reports, one entitled "Canned Foods: General Report, Canned Vegetables and Fruits"; and another entitled "Canned Foods: Canned Salmon." Also, the Commission, in connection with its general war-time cost finding activity, obtained a large amount of cost data for the use of the War and Navy Departments, including data on canned foods. A report was published in 1921, entitled "Canned Foods, 1918: Corn, Peas, String Beans, Tomatoes, and Salmon."

**Food Inquiry** (authorized by the President, Feb. 7, 1917. See also Meat-Packing Profit Limitations) .--The general food investigation, undertaken with a special appropriation of Congress, resulted in 2 major series of reports, namely, meat packing and the grain trade. In addition brief separate reports were issued on flour milling, canned vegetables and fruits, and canned salmon. The Commission recommended divorcing the packers from the control of the stockyards, a recommendation subsequently adopted in the Packers and Stock-yards Act, their exclusion from non-related lines of business, and acquisition by the Government of meat packer private car lines. These reports also resulted in the prosecution of the packers for a conspiracy in restraint of trade by the Department of Justice resulting in the so-called "Packer consent decree", which provided for the withdrawal of the packing companies from unrelated lines, a matter subsequently contested in court. (See Packer consent decree below.) A half dozen reports were issued on the grain trade including the first detailed statistical analysis of the incidents and results of future trading. The Commission recommended that the quotations of the various exchanges should be made up and published on a more uniform basis and that railroads should be required to operate public elevators for the convenience of their shippers or that there should be governmental operation of storage elevators to permit small dealers to compete more nearly on an equality with the large elevator merchandisers.

**Gasoline** (S. Res. 457, 63d Cong., 2 sess., Sept.-28, 1914) .--Acting under this resolution, the Commission published a report on gasoline prices in 1915, which discussed the high prices of petroleum products and showed how the various Standard Oil companies had continued to maintain a division of marketing territory among themselves. The Commission suggested several plans for restoring effective competition in the oil industry. Transmitted April 11, 1917.

**Gasoline** (authorized by the President, Feb. 7, 1924) .--At the direction of the President, the Commission undertook an inquiry into a sharp advance in gasoline prices. The report on this inquiry was referred by the President to the Attorney General.- Report dated June 4, 1924.

**Gasoline--Importation of Foreign Gasoline at Detroit** (S. Res. 274, 72d Cong., 1st sess., July 16, 1932) .--This investigation had its inception in complaints filed against four major oil companies operating in Detroit alleging price discrimination due to zoning divisions in which different retail prices prevailed. This situation was the result of a fifth company selling Rumanian gasoline at retail prices below those prevailing in Michigan. The possibility that foreign gasoline was being dumped into the Detroit market prompted the Senate resolution. The Commission transmitted its report February 27, 1933. It found no tangible evidence of collusion among the four companies to establish zones or determine prices, also that the companies acted in good faith to meet competition.

**Gasoline Prices** (S. Res. 166, 73d Cong., 2d sess., Feb. 2, 1934) .--This resolution directed the Commission to inquire into the causes of increased gasoline prices during the 6-month period preceding the resolution's adoption and the effect

of such increases on gasoline consumers. The report, submitted May 9, 1934, was printed as a Senate document (no. 178, 73d Cong., 2d sess.). The inquiry extended to 272 cities and towns, supplemented by data from leading oil companies. The report revealed an average price increase of 2 cents about the time of the effective date, September 2, 1933, of the petroleum code. Subsequent declines resulted in an average net increase of 1.04 cents. The Commission estimated consumers were paying an increased annual rate of approximately \$160,550,000 on January 31, 1934. Except for a short period following the code's effective date, gasoline prices were comparatively low due to price wars in a number of markets. Sales taxes, the report also indicated, represented 27 percent of the simple average price or approximately \$700,000,000 annually.

**Grain Trade.** (See Food inquiry above.)

**House Furnishings** (S. Res. 127, 67th Cong., 2d sess., Jan. 4, 1922) --The Commission investigated the alleged consistent high level of prices for house furnishing goods prevailing since 1920, as compared to the price declines in other lines. Three reports were issued on the subject, dealing with household furniture, household stoves, kitchen furnishings, and domestic appliances. These reports showed that extensive conspiracies existed to inflate the prices of such goods. Reports transmitted January 17, 1923, October 1, 1923, and October 0, 1924.

**Independent Harvester Co.** (S.- Res. 212, 65th Cong., 2d sess., Mar.-11, 1918). (See also Farm Implements.)--This resolution called for an investigation of the organization and methods of operation of the company which had been formed several years before to compete with the "Harvester Trust." The company passed into receivership and the report disclosed that mismanagement and insufficient capital brought about its failure. Report transmitted May 15, 1918.

**Interstate Power Transmission** (S. Res. 151, 71st Cong., 1st sess., Nov. 8, 1929.) (See also Electric Power and Utility Corporations.)--This resolution provided for the Commission's filing, within 30 days after passage, of a report at least once each 20 days on the progress of the completion of the transmission lines.

after passage, of a report at least once each 20 days on the progress of the completion of the transmission lines.



in a report showing marked concentration of control and of questionable practices in the buying and handling of cream by butter manufacturers, many of which have since been recognized as unfair by the trade itself. Report transmitted June 6, 1921.

**Milk Investigation** (H. Con. Res. 32, 73d Cong., 2d sess., Feb. 5, 1984).--An inin the

the antitrust laws as well as information with respect to an alleged arbitrary decrease in prices. Report transmitted June 30, 1932.

**Petroleum** (on motion of the Commission) -Complaints of several Important producing companies in the Salt Creek oil field led to this investigation. The report covered the production, pipe-line transportation, refining, and wholesale marketing of crude petroleum and petroleum products in the State of Wyoming. Report dated January 3, 1921.

**Petroleum** (on motion of the Commission) .--A special report directing the attention of Congress to conditions existing in the petroleum trade in Wyoming and Montana. Remedial legislation was recommended by the Commission. Report dated July 13, 1922.

**Petroleum Industry, Foreign Ownership in** (S. Res. 311, 67th Cong., 2d sess., June 29, 1922) .--The acquisition of extensive oil interests in this country by the Dutch-Shell concern, and alleged discrimination practiced against Americans in foreign countries, provoked this inquiry which developed the situation in a manner to promote greater reciprocity on the part of foreign governments. Report transmitted February 12, 1923.

**Petroleum, Pacific Coast** (S. Res. 13S, 66th Cong., 1st sess., July 31, 1919).--The great increase in the prices of gasoline, fuel oil, and other petroleum products on the Pacific coast led to this inquiry, which disclosed that several of the companies were fixing prices. Reports transmitted April 7, 1921, and November 28, 1921,

**Petroleum** (on motion of the Commission, Oct. 6, 1926) .-An inquiry into conditions in the Panhandle (Texas) oil field was made in response to requests of crude-petroleum producers. The report revealed that a reduction of prices late in 1926 was largely a result of difficulties of handling and expenses of marketing this oil because of peculiar physical properties. Report dated February 3, 1928.

**Petroleum Prices** (S. Res. 31, 69th Cong., 1st sess., June 3, 1926) .--A comprehensive study covering all branches of the industry from the ownership of oil lands and the production of crude petroleum to the conversion of petroleum into finished products and their distribution to the consumer. The report described and

C8c 0 Tw 26 Tc 0 T TD m69 0 Tw (the) Tj 1153 Tw ( ) Tj 1.92 0 TD -0.0075 Tc 0 Tw (Res.) Tw (

of delivered prices from the competitive standpoint together with a lack of price flexibility over variable periods of time. "Cross-haul" or cross-freighting was found to be one of the industry's economic evils and to be generally admitted as such by the industry itself.

**Radio** (H. Res. 548, 67th Cong., 4th sess., Mar. 4, 1923).--As a result of this investigation it was found that a large number of patents were owned by and cross licensed among a number of large companies. At the conclusion of the investigation the Commission instituted proceedings against these companies charging a monopoly of the radio field. Report transmitted December 1, 1923.

**Raisin Combination** (authorized by the Attorney General, Sept.30, 1919).--Allegations of a combination among raisin growers in California were referred to the Commission for examination by the Attorney General pursuant to the Federal Trade Commission Act. The Commission found that it was not only organized in restraint of trade but was being conducted in a manner that was threatening financial disaster to the growers. The Commission recommended changes to conform to the law, which were adopted by the raisin growers. Report dated June 8, 1920.

**Resale Price Maintenance** (on motion of the Commission).--The question whether a manufacturer of standard articles, identified by trade mark or trade practice, should be permitted to fix by contract the price at which the purchasers could resell them, led to this inquiry. The Commission recommended to Congress the enactment of legislation permitting resale-price maintenance under certain conditions. Reports dated December 2, 1918, and June 30, 1919.

**Resale Price Maintenance** (on motion of the Commission, July

years ago against the basing-point system in what is known as the "Pittsburgh Plus" case. The report was transmitted on March 19, 1934. Certain modifications of the steel code were approved by the President on May 30, 1934.

**Steel Code as Amended, Effects of Multiple Basing-Point System Thereunder** (Executive T4

unfavorable relationship between them was reported to be due in part to the purchasing methods

Shipping Board, and Railroad Administration, were all done under the President's special direction, and it is estimated that they helped to save the country many billions of dollars by checking unjustifiable price advances. Subsequent to the war a number of reports dealing with costs and profits were published based on these war-time inquiries. Among these were reports on steel, coal, copper, lumber, and canned foods.

**Wheat Prices** (authorized by the President, Oct. 12, 1920) .-The extraordinary decline of wheat prices in the summer and autumn of 1920 led to a direction of the President to inquire into the reasons for the decline. The chief reasons were found in abnormal market conditions, including certain arbitrary methods pursued by the grain-purchasing departments of foreign governments. Report dated December 13, 1920,

**Woolen Rag Trade** (on motion of the Commission).--This report contains certain information gathered during the war at the request of the War Industries Board for its use in regulating the prices of woolen rags. The compilation of the data and the preparation of the report was authorized by the Commission on June 30, 1919.



	Page
Distillers, alleged misuse of term	51, 54
Dodson, J. G. and Mrs. C. M., Atlanta, court case	77
Electric & Gas Utilities:	
General description	9, 19, 150, 157
Associated Gas & Electric Co	9, 19
Byllesby Engineering & Management Co	9, 19
Central & South West Utilities Co	9, 19
Central Public Service Co	9, 19
Cities Service Co	9, 19
Commonwealth & Southern Corporation	9, 19
Duke Power Co	9, 19
Electric Bond & Share Co	9, 20
Electric Management & Engineering Corporation	9, 20
General Water, Gas & Electric Co)	9, 20
Midland United Co	9, 20
Niagara. Hudson Power Corporation	9, 20
Stone & Webster, Inc	9, 20
Tri-Utilities Corporation (G. L. Ohrstrom Interests)	9, 20





	Page
Odora Co., New York City	64
Orders to cease and desist	5, 58
Practices condemned in	67
Post Office Department	104
Power and gas utilities. ( <i>See</i> Electric and Gas Utilities.)	
President of the United States	3, 7, 8, 9, 10, 11, 29, 30, 121, 151, 157, 158
Price bases investigation	154
Price fixing by conspiracy	63
Public Health Service	102
Purity Ice Co., Lakeland, Fla	58
Radio advertising	6, 103
Radio sets and tubes	53
Raladam Co. case	76
Resale price maintenance	55
Roosevelt, Franklin D. ( <i>see also</i> President of the United States)	8, 11
Salvation Army	62
Schechter decision	8, 48, 58
Schultz & Hirsch Co., Chicago	66
Schwartz & Co., Philadelphia	61
Sears, Roebuck & Co	53
Securities Act of 1933	10, 11
Securities Exchange Act of 1934	10, 11
Securities and Exchange Commission	10, 11
Senate Documents:	
No.4, 74th Cong., 1st sess	10, 148
No.92, 70th Cong., 1st sess	9, 25, 157
Senate Joint Resolution No. 115, 73d Cong., 2d sess	19, 157
Senate Resolutions:	
No. 83, 70th Cong., 1st sess	19, 157
No.224, 70th Cong., 1st sess	32
Sherman Act	3
Text of	133
Shoe cases, use of word "Doctor"	51, 63
Steel code investigation	155, 156
Stipulation procedure	5, 13, 49, 50, 51
Stock acquisition, alleged illegal	48, 52
Supreme Court	3, 4, 5, 8, 14, 16, 46, 72, 86, 87, 88, 89, 156
Textiles, Cabinet Committee on	29
Textile inquiry	10, 28, 156
Trade practice conferences	6, 12, 13, 93
Trial examiners, bearings before	143
Trust laws and unfair competition In foreign countries	111
Unfair methods of competition:	
In foreign countries	111
Types of	67
United States Circuit Court of Appeals:	
Commission may apply to for enforcement of its orders	46
Commission sustained in 10 cases	6, 71
Eighty-seven decisions handed down in	85
Second Circuit, New York City	72, 76, 77
Third Circuit, Philadelphia	75
Fourth Circuit, Richmond	80

	Page
United States Circuit Court of Appeal continued	
Sixth Circuit, Cincinnati	73, 78
Seventh Circuit, Chicago	75, 78
Eighth Circuit, St. Louis	74, 78, 30
Tenth Circuit, Denver	79
United States Envelope Co., Springfield, Mass	66
Vanadium Alloys Steel Co., Latrobe, Pa	49
Van Kannel Revolving Door Co., New York City	49
Walker's New River Mining Co., Elkins, W. Va	80
Wallace, E J., St. Louis	72, 80
Webb-Pomerene Act. ( <i>See</i> Export Trade Act.)	
Wholesale drug conference	94
Winsted Hosiery Co. case	76, 77