

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

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON: 1939

For sale by the Superintendent of Documents, Washington, D. C, - - - Price 30 cents (paper)





## LETTER OF SUBMITTAL

*To the Congress of the United States:*

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

By direction of the Commission.

ROBERT E. FREER, *Chairman.*

III

# CONTENTS

## INTRODUCTION

	Page
Powers and duties of the Commission	1
General legal activities	2
Trade-practice conferences	4
The Wheeler-Lea Act	4
Robinson-Patman Anti-discrimination Act	5
Temporary National Economic Committee	7
General investigations	9
Activities on behalf of the consumer	9
The Commissioners and their duties	9
How the Commission's work is handled	11
Publications of the Commission	12
Recommendations	14

## PART I. GENERAL INVESTIGATIONS

Motor-vehicle industry	19
Resale price maintenance--1939	27
Millinery industry	28

## PART II. GENERAL LEGAL WORK

Description of procedure	33
Chart	Facing 33
Legal investigation	37
Disposition of cases by stipulation	44
Representative complaints	45
Orders to cease and desist	58
Types of unfair methods and practices	82
Cases in the Federal courts	90
Tabular summary of legal work	114

## PART III. TRADE-PRACTICE CONFERENCES

Purposes of the trade-practice conference procedure	127
Trade-practice conference activities during the year	128
Types of practices covered in rules	129
Trade-practice conference proceedings pending	130
Rules of practice applicable	131
Group I and group II rules defined	131

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

Radio and periodical advertising	135
----------------------------------	-----



## PART V. FOREIGN-TRADE WORK

	Page
The Export Trade Act	145
Exported goods valued at \$161,244,820 in 1938	145
Forty-three export associations on file June 30, 1939	147
Services rendered by the associations	148
Advantages obtained by the export associations	150
Supplemental report on antidumping legislation	152
Trust laws and unfair competition in foreign countries	152

## CONSUMER PROTECTION

Commission activities on behalf of the purchaser show steady increase	163
Trade practice conference rules	164
Legal enforcement work and economic inquiries	166

## FISCAL AFFAIRS

Appropriation acts providing funds for Commission work	171
Appropriations and expenditures for fiscal year	171
Appropriations and expenditures, 1915-39	173

## APPENDIXES

Federal Trade Commission Act	177
Clayton Act	185
Robinson-Patman Act	190
Export Trade Act	191
Sherman Act	192
Miller-Tydings Act	194
Rules of practice	194
Statement of policy	202
Investigations, 1915-39	



## **INTRODUCTION**

POWERS AND DUTIES OF THE COMMISSION

GENERAL LEGAL ACTIVITIES

TRADE PRACTICE CONFERENCES

THE WHEELER-LEA ACT

ROBINSON-PATMAN ANTI-DISCRIMINATION ACT

TEMPORARY NATIONAL ECONOMIC COMMITTEE

GENERAL INVESTIGATIONS

ACTIVITIES ON BEHALF OF THE CONSUMER

THE COMMISSIONERS AND THEIR DUTIES

HOW THE COMMISSION'S WORK IS HANDLED

PUBLICATIONS OF THE COMMISSION

RECOMMENDATIONS

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

INTRODUCTION

POWERS AND DUTIES OF THE COMMISSION

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

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

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

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



cases in which false and mis-

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

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

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

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

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

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

### **TRADE PRACTICE CONFERENCES**

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

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

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

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

### **THE WHEELER-LEA ACT**

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

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

## ROBINSON-PATMAN ANTI-DISCRIMINATION ACT 5

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

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

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

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

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

Three of the United States Circuit Courts of Appeals, in affirming Commission cease and desist orders issued pursuant to the amended act in 3 cases, have determined the most important questions arising in connection with the act. and desapplican





## TEMPORARY NATIONAL ECONOMIC COMMITTEE 7

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

*Basing of price*

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

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

The prologue expressed the attitude and desire of the Commission that free, open, and fair competition be fostered and protected and that antimonopoly laws be strengthened. This initial presentation was followed by a factual survey of the corrective proceedings taken by the Commission pursuant to its powers and duties involving illegal practices and restraints of interstate commerce. A summary was presented of 59 selected cases in which the Commission had issued cease and desist orders against a series of monopolistic practices and restraints of trade. Recommendations were presented pertaining to strengthening existing antitrust laws by



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

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

Each December the Commission designates one of its members to serve as Chairman during the ensuing calendar year. Commissioner Freer was chosen Chairman for the calendar year 1939, succeeding Commissioner Ferguson. The chairmanship rotates, so that each Commissioner serves as chairman at least once during his term of office. The chairman presides at meetings of the Commission, supervises its activities, and signs the more important official papers and reports at the direction of the Commission.

In addition to the general duties of the Commissioners, in administering the statutes, the enforcement of which is committed to the Commission, each Commissioner has supervisory charge of a division of the Commission's work. Chairman Freer has supervisory charge of the Economic Division and Radio and Periodical Division; Commissioner Ferguson, of the Chief Trial Examiner's Division and the Trade Practice Conference Division; Commissioner March, of the Chief Examiner's Division; Commissioner Davis, of the Chief Counsel's Division; and Commissioner Ayres, of the Administrative Division. The Commission has a Secretary, who is its executive officer.

Every case that is to come before the Commission is first examined by a Commissioner and then reported on to the Commission, but all matters under its jurisdiction are acted upon by the Commission as a whole. The Commissioners meet for the consideration and disposal of such matters every business day. They have administrative charge of the work of a staff which, as of June 30, 1939, numbered 687 officials and employees including attorneys, economists, accountants,

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

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

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

The legal work of the Commission is under the direction of the Chief Counsel, the Chief Examiner, the Chief Trial Examiner, the Director of the Radio and Periodical Division, and the Director of Trade Practice Conferences

The usc 0 d0T6 0 TD 0 Tc ( j 24.6 0 TD 0 11.7984 rector 14 s as 0.02TD 0.023 Tc (the) Tj i5.6 0.0oChief)

t2 6mrade

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

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

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

Responsible directly to the Assistant Secretary of the Commission, the Administrative Division conducts the business affairs of the Commission and is made up of units such as are usually found in Government establishments, the functions of such units being covered largely by general statutes. These units are: Accounts and Personnel, Disbursing Office, Docket Section, Publications, Library, Mails and Files, Legal Editing, Supplies, and Stenographic.

The Commission has a Public Relations and Editorial Service. Its duties include the distribution of information, the preparation and editing of annual and special reports, and the answering of inquiries relative to the Commission's work. This division is under the supervision of the Assistant to the Chairman.

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

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

### **PUBLICATIONS OF THE COMMISSION**

Publications of the Commission, reflecting the character and scope of its work, vary in content and treatment from year to year. Important among such documents are those presenting fact-finding

studies, reports, and recommendations relating to general business and industrial inquiries. Illustrated by appropriate charts, tables, and statistics, these books and pamphlets deal with current developments, possible abuses, and trends in an industry, and contain scientific and historical background. They have supplied economists and students of business and government, the Congress, and the public with information not only of general interest but of great value as respects the need or wisdom of new and important legislation, to which they have frequently led, as well as corrective action by the Department of Justice and private interests affected. The Supreme Court has at times had recourse to them, and many of them have been designated for reading in connection with university and college courses in economics and law.

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

The Commission publishes a monthly summary of its work showing the number of cases in the various stages of its legal procedure and the status of each current legal case, general investigation, and trade-practice conference.

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

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

D 0 Tc 0.03 sw ( ) Tj 2.8 interest;

*Trade Practice Conference Procedure*, reprint of Rule XXIV, "Rules, Policy, and Acts of the Federal Trade Commission," dated May 21, 1938. August 25, 1938.

*Robinson-Patman Act, data compiled from public sources of information, excerpts from findings and orders of the Commission and decisions of the Courts*, November 1, 1938.

*Procedure before the Federal Trade Commission in the Handling of Certain Types of False and Misleading Advertising Cases by the Radio and Periodical Division*, November 23, 1938.

*Motor Vehicle Industry, Summary and Conclusions*. June 5, 1939. 3 *Federal Trade Commission Decisions, Volume 22, January 14-July 9, 1936, and Volume 23, July 10-November 30, 1936*.<sup>4</sup>

*Statutes and Decisions Pertaining to the Federal Trade Commission, Volume II, 1930-1938*.<sup>4</sup>

## RECOMMENDATIONS

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



## RECOMMENDATIONS

15

As a result of its studies of competitive conditions existing in many industries during the past few years, the Commission believes that when a considerable proportion of the total output of an industry is brought under one ownership, there is strong probability that competition will be

The tendency toward the concentration of control of the economic system in fewer and fewer business executives seems proved.

The consequence of that tendency is a steadily lessening number of competitors.

It has been the traditional conviction of the people of the United States that the opportunity of the citizen to engage in business should not be restricted

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

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

The Commission therefore desires to reiterate the recommendations made in its previous reports for the amendment of the provisions of section 7 of the Clayton Act to make it unlawful for any corporation, directly or indirectly, through a holding company, subsidiary, or otherwise, to acquire any of the capital stock or assets of a competing corporation when either of said corporations is engaged in interstate commerce, or for a holding corporation to acquire any of the capital stock or assets of a single corporation, engaged in interstate commerce in competition with a subsidiary of the holding corporation when the effect of such acquisition of stock or assets may be to substantially lessen competition between the two corporations or, where, from

**PART I. GENERAL INVESTIGATIONS**

MOTOR-VEHICLE INDUSTRY

RESALE PRICE MAINTENANCE--1939

MILLINERY INDUSTRY

**PART I. GENERAL INVESTIGATIONS**

**MOTOR-VEHICLE INDUSTRY**

**INQUIRY COMPLETED AND REPORT SENT TO CONGRESS**

The Commission inquiry regarding the motor-vehicle

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

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

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

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

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

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

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

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

*Profits of motor vehicle dealers.*--Retail dealer reports to the Commission covering

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

Actual finance charges paid by the retail purchaser sometimes are less than the







the leading companies making distinct lines of motor vehicles, some of which included two or more types of cars of different price classes; and that the company, now known as the Chrysler Corporation, to a less extent obtained a similar advantage through the purchase of the Dodge



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

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

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

thethe 0.03

9.02rnTcr5D 0f0075 Tc 1.9021110i78



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

## **MILLINERY INDUSTRY**

### **INQUIRY MADE AT REQUEST OF THE PRESIDENT**

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

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

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

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

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

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

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

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

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

<sup>5</sup> Bulletin No. 169, Women's Bureau, on "Conditions in the Millinery Industry in the United States."



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

The

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

DESCRIPTION OF PROCEDURE

LEGAL INVESTIGATION

DISPOSITION OF CASES BY STIPULATION

REPRESENTATIVE COMPLAINTS

ORDERS TO CEASE AND DESIST

TYPES OF UNFAIR METHODS AND PRACTICES

CASES IN THE FEDERAL COURTS

TABULAR SUMMARY OF LEGAL WORK

**PART II. GENERAL LEGAL WORK**

**DESCRIPTION OF PROCEDURE**

**(SEE CHART OPPOSITE THIS PAGE)**

A case before the

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

Commission has jurisdiction, (2) closing of the application upon the signing by the respondent of a stipulation as to the facts and an agreement to cease and desist from the unlawful practice as charged, or (3) issuance of formal complaint.

If, after consideration of the entire file, including the Chief Examiner's or the Director of the Radio and Periodical Commission's recommendation, the Commission decides that formal complaint should issue, the case is referred to the Chief Counsel for preparation of the complaint and trial of the case. Or, if the Commission should permit stipulation, the

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

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

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

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

If the complaint is dismissed or closed, an appropriate order is entered; sometimes such order of dismissal or closing is accompanied by a written opinion, although more often reasons for the action appear only in the order.

#### **PROCEDURE SUBSEQUENT TO ISSUANCE OF A CEASE AND DESIST ORDER**

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

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

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

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

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

#### **SPECIAL PROVISIONS FOR PREVENTING DISSEMINATION OF FALSE ADVERTISEMENTS**

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

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

### **LEGAL INVESTIGATION**

#### **INQUIRIES PRIOR TO FORMAL COMPLAINT OR STIPULATION**

The legal investigational work of the Commission includes the investigation of applications for complaint preliminary to formal action for the correction of unfair acts, practices, or methods

#### **INQUIRIES PRIOR TO FORMAL COMPLAINT OR STIPULATION**

The





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

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

The legal investigational work of the Commission is directed from its central office in Washington and conducted through that office and five branch offices located respectively at 45 Broadway, New York; 433 West Van Buren Street, Chicago; 548 Federal Office Building, San Francisco; 801 Federal Building, Seattle, and 217 Custom House, New Orleans.

#### **STOCK ACQUISITIONS, MERGERS, AND CONSOLIDATIONS**

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

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

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

#### **CASES UNDER OTHER SECTIONS OF CLAYTON ACT**

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

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

**PRICE FIXING AND OTHER TRADE RESTRAINTS**

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

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

The kinds and types of commodities involved in the restraint-of-trade cases are almost as numerous as the cases themselves. The following general classifications of commodities are given in order to convey some idea as to the widespread nature of the restraint-of-trade investigations conducted by the Commission: agricultural supplies; automotive equipment and supplies; beverages; clothing, cloth, notions, etc.; confectionery; construction materials and Supplies; containers; dental equipment and supplies; drugs, chemicals, and pharmaceuticals; electrical equipment and appliances; food products; fuel; household furnishings and equipment; machinery, tools, and equipment; metal and metal products; office supplies and equipment; paint, varnish, etc.; photographic supplies and optical goods; publi 3cc (and)729.4 0 TD 0 Tc ( ) Tj 5.76 0 TT

mission by various governmental agencies--Federal, State, and city. These dealt almost entirely with the

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

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

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

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

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

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

**DISPOSITION OF CASES BY STIPULATION****PROCEDURE AFFORDS OPPORTUNITY FOR DISPOSING OF SOME CASES BY AGREEMENT TO DISCONTINUE UNFAIR PRACTICES**

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

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

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

Often it appears that a violation occurs through ignorance or misunderstanding, and that the attention of the offender has only to be called to such violation to induce discontinuance of the practice. In such an instance the Commission, instead of issuing a formal complaint, grants the respondent an opportunity to sign a statement of facts disclosed by the investigation and agreement to cease and desist from the practices charged. If such stipulation is signed, further action is suspended; if it is not signed, the case goes to trial.

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

Commr

**OASES AFFECT WIDE VARIETY OF BUSINESSES**

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

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

**TOTAL NUMBER OF STIPULATIONS**

Stipulations in which various individuals, firms, and corporations agreed to cease and desist from the unlawful practices as set forth therein and which were approved by the Commission during the fiscal year ended June 30, 1939, included 271 cases in addition to 329 cases of a special class which were limited largely to false and misleading advertisements and were disposed of through a special procedure for this purpose. <sup>6</sup> A total of 600 stipulations was thus approved and accepted during the year.

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

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

Three hundred and thirty-seven of these complaints charged violation of section 5 of the Federal Trade Commission Act prohibiting unfair methods of competition through

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

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

under those headings)

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

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



alleged to produce more than 65

## I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT 47

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

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

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

*Building material dealers.*--Unlawful restraint of trade and suppression of competition in the sale of building supplies shipped between Wisconsin and other States was alleged in a complaint issued against 11 Milwaukee building-material dealers and a certain individual described as being ostensibly a building material dealers' consultant and advisor. To.

To.









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

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

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

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

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

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

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

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

Nine complaints alleged misrepresentation of financial returns to agents.

representing 0.0291 Tc (off) Tj 12.88 0 TD 0.0146 Tc (as,) Tj 12D 0.0218 8-1c

## I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT 53

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

Four complaints alleged use of samples superior to articles furnished.

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

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

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

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

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

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

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

## C. MISCELLANEOUS CASES

*Lotteries or gift enterprises.*--Seventy complaints charged manufacturers and dealers in candy, jewelry, bedding, kitchenware, novelty merchandise, steamer rugs, carbonated beverages, clothing, ice-cream cones, frozen stick confections,



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

## II. COMPLAINTS UNDER THE CLAYTON ACT

### COMPLAINTS CHARGING VIOLATION OF SECTION 2 (A) OF CLAYTON ACT AS

#### AMENDED BY ROBINSON-PATMAN ACT

For the purpose of highlighting violations (so) (COMPLAINTS CHARGING VIOLATION

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



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

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

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



ORDERS TO CEASE AND DESIST

59

<i>Respondent</i>	<i>Location</i>
Artistic Tailoring Co. and others Distributor claiming to be manufacturer; misrepresenting quality; workmen's uniforms.	Kansas City, Mo.
Askin's Retail Stores, Inc Advertising as gifts or premiums, articles whose cost is included in the price charged for other merchandise purchased; wearing apparel.	New York.
Associated Arts, and others Passing off tinted enla	Pittsburgh.

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



ORDERS TO CEASE AND DESIST

61

*Respondent*

*Location*

Consolidated Portrait & Frame Co., and others

Chicago.

Passing off tinted enlargements of photographs as paintings; misrepresenting prices and conditions of sale;

*Respondent*

*Location*

Excelsior Laboratory, Inc



<i>Respondent</i>	<i>Location</i>
Illinois Baking Corporation Lottery; ice cream cones.	Chicago.
Ink Company of America, and others Misrepresenting financial returns to agents; misrepresenting quality and services furnished; ink, pens, and pencils distributed as premiums in connection with sales promotion plan.	Do.

ORDERS TO CEASE AND DESIST

65

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









<i>Respondent</i>	<i>Location</i>
National Scientific Products Co Misrepresenting therapeutic value; medicine.	Chicago.
National Silver Co., and others Distributor claiming to be manufacturer; false advertising; misbranding; silver-plated ware, chinaware, and pottery.	New York.
New York Pattern Co., Inc., and others Simulating trade name and trade dress of competitor; dress patterns.	Do.
New York Sales Co Lottery; novelty merchandise.	Do.
Newark Felt Novelty Co Passing off reconditioned products as new products; hats and caps.	Newark, N. J.
Newton Products Co Lottery; candy.	Cincinnati.
North Western Printing House, Inc., and others Lottery; sales, promotion cards.	Chicago.
Northwestern Yeast Co Misrepresenting therapeutic value; Yeast tablets and livestock remedies.	Do.
Novelcrafts Co., and others Lottery; candy and chewing gum.	Pittsburgh.
Novelty Distributing Co Lottery; clocks.	Chicago.
Nu-Deal Premium Co Lottery; novelty merchandise.	New York.
O. K. Tailoring Co., Inc Advertising as gifts or premiums, articles whose cost is included in the price charged for other merchandise purchased; misrepresenting quality and financial returns to agents; wearing apparel.	Chicago.
Ostler Candy Co Lottery; candy.	Salt Lake City.
Pacific China Co., and others FalsLottery; novelty merchandise.	Los Angeles.

ORDERS TO CEASE AND DESIST

69

<i>Respondent</i>	<i>Location</i>
Patterson School False advertising; falsely claiming to be affiliated with Federal Government; correspondence school (civil service).	Rochester, N. Y.
Payne Co., H. G. Lottery; novelty merchandise.	Nashville, Tenn.
Pearce & Co., William H., and others False advertising; stove tops.	Philadelphia.
Pergande Institute, and others False advertising; falsely claiming to be affiliated with Federal Government; correspondence school (civil service).	Milwaukee.
Pinaud, Inc. Misrepresenting results to be obtained by use of product; cosmetics.	New York.
Pittsburgh Plate Glass Co., and others Combining in restraint of trade; price fixing; collusive bidding; glass.	Pittsburgh.
Politis Laboratory Misrepresenting therapeutic value; medicine.	Portland, Oreg.
Postal Co. False advertising; publications on fortune telling, dreams, number systems, etc.	New York.
Pr--v79 -11.76 aleand oth 27others	MisreprDo234 -11.76 TD /F0 9.9.03 Tw

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

ORDERS TO CEASE AND DESIST

71

<i>Respondent</i>	<i>Location</i>
Standard Brands, Inc., and others Price discrimination ; bakers yeast.	New York.
Star Tobacco Co., and others Combining in restraint of trade; price fixing; boycott; tobacco products and candy.	Wilkes-Barre, Pa.
Startup Candy Co Lottery ; candy.	Provo, Utah.
Stillwater Co Misrepresenting therapeutic value; ointments and nose sprays.	Stillwater, Minn.
Stock's Nu-Tone Tonic Misrepresenting therapeutic value; medicine.	Quincy, Ill.
Storyk Bros., Inc Passing off domestic products as imported products; wearing apparel.	New York.
Sunbeam Laboratories Misrepresenting results to be obtained by use of products; cosmetics.	Los Angeles.
Superyarn Co Misbranding ; yarns and fabrics.	New York.
Swamp & Dixie Laboratories, Inc Misrepresenting therapeutic value ; medicine.	Fort Smith, Ark.
Sweets Company of America, Inc Lottery ; candy.	New York.
Sylvan Co Lottery ; novelty merchandise.	Chicago.
Technical Laboratories, and others Misrepresenting therapeutic value; medicine.	Berkeley, Calif.
Texas Tasty Co Misrepresenting quality and financial returns to agents; candy.	Fort Worth, Tex.
Thorson's Soap Lake Products Co Misrepresenting therapeutic value; ointments, soaps, and mineral salts.	Soap Lake, Wash.
Traffic Inspectors Training Corporation, and others False advertising; correspondence	Syracuse.





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

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

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

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

#### **FALSELY CLAIMING SOME AFFILIATION WITH THE UNITED STATES GOVERNMENT**

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

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

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

#### MISREPRESENTATION OF AN ELECTRONIC MUSICAL INSTRUMENT

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



cians of standing, and by the testimony of experts. The

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

**ENDORSEMENT BY A PRETENDED IMPARTIAL AUTHORITY**

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

fused as the usMEDICINAL)

j

whoking510 TD 0 To

o

only b f c (whose) Tj 28.00h0156 dT0166 racta olishw d a e s a . u t hw

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

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

**SALES METHODS INVOLVING LOTTERY SCHEMES AND OTHER PLANS  
BASED**

**UPON AN ELEMENT OF CHANCE**

The Commission has ~~the~~ continued to move against the sale of cMES ANDgM NDg oale 25.2

page

t

cases (Appendix 3.0254 on WT (in) 0.8 (47) at 02396 has FD92NDFIO

misleading

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

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

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

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

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

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

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

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

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

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

### VIOLATIONS OF SECTION 3 OF THE CLAYTON ACT

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

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

*American Flange & Manufacturing Co., Inc., New York.*--In this case was involved both section 5 of the Federal Trade Commission Act and section 3 of the Clayton Act. The findings in briefs were: Filed, respondent's briefs, 8/21/29. "Desire" closure

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

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

0 T-6 064Tc (h)11813.96 FDn-01ANDD 0,03 8 Tc (t 06

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

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

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

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

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

m



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

13. Using merchandising schemes based on lot or chance.

14. Cooperating with others in the use of schemes and practices for ~~comp~~ product.

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

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

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

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

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

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

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

(d)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27. Coercing and enforcing uneconomic and monopolistic reciprocal dealing.

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

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

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

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

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

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

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

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

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

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

**CASES IN THE FEDERAL COURTS****COMMISSION ACTIONS IN THE UNITED STATES SUPREME, CIRCUIT AND DISTRICT COURTS**

Federal Trade Commission cases pending in the United States courts for final determination during or at the close of the fiscal year ended June 30, 1939, are reviewed in alphabetical order in the pages immediately following.<sup>9</sup>

During the year., results favorable to

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

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

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

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

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

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

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



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

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

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

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

*Bear Min*



*Biddle Purchasing Co., New York, and others*, operating market information and purchasing services, on September 2, 1938, petitioned the Supreme Court for a writ of certiorari to review the decision of the Second Circuit (New York) of May 2, 1938 (96 F. (2d) 687), denying the petitioners' prayer that the Commission's order under the brokerage clause of the Robinson-Patman Act be set aside. This was the first case involving the legality of an order by the Commission under that act to reach the Federal courts. The Commission, September 22, 1938, filed with the Court its memorandum in which it stated that "although the respondent (the Commission) submits that the decision of the court below is correct, it believes that the case merits review and so bec (the) Tj 17.230 TD 0Tj 2.52 0p3 ot oppo to file 00 Pat (C) agaw TD 0ra Ec r 94 r 12.

d

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

An examination of the petition and supporting affidavits reveals that such record is a true record of the evidence received, but that the real complaint is that the hearing was so conducted by the examiner as not to allow petitioners to make of record matters properly included in the record. \* \* \* A motion to strike the transcript is not, however, the manner in which to bring such a question before us, for its determination requires an examination of the merits of the case that we may know the pertinency of the excluded matter. *Id.* 304.

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

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

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

We take Judicial notice of the public interest involved in the elimination of all price competition by a group of sellers to the public of

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

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

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

\* \* \* \* \*

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

The several petitioners

petitioners have already been expressly condemned in a



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

\* \* \* \* \*

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

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

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

\* \* \* \* \*

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

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

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

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

A case involving the Sweet Candy Co., Salt Lake City, docketed with CiTw (A) cuit



tices



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

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

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

The Court concluded its opinion with the statement--

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

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

it was not intended that the prohibition--against discrimination in price--should be canceled by the "permitting discrimination by reason of difference in quantity." Such an interpretation would lead to an absurdity, and and finding 0.0192s3 Tc 0.03 Tw (. Tc 0 T0.02ai- 0 T Tw Tw TD 0 "pe

10, 1938. The

owner, and managing director, petitioned the Seventh Circuit (Chicago) on February 14, 1939, to set aside



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

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

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

*National Silver Co., New York*, on September 24, 1938, petitioned the Second Circuit (New York) to



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

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

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

In the case we have here, the act of Congress which constituted the Federal Trade Commission and defined its duties was changed by the amendment so as to enlarge the Commission's field of operations and to revamp the procedure for enforcement of its orders. Both before and after the amendment the Commission had

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

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

*United States Steel Corporation, American Bridge Co., Carnegie Illinois Steel Corporation, the American Steel & Wire Co. of New Jersey, and Tennessee Coal, Iron & Railroad Co.*--These corporations, May 18, 1938, petitioned the Third Circuit (Philadelphia) to review and set aside the Commission's cease and desist order of July 21, 1934, which was directed against so-called "Pittsburgh plus" prices for rolled-steel products, in violation of section 2; the price-discrimination section of the Clayton Act, and of section 5 of the Federal Trade Commission Act, as an unfair method of competition. A separate petition was filed simultaneously with the Fifth Circuit (New Orleans) by the Tennessee Coal, Iron & Railroad Co. By stipulation of the parties, it was provided that the judgment and decree of the Fifth Circuit may be made in conformity with such decision as may be rendered in the Third Circuit or in the Supreme Court. Further proceedings have been suspended until January 2, 1940.

*The Webb*

selling companies, those named in the order having been Godchaux Sugars, Inc., J. Aron & Co., Inc., and Myles

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

The 10 injunction cases involved medicinal preparations. In 8 of these cases the injunction decrees prohibited dissemination of advertisement which represented the preparations as being competent, safe, and scientific treatments for delayed menstruation and as having no ill effects, and which failed to reveal that use of the preparations, under the conditions prescribed in the advertisements or under customary and usual conditions, might cause serious or irreparable injury t

treatment for delayed menstruation Temporary restraining order, United States District Court, Los Angeles, March 31, 1989; preliminary injunction, April 7; Commission's amended

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



## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

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

TABLE 1.--Preliminary inquiries

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939
Pending beginning of year	0	4	12	32	19	29	61	68	147	102	191	176	298	328	224	260	409	307	423	478	760	185	111	152	116
Instituted during year	119	265	482	611	843	1,107	1,070	1,223	1,284	1,568	1,612	1,483	1,265	1,331	1,469	1,605	1,380	1,650	1,593	2,151	847	837	899	527	433
Total for disposition	119	269	474	643	862	1,136	1,131	1,291	1,381	1,670	1,303	1,659	1,503	1,659	1,693	1,765	1,789	1,965	2,016	2,629	1,607	1,022	1,010	679	549
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4
Closed after investigation	3	123	289	292	298	351	500	731	897	1,157	1,270	1,075	912	1,153	1,049	1,060	1,150	1,319	1,274	1,597	935	624	583	453	379
Docketed as applications for																									
complaints	112	134	153	332	535	724	503	413	382	322	357	286	293	282	384	296	332	224	264	272	487	237	275	110	36
Total disposition during year	115	257	442	624	833	1,075	1,063	1,144	1,279	1,479	1,627	1,361	1,235	1,435	1,433	1,356	1,482	1,543	1,518	1,849	1,422	911	858	563	419
Pending end of year	4	12	32	19	29	61	68	147	102	191	176	298	328	224	260	409	307	423	478	760	185	111	152	116	130

## CUMULATIVE SUMMARY--TO JUNE 30, 1939

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



## CUMULATIVE SUMMARY--TO JUNE 30, 1939

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

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

TABULAR SUMMARY OF LEGAL WORK

TABLE 3.--Complaints

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1984	1935	1936	1937	1938	1939						
Pending beginning of year						0	0	5	10	86	133	286	312	257	232	264	220	152	147	136	198	275	225	208	144	115	218	419	358	396	
Complaints docketed						0	5	9	154	135	308	177	111	144	154	132	62	76	64	149	172	110	92	53	97	280	386	296	308	370	
Rescissions:																															
Orders to cease and desist						0	0	0	0	0	0	1	0	0	5	0	0	1	1	0	0	0	1	0	0	1	12	10	12		
Settled by stipulations to cease and desist						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of T. P.C. rules						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit						0	0	0	0	0	0	1	0	1	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Closed for other reasons						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Total for disposition						0	5	14	164	221	441	415	423	402	392	396	282	230	212	285	370	385	318	261	241	396	616	725	675	770	
Complaints rescinded						0	0	0	0	0	0	0	0	0	0	0	0	0	3	2	1	3	0	0	0	0	3	0	0	0	
Orders to cease and desist						0	0	3	71	75	111	116	91	82	92	73	44	52	48	67	48	108	83	56	111	126	161	296	245	288	
Settled by stipulations to cease and desist						0	0	0	0	0	0	0	0	0	6	3	1	3	3	3	0	1	1	2	1	1	17	5	2		
Settled by acceptance of T.P.C. rules						0	0	0	0	0	0	0	0	0	0	5	5	1	0	1	0	6	0	0	0	0	0	0	0	0	
Dismissed for lack of merit						0	0	1	7	13	44	37	75	88	36	97	83	25	20	16	41	49	45	41	12	38	19	13	13	12	
Closed for other reasons:						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	13	16	38	16	22		
Total disposition during year						0	0	4	78	88	155	153	166	170	128	176	130	83	76	87	95	160	110	117	126	178	197	367	279	324	
Pending end of year						0	5	10	86	133	286	312	257	232	264	220	152	147	136	198	275	225	208	144	115	218	419	358	396	448	

## CUMULATIVE SUMMARY--TO JUNE 30, 1939

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

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

## TABULAR SUMMARY OF LEGAL WORK

## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

## CUMULATIVE SUMMARY-TO JUNE 30, 1939

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

1 This table lists a cumulative total of 89 decisions in favor of the respondents in Commission cases before the United States Circuit Courts of Appeals. However, the Grand Rapids furniture (veneer) group (with 25 different docket numbers) was in reality 1 case, with 25 different subdivisions. It was tried, briefed, and argued, as 1 case and was so decided by the court of appeals. The same held true of the curb-pump group (with 12 different subdivisions), the Royal Milling Co. group (with 6 different subdivisions), and the White Pine cases (12 subdivisions). In reality, therefore, these 55 docket numbers mean but 4-0 Tc 0. 0 Tw ; Tc 0

TABULAR SUMMARY OF LEGAL WORK 121

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

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939
Pending beginning of year	0	0	1	3	3	1	0	4	6	1	0	1	0	0	0	1	0	0	1	0	0
Appealed by Commission	0	2	2	4	5	0	5	2	1	0	0	1	1	0	8	1	2	0	0	0	0
Appealed by others	0	0	0	0	2	1	1	3	1	0	2	0	0	1	0	1	0	4	0	2	1
Total for disposition	0	2	3	7	10	2	6	9	8	1	2	2	1	1	8	14	0	4	1	2	2
Decisions for Commission	0	0	0	2	0	0	0	0	3	0	0	0	0	0	0	13	0	0	0	0	0
Decisions for others	0	1	0	0	5	1	0	0	2	0	0	1	1	0	0	1	0	0	0	0	0
Petitions withdrawn by																					
Commission	0	0	0	0	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	2	1	0	1	2	1	0	0	0	0	0	1	0	0	0	0	0	0
Certiorari denied others	0	0	0	0	2	1	1	1	1	1	1	0	0	1	0	0	0	3	1	2	1
Total disposition during year	0	1	0	4	9	2	2	3	7	1	1	2	1	1	7	14	0	3	1	2	1
Pending end of year	0	1	3	3	1	0	4	6	1	0	1	0	0	0	1	0	0	1	0	0	1



## CUMULATIVE SUMMARY-TO JUNE 30, 1939

Appealed by Commission	44	
Appealed by others	19	
Total appealed		63
Decisions for Commission	24	
Decisions for others	12	
Petitions withdrawn by Commission	2	
Certiorari denied Commission	8	
Certiorari denied others	16	
Total disposition		62
Pending Jun, 30,1939		1

TABULAR SUMMARY OF LEGAL WORK 123

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

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

CUMULATIVE SUMMARY--TO JUNE 30, 1919-39

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

## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 7.--*Court proceedings--Mandamus, injunction, etc.--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939
Pending beginning of year	0	0	0	0	0	8	4	1	1	0	0	0	0	0	0	0	0	0	0	0	0
Appealed by Commission	0	0	0	0	6	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0
Appealed by others	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0
Total for disposition	0	0	0	0	6	6	4	1	2	0	0	1	0	0	0	1	0	0	0	1	0
Decisions for Commission	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0
Decisions for others	0	0	0	0	0	2	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Certiorari denied others	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0
Total disposition during year	0	0	0	0	0	2	3	0	2	0	0	1	0	0	0	1	0	0	0	1	0
Pending end of year	0	0	0	0	0	4	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0

## CUMULATIVE SUMMARY TO JUNE 30, 1939

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

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

PURPOSES OF TRADE PRACTICE CONFERENCE PROCEDURE

TRADE PRACTICE CONFERENCE ACTIVITIES

TYPES OF PRACTICES COVERED IN RULES

TRADE PRACTICE CONFERENCE PROCEEDINGS PENDING

RULES OF PRACTICE APPLICABLE

GROUP I AND GROUP II RULES DEFINED

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

### **PURPOSES OF THE TRADE PRACTICE CONFERENCE PROCEDURE**

The trade practice conference procedure has for its purpose the establishment, by the Commission, of trade practice rules <sup>12</sup> for the protection of industry, trade, and the purchasing public against unfair competitive practices. Under this procedure effective means are made available for the voluntary participation and cooperation, with the Commission, of industry groups and other interested or affected parties in the establishment and observance of rules of fair practices. Thus cooperative action among competitors within the law and under Commission supervision may properly be

Thru (for) 2010-10-10

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

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

#### **TRADE PRACTICE CONFERENCE ACTIVITIES DURING THE YEAR**

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

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

The annual volume of sales of the products of those industries for which rules were promulgated during the fiscal year is estimated to be, in the aggregate, approximately 3 ½ billion dollars. One of the largest of these groups, the silk industry, is reported to have a 3/2







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

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

#### **RULES OF PRACTICE APPLICABLE**

The procedural steps pertaining to trade practice conference matters are outlined in the **Rules of Practice** applicable to the Commission.

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

**RADIO AND PERIODICAL ADVERTISING**



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

*Newspaper and magazine advertising.*--In examining advertisements in current publications, the Commission, th

tinuous systematic survey of advertising matter appearing in mail-order catalogs and circulars. Thereafter, during the remainder of the fiscal year, the Commission procured mail-order catalogs and circulars containing an aggregate of 13,046 pages, being distributed periodically by mail-order companies. Of the 52 mail-order houses included in this survey, 5 represent combined aggregate sales of over \$50,000,000; matter appearing in (gross) \$2,586,150, 15.9 and 39.36 er TD 0. worth of merchandise.

In the subsequent examination of 10,927 pages of the mail-order advertising, 773



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





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

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

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

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

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

When necessary, the Commission obtains medical and other scientific information and opinions from nongovernmental hospitals, clinics, and laboratories.- Such material and cooperation are often particularly helpful in enabling the Commission to reach sound and fair conclusions with respect to scientific and technical questions which come before it, and especially so in connection with much of the work of the Radio and Periodical Division.

*Procedure in advertising cases.*--If a published or broadcast advertisement coming to its attention appears on its face to be misleading, the Radio and Periodical Division sends a questionnaire to the advertiser, requesting a sample of his product, if this is practicable, and a quantitative formula, if the product is a compound, and also requesting copies of all advertisements published or commercial continuities broadcast (if such continuities are not already on file) during a specific period, together with copies of all booklets, folders, circulars, form letters, and other advertising literature used.

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

scientific opinion. The Division may, in its discretion, refer the matter to the Commission for its consideration. If the Commission finds that the advertisement is false or misleading, it may order the advertiser to withdraw the advertisement and portions of the copy that in the light of the evidence at hand, still appear to be false or misleading, are marked as excerpts and numbered. A copy of this numbered list and a copy of the opinion received, are sent to the advertiser, who is extended the privilege of submitting such evidence as he may desire in support of the representations found in his advertising. He may answer by letter or, upon his request, may confer with the Radio and Periodical Division in person or through counsel.

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

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

If the Commission approves according opportunity to stipulate, the division prepares a stipulation and forwards it to the advertiser for execution. Should he object to any of its provisions, he may discuss them by mail or in person. If and when he agrees upon the terms of the stipulation and signs and returns it, the matter is

uc (to) Tj a

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

Foreign

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

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

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

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

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

There are four associations that have been in operation since 1918, the first year that the law was passed. These are the American Paper Exports, Douglas Fir Export Co., Redwood Export Co., and the Walnut Export Sales Co. Seven associations have been in operation since 1919, just 20 years: the American Provisions Export Co., American Soda Pulp Export Association, Florida Hard Rock Phosphate Export Association, General Milk Co. (at first called the American Milk Products Corporation), Phosphate Export Association, Pipe Fittings & Valve Export Association, and the U. S. Alkali Export Association. Export ~~Min~~ Export

## FOREIGN-TRADE WORK

- Northwest Dried Fruit Export Association, Title & Trust Building, Portland, Oreg.
- Pacific Forest Industries, Tacoma Building, Tacoma, Wash.
- Pacific Fresh Fruit Export Association, 838 Pine Street, San Francisco.
- Phosphate Export Association, 393 Seventh Avenue, New York.
- Pipe Fittings and Valve Export Association, The, 1421 Chestnut Street, Philadelphia.
- Plate Glass Export Corporation, Grant Building, Pittsburgh.
- Potash Export Association, Inc., 21 East 40th Street, New York.
- Redwood Export Co., Street, San Francisco.
- Rice Export Association, Queen & Crescent Building, New Orleans.
- Rubber Export Association, The, 19 Goodyear Avenue, Akron, Ohio.
- Shook Exporters Association, 301 Margaret Street, Pekin, Ill.
- Signal Export Association, 420 Lexington Avenue, New York.
- Steel Export Association of America, The, 75 West Street, New York.
- Sugar Export Corporation, 120 Wall Street, New York.
- Sulphur Export Corporation, 420 Lexington Avenue, New York.
- Textile Export Association of the United States, 40 Worth Street, New York.
- United States Alkali Export Association, Inc., 11 Broadway, New York.
- United States Handle Export Co., The, 405 Montgomery Piqua, Ohio.
- Walnut Export Sales Co., Inc., 12th St. and Kaw River, Kansas City, Kans.
- Walworth International Co., 60 East 42d Street, New York.

### SERVICES RENDERED BY THE ASSOCIATIONS

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

Some associations purchase the members' products for the purpose of selling them to foreign buyers at terms

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

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

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

In one country we have operated at a maximum of one year without securing one dollar of exchange, allowing our funds to accumulate and eventually liquidating them through an easement in exchange regulations over a period of a year thereafter. These adversities cause much in the loss of interest, and at times much more in depreciated exchange, when available, as compared to ~~the~~ ~~compar~~ ~~hange~~ \$ 8 0 T e x

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

Other functions that have been adopted by the export associations include standardizing products for export and



Another lumber group reports:

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

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

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

A group organized to ship specialized metal products reports that:

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

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

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

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

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

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

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

An association shipping food products since 1925, reports that:

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

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

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

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

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

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

#### **SUPPLEMENTAL REPORT ON ANTIDUMPING LEGISLATION**

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

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

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

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

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

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

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

tional Safety: destruction or illegal use of raw material or products necessary for consumption of

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

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

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

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

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

financial assistance. A provincial law was passed on April 1, 1939, authorizing the Saskatchewan Cooperative Wholesale Society, Ltd., to do retail as well as wholesale business ; this organization might be used to further the

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

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

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

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

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

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

The Essential Commodities Reserves Act passed in June 1938, empowered the Board of Trade to obtain from traders, information as to their stocks and facilities for storing commodities essential in time of war. The Board was also authorized to create reserves of these product



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

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

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

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

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

*Japan.*--A Commerce and Industry order effective on July 9, 1938, provided that ordinances may be issued to prohibit increase in the price of articles designated, above those ruling on the date of the order. A number of products have been named. A far-reaching program adopted in 1939 by the Central Price Commission will include more rigid control over costs of raw materials,

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

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

*Norway.*--A committee has been organized for the purpose of investigation and study

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

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

and

decreepublishedJuly 1, 1938,

in

ofon

be be

of

be

## **CONSUMER PROTECTION**

COMMISSION ACTIVITIES ON BEHALF OF THE PURCHASER

TRADE PRACTICE CONFERENCE RULES

LEGAL ENFORCEMENT AND ECONOMIC INQUIRIES

## **CONSUMER PROTECTION**

### **COMMISSION ACTIVITIES ON BEHALF OF THE PURCHASER SHOW STEADY INCREASE**

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

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

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

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

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

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

The following are cited as concrete illustrations of Commission proceedings of special importance from the standpoint of consumer protection from unfair trade practices or methods which would deprive purchasers of those benefits of honest merchandisi

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

*Silk.*--Similar fiber identification rules have been promulgated the Commission covering the large variety of articles of clothing and other merchandise which contain silk in whole or in part. The wearing apparel, household and other textile commodities embraced in these rules, cover more than 60 industry classifications of finished products which are produced in this country and aggregate approximately \$600,000,000 in annual retail sales value. The rules make provision for the proper labeling and disclosure of fiber content of the merchandise. The rules also contain specific provision for the proper application of the term "pure" or "pure dye" silk, and for the proper identification and disclosure of weighted silk and silk noil. False advertising, misbranding, loading, and adulteration of the product, deceptive concealment of deterioration or damage to merchandise, and many other unfair practices harmful to the buying public and to business are proscribed. (Proceedings for the adoption of rules covering textile products composed of fibers other than silk or rayon are pending.)

*Shrinkage of woven cotton products.*--On this subject, specific and detailed provision is made in trade-practice rules for proper labeling in respect to the preshrunk character or shrinkage properties of woven cotton goods, the legal principles of the rules being also applicable to wearing apparel or other merchandise made of woven cotton goods. Unless and until processes are found and applied which will remove all shrinkage, the rules require that the product shall not be labeled or represented as shrinkproof or nonshrinkable, or by advertising or labeling claims of similar import. They also provide that in case the merchandise is labeled or represented as having been preshrunk or shrunk, full disclosure shall be made in connection therewith of the percentage of additional shrinkage the merchandise will undergo when laundered or used by the consumer. Thus the purchaser is to be apprised of the fact that, although having been pre-shrunk to a degree, the goods will shrink still further.





of 7,000. Almost every variety of consumer goods has been involved in the proceedings, and the rulings and decisions therein constitute a fund of official determinations supplying constructive guidance to business and the p determinat5bmipaisbas

**FISCAL AFFAIRS**

ACTS PROVIDING FUNDS FOR COMMISSION WORK

APPROPRIATIONS AND EXPENDITURES FOR FISCAL YEAR

APPROPRIATIONS AND EXPENDITURES, 1915-1939

## **FISCAL AFFAIRS**

### **APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK**

The Independent Offices Act, 1939 (Public, No.534, 75th Cong.) approved May 26, 1938, provided funds for the fiscal year 1939 for the Federal Trade Commission as follows:

For five Commissioners, and for all other authorized expenditures of the Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including Secretary to the Commission and other personal services, contract stenographic reporting services; Supplies and equipment, law books, books of reference, periodicals, garage rentals, traveling expenses, including not to exceed \$900 for expense of attendance, when specifically authorized by the Commission, at meetings concerned with the work of the Federal Trade Commission, for newspapers and press clippings not to exceed \$600, foreign postage, and witness fees and mileage in accordance with section 9 of the Federal Trade C

*Appropriations, Allotments, Expenditures, Liabilities, and Balances*

	Amount available	Amount expended	Liabilities	Expenditures and liabilities	Balances
Federal Trade Commission, 1939, salaries, Commissioners and all other authorized expenses	\$2,134,000.00	\$2,001,193.69	\$48,485.71	\$2,047,679.40	\$86,320.60
Printing and binding, Federal Trade Commission, 1939	48,700.00	14,367.09	32,332.91	46,700.00	
Temporary National Economic Com- mittee (transferred to Federal Trade Commission), 1939, Jan. 3, 1941	90,795.00	90,795.09		90,795.00	
Temporary National Economic Com- mittee (no year)	12,000.00	8,990.81	3,000.19	12,000.00	
Total fiscal year 1939	2,283,495.00	2,115,346.59	81,827.81	2,197,174.40	86,320.69
Unexpended balances:					
Printing and binding, Federal Trade Commission, 1938 and 1939	15,000.00	15,000.00		15,000.00	
3,0004 Tc795.000					

Supplies		40,928.03	40,926.03
Transportation of things		897.99	897.99
Witness fees		2,055.00	2,055.00
Total	388,621.68	194,574.01	581,197.89

*Detailed Statement of Costs for the Fiscal Year Ending June 30, 1939--Continued*

	Salary	Travel ex- pense	Other	Total
<b>Legal:</b>				
Application for complaints	\$213,224.57	\$35,487.64	\$1,302.84	\$270,015.05
Complaints	385,288.56	42,970.69	2,941.46	431,200.71
Detail Department of Justice	960.28	32.40		992.65
Export trade	5,989.12	51.75		6,040.87
Preliminary	299,643.43	15,055.89	433.74	315,133.96
Robinson-Patman Act	131,255.98	7,746.07		139,002.65
Newsprint paper investigation	4,681.01	1,309.62	13.65	6,004.28
Trade practice conference	73,135.97	1,575.79		74,711.76
Total	1,134,178.92	104,230.45	4,001.69	1,243,101.05
<b>General investigations:</b>				
Agricultural income	160.08			160.08
Farm machinery	786.08	10.25		796.33
Detail: Joint Committee on the Investi- gation of the Tennessee Valley Authority	4,051.85	397.15	5,349.00	
Fruits and vegetables	570.31	5.00		575.31
Industrial corporations reports	11.60			11.60
Motor-vehicle investigation	131,926.40	28,373.00	1,008.11	161,307.51
Power and gas	677.81			677.81
Resale price maintenance, 1939	34,509.84	356.30		34,866.14
Temporary National Economic Committee	125,541.16	6,029.60	695.64	132,266.46
Total	299,135.13	35,171.36	1,703.75	336,010.24
<b>Printing and binding</b>				
Total			48,884.14	48,884.14
<b>Summary:</b>				
Commissioners	71,381.12	597.59		71,978.71
Administration	388,623.68		194,574.01	583,197.69
Legal	1,134,178.92	104,230.45	4,691.69	1,243,101.06
General investigations	299,135.13	35,171.36	1,703.75	336,010.24
Printing and binding			48,884.14	48,884.14
Total	1,893,318.85	139,999.40	249,853.59	2,283,171.84

RECAPITULATION OF COSTS BY DIVISIONS

Administrative	\$489,006.96	\$1,300.51	\$238,855.57	\$729,223.04
Economic	207,592.26	30,975.67	1,008.11	299,576.04
Chief counsel	326,298.86	28,763.67	7,342.04	362,404.57
Chief examiner	493,550.81	65,922.18	1,883.82	561,366.81
Special board of investigation	35,222.78		37.30	35,250.08
Radio and periodical	81,778.29	86.75	91.55	81,956.59
Trial examiner	98,474.93	11,022.00		109,498.93
Trade practice conference	69,691.59	1,599.00		71,290.59
Temporary National Economic Committee	31,632.37	329.02	635.20	32,597.19
Total	1,893,318.85	139,999.40	249,853.59	2,283,171.84

**APPROPRIATIONS AND EXPENDITURES, 1915-39**

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

Year	Nature of appropriations	Appropriations	Expenditures and liabilities	Balance
1915	Lump sum	\$184,016.23	\$90,442.05	\$93,574.18
	Printing and binding	12,386.76	9,504.10	2,882.60

1916	Lump sum	430,964.08	379,927.41	51,636.67
	Printing and binding	15,000.00	14,997.55	2.45
1917	Lump sum	542,025.92	448,890.66	93,135.26
	Printing and binding	25,000.00	23,610.54	1,389.48
1918	Lump sum	1,578,865.92	1,412,280.19	166,585.73
	Printing and binding	30,000.00	11,114.06	18,885.94
1919	Lump sum	1,693,622.18	1,491,637.39	201,984.97
	Printing and binding	14,934.21	14,934.21	0

174 ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

Year	Nature of appropriations	Appropriations and liabilities	Expenditures	Balance
1920	Lump sum	1,206,587.42	1,007,593.30	198,994.12
	Printing and binding	28,348.97	28,348.97	0
1921	Lump sum	938,609.94	842,991.24	95,618.70
	Printing and binding	37,182.56	37,182.56	0
1922	Lump sum	952,505.45	878,120.24	74,385.21
	Printing and binding	22,801.73	22,801.73	0
1923	Lump sum	952,020.11	948,293.07	3,727.04
	Printing and binding	22,460.21	22,400.21	0
1924	Lump sum	990,000.00	900,020.93	29,979.07
	Printing and binding	20,000.00	19,419.25	580.75
1925	Lump sum	990,000.00	988,082.37	1,917.63
	Printing and binding	20,000.00	19,866.14	133.86
1926	Lump sum	990,000.00	976,957.02	13,042.98
	Printing and binding	18,000.00	18,000.00	0
1927	Lump sum	980,000.00	943,881.99	36,118.01
	Printing and binding	17,000.00	17,000.00	0
1928	Lump sum	967,850.00	951,965.15	15,884.85
	Printing and binding	16,500.00	16,500.90	0
1929	Lump sum	1,135,414.83	1,131,521.47	3,893.36
	Printing and binding	27,777.69	27,777.69	0
1930	Lump sum	1,440,971.82	1,430,084.17	10,887.65
	Printing and binding	35,363.58	35,363.58	0
1931	Lump sum	1,932,857.81	1,808,463.35	124,454.46
	Printing and binding	39,858.73	39,858.73	0
1932	Lump sum	1,808,097.19	1,749,484.00	58,612.59
	Printing and binding	30,000.00	30,000.00	0
1933	Lump sum	1,421,714.70	1,378,973.14	42,741.56
	Printing and binding	30,000.00	20,000.00	10,000.00
1934	Lump sum	1,273,763.49	1,273,006.38	157.11
	Printing and binding	40,250.00	40,250.00	0
1935	Lump sum	2,063,398.01	1,922,313.34	141,084.67
	Printing and binding	34,000.00	34,000.00	0
1936	Lump sum	1,998,665.58	1,788,729.76	209,935.82
	Printing and binding	36,800.00	32,996.05	3,803.95
1937	Lump sum	1,895,571.94	1,850,673.82	44,898.12
	Printing and binding	43,353.95	43,353.95	0
1938	Lump sum	1,950,000.00	1,895,519.47	54,480.35
	Printing and binding	46,000.00	46,000.00	0
1939	Lump sum	2,236,795.00	2,150,474.40	86,320.60
	Printing and binding	46,700.00	46,709.00	0

## **APPENDIXES**

FEDERAL TRADE COMMISSION ACT

CLAYTON ACT

ROBINSON-PATMAN ACT

EXPORT TRADE ACT

SHERMAN ACT

MILLER-TYDINGS ACT

RULES OF PRACTICE

STATEMENT OF POLICY

INVESTIGATIONS, 1915-1939



# FEDERAL TRADE COMMISSION ACT

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

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

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission), to be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate, for terms not exceeding four years, and no more than three of whom shall be appointed by the President, by and with the

Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the Commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the Commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the Commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already



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

<sup>1</sup> By subsection (f), Section 1107 of the "Civil Aeronautics Act of 1938," approved June 23, 1938,



so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or

2 Section 5 (a) of the amending Act of 1938 provides :

SEC. 5. (a) In case of an order by the Federal Trade Commission to cease and desist, served on or before the date of enactment of this Act, the sixty-day period referred to in section 5 (C) of the Federal Trade Commission Act, as amended by this Act, shall begin on the date of the enactment of this Act.

setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

(d) The jurisdiction of the circuit court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.

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

(f) ~~Completed by Tc 0 ea9 Tc 0 Tw 4 ( ) Trpla0.0517 Tc 0 ea9 Tc 0 Tw 4 ( ) Trpla0.0517 Tc 0 ea9 Tc 0~~

appeals to the Commission for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3 (been) Tj 18.84 0 TD 0 Tc 0.03 Tw ( ) Tj 2.28 0 TD 0.0167 Tc 0 Tw (denied,) Tj 29







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

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

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

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

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

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

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

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

No person shall be excused from attending and testifying or from producing documentary

evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him

power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent

c

corpor22. 12/11/2011 10:03:39 AM 30-0377-CaseLyni(w) 650

SEC. 13. (a) Whenever the Commission has reason to believe--

(1) that any person, partnership, or corporation is engaged in, or is about to engage in, the dissemination or the causing of the dissemination of any advertisement in violation of section 12, and

(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of

184 ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION, 1945

section 5, would be to the interest of the public, the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or In the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing a temporary injunction or restraining order shall be granted without bond. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business.

(b)

be

(b)

strict5-35ri50xri5ness. (b) 44ed gran2s3ted

be be

b1 0 TD -0.034 TDicularw ( ) Tj((b)) Tj 11.76 0 TD 0 Tc 0.03

representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement or, under such conditions as are customary or usual. No advertisement of a drug shall be deemed to be false if it is disseminated only to members of the medical profession, contains no false repre-

4 Section 5 (b) of the amending Act of 1938 provides :

Sec. 5 (b) Section 14 of the Federal Trade Commission Act, added to such Act by section 4 of this Act, shall take effect on the expiration of sixty days after the date of the enactment of this Act.



sentations of a material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

(b) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(c) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them ; and (2) articles Intended for use In the diagnosis, cure, mitigation, treatment, or prevention of disease In man or other animals ; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals

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

191905--40---13

other place under the Jurisdiction of the United States: *Provided*, That nothing In this Act contained shall apply to the Philippine Islands.

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

SEC. 2.1 (a) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia, or any insular possession or other place under the Jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to in June, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided*, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered; *Provided, however*, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits. and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: *And provided further*, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing Justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however*, That nothing herein contained shall prevent a seller rebutting the prima-facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

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

(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the

payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale

<sup>1</sup> This section of the Clayton Act contains the provisions of the Robinson-Patman Anti-Discrimination Act, approved June 19, 1936, amending Section 2 of the original Clayton Act, approved October 15, 1914. For certain exemptions from the provisions of the later act concerning cooperatives and purchases for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, see the later act as published at p.168.

of any products or commodities manufactured, sold, or offering for sale by such person, unless such payment or consideration is available on proportionately equal terms to all other customers competing in the distribution of such products or commodities.

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

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

\* \* \* \* \*

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

\* \* \* \* \*

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

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

This section shall not apply to corporations purchasing such stock solely fany linns

such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an Interest therein is so acquired

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided.* That nothing in this section shall be held

or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

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

the

1. TD 4Tc 0.8801 Tw ( said corporationf 0.8801 0 nce) T-359.76by TD -Tc80.03 Tw1.76 TD 0.0282 Tc 0 jf80 Tw -

and cause to be served on such person an order requiring such person to cease

<sup>2</sup> By subsection (g) of Section 1107 *of*



and desist from such violations, and divest itself of the stock held or rid itself of the directors chosen contrary to the provisions of sections seven and eight of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission, authority, or board may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside in whole or in part; any report of any order made or issued by it under this section.

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

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

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

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

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

service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

\* \* \* \* \*

Original act approved October 15, 1941.

### ROBINSON-PATMAN ANTI-DISCRIMINATION ACT

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

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

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes," approved October 15, 1914,

commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance, or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and

## ROBINSON-PATMAN ANTI-DISCRIMINATION ACT 191

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

SEC. 4. Nothing in this Act shall prevent a cooperative association from returning to its members, producers, or consumers the whole, or any part of, the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association. 1

Approved, June 19, 1936.

## EXPORT TRADE ACT

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

AN ACT To promote export trade, and for other purposes

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

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

the S

DDJL-250 of Dr

Diema-

SEC. 4. That the prohibition against “unfair methods of competition” and the remedies provided for enforcing said

used in export trade against competitors engaged in export trade, even though the acts

AN ACT To protect trade and commerce against unlawful restraints and monopolies

SECTION 1. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal: *Provided*, That nothing herein contained shall render illegal, contracts or agreements prescribing minimum prices for the resale of a commodity which bears, or the label or container of

<sup>1</sup> Published as amended by Miller-Tydings Act (Pub., No.314, 75th Cong.. H. R. 7472. approved Aug. 17, 1937).





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

<sup>2</sup> Act of March 3, 1911, c. 231, 36 Stat 1167, abolishes the courts referred to, and confers their powers upon the district courts.

SEC. 7. Any person who shall be injured in his business or property by any other person or



may also be made at the residence of the person, partnership, or corporation to be served.

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

(a) By delivering a copy of the document to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or

(b) By leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

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

#### RULE IV. APPEARANCE

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

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

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

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

No former officer, examiner, attorney, clerk, or other former employee of this Commission shall appear as attorney or counsel for or represent any party in any proceeding resulting from any investigation, the files of which came to the personal attention of such former officer, examiner, attorney, clerk, or other former employee during the term of his service or employment with the Commission.

#### RULE V. DOCUMENTS

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

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

*Copies.*--Documents, other than correspondence, shall be filed *in triplicate*, except as

otherwise specifically required by these rules.

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

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

Documents shall be bound at *left side only*.

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

ments shall be signed under the association name for said association by a duly authorized official of such association, or by its attorney.

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

#### RULE VI. COMPLAINTS

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

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

The Commission shall investigate the matters complained of in such application.

If, upon investigation made either on its own motion or upon application, the Commission shall have reason to believe that there is a violation of law

oral



## RULE IX. CONTINUANCE AND EXTENSION OF TIME

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

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

## RULE X. INTERVENTION

Any person, partnership, corporation, or association desiring to intervene in a contested proceeding shall make application in writing, setting out the grounds on which he or it claims to be interested

The Commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem proper.

## RULE XI. HEARINGS ON COMPLAINTS

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

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

Not less than five (5) days' notice of the time and place of the initial hearing before the Commission, a Commissioner, or a trial examiner, shall be given by the Commission to counsel of record or to parties.

## RULE XII. HEARINGS ON INVESTIGATIONS

When a matter for investigation is referred to a single Commissioner, or examiner, for examination or report, such Commissioner, or examiner, if authorized by the Commission, may conduct or hold conferences or hearings thereon, and reasonable notice of the time and place of such hearings shall be given to parties in interest and posted.

The chief counsel, or such attorney as shall be designated by him, or by the Commissioner, or by the Commission, shall attend such hearings and prosecute the investigation, which shall be public, unless otherwise ordered by the Commission.

## RULE XIV. TRIAL EXAMINERS

*Duties.*--When evidence is to be taken in a proceeding upon complaint issued by the Commission, a trial examiner may be designated for that purpose by the Commission.

It shall be the duty of the trial examiner to complete the taking of evidence with all due dispatch.

The trial examiner shall state the place, day, and hour to which the taking of evidence may from time to time be adjourned.

*Reports.*--The trial examiner shall, within 15 days after receipt by him of the complete stenographic transcript of all testimony in a proceeding, make his report upon the evidence.

A copy of such report shall forthwith be served upon each attorney for the Commission, upon each attorney for respondents, and upon each respondent riot represented by counsel.

The trial examiner's report upon the evidence is not a decision, finding, or ruling of the

Commission. It is not a part of the formal record in the proceeding, and is not to be included in a transcript of the record.

#### RULE XIV. EXCEPTIONS

Attorneys or other persons served with a copy of the report of the trial examiner, within ten (10) days after receipt of such copy of report, file, in writing, their exception, if any, to the report.

They shall specify the particular part of the report to which exception is made, and the exceptions shall include any additional facts which the person filing the exception may deem proper.

Citations to the record shall be made in support of the exceptions.

Seven copies of the exceptions, signed, in ink, shall be filed.

A copy of such exceptions shall forthwith be served upon each of the other attorneys and respondents who were served with a copy of the trial examiner's report.

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits.

#### RULE XV. STATEMENTS OF FACTS

When, in the opinion of the trial examiner engaged in taking evidence in any proceeding upon complaint issued by the Commission, the size of the transcript, or complication or importance of the Commission,

Any party desiring to take the deposition of a witness shall make application in writing, setting out the reasons why such deposition should be taken, and stating the time when, the place where and the name and

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

Depositions shall be typewritten, on one side, and the record typewritten, the

double-leaded text and single-leaded citations.

#### RULE XXI. ORAL ARGUMENTS

Oral arguments before the Commission shall be had as ordered, on written application of the chief trial counsel of the Commission, or of the respondent, or of attorney for respondent, filed within fifteen (15) days after filing of brief on behalf of respondent.

Appearance of additional counsel in a case will not constitute grounds for enlarging time for oral argument.

RULE XXII. REPORTS SHOWING COMPLIANCE WITH ORDERS AND WITH  
STIPULATIONS

In every case where an order to cease and desist is issued by the Commission for the purpose of preventing violations of law and in every instance where the Commission approves and accepts a stipulation in which a party agrees to cease and desist from the unlawful methods, acts , or

appear to the Commission to be in the interest of the public. In authorizing proceedings, the Commission may consider whether such proceedings appear to have possibilities (1) of constructively advancing the best interests of industry on sound competitive principles in consonance with public policy, or (2) of bringing about more adequate or equitable observance of laws under which the Commission has jurisdiction, or (3) of other-wise protecting or advancing the public interest.

(c) *Application.*--Application for a trade practice conference may be filed with the Commission by any interested person, party or group. Such application shall be in writing and be signed by the applicant or the duly authorized representative of the applicant or group desiring such conference. The following information, to the extent known to the applicant, shall be furnished with such application or in a supplement thereto:



- (1) A brief description of the industry, trade, or subject to be treated.
- (2) The kind and character of the products involved.
- (3) The size or extent and the divisions of the industry or trade groups concerned.
- (4) The estimated total annual volume of production or

**STATEMENT OF POLICY**

## POLICY AS TO PRIVATE CONTROVERSIES

It is the policy of the Commission not to institute proceedings against alleged unfair methods of competition or unfair or deceptive acts or practices where the alleged violation of law is a private controversy redressable in the courts, except where said practices tend to affect the public. In cases where the alleged injury is one to a competitor only and is redressable in the courts by an action by the aggrieved competitor and the interest of the courts is not affected, the Commission will not institute proceedings.

## **INVESTIGATIONS BY THE COMMISSION, 1915-39**

### **DESCRIPTIONS OF GENERAL INQUIRIES INCLUDING TITLES OF PUBLISHED REPORTS**

General Investigations of the Federal Trade Commission are described in the following paragraphs devoted to the more than 110 inquiries undertaken at the request of the Congress, the President, the Attorney General, other departmental heads, and on motion of the Commission in pursuance of certain provisions of its organic act.

Published reports of the Commission in connection with these inquiries are also listed, including the Senate and House document numbers for those of the reports that were ordered printed by those

obtaining such control, and the extent to which unfair methods were employed

Five reports were submitted to Congress: (1) Interim Report of the Federal Trade Commission on the Agricultural Income Inquiry, December 26, 1935, printed as House Document No. 380, Seventy-fourth Congress, second session (6 pages) ; (2) Fruits and Vegetables--Agricultural Income Inquiry (interim report), February 1, 1937, printed as Senate Document No. 17, Seventy-fifth Congress, first session (16 pages) ; (3) Agricultural Income Inquiry, Part I, Principal Farm Products, March 2, 1937, of which the first two chapters, (1) summary, and (2) conclusions and recommendations, were first printed as Senate Document No. 54, Seventy-fifth Congress, first session (40 pages), the complete report (1,134 pages) later being printed by the Commission; (4) Part II, Fruits, Vegetables and Grapes, June 10, 1937, printed by the Commission (906 pages), and Part III, Supplementary Report, November 8, 1937, printed by the Commission (154 pages). (See also Price Deflation.)

**Automobiles.**--See Motor Vehicle Industry.

**Bakeries.**--This inquiry was made on the basis of President Wilson's order of February 7, 1917, calling for a general inquiry relating to foodstuffs, the Commission investigated the cost of bread and other related factors, and made a brief report to the United States Food Administration, November 3, 1917. With other data the report was printed by that Administration as United States Food Administration, Report of the Federal Trade Commission on Bakery Business in United States, (pp. 5-13, out of print). (See Bread and Flour, Flour Milling, and Food Investigation.)

**Bread and Flour.**--This inquiry was made pursuant to Senate Resolution No. 163, Sixty-eighth Congress, first session, adopted February 16, 1924. The resolution directed the Commission to investigate the production, distribution, transportation, and sale of flour and bread, showing costs, prices, and profits at each stage of the process of production and distribution; the extent and methods of price fixing, price maintenance, and price discrimination; concentration of control in the milling and baking industries, and evidence indicating the existence of agreements, conspiracies, or combinations in restraint of trade. Two preliminary reports dealt with competitive conditions in the flour-milling and bakery combines and profits. The final report showed, among other things, that wholesale baking in recent years had been generally profitable. It disclosed also price cutting wars by big bakery combines and subsequent price-fixing agreements. Reports were: Competitive Conditions in Flour Milling, submitted May 3, 1926, and printed as Senate Document No. 97, Seventieth Congress, first session (140 pages) ; Bakery Combines and Profits, submitted February 11, 1927, and printed as Senate Document No. 212, Sixty-ninth Congress, second session (95 pages) ; and Competition and Profits in Bread and Flour, submitted January 11, 1928, and printed as Senate Document No. 98, Seventieth Congress, first session (509 pages). A supplementary report, Conditions in the Flour Milling Business, covering data withheld during court proceedings (Millers' National Federation against Federal Trade Commission) was submitted to the Senate May 28, 1932, and printed as Senate Document No. 96, Seventy-second Congress, first session (26 pages). (See also Bakeries, Flour Milling and Food Investigation.)

**Calcium Arsenate.**--This inquiry was made pursuant to Senate Resolution No. 417, Sixty-seventh Congress, fourth session, adopted January 23, 1923. It appeared that the cause of such prices was the sudden increase in demand rather than any restraints of trade. The report, *Calcium Arsenate Industry*, was submitted to the Senate March 3, 1923, and printed as Senate Document No. 345, Sixty-seventh Congress, fourth session (21 pages).

**Cement Industry.**--This inquiry was made pursuant to Senate Resolution No. 448, Seventy-first Congress, third session, adopted February 16, 1931. This resolution instructed the Commission to investigate competitive conditions and distributing processes in the cement

industry to determine the existence, if any, of unfair trade practices or violations of the anti-trust laws. The report indicated that rigid application of the multiple basing-point price system, universally used in the industry, tended to lessen price competition and destroy the value of sealed bids ; that manufacturers in concert with dealer organizations had engaged in activities which strengthened the system's price effectiveness and that dealers' associations had engaged in practices designed to restrict sales to those recognized as legitimate dealers by the associations. It was indicated such practices also tended to control sales terms. The report, Cement Industry, reiterated certain findings and conclusions of the Commis-







Prices and Margins of Chain and Independent Distributors, Detroit-Drug, 51 pages, December 30, 1933, Senate Document No.96, Seventy-third Congress, second session.

Prices and Margins of Chain and Independent Distributors, Memphis--Drug, 40 pages, December 30, 1933, Senate Document No.97, Seventy-third Congress, second session.

Prices and Margins of Chain and Independent Distributors, Washington, D. C.--Drug, 40 pages, December 30, 1933, Senate Document No.98, Seventy-third Congress, second session.-

Chain-Store Wages, 116 pages, July 15, 1933, Senate Document No. 82, Seventy-third Congress, second session. Chain-Store Advertising, 89 pages, October 14, 1933, Senate Document No. 84, Seventy-third Congress, second session

Chain-Store Price Policies, 146 pages, October 20, 1933, Senate Document No. 85, Seventy-third Congress second session.

Special Discounts and Allowances to Chain and Independent Distributors--Tobacco Trade, 118 pages, October 26, 1933, Senate Document No.86, Seventy-third Congress, second session,

Special Discounts and Allowances to Chain and Independent Distributors--

Grocery Trade, 44 pages, November 14, 1933, Senate Document No. 89, Seventy-third Congress, second session. Special Discounts and Allowances to Chain and Independent Distributors--Drug Trade, 98 pages, November 24, 1933, Senate Document No.94, Seventy third Congress, second session.

Invested Capital and Rates of Return of Retail Chains, 142 pages, October 29, 1933, Senate Document No. 87, Seventy-third Congress, second session. Service Features in Chain Stores, 67 pages, November 20, 1933, Senate Document No.91, Seventy-third Congress, second session.

The Chain Store in the Small Town, 112 pages, November 22, 1933, Senate Document No. 93, Seventy-third Congress, second session.

Miscellaneous Financial Results of Retail Chains, 93 pages, December 31, 1933, Senate Document No. 99, Seventy-third Congress, second session.

State Distribution of Chain Stores, 1913--28, 55 pages, November 16, 1933, Senate Document No. 130, Seventy third Congress, second session.

Final Report on the Chain-Store Investigation, 110 pages (out of print), December 14, 1934, Senate Document No. 4, Seventy-fourth Congress, first session.

**Coal, Anthracite and Bituminous.**--This investigation was conducted pursuant to Senate Resolution No.217, Sixty-fourth Congress, first session, adopted June 22, 1916, and Senate Resolution No.51, Sixty-fifth Congress, first session, adopted May 1, 1917. A rapid advance in the prices anthracite at the mines, as compared with costs, and the overcharging of anthracite jobbers and dealers. Current reports of operators' and retailers' selling prices were obtained, and this was believed to have substantially benefited the consumer. The preliminary report, *Anthracite Coal Prices*, was submitted to Congress May 4, 1917, was printed as Senate Document No.19, Sixty-fifth Congress, first session (4 pages, out of print). The general report and summary, *Anthracite and Bituminous Coal*, submitted to Congress June 19, 1917, was printed as a Commission publication and as Senate Document No.50, Sixty-fifth Congress, first session (420 pages, out of print) ; and the summary, under the title *Anthracite and Bituminous Coal Situation*, dated June 19, 1917, was printed separately as House Document No. 193, Sixty-fifth Congress, first session (29 pages, out of print).

**Coal, Anthracite.**--This inquiry, made on motion of the Commission, dealt with premium prices of anthracite coal charged by certain mine operators and the premium prices and gross profits of wholesalers in the latter part of 1923 and early in 1924. The report discussed also the development of the anthracite combination, and the results of the Government's efforts to dissolve it. The Report of the Federal Trade Commission on Premium Prices of Anthracite was

submitted to Congress July 6, 1925, and printed (97 pages), dated July, 1925, was submitted to Congress and printed.

**Coal, Bituminous.**--An inquiry was made on motion of the Commission. The reports on investment and profit in soft-coal mining were prepared and submitted to Congress in the belief that the Information would be of timely value in the consideration of pending legislation regarding the coal trade. The data covered the years 1916 to 1921, inclusive. Reports were submitted in two parts dated May 31, 1922, and July 6, 1922, respectively, and published by the Commission in one volume, entitled Investment and Profit in Soft-Coal Mining. Part I. Summary and Conclusions and Part II. Explanatory and Statistical Material Supporting

Part I (222 pages), and by the Senate in two volumes as Senate Document No.207, Sixty-seventh Congress, second session Part I, (10 pages), and Part II, (208 pages).

**Coal, Bituminous.**--This inquiry was made pursuant to House Resolution No.352, Sixty-fourth Congress, first session, adopted August 18, 1916. The resolution called for an investigation of the alleged depressed condition of the coal industry, but subsequent to its adoption of the resolution there was a marked advance in prices, and the Commission, in a preliminary report, suggested various measures for Insuring a more adequate supply at reasonable prices. This report, entitled Preliminary Report by the Federal Trade Commission on the Production and Distribution of Bituminous Coal was printed as House Document No. 152, Sixty-fifth Congress, first session (8 pages, out of print), May 19, 1917.

**Coal Reports--Cost of Production.**--This inquiry was made at the direction of President Wilson, who, prior to passage of the Lever Act in August 1917, called upon the Commission to furnish information to be used by him in fixing coal prices under that act. On the basis of the information furnished, the prices of coal were fixed by Executive order. The work of the Commission in determining the cost of production of coal was continued by obtaining monthly reports. This information was compiled for use of the United States Fuel Administration in continuing the control of prices. Detailed cost records were collected from January 1917, through December 1918, for about 99 percent of the anthracite tonnage production and for about 95 percent of the bituminous-coal production. After the war this information was summarized for the principal coal-producing States or regions in a series of reports dated June 30, 1919, and printed under the titles: Cost Reports of the Federal Trade Commission--Coal . No. 1. Pennsylvania--Bituminous (103 pages); No. 2. Pennsylvania--Anthracite (145 pages, out of print) ; No. 3. Illinois--Bituminous (127 pages) ; No. 4. Alabama, Tennessee, and Kentucky--Bituminous (210 pages) ; No. 5, Ohio, Indiana, and Michigan--Bituminous (288 pages); No. 6, Maryland, West Virginia, and Virginia--Bituminous (286 pages); and No. 7. Trans-Mississippi States--Bituminous (459 pages). (See also War-Time Cost Finding.)

**Coal--Current Monthly Reports.**--In December 1919, the Commission, provided with a special appropriation by Congress, initiated a system of current monthly returns from the soft-coal industry somewhat similar to those required from coal-producing companies during the World War. An injunction to prevent the Commission from calling for such reports (denied about 7 years later) led to their abandonment. Reports of the results were published in monthly bulletins beginning with Federal Trade Commission, Bulletin No. 1--Bituminous Coal--Preliminary (January, 1920 costs), published April 20, 1920; Bulletin No. 2 (February, 1920 costs), May 24, 1920; Bulletin No. 3 (March, 1920 costs), June 25, 1920; Bulletin No. 4 (April, 1920 costs), July 26, 1920; Bulletin No. 5 (May, 1920 costs), August 25, 1920; Quarterly Report No. 1, (revised costs--First Quarter of 1920), August 25, 1920; Quarterly Report No. 2, (revised costs--Second Quarter of 1920), December 6, 1920. (All out of print.)

**Coal--Retail Situation.**--An inquiry was made on motion of the Commission into

Commission submitted to the Senate a report entitled *Commercial Bribery*, which was printed as Senate Document No.258, Sixty-sixth Congress, second session (7 pages, out of print).

**Cooperation in Foreign Countries.--**



1933. This report and twelve volumes covering hearings during the course of the investigation were printed as Senate Document No. 209, Seventy-first Congress, second session, under the general title, Investigation of Cottonseed Industry. A preliminary report dated February 28, 1930, was printed as Senate Document No.91, Seventy-first Congress, second session (4 pages, out of print).

**Cotton Trade.**--An inquiry was made pursuant to Senate Resolution No. 262, Sixty-seventh Congress, second session, adopted March 29, 1922. A preliminary report, Cotton Trade, discussed especially the causes of the decline in cotton prices during the period 1920-22. The report was submitted to Congress February

26, 1923, and printed as Senate Document No.311, Sixty-seventh Congress, fourth session (28 pages, out of print).

**Cotton Trade.**--An inquiry was made pursuant to Senate Resolution No.429, Sixty-seventh Congress, fourth session, adopted January 31, 1923. The inquiry in response to this second resolution on the cotton trade was combined with the one mentioned above and resulted in a report which was sent to the Senate in April 1924. This report recommended that Congress enact legislation providing for some form of southern warehouse delivery on New York contracts, and as a part of such a delivery system the adoption of a future contract which would require that not more than three adjacent or contiguous grades should be delivered on any single contract. The Commission also recommended a revision of the system of making quotations and differences at the various spot markets and the abolition of deliveries on futures at New York. The special warehouse committee of the New York Cotton Exchange, on June 28, 1924, adopted the recommendations of the Commission with reference to the southern delivery on New York contracts, including the contiguous grade contract. The report, entitled *The Cotton Trade*, contained, respectively, the report and the transcript of hearings. It was submitted to the Senate April 28, 1924, and printed in 2 volumes as Senate Document No. 100, Sixty-eighth Congress, first session, Part I (280 pages), Part II (230 pages), both out of print.

**Du Pont Investments.**--This inquiry was made on motion of the Commission of July 29, 1927. The reported acquisitions of E. I. du Pont de Nemours & Co., of the stock of the United States Steel Corporation, together with previously reported holdings in General Motors Corporation, caused an Inquiry into these relations with a view to ascertaining the facts and their probable economic consequences. The Report of the Federal Trade Commission on Du Pont Investments was processed (43 pages), together with views of Commissioner William E. Humphrey on the resolution and on the report (3 pages) .

**Electric and Gas Utilities.**--See Electric Power below, Interstate Power Transmission, and Utility Corporations.

**Electric Power.**--This inquiry, made pursuant to Senate Resolution No.329, Sixty-eighth Congress, second session, adopted February 9, 1925, resulted in two reports on the control of electric-power Industry. The first dealt with the organization, control, and ownership of commercial electric-power companies, and showed, incidentally, the dangerous degrees to which pyramiding had b2fi9er 0 profess the

and Independent Harvester Co.

**Farm Products.**--See Agricultural Income.

**Feeds.**--This inquiry was



Commissioner of Corporations, the investigation disclosed the extensive use of bogus independent fertilizer companies for purposes of competition, but through conferences with the principal manufacturers agreements were reached for the abolition of such unfair competition. The report, Fertilizer Industry (269 pages), was submitted by the Federal Trade Commission to the Senate August 19, 1916, and printed as Senate Document No.551, Sixty-fourth Congress, first session.

**Fertilizer.**--An inquiry made pursuant to Senate Resolution No.807, Sixty-seventh Congress, second session, adopted June 17, 1922, developed that active competition generally prevailed in the fertilizer industry in this country, though in certain foreign countries combinations controlled some of the most important 19, No.807,to the Senate August

for use of the War and Navy Departments, including data on canned foods. A volume was published November 21, 1921, in accordance

motion, in accordance with section 6 of the Federal Trade Commission Act, its report, Profits of Country and Terminal Grain Elevators, a Preliminary Report. This was printed as Senate Document No.40, Sixty-seventh Congress, first session (12 pages, out of print). (See also Grain Exporters and Grain-Wheat Prices.)

**Food Investigation--Grain Trade.**--Made pursuant to the direction of President Wilson dated February 7, 1917, this investigation covered the grain trade generally from the country elevator to the central markets and included an extensive statistical analysis of the trading in cash, grain, and future contracts used as recorded in the books of commission men, brokers, and others. The Commission recommended that the quotations of the various grain ex-changes should be made up and published on a more uniform basis and that railroads should be required to operate public elevators for the convenience of their shippers or that there should be governmental operation of storage elevators to permit small dealers to compete more nearly on an equality with the large elevator merchandisers. The Report of the Federal Trade Commission on the Grain Trade was printed in seven volumes, as follows: I. Country Grain Marketing (350 pages), September 15, 1920; II. Terminal Grain Markets and Exchanges (833 pages) September 15, 1920; III. Terminal Grain Marketing (332 pages), December 21, 1921 ; IV. Middlemen's Profits and Margins (215 pages, out of print), September 26, 1923 ; V. Future Trading Operations in Grain (347 pages, out of print), September 15, 1920; VI. Prices of Grain and Grain Futures (374 pages), September 10, 1924 ; VII. Effects of Future Trading (419 pages), June 25, 1926. (See also Grain Exporters and Grain-Wheat Prices.)

**Food Investigation--Meat Packing.**--As a part of the food inquiry ordered by President Wilson as of February 7, 1917, a comprehensive inquiry was made into the meat-packing industry. Evidence was obtained

Federal Trade Commission on the Wholesale Marketing of Food (268 pages, out of print), was dated June 30, 1919.

**Food Investigation--Private Car Lines.--**This inquiry also was undertaken as a part of the food investigation ordered by President Wilson as of February 7, 1917. It comprised chiefly an examination of livestock car lines and refrigerator car lines, both for meats and for fruits and vegetables, including a study

of the effect on competition of the ownership of such facilities. Certain remedial measures were recommended. The report, Food Investigation, Report of the Federal Trade Commission on Private Car Lines (271 pages), dated June 27, 1919, was printed.

**Foreign Trade--Antidumping Legislation.--**The inquiry was begun in the spring of 1933, on motion of the Commission, when amendments to the anti-dumping laws of this

as Senate Document No.403, Sixty-fourth Congress, first session (15 pages, out of print) .  
**Gasoline.--**

**Gasoline Importation.**--This inquiry, made pursuant to Senate Resolution No. 274, Seventy-second Congress, first session, adopted July 16, 1932, had its inception in complaints filed against four major oil companies operating in Detroit, alleging price discrimination due to zoning divisions in which different retail prices prevailed. The Commission submitted its report to the Senate February 27, 1933, in the form of a letter entitled "Importation of Foreign Gasoline at Detroit, Mich." (3 pages), printed as Senate Document No.206, Seventy-second Congress, second session.

**Gasoline Prices.**--This inquiry was made pursuant to Senate Resolution No. 166, Seventy-third Congress, second session, adopted February 2, 1934. The Commission investigated the causes and effects of increased gasoline prices during the 6-month period preceding the resolution's adoption. The report revealed an average price increase of 2 cents about the time of the effective date, September 2, 1933, of the petroleum code. Following subsequent declines the average net increase was 1.04 cents. The report, "Gasoline," submitted May 10, 1934, and printed as Senate Document No. 178, Seventy-third Congress, second session (22 pages).

**Grain Exporters.**--The low prices of export wheat gave rise to this inquiry, which was made pursuant to Senate Resolution No.133, Sixty-seventh Congress, second session, adopted December 22, 1921. The study developed facts regarding extensive and harmful speculative manipulations of prices on the grain exchanges and conspiracies among country grain buyers to agree on maximum prices for grain purchased. Legislation for a stricter supervision of grain exchanges was recommended, together with certain changes in their rules. The Commission also recommended governmental action looking to additional storage facilities for grain uncontrolled by grain dealers. Reports, entitled "Report of the Federal Trade Commission on Methods and Operations of Grain Exporters, Vol. I, Interrelations and Profits" (123 pages), and "Vol.11, Speculation, Competition, and Prices" (264 pages), were submitted to the Senate May 10, 1922, and June 18, 1923, respectively, and printed. (See Food Investigation: Grain Elevators and Grain Trade.)

**Grain--Wheat Prices.**--The extraordinary decline of wheat prices in the summer and autumn of 1920 led to a direction of President Wilson (as of October 12, 1920) to inquire into the reasons. These were found chiefly in abnormal market conditions, including certain arbitrary methods pursued by the grain purchasing departments of foreign governments. The resulting Report of the Federal Trade Commission on Wheat Prices for the 1920 Crop (91 pages), was submitted to the President December 13, 1920. (See Food Investigation: Grain Elevators and Grain Trade.)

**Guarantee Against Price Decline.**--The Commission, in 1919, made an Inquiry Into the practice of guarantee against price decline through a circular letter calling for information and opinions. The report, entitled "Digest of Replies \* \* \* Relative to the Practice of Giving Guarantee Against Price Decline," was published as of May 27, 1920 (68 pages).

**House Furnishings.**--Pursuant to Senate Resolution No. 127, Sixty-seventh Congress, second session, adopted January 4, 1922, the Commission Investigated the alleged high prices for house furnishing goods which had prevailed since 1920, as compared to the price declines in other lines. Three reports were issued showing that in respect to several kinds of household furnishings there had been conspiracies to inflate the prices of such goods. These reports, entitled "Report of the Federal Trade Commission on House Furnishing Industries, Vol. I, Household Furniture" (484 pages), "Vol. II, Household Stoves" (187 pages, and "Vol. III, Kitchen Furnishings and Domestic Appliances" (347 pages), were submitted to the Senate January 17, 1923, October 1, 1923, and October 6, 1924, respectively, and printed. A summary of Volume I was printed in 1923.

**Independent Harvester Co.**--This inquiry was made pursuant to Senate Resolution No.212,

Sixty-fifth Congress, second session, adopted March 11, 1918, calling for an investigation of the organization and methods of operation of the company which had been formed several years before to compete with the "Harvester trust." The company passed into receivership and the report disclosed that mismanagement and insufficient capital brought about its failure. The summary, entitled "Federal Trade Commission Report to the Senate on the Independent Harvester Co." (processed, 5 pages, out of print), was submitted to the Senate May 15, 1918. (See also Agricultural Implements and Machinery, and Farm Implements.)



**Interstate Power Transmission.**-- inquiry was made pursuant to Senate Resolution No.151, Seventy-first Congress, first session, adopted November 8, 1929, which called for ascertainment of the quantity of electric energy used for development of power or light, or both, generated in any State and transmitted across State lines, or between points within the same State but through any place outside thereof. The report, Interstate Movement of Electric Energy, was printed as Senate Document No.238, Seventy-first Congress, third session (134 pages), and submitted to the Senate December 20, 1930. The printed report includes interim reports of December 9, 1929, March 10, June 11, and September 19, 1930. (See also Electric Power and Utility Corporations.)

**Leather and Shoes.**--This inquiry was made on motion of the Commission, on account of general complaint regarding the high prices of shoes, and dealt chiefly with the costs and prices of leather and shoes. The report on Leather and Shoe Industries (180 pages), was published August 21, 1919. Previously, as of January 23, 1918, the Commission had published Hide and Leather Situation. A preliminary report to the Report on Leather and Shoe Industries (5 pages, out of print).

**Leather and Shoes.**--Under this inquiry, made pursuant to House Resolution No.217, Sixty-sixth Congress, first session, adopted August 19, 1919, a further study of leather and shoe costs and prices was conducted. The Report of the Federal Trade Commission on Shoe and Leather Costs and Prices (212 pages), and a summary were printed and submitted to the House June 10, 1921.

3wefTw0rTtw((in)qj7s0j3B1081c TD30 Tve 0)03rFv(44)0F8.41880 IID-0.0r0.03 Tjw2(0419sh88h(DTj01092  
 ra8(00T\$ 214 @linWlH0c0s6)TjB091 TIDa1aT003inTovna6TfwkjhDe38 TDe0.0134 Ta0 TD 0 3adopted

**Lumber Trade Associations.**--An investigation of the activities of five large lumber trade associations bringing down to date the study made at the request of the Attorney General in 1919-20 (see next paragraph above), was conducted on motion of the Commission in conjunction with the inquiry into open-price associations. (See Open-Price Associations.) The report on the lumber trade associations comprises chapter VIII of Open-Price Trade Associations, submitted to the Senate February 13, 1929, and printed as Senate Document No.220, Seventieth Congress, second session.

**Meat--Packing Profit Limitations.**--This inquiry was made pursuant to Senate Resolution No. 177, Sixty-sixth Congress, first session, adopted September 3, 1919, and had to do with the system of war-time control established by the



see Taxation and Tax Exempt income) . In the report devoted to national wealth and income, the national wealth was estimated to have been \$353,000,000,000 in 1922 and the national income to have been \$70,000,000,000 in 1923. The nature of the wealth and income and their distribution among various classes were also given. The report on “National Wealth and Income” was submitted to the Senate May 25, 1926, and printed as Senate Document No. 126, Sixty-ninth Congress, first session (381 pages).

**Open Price Associations.--**This inquiry

Seventy-first Congress, special session (116 pages).

**Paper--Newsprint.**--This inquiry was undertaken in response to the Attorney General's request of January 24, 1938, that the Commission investigate the manner in which certain newsprint manufacturers have complied with a consent decree entered against them on November 26, 1917, by the United States District Court for the Southern District of New York, and further to determine whether there were any violations of the antitrust laws by the newsprint industry that were not prohibited by the decree.

**Peanut Prices.**--This inquiry was made pursuant to Senate Resolution No.139, Seventy-first Congress, first session, adopted October 22, 1929. The Commission sought data concerning an alleged combination of peanut crushers and mills for price-fixing purposes in violation of the antitrust laws, as well as information with respect to an

**Petroleum Pipe Lines**--This inquiry made pursuant to Senate Resolution No. 109, Sixty-third Congress, first session, adopted June 18, 1913, was begun by the former Bureau of Corporations. The Report on Pipe-Line Transportation of Petroleum (467 pages, out of print), which was submitted to the Senate February 28, 1916, showed the dominating importance of the pipe lines of the great midcontinent oil fields. It also pointed out that the pipe-line companies, which were controlled by a few large oil companies, not only charged excessively high rates for transporting petroleum, but also evaded their duties as common carriers by insisting on unreasonably large shipments, to the detriment of the

191905---39-----15



numerous small producers-ties A volume entitled "Letter of Submittal and Summary and

the investigation, the Commission instituted proceedings against these companies charging a monopoly of the radio field. The "Report of the Federal Trade Commission on the Radio Industry" (847 pages), was submitted to the House, December 1, 1923, and printed.

**Raisin Combination.**--Allegations of a combination among raisin growers in California were referred to the Commission for examination by the Attorney General as of September 30, 1919, pursuant to the Federal Trade Commission Act. The Commission found that the enterprise was not only organized in restraint of trade but was being conducted in a manner that was threatening financial dis-

aster to the growers.

Congress, second session (11 pages, out of print).

**Steel Code Inquiry.**--This inquiry was made pursuant to Senate Resolution No.166, Seventy-third Congress, second session, adopted February 2, 1934. The resolution directed the Commission to investigate and report upon certain practices of the steel industry with particular reference to price fixing, .the increased prices of steel products, and “other such matters as would give a full presentation of the facts touching the industry since it went under the National Recovery Administration code.” The inquiry centered largely upon alleged collusive activities of steel producers in fixing identical delivered prices and eliminating

competition wider the code, the effects of the multiple basing-point system incorporated in the  
co

contracts in New York, North Carolina, and Florida, the Commission, as of June 10, 1986, made a report demonstrating the existence of collusive bidding because of a continued adherence to the basing-point system and other provisions of the code. The report (processed) was entitled "Federal Trade Commission Report to the President on Steel Sheet Piling" (42 pages).

**Stock Dividends.**--This inquiry was made pursuant to Senate Resolution No. 304, Sixty-ninth Congress, second session, adopted December 22, 1926. The resolution called for a list of the names and capitalizations of those corporations which had issued stock dividends, together with the amount of such stock divi-

dends, since the decision of the Supreme Court, March 8, 1920, holding that stock dividends were not taxable. The same information for an equal period prior to that decision was called for. The report, entitled "Stock Dividends," contains a list of 10,245 such corporations and a brief discussion. The report points out that the declaration of stock dividends at the rate prevailing for a few years preceding the date of its publication did not appear to be the result of any controlling necessity and seemed to be of questionable advantage as a business policy. The report was submitted to the Senate on December 5, 1927, and printed as Senate Document No. 26, Seventieth Congress, first session (273 pages).

**Sugar.**--This inquiry was made pursuant to House Resolution No.150, Sixty-sixth Congress, first session, adopted October 1, 1919. The extraordinary advance in the price of sugar in 1919 led to the investigation. The price advance was found to have been due chiefly to speculation and hoarding in sugar. Certain recommendations were made for legislative action to correct these abuses. The Report of the Federal Trade Commission on Sugar Supply and Prices (205 pages), was submitted to the House, November 15, 1920, and printed.

**Sugar--Beet.**--This inquiry was initiated by the Commissioner of Corporations at the direction of the Secretary of Commerce, but was completed by the Federal Trade Commission. It dealt with the cost of growing beets and the cost of beet-sugar manufacture. The Report on The Beet Sugar Industry in the United States (164 pages), was published May 24, 1917 (out of print).

**Taxation and Tax Exempt Income.**--This inquiry was made pursuant to Senate Resolution No.451, Sixty-seventh Congress, fourth session, adopted February 28, 1923. The resolution was directed chiefly to a study of national wealth and income. A separate report, "Taxation and Tax-Exempt Income," was submitted to the Senate on June 6, 1924, and printed as Senate Document No.148, Sixty-eighth Congress, first session (144 pages, out of print). (See National Wealth and Income.)

**Textiles--Combed Cotton Yarns.**--This inquiry was made pursuant to House Resolution No.451, Sixty-sixth Congress, second session, adopted April 5, 1920. The Commission was called upon to investigate the high prices of combed cotton yarn. The inquiry disclosed that there had been an unusual advance in price and that the profits in the industry had been extraordinarily large for several years, but at the end of 1920 the prices of combed yarns, like other cotton textile products, showed a sharp decline. The Report of the Federal Trade Commission on Combed Cotton Yarns (94 pages), was submitted to the House April 14, 1921, and printed.

**Textile Industry.**--This inquiry was directed by an Executive order of President Roosevelt dated September 26, 1934, instructing the Commission to inquire into the industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. The order also established The Textile Labor Relations Board and directed the Department of Labor to report on actual hours of employment in the industry, employees' earnings, and general working conditions. Conditions prevailing in the 20 months preceding the 1934 textile strike were first studied. These were divided into three 6-month periods and a 2-month 2-month

*Report of the Federal Trade Commission on Textile Industries.--Part I. Investment and Profit, December 81, 1934 (26 pages); Part II. The Cotton and Textile Industry, March 8, 1935 (34 pages) ; Part III. The Woolen and Worsted Textile Industry, January 1935 (21 pages); Part IV. The Silk and Rayon Textile Industry, February 1935 (87 pages) ; Part V. Thread, Cordage, and Twine Industries, February 18, 1935 (14 pages), and Part VI. Tabulations Showing Financial and Operating Results for Textile Companies According to Rates of Return on Investment, Rates of Net Profit or Loss on Sales, and Amount of Investment (Six-Month Periods from January 1, 1933, to June 30, 1934, and*



for July-August 1934) (24 tables), June 20, 1935. (Processed, out of print.)

*Report of the Federal Trade Commission on the Textile Industries in 1933 and 1934.--Part I. The Cotton Textile Industry, August 1, 1935 (34 pages) ; Part II. The Woolen and Worsted Textile Industry, September 25, 1935 (30 pages, processed); Part III. The Silk and Rayon Textile Industry, November 29, 1935 (44 pages, processed) ; Part IV. Thread, Cordage and Twine Industries, December 5, 1935 (21 pages, processed) ; Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934, March 24, 1936 (46 tables, processed, out of print), and Cotton Spinning Companies Grouped by Types of Yarn Manufactured during 1933 and 1934, January 31, 1936 (18 tables, processed, out of print).*

*Textile Industries in the First Half of 1935.--Part I. The Cotton Textile Industry, Including Thread, Cordage and Twine, May 22, 1936, (52 pages, processed) ; Part II. The Woolen and Worsted Textile Industry, July 20, 1936 (39 pages, processed, and Part II. The Silk and Rayon Textile Industry, August 22, 1936 (47 pages, processed).*

*Textile Industries Last Half of 1935.--Part I. The Cotton Textile Industry, including Thread, Cordage and Twine, November 20, 1936 (66 pages, processed) ; Part II. The Woolen and Worsted Textile Industry, December 21, 1936 (42 pages, processed),*

factors: (1) a lessening of foreign purchases due to unfavorable exchange rates and the contraction of domestic credits, resulting in unfavorable financial condition ; (2) an increase in quantity of low grades for domestic absorption due to crop conditions and failing foreign markets, and (3) purchasing methods of large buyers. The Commission recommended that the decree of 1911 dissolving the old Tobacco Trust be modified to prohibit permanently the use of common

purchasing agencies by certain of the tobacco companies and to prohibit their purchasing tobacco under any but their own names. A better system of grading tobacco was also recommended. The Report of the Federal Trade Commission on the Tobacco Industry (162 pages) was submitted to the House, December 11, 1920, and printed.

**Tobacco Prices.**--This inquiry was made pursuant to Senate Resolution No. 129, Sixty-seventh Congress, first session, adopted August 9, 1921. Among the subjects investigated were the low prices of leaf tobacco and the high prices of manufactured tobacco products. From evidence gathered it was alleged that several large companies were engaged in conspiracies with their customers, the jobbers, to enhance the selling prices of tobacco. Proceedings were instituted by the Commission. In its report, the Commission renewed the recommendations for prohibiting the use by certain of the tobacco companies of common purchasing agencies and their purchasing of tobacco under any but their own names, as made in the report of December 11, 1920 (see next paragraph above) . The report, "Prices of Tobacco Products" (109 pages) was submitted to the Senate, January 17, 1922, and printed as a Commission document and as Senate Document No.121, Sixty-seventh Congress, second session.

**Trade and Tariffs in South America.**--This inquiry, directed by President Wilson as of July 22, 1915, was an outgrowth of the First Pan American Financial Conference which met in Washington, May 24-29, 1915. The immediate purpose of the inquiry was to furnish the American branch of the International High Commission, appointed as a result of this financial conference, with information to assist in the deliberations of that commission. Customs administration and related matters, including tariff policy, were discussed in the Report on Trade and Tariffs in Brazil, Uruguay, Argentina, Chile, Bolivia, and Peru (246 pages, out of print), which was submitted to the President under date of June 30, 1916.

**Utility Corporations.**--This inquiry was made pursuant (1) to Senate Resolution No.83, Seventieth Congress, first session, adopted February 15, 1928, (2) Public Resolution No.46, also known as Senate Joint Resolution No.115, Seventy-third Congress, second session, adopted June 1, 1934, and (3) to section 6 of the Federal Trade Commission Act. Senate Resolution No.83 directed the Commission to investigate the growth of the capital assets and liabilities of

of submittal and numbers of pages, are as follows: No. 69-A, Compilation of Proposals and Views for and Against Federal Incorporation or Licensing

No. 73-A, Holding and Operating Companies of Electric and Gas Utilities--Survey of State Laws and Regulations, Present Extent of Federal Regulation and the Need of Federal Legislation, Conclusions and Recommendations and Legal Studies in Support Thereof, January 28, 1935, 218 pages ; No. 77-A, Index of Testimony in Parts 21 to 45, Numerical List of Exhibits, Index of Exhibits, Index to Record on Company Publicity and Propaganda--Parts 21 to 45, inclusive, May 16, 1935, 840 pages ; No. 81-A, Publicity and Propaganda Activities by Utilities Groups and Companies, With Index, November 14, 1935, 570 pages ; and (final report) No. 84-A, Economic, Corporate Operating and Financial Phases of the Natural-Gas Producing Pipe-Line, and Utility Industries, with Conclusions and Recommendations, December 31, 1935, 617 pages ; No. 84-B, Legal Appendixes to Final Report, (No. 84-A \* \* \*, December 31, 1935, 118 pages ; No. 84-C, Economic Appendixes to Final Report (No. 84-A) \* \* \*, December 31, 1935, 126 pages, and No. 84-D, General Index to Parts 21 to 84-C, Inclusive, August 12, 1937, 1360 pages.

A list of the companies investigated and the volume numbers of the reports concerning them is printed in the Commission's annual reports for 1935 and 1936, beginning at pages 21 and 36, respectively. During the investigation, the Commission's accountants, engineers, and economists examined 29 holding companies having total assets of \$6,108,128,713 ; 70 subholding companies with total assets of \$5,685,463,201, and 278 operating companies with total assets of \$7,245,100,464.

**War-time Cost Finding.**--This series of cost inquiries was ordered by President Wilson as of July 25, 1917. The numerous cost investigations made by the Federal Trade Commission during the World War into the coal, steel, lumber, petroleum, cotton-textile, locomotive, leather, canned foods, and copper industries, and scores of other important industries, on the basis of which prices were fixed by the Food Administration, the War Industries Board, and purchasing departments such as the Army, Navy, Shipping Board, and Railroad Administration, were all done under the President's special direction, and it has been estimated that they helped to save the country many billions of dollars by checking unjustifiable price advances. Lists of most of the reports prepared for this purpose (not printed or otherwise published) are given in the Commission's annual reports for 1918 and 1919. Subsequent to the war a number of reports dealing with costs and profits were published based on these wartime inquiries. (See Coal Reports--Cost of Production, Copper, Food Investigation-Food Canning, Lumber-Costs, and Steel Industry--Costs and Profits) .

## INDEX

[Index does not include names or items in alphabetical lists, tables, or appendixes. For names of



	Page
Berry Seed Company, Clarinda, Iowa	93
Biddle Purchasing Company, New York	5, 90, 94
Bloomington Bros. Inc., New York	76
Bonwit-Teller, New York	76
Bourjois, Inc., New York	90, 94
Bourjois, Inc., v. Chapman	98
Brach & Sons, E. J., Chicago	90, 99
Brown & Haley, Tacoma, Wash	90, 97
Bunte Bros., Inc., Chicago	78, 90, 99
Bureau of Animal Husbandry, Department of Agriculture	140
Bureau of Home Economics	140
Caldwell, Dr. W. B., Inc., Monticello, Ill	78, 94
California Lumbermen's Council, Fresno, Calif	72, 91, 94
California Rice Industry, San Francisco	90, 95
Candy lottery, court cases	96
Canterbury Candy Makers, Inc., Seattle	90, 97
Capon Water Company, Philadelphia	100
Carnegie-Illinois Steel Corporation	109
Carter Carburetor Corporation, St. Louis	81, 100
Cates, Chas. F., & Sons, Inc., Faison, N. C	110
Century Metalcraft Corporation, Chicago	100
Chain store inquiry	8, 167, 205
Chemical Products Company	147
Chrysler Corporation	20
Civil Aeronautics Authority	33, 40
Clayton Act (see Robinson-Patman Act):	
Cease and desist orders	78
Complaints	54
Court cases	94, 100, 102, 103, 106, 107, 109
Preliminary investigations	39
Procedure under	33
Reference to	44
Section 2	1, 3, 33, 45, 109
Section 3	1, 33, 40, 45, 81
Section 7	1, 8, 14, 15, 33, 39, 40
Section 8	1, 33
Section 11	14, 15
Text of	185
Commercial Credit Company	21
Commercial Investment Trust Corporation	21
Complaints	3, 45
Confection Cabinet Company, Newark, N.J.	104
Congress	7, 8, 9, 13, 167
Consolidated Flour Mills Co., Wichita, Kans	107
Consumer, Commission activities on behalf of	9, 163
Continental Turpentine & Rosin Corporation	147
Copper Exporters, Inc., New York	146
Crosby Naval Stores, Inc	147



	Page
Dixie Pine Products Company	147
Douglas Fir Export Company, Seattle	146
Educators Association, Inc., New York	100
El Moro Cigar Company, Greensboro, N. C	101
Export Trade Act (Webb-Pomerene Law)	1, 3, 11, 35, 74, 145
Fair trade laws ( <i>see</i> Miller-Tydings Act)	9, 28
Fashion Originators Guild Association, New York	73, 101
Federal Communications Commission	33, 39
Federal licensing of corporations, feasibility of	8
Federal Reserve Board	33, 40
Federal Trade Commission:	
Accounts and personnel	12
Activities on behalf of consumer	9, 163
Administrative division	10, 12
Advisory medical staff	12, 140
Appropriations	2, 171-174
Assistant secretary	12
Assistant to the Chairman	12
Branch offices	12, 39
Chief Counsel's division	10, 11, 35, 145
Chief Examiner's division	10, 11, 34, 35, 37, 43
Chief Trial Examiner's division	10, 11, 35, 43
Commissioners and their duties	9
Court cases	90
Disbursing office	12
Docket section	12
Economic Adviser	12
Economic division	10, 11, 12
Foreign trade work	145
Functions	1, 11
Investigations	1, 9, 19, 167, 203
Legal activities	1, 2, 11, 33, 37
Legal editing	12
Library	12
Mails and files	12
Public relations and editorial service	12
Publications	12
Radio and periodical division	3, 10, 11, 34, 35, 38, 39, 135
Recommendations	14
Rules of practice	194
Secretary	10
Stenographic section	12
Supplies	12
Statement of policy	202
Trade practice conference division	10, 11, 127, 164
Federal Trade Commission Act:	
Cease and desist orders	58
Complaints	45
Court cases	90
Preliminary investigations	37, 41
Procedure under	33
Reference to	10, 35



	Page	
Federal Trade Commission Act--Continued.		
Section 5	1, 4, 33, 45, 81	
Section 6	2, 13, 27, 145	
Section 9	171	
Section 10	105	
Section 12	43, 110	
Section 13	43, 110	
Section 14	43 44, 111	
Stipulations	44	
Text of	177	
Types of practices	82	
Federal Trade Commission Act as amended. ( <i>see</i> Wheeler-Lea Act.)		
Fee & Stemwedel, Inc., Chicago	76	
Ferguson, Garland S., Commissioner	8, 10	
Fioret Sales Co., Inc., New York	90, 102	
Florida Hard Rock Phosphate Export Association, Savannah, Ga	146	
Flying Intelligence Service	75	
Food and Drug Administration	140	75Fo
Ford Motor Company	20	
Foreign trade work. ( <i>see</i> Export Trade .0225 Tw (8 Tw (8 Tf 0.0 TD 0.0069 Tc 8.0225 Tw 1 90, Lt as ame		

	Page
Letellier-Phillips Paper Company, New Orleans	74
Lewyn Drug, Incorporated, Hollywood, Calif	111
Lipman Brothers, New York	76
Lloyds Distributing Company, New York	78
Lock Joint Pipe Company, East Orange, N.J	74
Loesser, Frederick & Co., Inc., New York	76
Mackie Pine Products Company	147
March, Charles H., Commissioner	10
March of Time Candles, Inc., Chicago	90, 97
Master Lock Company, Milwaukee	80
McLean, A., & Son, case	10, 98
Meat packing investigation	167, 211
Miami Wholesale Drug Corporation, Miami Fla	80
Miller-Tydings Act ( <i>see also</i> Fair Trade Laws)	28, 50, 194
Millinery Creators' Guild, Inc., New York	105
Millinery Industry inquiry	9, 28
Minter Bros. & Douglass Candy Company, Philadelphia	90, 98
Misrepresentation cases	51, 75
Montgomery, Ward & Co	79
Moretrench Corporation, Rockaway, N. J	105
Morton Salt Company, Chicago	110
Motor vehicle industry	9, 12, 19, 215
Myles Salt Co., Ltd., New Orleans	110
Nash Kelvinator Company, Detroit	77
National Biscuit Company, New York	81, 105
National Bureau of Standards	140
National Candy Company, St. Louis	5, 90, 97, 99
National Federation of Textiles, Inc., New York	101
National Silver Company, New York	90, 106
Oliver Brothers, Inc., New York	5, 90, 106
Orders to cease and desist	3, 4, 36, 58, 166
Ostler Candy Company, Salt Lake City	97, 99
Phoenix Naval Stores Company	147
Phosphate Export Association, New York	146
Pillsbury Flour Mills, Minneapolis	107
Pipe Fittings & Valve Export Association, Philadelphia	146
Pittsburgh Plate Glass Company	73
"Pittsburgh Plus" case	109
Positive Products Company, Chicago	112
Post Office Department	139
Potash Company of America, New York	147
Potash Export Association, Inc., New York	3, 147
President of the United States	7, 9, 19, 28, 167, 171
Price discrimination	6, 109
Price-fixing agreements	3, 41, 46, 72
Public, No.78, 73d. Congress	2
Public, No.534, 75th Congress	171
Public Resolution:	
No. 61, 74th Congress	171
No.87, 75th Congress	19
No. 112, 74th Congress	171
No.113, 75th Congress	7, 15



	Page
Quality Bakers of America, New York	80, 107
Raladam Company, Detroit	107
Redwood Export Company, San Francisco	146
Reeves, Parvin & Co., Philadelphia	80
Resale price maintenance	50, 84
Resale price maintenance--1939, inquiry	9, 12, 27
Research Products Co., Cleveland Heights, Ohio	112
Ritholz, Benjamin D., and others	5, 90, 108
Robinson-Patman Act:	
Cease and desist order	78
Complaints	54
Court cases	94, 103, 106, 107, 109
Preliminary investigations	5
Procedure under	33
Progress under	5

	Page
United States Circuit Courts of Appeals--Continued.	
Second Circuit, New York	92, 94, 99, 100, 101, 102, 103, 105, 106, 108, 109
Third Circuit, Philadelphia	5, 91, 98, 98, 100, 103, 104, 109
Fourth Circuit, Richmond	101, 106
Fifth Circuit, New Orleans	109
Sixth Circuit, Cincinnati	101, 102, 107
Seventh Circuit, Chicago	91, 94, 97, 99, 100, 101
Eighth Circuit, St. Louis	93, 100, 105
Ninth Circuit, San Francisco	94, 95, 97
Tenth Circuit, Denver	97, 99
United States Code (48 Stat. 291, 15 U.S. CA., Sec. 46 (a))	2
United States District Courts	3, 5, 90, 105, 110-113
United States Potash Company, New York	147
United States Public Health Service	12, 140
United States Rubber Company, New York	79
United States Senate	9, 15
United States Steel Corporation	109
Universal Credit Corporation	21
Utility investigation	8, 167, 228
Walnut Export Sales Company, Kansas City, Kans	146
Webb-Crawford Company, The, Athens, Ga	80, 109
Webb-Pomerene Act. ( <i>See</i> Export Trade Act.)	
Western Auto Supply Company	79
Western Chemicals, Inc., Seattle	110
Wheeler-Lea Act	3, 4, 12, 34, 371 39, 42, 108, 110, 135, 140, 163
Wrisley, Allen B., & Co., Chicago	111
Zelle Company, The, Chicago	112