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FEBRUARY 8, 1938.

ADDRESS BY
HON. EWIN L. DAVIS, MEMBER OF FEDERAL TRADE COMMISSION
BEFORE THE
NINETEENTH ANNUAL CONVENTION OF THE
ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INCORPORATED,
AT THE WILLARD HOTEL, WASHINGTON, D. C.,
11:00 A. M., FEBRUARY 8, 1938.

TRADE PRACTICES

Annual Convention of your Association about the Federal Trade Commission and

its relation to trade practices.

The Federal Trade Commission is an independent, bi-partisan, administra-
tive and quasi-judicial tribunal, created by Act of Congress in 1914, upon the
recommendation of President Woodrow Wilson. The Commission is composed of five

Congress very wisely did not undertake to enumerate the various unfair methods against which the Act was directed; unfair competition is as infinite as human ingenuity, and constantly appears in new forms and guises

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Unfair methods of competition generally fall within two broad classes

First, those which involve an element of fraud and dishonesty, and,

The statute provides that Federal Trade Commission cases "in the Circuit Court of Appeals shall be given precedence over other cases pending therein, and shall be in every way expedited."

There is, too, the right of petition for certiorari by either the Commission or the respondent to the United States Supreme Court, and during its history, a considerable number of the Commission's cases have been carried to that tribunal.

A reversal of the Commission's orders by the Courts is a rare occurrence.

to the Commission's trade practice conference procedure. The purpose of the trade practice conference procedure is to afford industries a means whereby they may more effectively cooperate under Government supervision in the elimination of practices which are unfair and harmful. It mobilizes and implements the ~~forces for good~~ ~~to~~ ~~elevate~~ ~~the~~ ~~standards~~ ~~of~~ ~~fair~~ ~~dealing~~ ~~with~~ ~~the~~ ~~consuming~~ ~~and~~

Under this procedure, if a representative and substantial number of the

members of an industry propose a trade practice conference and the proposal appears feasible to the Commission, a conference is arranged for the consideration of the problems of the industry. With the aid and counsel of members of the Commission's staff, trade practice conference rules covering the problems are formulated, considered, and such as may be adopted are submitted to the Commission for its consideration. The Commission frequently suggests revisions in the proposed rules, in which event the revised rules are referred back to the industry for further consideration. The rules are entirely voluntary, so that no member of industry is under any compulsion to agree thereto. If the Commission finds that the rules as finally proposed are in conformity with the law, it gives its approval. Upon such approval, the rules are submitted by the Commission to each member of the industry who is afforded an opportunity to signify his agreement to abide by the rules in the conduct of his business. It is also customary for the industry to appoint a trade practice committee to

Generally speaking an overwhelming majority of the members of an industry are honest and are desirous of employing only fair and honorable methods.

~~These conference agreements usually lead to prompt abandonment of unfair practices.~~

Among trade practice conference agreements for industries, which have been approved by the Commission and are now in effect, in which members of your Association are probably interested, may be mentioned the following industries: Electrical Contracting, Fabricators of Ornamental Iron, Bronze and Wire, Face

HUMAN NATURE

The vast majority of members of industry are honest and ethical. However,

who persist in sharp practices. It has ever been thus. The desire to possess, a generally prevalent human instinct, has resulted in the employment of unfair and predatory practices throughout the life of mankind.

As aptly expressed by Kipling:

We are very slightly changed
From the semi-apes who ranged
 India's prehistoric clay;
Whoso drew the longest bow
Ran his brother down, you know,
 As we run men down to-day.

Met the Mammoth face to face
 On the lake or in the cave,
Stole the steadiest canoe,
Ate the quarry others slew,
 Died - and took the finest grave.

When they scratched the reindeer-bone,
Some one made the sketch his own,
 Filched it from the artist - then,
Even in those early days,
Won a simple Viceroy's praise
 Through the toil of other men.

It has too often been not a question of the "survival of the fittest" but

of the Commission that it was established in the belief that "an ounce of pre-