

ANNUAL REPORT  
OF THE  
FEDERAL  
TRADE COMMISSION

FOR THE

FISCAL YEAR ENDED JUNE 30, 1918

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1918

FEDERAL TRADE COMMISSION.

WILLIAM B COLVER, *Chairman.*

JOHN FRANKLIN FORT.

VICTOR MURDOCK.

LEONIDAS L. BRACKEN, *Secretary.*

JOSEPH E. DAVIES,

Resigned March 18, 1918.

WILLIAM J. HARRIS,

Resigned May 31, 1918.

## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION.

WASHINGTON, D. C., *November 15, 1918.*

*To the Senate and House of Representatives:*

In compliance with statute the Federal Trade Commission herewith submits to Congress its annual report for the fiscal year ending June 30, 1918.

On account of the war and the industrial conditions developed thereby the work of the Federal Trade Commission was largely increased during the fiscal year. Not only was the economic and legal work greatly extended along lines already developed by the Commission but also certain entirely new duties were imposed upon the Commission by recent legislation, namely, with respect to alien enemy patents and to export associations (under the Webb Act).

### ECONOMIC INVESTIGATION.

The increase in the work of economic investigation was chiefly the result of the war necessity of regulating prices. In order that such regulation could be intelligently done by the constituted authorities, information with regard to production, costs, and investments was indispensable.

The President having regard to this fact and the statutory powers of this Commission directed that where cost information was needed the various branches of Government requiring such information should obtain it through this Commission.

Another important cause for the increase in the economic work of the Commission was the undertaking of an extensive food investigation which was directed by the President and for which Congress made a special appropriation of \$250,000. The information obtained through this investigation also was made available to other branches of the Government in connection with the special regulation of industry made necessary by the war and the cooperation of the Commission in this direction has been frequently sought and given.

### PRODUCTION COSTS OF COMMODITIES.

Among the various branches of the Government to which reports have been rendered on production costs of commodities or other economic and industrial problems of immediate importance in the conduct of the war may be mentioned the War Department, the Navy Department, the War Industries Board, the Fuel Administration, the Food Administration, the Shipping Board and the Emergency Fleet Corporation, the Railroad Administration, the Department of Agriculture, the Department of Justice, the Post Office Department, and the Government Printing Office.

The broadest possible contact has been established between the Commission amid the various branches of the Government which are

concerned either with the immediate conduct of the war or with the mobilization and conservation of the economic forces and resources of the country which insure its effective prosecution.

Probably the most conspicuous feature of the work of the Commission during the past year has been in the ascertainment of the costs of production of commodities for the War and Navy Departments, the War Industries Board, and various other branches of the Government mentioned above. A mere enumeration of the products, the costs of which have been reported on, would be too tedious for this report, but among the principal groups of products may be mentioned particularly those of the following industries: Coal, iron and steel, petroleum, nonferrous metals (such as copper, lead, and aluminum), brick, cement, and similar building materials, lumber, textiles, paper, leather, cottonseed products, flour, bread, meat, canned vegetables, and fruits.

Numerous reports on costs and related information on these various classes of commodities have been submitted to the respective branches of the Government which are concerned in making purchases for the Government and its allies or in fixing maximum prices for their sale to the Government and the public (see p. 10). The conduct of this work by the Commission was directed by the President not merely on account of its statutory powers to make effective investigation and its experience in such work, but also because by such concentration it was possible to obtain greater uniformity of method and economy and convenience in execution. It prevented a great wasted effort by duplication of work on the part of the Government, and for the same reason also greatly reduced the inconvenience to the various industries affected by such investigations.

In obtaining such cost information the Commission found it necessary to enlarge its staff and to reorganize it. The number of accountants employed was increased about tenfold and amounted at the end of the year to nearly two hundred, including all grades.

Much difficulty has been found in ascertaining costs in several industries because of the deficient accounting methods in use, but the Commission has been greatly aided on the other hand by the attitude of the business concerns visited or from whom reports were required, which was generally cooperative and patriotic. The cost principles recognized and applied by the Commission have received almost universal assent, being based on the best accounting practice. Indeed the Commission's aid in revising or installing cost systems has often been sought by representative organizations in various industries, but the Commission has limited its activities in this direction to such steps as were necessary in order to perform its own immediate duties.

In conjunction with representatives of numerous other branches of the Government service in Washington, efforts have been made to standardize Government accounting methods particularly with relation to the cost accounting problems raised by war activities and the purchase of commodities by the Government.

#### FIXING PAPER PRICES.

A peculiar duty was imposed on the Commission as the result of an agreement between the Attorney General and certain paper manufacturers who had been prosecuted in the courts for violation of the

antitrust laws. By this agreement the Commission was made an arbitrator to decide on a fair selling price for newsprint paper sold by the 10 manufacturers in question. The Commission undertook this unsought duty and after extensive direct investigation and full hearings of the testimony of experts and of the arguments of counsel for the manufactures and the consumers of newsprint, the Commission made decision as to prices.

Under the terms of the agreement a reopening of the case could be made under certain conditions and the manufactures have filed requests for revision of the decision (see p. 17). The matter was pending at the close of the fiscal year.

#### FOOD INVESTIGATION.

During the fiscal year under report, but before the United States entered the war, the President directed the Commission to undertake a general food investigation Congress made a special appropriation for the purpose. The investigation was directed to be made in cooperation with the Department of Agriculture.

Four principal subdivisions were made of the Commission's part of the investigation, namely, the meat industry, the grain trade, the flour industry, and the canning industry.

The flour and vegetable canning industry investigations were essentially cost-finding operations.

While an extensive investigation has been made of the grain trade, including the grain exchanges, the work has not been completed.

#### MEAT INVESTIGATION.

The meat industry was the most important part of this investigation and presented complex problems. Members of the Commission gave this work their personal attention and direction in an unusual degree, especially in matters that indicated unfair competition, attempts to monopolize or other violations of the law. In this aspect of the work they were assisted by Mr. Francis J. Heney, as special counsel.

In spite of all difficulties encountered, the Commission found evidence that unlawful combination and conspiracy were practiced by the five largest meat packers, and that collectively they held a dominating or monopolistic power in the meat business.

Furthermore, it was made evident that the meat packers were using their enormous power and wealth to extend their control into many branches of the food business wholly unrelated to the business of meat and its by-products.

A summary of the report of the meat investigation was issued just after the close of the fiscal year and the recommendations made therein are given below (see p. 25).

#### WORK DISCONTINUED.

Certain other economic investigations or parts of investigations which had been projected or initiated, were dropped or discontinued after the outbreak of the war, because of the diversion of the Commission's activities to pressing war work. The

delay was

not serious, however, because the industrial and commercial conditions were too abnormal to make such investigations profitable.

Among such parts of investigations may be mentioned certain fundamental problems of the coal industry, apart from the war work as to cost of production which could only be satisfactorily studied under more normal conditions.

A general investigation of trade associations, an extension of cost educational work previously undertaken and the development of more comprehensive corporation and industry reports were set aside or not undertaken because the Commission's resources and strength were fully absorbed in more immediate tasks.

### UNFAIR METHODS OF COMPETITION.

The work of the Commission in enforcing the law against unfair methods of competition has grown as the country has become more familiar with the duties laid upon the Commission by its organic act. Business men have invoked the Commission's process and applications for complaints, alleging unfair practices were filed during the fiscal year ended June 30, 1918, resulting in the issuance of 154 complaints in the public interest as against the issuance of 9 formal complaints the preceding fiscal year. To these 154 complaints should be added 10 cases which were pending at the beginning of the fiscal year, a total of 164. Of these complaints, 78 were disposed of during the fiscal year; 71 resulted in orders to cease and desist from the unfair methods of competition complained of; 68 being the result of consent decrees; 7 were dismissed after further investigation or hearing as provided by law; in 3 cases orders to cease and desist were issued without the consent of the respondents; and 86 were still pending on June 30, 1918.

The law requires the Commission to issue formal complaint in all cases if it has "reason to believe" that the party complained against "has been or is using any unfair method of competition in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public." The law provides further that a hearing shall be had after the complaint has been issued and not before. The work of the Commission under this provision of the law, together with its enforcement of other provisions of law vested in it, in early suppressing practices, often minor, which, if unrestrained, later grow into major restraints of trade and into monopoly, is actually and potentially resulting in more freedom of trade and in a definite arrest of monopolistic concentration of control in industry and commerce.

While it is difficult among the great variety of cases to single out any particular group as the most important, nevertheless the Commission calls especial attention to two kinds of unfair methods of competition, namely, commercial bribery and resale price maintenance.

### COMMERCIAL BRIBERY.

A wide-spread and insidious unfair method of competition is commercial bribery which takes various forms, but chiefly the secret payment of money or the giving of things of value to employees of competitor's customers or prospective customers to cause them to in-

fluence their employers in buying goods, or the lavish entertainment of such employees or the loaning of money to them for the same purpose.

Such practices have frequently been made the subject of penal legislation, both in this country and in foreign countries but there are no such penal Federal laws. The Commission is empowered to meet such practices only with an order to cease and desist. Punishment for the violation of such orders rests with the courts.

This duty has been discharged by the Commission in the case of commercial bribery in numerous instances and with beneficial results. In one industry, for example, the action of the Commission resulted in extensive cooperation with the part of many concerns engaged therein to extirpate this practice in which they themselves had participated but in which they claimed they had been practically compelled to engage by reason of the practices of unscrupulous competitors.

#### RESALE PRICE MAINTENANCE.

Another unfair method of competition of great interest at this time is that known as resale price maintenance, that is, acts relating to attempts by the seller to control the price at which the buyer resells the same goods, either by contract, understanding, or refusal to sell to parties who do not maintain the resale prices insisted upon.

In the Cudahy case the Commission found that resale price maintenance was unfair to competing manufacturers not maintaining prices, to competing dealers not maintaining prices and to the public generally. Such attempts have been held by the Supreme Court of the United States to be in violation of the antitrust laws.

The Federal Trade Commission regards a method of competition violative of the law as being, per se, an unfair method of competition.

This does not preclude the Commission from holding certain forms of price cutting as unfair methods of competition, especially where such price cutting has as its aim, either a malicious injury to others, or an attempt to monopolize any branch of trade.

Normal competition in prices, whether in cases of resale or otherwise, is, in general, a healthy condition of trade and in the dealings in many commodities, even marked reductions in prices are proper where it is necessary to dispose of stocks, as for instance, by reason of seasonal conditions of the trade. In connection with these cases, special reference is made to the findings of fact and the order in the case of the Commission *v.* Cudahy Packing Co. (Exhibit 8.)

#### ALIEN ENEMY PATENTS.

Under the trading with the enemy act approved October 6, 1917 the Commission was designated by the President to perform certain duties prescribed in the said law. Among other things, the Commission was thus authorized to license citizens of the United States and corporations organized under the laws of this country to make and sell articles controlled by an enemy or ally of an enemy patent, copyright, or trade-mark, and further to order that an invention made in this country should be kept secret and grant of



patent withheld until the end of the war, where publication of the invention might be detrimental to the safety of the country.

The Commission has performed these duties in active cooperation with other branches of the Government and especially the War Trade Board, the Military Intelligence Division of the General Staff of the Army, the Naval Intelligence Section of the Navy, the Alien Property Custodian, and the Commissioner of Patents.

In connection with this work a great deal of information was obtained regarding enemy control of domestic corporations, and various investigations were also made with respect thereto. Reports were required from 628 corporations, and reports were received from 1,736 stockholders therein. This information which disclosed the fact that many corporations were secretly controlled by alien enemies was placed at the disposal of the Alien Property Custodian.

As a result of the work of the Commission with regard to enemy patents many valuable commodities were made available to the people and to the military forces of this country. A striking example is found in the case of the medicament known as "Salvarsan" or "606." This important medicament was licensed for manufacture in adequate quantities in this country and with resulting prices much below those previously prevailing. In the industrial field another important illustration of the results of this work is found in the licensing of manufacturers to produce aniline or coal-tar dyes under numerous enemy patents.

Certain defects in the present laws relating to these matters have been suggested by the Commission and have been embodied in a bill now before Congress. (Senate No.3523.)

#### EXPORT ASSOCIATIONS.

Comparatively few associations filed such reports during time fiscal year ended June 30, 1918, the total number being 48. Of these only a few apparently are associations of much importance from the point of view of the magnitude of the business involved. It is probable that the war, with the enormous demand for goods of all kinds and the difficulty of getting cargo space, has made the formation and operation of such associations at this time either superfluous or impracticable.

In conducting this work the Commission has cooperate especially with the Bureau of Foreign and Domestic Commerce of the Department of Commerce.

There are important legal questions which may arise in the interpretation of this law, the judicial decision of which will greatly affect its operation, both with regard to the efficacy of such associations in achieving the purposes apparently intended by Congress, and with respect to the ultimate effect of such associations on conditions of domestic competition. There are also important questions of international policy involved.

Some criticism of this law has been made in South American countries, particularly in the Argentine Republic, both as to questions of international comity and as to the justice of making one rule regarding combinations in restraint of foreign trade and another rule for combinations in domestic trade.

Attention will be given to the fact that, while the law's benefits are strictly limited to corporations or associations solely engaged in

export trade, a great majority of concerns incorporated to operate under the law have asked for charter powers for a great many other activities some extremely removed from any relation to foreign trade.

#### THE COMMISSION.

By reason of the resignation of William J. Harris, chairman, on May 31, 1918, and of Joseph E. Davies, on March 18, 1918, two vacancies were created in the Commission which were not filled during the fiscal year. William B. Colver succeeded to Mr. Harris as chairman of the Commission. John Franklin Fort, whose first commission expired on September 26, 1917, was renominated by the President, and his appointment was duly confirmed by the Senate. Victor Murdock was nominated by the President and confirmed by the Senate as commissioner to fill the vacancy created by the death of Will H. Parry, who died in the preceding fiscal year.

The personnel of the Commission was increased during the fiscal year from 193 on July 1, 1917, to 689 on June 30, 1918. Many resignations occurred on account of the entry into military service, the total number during the fiscal year amounting to 49. In order to expedite the greatly increased work of the Commission and to take general care of new functions imposed by law on the Commission, a reorganization of the staff was effected, and small branch offices were established in New York, Chicago, and San Francisco.

The Commission desires to give public commendation to its staff for the diligence shown in the performance of its duties. The pressing nature of much of the Commission's work, notably that of cost determination, has been required by the war-making and emergency agencies of the Government at unavoidably short notice. The staff of the Commission has patiently and cheerfully responded to demands for night work, holiday work and a vast majority have voluntarily surrendered all or a greater part of their annual leaves.

#### ECONOMIC DIVISION.

On account of the industrial problems developed by time war the work of the Economic Division during the fiscal year ended June 30, 1918, was of increased importance.

This was due primarily to the determination of the costs of production of a great variety of commodities and also in part to the investigation of the chief food industries of the country, directed by the President and authorized by Congress.

In the ascertainment of costs of production, the Commission responded to calls for essential information, not only on costs, but also on investment, profits, and various other economic factors in the industries examined.

Investigations and reports have been requested by the President, the Senate, and various executive departments and offices, including the War Department, the Navy Department, the War Industries Board, the Fuel Administration, the Food Administration, the Shipping Board and Emergency Fleet Corporation, the Railroad Administration, the Post Office Department, and the Government Printing Office. Moreover, a Federal court imposed upon the Commission the duty of determining the costs of production of news-print paper for certain companies and fixing their selling prices.



The extensive cost-finding work made necessary a sudden and large increase in the accounting personnel of the Commission, for which only a nucleus existed at the beginning of the fiscal year. While an exact classification and comparison is impossible, it may be said that the accounting, as distinguished from the clerical force, was increased tenfold during the year.

A relatively brief statement is given below regarding the origin, character, and scope of these tasks. A list of the more important reports made to other branches of the Government is given on page 29. In most cases these reports are not published and are for the confidential use of Government agencies.

### COST DETERMINATIONS.

The cost determinations described below were required by various governmental authorities as specifically indicated. Most of them are now being conducted for the War Industries Board and in that case are so stated, whether they were originally requested by the War Industries Board or by the National Council of Defense, to whose duties in this connection the War Industries Board succeeded.

In some cases an inquiry has been begun in one connection and subsequently continued in another. Thus, the leather investigation was originally initiated by the Commission, but later the main part of the work on leather was done for the War Industries Board. The work on flour, originally a part of the food investigation, became a form of cooperative work with the Food Administration. So also the meat investigation has involved in certain matters a considerable degree of cooperation with the current administrative work of the Food Administration.

In many cases the cost determination originated in requests for the costs of particular companies for a specific period, but for most of the important industries the cost work has gradually assumed the character of continuous work with periodic reports.

A list of the chief cost findings follows. Some of the larger ones embrace a number of important subdivisions:

Coal, including anthracite and bituminous.

Petroleum, including crude oil and refined products.

Nonferrous metals including copper, lead, zinc nickel, and aluminum.

Mineral building materials, including sand and gravel, cement, fire brick hollow building tile, and common brick.

Lumber, including ship timbers, aircraft timber, other specialties, and ordinary lumber.

Steel, including iron ore, coke, pig iron, crude steel, rolled steel, and other steel products.

Farm operating equipment, including various kinds of farm machinery.

Textiles, including cotton goods and trading in woolens.

Paper, including newsprint, book, chip board, and Government stationery.

Leather and shoes, including sole, upper, and harness leather and various kinds of shoes.

Cotton seed, including ginning and crushing.

Lard substitutes.

Military food supplies, including canned and dried food.

Chestnut tanning extract,

Boxes and containers.

Bread.

Sisal binder twine.

Locomotives.

Sulphur.

Sulphuric acid.

Shipbuilding.

## COAL.

Investigation by the Commission into the coal industry was began during the preceding fiscal year. During the fiscal year ending June 30, 1918, various important developments in the work have taken place.

*Anthracite.*--In the last annual report a description was given of the measures taken by the Commission to control the anthracite price situation. This was a system of quasi-regulation, carried on through cooperation with the mine operators and the distributors. It was effected through the exercise of the Commission's legal powers in requiring reports to be filed with it at stated intervals, setting forth certain details of their transactions.

This cooperation was so effective that up to August 23rd, when anthracite prices were fixed by Executive order, less than one-fourth of 1 per cent of the anthracite output was sold at prices in excess of those indicated or suggested by the Commission.

Shortly after the passage of the Lever Act in August, 1917, the Commission was called upon by the President to furnish information to be used by him in the first fixing of anthracite coal prices under the said act on August 23, 1917.

At its request the Fuel Administration has been furnished from time to time with cost data and other information bearing on anthracite production. The cost information has been collected through a system of cost reports made by the operators to the Commission. The reports are on detailed forms prescribed and furnished by the Commission. The Commission has records showing the costs in detail, from January, 1917, through June, 1918, of 146 companies which produce all of the anthracite tonnage in Pennsylvania.

*Bituminous coal.*--In the last annual report of the Commission mention was made of several special inquiries then underway into the cost of production of bituminous coal. Agents of the Commission examined the books of the mine operators. During the early part of the past fiscal year this field work was extended to cover producers in Illinois, Wisconsin, Kentucky, Montana, and Michigan. The Commission secured directly from the books of the companies cost information concerning 280 companies which produce about 85,000,000 tons annually.

While this work was in progress, the Commission was called upon by the President to furnish information to be used as a basis for the fixing of bituminous coal prices under the Lever Act. Several conferences were held between the President and the Commission. A table of prices was promulgated by Executive order August 21, 1918. These prices were made provisional only, with a view to subsequent revision. After its organization, the Fuel Administration made, from time to time, certain revisions. These revisions were generally to take care of exceptional local conditions, and the tonnage involved was relatively small. The prices fixed on August 21 by Executive order remained substantially unchanged 1 (except for the addition of 45 cents based on a wage increase Nov. 1, 1917) until early in April, 1918, when a general revision of prices of

1 Dr. Garfield testified on Dec. 26 before the Senate Committee on Manufactures that up to that time there had been 40 revisions in bituminous coal prices and that only 3 ½ per cent of the total value of the tonnage had been

affected by such changes. (Shortage of Coal Hearings, S. Rept. 163, p. 60)

bituminous coal was put into effect by the Fuel Administration. This general revision was based on cost information collected by the Federal Trade Commission from mine operators, through a system of monthly coal reports similar to that used for determining anthracite cost of production. This revision was made necessary by radically changed conditions of production not existing prior to August 21, 1917.

The principal producing districts of Pennsylvania, West Virginia, Ohio, Indiana, Illinois, Kentucky and 11 other States are represented. The Commission has reports from about 3,200 companies (inclusive of the foregoing) showing their claimed costs by months continuously from August, 1917, through May, 1918. The tonnage covered by such reports comprises over 530,000,000 tons of annual production, or about 95 per cent of the total annual bituminous coal production, and include all bituminous coal producing districts.

*Coal docks.*--Agents of the Commission, at the request of the Fuel Administration, also secured from the books of 23 Great Lake dock companies cost information on the basis of which dock charges were revised by the Fuel Administration.

*Trade regulation.*--In the last annual report mention was made of the system of reports through which the Commission's quasi-regulation of anthracite prices was made effective. At the request of the Fuel Administration this work of collecting information necessary for the regulation of distribution was not only continued but was enlarged to include the collection of similar information covering the jobbing and retailing of bituminous coal. Some time after the organization of the system of State Fuel Administrators, the part of the work relating to retail distribution was placed in their hands.

*Transfer of activities to Fuel Administration.*--At the request of the Fuel Administration Commission agents were assigned to the various State Fuel Administrators, under whose direction they investigated alleged violations of the Fuel Administration's regulations, and cooperated in every way.

It was desirable that all enforcement of regulation should be under the direct control of the Fuel Administration, and this was made possible by the Overman Act, under which, by Executive order, that part of the Commission's force engaged in enforcement work was transferred to the Fuel Administration.

The work of collecting cost information both for anthracite and bituminous coal continues under the Federal Trade Commission, and the work of the Commission in aid of the Fuel Administration has constantly grown in volume and importance.

A further account of the work of the Federal Trade Commission concerning coal may be found in testimony before the Senate Committee on Manufactures.<sup>1</sup>

## PETROLEUM.

The petroleum investigation previously undertaken by the Commission was practically suspended on account of work made necessary by the war.

<sup>1</sup> Coal hearings, Senate R. 163, 65th Cong., pp. 82-164, 283, 288, 822-861, 881-901, 907-938, 940-948.

*Refined products.*--The Navy Department, being unable to secure satisfactory bids for supplying fuel oil for the fiscal year 1917-18, required from the Federal Trade Commission information of the cost of producing fuel oil and gasoline, as a basis for determining reasonable prices.

This work was first carried on by agents in the field, being supplemented later by both schedules and field work. Costs were obtained from 162 refiners whose production comprised about 85 per cent of the total for the entire country. As obtaining the cost of refined products on a strict cost accounting basis would not be useful for fixing prices, because some of the most valuable products normally cost the least to produce, the Commission followed the method of allocating the total cost of refining to the different products on the basis of the yield and value of each at the refinery. Costs were determined in this manner for June, August, September, October, and December, 1917, and the first quarter of 1918.

From time to time the results of the Commission's cost determination have been furnished to the Navy Department and to the War Industries Board.

*Crude petroleum.*--This work has been conducted with a view to securing complete data on the cost of producing crude petroleum in the different oil fields during 1917, and in this connection all the principal producing companies have been canvassed. The work was performed by the Commission's agents, who visited the producing companies and in most instances secured the data directly. Costs were secured from 58 companies having about 60 per cent of the total production. Owing to the agitation incident to the advance in the price of crude at the wells during the fiscal year, special effort was made to secure precise data concerning the prices of all principal oil-field materials and supplies from leading manufacturers.

### NONFERROUS METALS.

The Commission's cost finding of nonferrous metals was originally undertaken partly at the request of the Navy and partly at the request of the War Industries Board, but subsequently all the work was consolidated and reports made to the War Industries Board. The metals covered were copper, lead, zinc, nickel, and monel metal and aluminum. In each case the cost of producing the metal was determined, together with the cost of the main semi-finished products manufactured from the metal, and this information was supplemented by the ascertainment of investment and average price realized.

The War Industries Board in making agreements with the producers of the several metals concerning the maximum prices at which they would sell either to the Government or the public, proceeded upon the basis of the Commission's cost and investment figures. The facts were generally obtained by direct audit of the companies' books, such audits being supplemented by cost schedules to be filled in and certified by the companies.

*Copper.*--The Commission is now covering 101 copper companies producing over 2,000,000,000 pounds of refined copper, or approximately 88 per cent of the total refinery output of the United



States. The costs cover mining, smelting, and refining. A report was also made concerning the differential to be allowed for the casting of copper in different shapes.

*Lead.*--But one report was made concerning lead costs, as the conditions in the industry did not require price fixing. This report covered 18 companies producing approximately 75 per cent of the total lead output of the United States.

*Zinc.*--Several reports concerning the cost of zinc were made to the War Industries Board, covering not only zinc smelter, but also high-grade zinc, and zinc plates and sheets. On the basis of the cost and investment figures contained in these reports, the War Industries Board entered into a price fixing agreement with the industry covering all these different commodities. The Commission, at the request of zinc ore mine owners, made an examination of the cost of producing zinc, especially in the Joplin, Mo., *district*. *Nickel.*--One company produces over 90 per cent of the nickel and all of the monel metal in the United States. The Commission re-ported to the War Industries Board on the costs of this company from time to time.

*Aluminum.*--This metal is practically all produced by one company, the Aluminum Co. of America, which is also the largest producer of the semifinished material. Its operations extend from the mining of bauxite to the manufacture of finished wares and costs were ascertained and reported for the various stages of production.

*Adjustments between miners and smelters.*--On account of numerous complaints received from western mine owners, and particularly those received from small copper miners in Arizona, the Commission inquired into the relation between miners and smelting companies. The Commission by conference with representatives of the largest copper smelting companies secured revisions in aid of the complaining producers. A like situation as to the smelting of silver was similarly solved. These matters involved the confusing mass of penalties, bonuses, deductions and treatment charges, and substituting therefor, in so far as practicable, a straight treatment charge made with due regard to cost.

#### MINERAL BUILDING MATERIALS.

Cost determinations were requested by the War Industries Board with regard to various mineral building materials, especially sand and gravel, cement, and various forms of brick and tile.

*Sand and gravel.*--The marketing of sand and gravel is essentially a local question, and cost findings were made in several centers, such as Washington, Baltimore, and New York, by special audit.

*Towing.*--In this connection also the question of towing charges is often of great importance, so that the Commission has sometimes had to determine the cost of these operations.

*Cement.*--The costs of cement production have been found in all the principal districts from the Atlantic to the Pacific coast, involving 97 companies and about 95 per cent of the total output, and reported to the War Industries Board.

*Fire brick.*--Information on the cost of fire brick, an important material used in furnace construction, was requested by the War Industries Board with a view of fixing maximum prices costs were obtained for about 80 per cent of the total production.

*Hollow building tile* --The costs of hollow building tile were found for the use of the War Department and later for the War Industries Board in fixing prices. About 90 per cent of the total output was covered.

*Common brick*.--Just at the close of the fiscal year the War Industries Board requested information on the costs of common brick.

## LUMBER.

The first investigation into lumber costs was made at the direction of the President with a view especially to material for shipbuilding, and at the request of the Shipping Board.

*Ship timbers*.--This investigation covered chiefly yellow-pine ship timbers in the South and fir on the Pacific coast.

*Lumber*.--At the request of the War Industries Board, for price-fixing purposes, various investigations were made into the cost of lumber. The costs were generally obtained for each month together with data as to the investment. Thus yellow-pine costs were ascertained in 10 Southern States covering about 136 mills with an annual output of about three one-half million feet. Fir, spruce, and hemlock costs for loggers were obtained on the Pacific coast for about 40 companies having an annual output of about one one-half billion feet. Hemlock costs were secured from Pennsylvania mills with an annual output of about 200,000,000 feet. Spruce costs in New England were obtained from about 25 companies with an output of 250,000,000 feet. *Retail yards*.--A special investigation was also made of the costs of handling lumber in retail yards in or near New York City, Boston, Philadelphia, Newark, and Baltimore. About 60 companies were examined, handling some 600,000,000 feet per annum.

## STEEL.

The steel involved the costs of production of iron ore, coke, pig iron, crude steel, rolled steel products, and certain other more highly manufactured products. There are more than 100 subdivisions of products included in the classification.

The work was initiated at the direction of the President in the preceding fiscal year, attention being directed at first to steel used for shipbuilding, namely, plates and shapes. This involved the determination of the costs of the raw materials and semifinished products. Later the number of products was increased.

The work at first was conducted by direct audit of the books of the chief steel manufacturers by the accountants of the Commission.

During the month of August, 1917, examiners were sent to Cleveland to find the cost of iron ore. On August 10 the Commission sent out a request for coke cost reports for 1916 and 1917. These, together with iron ore and various important steel products, were compiled and the first report was presented to the War Industries Board on September 8, 1917, covering ore, coke, pig iron, crude steel, and certain steel products for the year 1916, and either May or June, 1917. The month shown for 1917 was the latest for which data could be obtained.

On November 20 the Commission sent out a request to approximately 400 iron, steel, and coke companies directing them to send in monthly copies of their cost sheets for all commodities produced, beginning with the month of October. These data for the month of October were compiled and reports submitted to the War Industries Board on December 21, covering ore, coke, pig iron, crude steel, and numerous steel products.

The compilation of monthly costs has been continued and further general reports were rendered to the War Industries Board on March 18, 1918, and June 18, 1918.

The costs of production were thus determined for a very large proportion of all the principal products, often in excess of 90 per cent of the total output. Inquiry has been made furthermore into time prices actually received for different products, because within each commodity group for which average costs only are generally ascertainable there are numerous different grades, sizes or specifications, and corresponding differentiation of prices. It sometimes happens that while the average cost is below the base price the actual prices received (which include extras on account of the particular specifications of material) average more than the costs, and sometimes much more.

*Special investigation.*--In addition to the monthly cost referred to above the Commission has undertaken the investigation of the costs of special products of particular companies for various branches of the Government. Among these may be mentioned the following:

- Shell steel, for the War Industries Board.
- Shell steel, for the Navy Department.
- Forging, for the Navy Department.
- Wire rope, for time Navy Department.
- Special alloy steel, for the Navy Department.

A number of other special audits of individual companies have been made for use in compiling the quarterly report to the War Industries Board. At the end of the fiscal year the following special inquiries were in progress:

- Cast-steel slugs.
- Agricultural steel.
- High-speed tool steel.
- Lake iron ore.

The steel investigation is one of special difficulty on account of the large number of products and the complex organization of the industry. On the other hand, the fact that the leading steel companies have very generally adopted approved cost-accounting methods has facilitated the performance of the work

#### FARM OPERATING EQUIPMENT.

Just at the close of the fiscal year by a resolution of the Senate (Senate resolution No. 223, 1918) the Commission was directed to investigate the causes of the high prices of farm machinery, whether such prices prevented the farmers from making a fair profit, and whether the manufacturers were resorting to any unfair methods of competition. This work is in progress and includes (a) schedules upon which prices paid by farmers should be entered; (b) schedules upon which

retail dealers should report the prices paid and received and their expenses of doing business; and (c) questionnaires and forms for manufacturers to ascertain their costs of production and selling expenses for particular machines and their investments and profits in the farm machinery business as a whole.

### TEXTILES.

In accordance with requests from War Industries Board certain investigations have been made with regard to textiles.

*Cotton gauze.*--The first matter related to the cost of production of cotton gauze cloth for which an order had been placed with the mills of a certain locality. These mills were not willing to undertake the manufacture at the prices suggested by the Government. After preliminary examination certain suggestions were made regarding the distribution of the order which resulted in an adjustment of the price question, and with evident saving in the expense of production. Subsequently, a special arrangement was made with gauze cloth mills in another locality by which the prices were made contingent on the costs of production. In this case the Commission prepared a form of cost report to be made by the mills working on this order.

*Cotton duck.*--An examination was also made of the costs of cotton duck or canvas at a number of typical mills in different sections of the country. The information was obtained partly from cost statements submitted by the companies and partly by a direct audit of the books of certain companies. A report thereon was submitted to the War Industries Board in April.

*Cotton textiles in general.*--It was found, however, that the cost-keeping methods of a considerable proportion of cotton mills was so deficient that could not readily supply the desired information, especially regarding fabrics of particular constructions or specifications. Inasmuch as the War Industries Board found such information indispensable, the Commission proceeded to organize a system of cost reports for cotton textiles in general with instructions as to the manner in which they should be prepared.

*Woolen piece goods.*--Owing to evidence of injurious speculation in and hoarding of woolen piece goods, especially by concerns which previously had not been engaged in that trade, the War Industries Board requested the Commission to investigate the transactions of a large number of such dealers. The initiation of this investigation reduced the speculative hoarding of woolen piece goods.

### PAPER.

*Trade reports.*--During the last half of 1917 the Commission undertook the collection and compilation of statistics for the newsprint and book-paper industries, partly in order to supply certain trade information formerly furnished by a trade association which had been dissolved by judicial decree. In 1918 this service was extended to cover all paper and pulp mills in the United States. Summaries of the statistics are issued monthly for the information of various branches of the Government as well as for manufactures distributors, and consumers.



*Price fixing.*--In December, 1917, the matter of fixing the price of newsprint paper for 10 companies in the United States and Canada was referred to the Commission by the Department of Justice. These companies, in settlement of a suit against them for alleged violation of the Sherman Law, entered into an agreement with the Attorney General dated November 26, 1917, which provided that the Federal Trade Commission should fix the price and terms of sale of their output of newsprint paper sold to publishers in the United States beginning April 1, 1918, for the duration of the war and three months thereafter. In the case of one company and its subsidiary the price was to be fixed as of January 1, 1918. The Commission, after making a through investigation of the costs of these companies and holding extensive hearings, on June 18, 1918, announced the following prices effective as of April 1, 1918:

Roll news in car lots, \$3.10 per 100 pounds, f. o. b. mill.

Roll news in less than car lots, \$3.225 per 100 pounds. f. o. b. mill.

Sheet news in car lots, \$3.50 per. 100 pounds, f. o. b. mill.

Sheet news in less than car lots, \$3.625 per 100 pounds, f. o. b. mill.

The agreement which these 10 manufacturers made with the Attorney General provided that they might appeal the findings of the Commission to the Circuit Court for the Second District of New York for review. This they did. The agreement also provided that either the manufacturers or the publishers might ask the Commission for a readjustment of the price if conditions warranted. The manufactures availed themselves of this privilege and asked for a readjustment of the price as of May 1, June 1, and July 1, 1918, on account of the increase in wages granted by the National War Labor Board effective May 1, the increase in freight rates ordered by the United States Railroad Administration effective June 26, and claimed increase in wood costs. Evidence has been taken regarding these increases but the Commission's decisions had not been rendered at the close of the fiscal year June 30, 1918. It should be noted that in this case the Commission acted as the arbitrator named in the agreement and not unclear any of the powers conferred upon it by law. The Commission has no price-fixing powers and, therefore, its finding ran only to the parties to the agreement.

*Special paper inquiries.*--During the first half of 1918 the Commission undertook a number of special paper investigations for various branches of the Government. These included:

1. General survey of paper industry for the Fuel Administration.
2. Investigations of the changes in prices and costs of certain manufacturers under contract with the Government Printing Office.
3. Investigations of the changes in costs of various manufactures of envelopes and other supplies furnished the Post Office Department under contract.
4. Investigation of the costs of chip-board containers for the War Department.
5. Various inquiries for the pulp and paper section of the War Industries Board.

#### LEATHER AND SHOES.

*General investigation.*--The investigation of the meat industry, directed by the President (see p.22), led to a general inquiry into conditions in the hide market, in the production of leather, and in the manufacture and sale of shoes. The Commission made an extensive inquiry into the manner in which hides are bought and



sold, the cost of producing leather, the cost of manufacturing shoes, and condition in the distribution of shoes, both wholesale and retail.

Conditions in the hide business, especially in the purchase and sale of the so-called country hides, have been investigated in practically all parts of the country. Representative shoe dealers, both wholesale and retail, have been interviewed in many of the principal cities of the United States, and data relative to the conditions in their business, particularly with reference to profits they have made in recent years, have been secured from their books. In addition to this, the accountants of the Commission have obtained from the books of a representative number of shoe manufactures the cost of manufacturing and selling shoes, particularly staple styles, and also considerable data showing the profits in the shoe-manufacturing business during the past four or five years.

*Specific leather costs.*--In the latter part of the fiscal year under consideration the War Industries Board requested time Commission to ascertain the cost of producing leather. This work involved the covering of 11 classes of groups. The War Industries Board selected what it considered representative tanneries in each group. By the end of the year the field work on the harness-leather and sole-leather groups was completed and the results of the investigation of the harness-leather group were reported to the price-fixing committee of the War Industries Board. The tanneries covered for harness leather had an average monthly production of about 1,500,000 pounds, and the tanneries covered in the sole-leather group represented a monthly production of nearly 17,000,000 pounds. In addition to covering these two groups, considerable progress was made in the three principle upper-leather groups.

#### COTTON SEED AND LARD SUBSTITUTES.

In February, 1918, the Food Administration requested the Commission too ascertain the cost of ginning cotton, the cost of crushing cotton seed and the cost of producing lard substitutes.

*Ginning and crushing cotton seed.*--The cost of ginning cotton was ascertained for 262 mills ginning about 360,000 bales of cotton. The cost of crushing cotton seed was determined for 148 mills crushing 1,230,000 tons of cotton seed.

*Lard Substitutes.*--This work covered time cost of converting vegetable oils mainly cotton seed oil, into lard substitutes. The books of 14 representative factories having a production of about 260,000,000 pounds of product were examined.

#### MILITARY FOOD SUPPLIES.

Since this country entered the war the demands for certain food commodities by the Army and Navy, neutrals, allies, and civilian populations have been greater than time supply of such commodities. In certain commodities purchases were made by allocation among sellers at fixed "fair and just" prices.

The President directed departments of the Government that, when in need of assistance in the determination of costs, they should call upon the Federal Trade Commission for aid. Consequently when-



ever the bid and contract plan is abandoned, and the allocation plan adopted in obtaining food products, the Commission is called upon to ascertain costs by the Quartermaster's Department, Subsistence Division, United States Army; the Bureau of Supplies and Accounts, Navy Department; Quartermaster's Department, United States Marine Corps; and the Division of Coordination of Purchase, United States Food Administration (which handles allotments for the allies). After cost investigations have been made, the cost findings of the Commission are used by the Food Purchase Board, made up of representatives from the Army, Navy, Food Administration, and the Commission, as a basis for recommending for approval "fair and just" prices to the Secretary of War and the Secretary of the Navy.

Among the commodities for which costs have been determined are canned foods, including tomatoes, peas, corn, beans, cabbage, pork and beans, salmon, apples, peaches, apricots, cherries, pineapples, and catsup; dried fruits and vegetables, including prunes, peaches, apricots and raisins, and beans.

#### CHESTNUT TANNING EXTRACT.

At the request of the War Industries Board the cost of chestnut tanning extract was determined. An examination of the books and records of six companies was made.

#### BREAD.

The Food Administration requested the Federal Trade Commission to make an investigation into the cost of baking wheat bread in the United States.

The Commission obtained the costs from 209 companies in various parts of the United States.

The Commission submitted its report to the Food Administration and this was published by the Baking Division, United States Food Administration in November, 1917. The retail price of a 16-ounce loaf of wheat bread was reduced in many sections, and the Food Administration regulated prices charged for wheat bread throughout the country.

#### BOXES AND BOX SHOOKS.

At the request of the Food Administration and of the Quartermaster General, the Federal Trade Commission, in February, 1918, undertook an investigation of the cost of producing wooden box shooks and boxes, and fiber boxes. In March, 1918, reports were made covering the costs of production of wooden box shooks and various types of wooden and fiber boxes as produced by 11 companies manufacturing wooden boxes, and 10 companies manufacturing fiber boxes, together with the investments of these companies.

#### SHIPBUILDING ACCOUNTING.

The Commission has investigated the accounting methods of six shipbuilding companies for the Compensation Board of the Navy Department and rendered reports thereon.

As a result of these investigations, certain errors in cost accounting principles were corrected with a consequent saving of money to the Navy Department.

#### SISAL BINDER TWINE.

On December 21, 1917, the United States Food Administration requested the Commission to ascertain the cost of converting sisal hemp into sisal binder twine.

An examination was made with reference to the matter at seven manufacturing plants. Inasmuch as the State prisons are also large producers of sisal binder twine, the conversion costs of the Minnesota State Prison and the Michigan State Prison were also found. The Food Administration fixed binder twine prices on the basis of the raw material prices and the costs of conversion.

#### LOCOMOTIVES.

At the request of the Director General of Military Railways, the Commission investigated the costs of certain types of locomotives made by the two largest locomotive builders in this country. At the request of the Railway Administration a general investigation of locomotive costs was made for its information in contracting for the purchase of locomotives for use in this country.

#### SULPHUR.

At the request of the War Industries Board, the costs of production of sulphur were reported.

#### SULPHURIC ACID.

On April 16, 1918, the Commission made a report on the cost of producing sulphuric acid, covering the year 1917 and January, 1918, requested by the War Industries Board.

This report covered the costs and investments of the five chief producers covering approximately 50 per cent of the total for the United States.

#### FOOD INVESTIGATION.

The President of the United States in a letter dated February 7, 1917, directed the Federal Trade Commission to "investigate and report facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs and the products or by-products arising from or in connection with their preparation and manufacture; to ascertain the facts bearing on alleged violations of the antitrust acts, and particularly upon the question whether there are manipulations, controls, trusts, combinations, conspiracies, or restraints of trade out of harmony with the law or public interest," to the end that "proper remedies, legislative or administrative, may be applied." The President also directed the Commission and the Department of Agriculture to cooperate in making this investigation. A special appropriation was made by Congress for this investigation which became available on July 1, 1917.

This food investigation covered primarily four branches of industry, namely, meat, flour, canned foods, and the trading in grain.

### MEAT.

The investigation of the meat industry was a part of the general food investigation, and the purpose of it has been indicated by the foregoing quotation from the President's letter, directing that it be made.

Two general methods were followed. Facts as to production or distribution and storage were secured in large measure by schedule, supplemented by extensive work by accountants and agents in the field, examining the records of the companies and compiling data therefrom. Facts as to competitive conditions in the meat industry and some of the other food industries in which the meat packers are engaged were secured through interviews by field agents and through the examination of correspondence files and other corporate records.

The other method was by public hearings; such hearings being held in Boston, Philadelphia, Chicago, St. Paul, Omaha, Kansas City, and Washington.

These hearings were held to supplement, connect up, and make clear the facts recited in some of the documentary evidence found in the files.

The taking of this oral testimony under subpoena was not an adversary proceeding like a trial in court, but was only an additional means of finding facts germane to the inquiry imposed upon the Commission by the letter of the President of February 7, 1917. That letter directed the Commission to investigate, "to ascertain the facts bearing on the alleged violation of the antitrust acts, and particularly upon the question whether there are manipulations, controls, trusts, combinations, conspiracies, or restraints of trade out of harmony with the law or the public interests."

That order cast no duty upon the Commission, to examine, require of or even request any one, who might possibly be guilty of such alleged violations to testify or appear before the Commission on the inquiry. To have done so would have been improper; this for two reasons:

(a) If the Commission subpoenaed any person whom it believed might be guilty, it would give such person immunity from prosecution, which defeat one of the purposes of the inquiry.

(b) It would place the person who, later, might be found to have violated the law, in possession of information, which the Government might wish to use in its civil or criminal proceedings, before the Government had opportunity to examine or use it, and thus defeat the public interests. It should also be said that no request was ever made of the Commission by any one who was under investigation, for a hearing where he agreed to waive immunity if permitted to testify.

Among the facts developed by the investigation was the extensive control exercised by the five principal packing companies--Swift & Co., Armour & Co., Morris & Co., Wilson & Co., Inc. and Cudahy Packing Co.--over several of the food industries and by-product

industries in which they are factors, and over facilities used in connection therewith. The various percentages of control, which shows the complexity of their business, are given in the following table, most of the statistics being for 1916:

Industry and facilities.	Percentage of control by Big Five	Year or other period.
Interstate slaughter 1		
Number of cattle -----	82.4	1916
Number of calves -----	79.4	1916
Number of sheep -----	86.6	1916
Number of swine -----	63.3	1916
Lard production by interstate slaughters 1-----	75.5	1916
Average monthly stocks held by interstate slaughterers: 1		
Frozen beef -----	95.0	1916
Smoked ham and bacon -----	64.1	1916
Dry salt pork -----	69.8	1916
Pickled pork -----	71.5	1916
Lard -----	75.17	1916
Receipts of cattle at stockyards controlled by the Big Five as compared with2	64.9	1916
receipt of all yards -----	3 83.1	1916
Beef refrigerator cars -----	91.0	1917
Number of domestic branch houses operated by interstate slaughterers: 1	89.0	1916
Branch house sales of meats by interstate slaughterers: 1		
Fresh meats -----	94.9	1916
Cured meat -----	86.5	1916
Beef exports from Argentina a and Uruguay -----	4 60.4	1916
Stocks of hides held by interstate slaughterers -----	5 88.0-90.8	1916

1 Butchers not shipping their products in interstate trade are not considered in this connection.

2 Not counting Chicago yards as controlled.

3 Counting Chicago yards as controlled.

4 Includes swift Armour Morris and Wilson. Cudahy not engaged in slaughtering in South America.

5 Range of percentages

Data as to such industries as poultry, eggs, butter, cheese, canned goods, including fish, vegetables, fruit, and milk, indicate that the control of distribution in all these lines is already considerable and is growing. As to combination, controls, conspiracies and restraints out of harmony with the law and the public interest, the inquiry traced developments from 1890, when a committee of the United States Senate found and reported agreements between Armour, Swift, Morris, and Hammond to refrain from competition, with collusive prices and divided territory. From 1893 to 1896 there was a pool of the same companies with the Cudahy Packing Co. and one other, meeting every Tuesday afternoon, Henry Veeder acting as secretary. This was testified by Veeder in 1912. Territory was divided, volume of business apportioned, penalties assessed for violation. From 1898 to 1902 there was a new pool, to which Schwarzschild & Sulzberger was an added party.

In 1902 the Department of Justice filed charges of conspiracy and restraint against the big packers, and in 1903 a permanent injunction was issued against them. Meanwhile a \$60,000,000 merger of these companies was planned. It was abandoned because of the panic of 1903, but a number of the independent plants which had been secretly bought for the merger were turned over to the National Packing Co., a \$15,000,000 corporation owned by Armour, Swift, and Morris. Veeder was secretary, and the directors met at the same hour on Tuesday afternoon, in the old pool.



This effective plan continued till 1912, when, after failure of a criminal suit, threat of a civil suit caused dissolution of the National Packing Co., its plants being apportioned among Armour, Swift, and Morris.

The old pool of meat shipments has now been replaced by a simpler, more effective "live-stock pool" or division, on agreed percentages, of all live stock coming to market, the cattle percentage being approximately: Swift, 34 per cent; Armour, 27 per cent; Morris, 18; Wilson, 11; and Cudahay, 9. Since 1913 these percentages have held year by year, with scarcely 1 per cent variation. This agreement is an automatic regulation of the relative volume of packing-house products of these companies. It avoids actual competition, either in buying stock or selling meats. Each market has its own agreed percentages, but these are so adjusted as to give each packer his agreed share of the total of all markets. Thus, even without any collusion beyond the agreement to divide purchases, the price to the producer is bound in the long run to be the lowest price which will keep the producers raising cattle, hogs, and sheep and sending them to the stockyard. A personal memorandum book kept by German E. Sulzberger is a prime source of evidence of a domestic combination. Sulzberger's memorandum of a meeting of White (vice president of Armour & Co.), Wilson, Edward Swift, and himself on June 4, 1914, at Armour's office, is evidence also of an international 1)001 with other Argentine companies for the shipment of meat from Argentina and Uruguay both to Europe and the United States. In the vault of Henry Veeder were found documents relating to joint funds maintained by the big packers and oleomargarine manufacturers, to employ lobbyists and pay their unaudited expenses; to influence legislative bodies; to elect candidates who would wink at violations of law and defeat those pledged to fair enforcement. to control tax officials and thereby evade just taxation; to secure modifications of governmental rules and regulations by devious methods; to bias public opinion by attempting to influence editorial policy through advertising, loans, and subsidies, and by the publication and distribution at large expense of false and misleading statements. Henry Veeder, the manager of the Veeder pools of the nineties, was the assessor, collector, and paymaster of these joint funds.

Among the methods of unfair competition used by the big packers of which the Commission found evidence may be mentioned the following: Bogus independents, local price discriminations, short weighting, acquiring stock in competing companies, shutting competitors out of live-stock markets, and manipulation of live-stock prices.

It should be noted also, that there were found to be no less than 108 companies in which one or more of the great packers were jointly interested and most of which they controlled.

The mass of facts and evidence secured in the investigation was compiled and digested, and a summary thereof was prepared by the end of the fiscal year. The summary of the report with the Commission's letter of submittal embodying its conclusions and recommendations, was sent to the President on July 3, 1918.

The recommendations of the Commission as submitted to the President were as follows :

1. That the Government acquire, through the Railroad Administration, all rolling stock used for the transportation of meat animals and that such ownership be declared a Government monopoly.

2. That the Government acquire, through the Railroad Administration, the principal and necessary stockyards of the country, to be treated as freight depots and to be operated under such conditions as will insure open, competitive markets, with uniform scale of charges for all services performed and time acquisition or establishment of such additional yards from time to time as the future development of live-stock production in the United States may require. This to include customary adjuncts of stockyards.

3. That the Government acquire, through the Railroad Administration, all privately owned refrigerator cars and all necessary equipment for their proper operation and that such ownership be declared a Government monopoly.

4. That the Federal Government acquire such of the branch houses, cold-storage plants, and warehouses as are necessary to provide facilities for the competitive marketing and storage of food products in the principal centers of distribution and consumption. The same to be operated by the Government is public markets and storage places under such conditions is will afford an outlet for all manufactures and handlers of food products on equal terms. Supplementing the marketing and storage facilities thus acquired the Federal Government establish, through the Railroad Administration, at the terminals of all principal points of distribution and consumption, central wholesale markets and storage plants, with facilities open to all upon payment of just and fair charges.

Near the close of the fiscal year, a special committee appointed by the President made certain recommendations regarding the meat industry, among which was that a uniform system of accounting be devised by the Federal Trade Commission and that time packers should be required to make reports oil this basis as to their costs and profits to the Food Administration. This work was in progress at the end of the fiscal year, in so far as it was not dependent upon the promulgation of new regulations by the Food Administration. At the suggestion of the Food Administration, and on the recommendation of time special committee referred to, the Commission was directed by the President to report to him regarding the adequacy of the regulations of the Food Administration of time profits of the packers during the war, as an indirect method of controlling the prices of food products. The Commission reported recommending certain changes in the regulations.

#### GRAIN TRADE.

The grain-trade investigation was undertaken by the Commission in cooperation with the Department of Agriculture, and has covered practically the entire field of grain marketing and distribution. Up to the close of the fiscal year, the agents of the Commission and of the Department of Agriculture had covered about 400 country elevators, and warehouses of different types, studying their marketing methods, costs, profits and margins on grain, and about 5,000 additional elevators were reached by schedule.

Terminal markets were studied, including Chicago, Minneapolis, Kansas City, St. Louis. Omaha. Duluth. Milwaukee. Peoria. Cincinnati. Louisville. Buffalo.

New York, and Philadelphia, particularly at Chicago and Minneapolis, the two chief grain centers. The accounts of more than 100 terminal market concerns were obtained covering all branches of marketing, and including terminal elevators, Commission houses brokerage and shipping concerns, news information, service companies and "wire houses." All classes of persons



or concerns engaged in the grain trade were interviewed. A particular study was made of the future trading business in Chicago and Minneapolis, and schedules calling for extensive statistical information on future trading were sent to all members of the Chicago and Minneapolis grain exchanges. A special study was also made of the results of future trading to the individual speculator.

Comprehensive statistical information was gathered for the purpose of determining the flow of grain from the farm to the various markets and to the various classes of purchasers.

Price statistics were collected both from published and unpublished sources together with statistics of receipts and shipments, and other data for the study of the price determining factors.

Investigation was also made into various particular practices and problems of the grain trade such as scalping, the milling value of wheat, terminal elevator mixing, information services, grain trade, and financing.

This report had not been completed at the end of the fiscal year.

#### FLOUR.

A determination of the costs and profits of flour millers and flour jobbers was undertaken in the last half of 1917 as a part of the general food investigation.

The Commission's report on flour milling and jobbing included the cost and profits of 130 mills. Many other mills were visited but their records were not in such condition as to yield satisfactory cost figures. The aggregate production covered as to cost amounted to 51,560,000 barrels in the crop year 1915-16 and 43,146,000 barrels in the crop year 1916-17, representing about 40 per cent of the total domestic output of wheat flour and about 75 per cent of the quantity sold in interstate and foreign commerce.

The Commission's report included the cost and profits of typical car-lot jobbers and of 30 of the most important small-lot jobbers. These jobbers were located in Boston, Providence, New York, Philadelphia, Baltimore, Cleveland, and Chicago. The jobbers examined handled the bulk of the flour not distributed by the branch houses of milling companies. A summary of the report was issued on April 4, 1918, showing the costs and profits of millers and jobbers for the years 1913 to 1917, inclusive, which was prior to the time when the regulations of the United States Food Administration took effect. The investigation has been continued to cover the 10 months' period September 1, 1917, to June 30, 1918, and another report is contemplated showing the results of United States Food Administration regulations before they were revised.

The Commission was represented on a committee, which was appointed by the President to make recommendations for the revision of the milling regulations and has also assisted the Enforcement Division of the United States Food Administration checking up the profits of millers and to prevent infractions of the regulations.

#### CANNED FOODS.

As a part of the food investigation the canned foods industry has been covered, and on May 15, the Commission issued a report on the

general canned foods industry and canned vegetables and fruits. This report was based on an examination of the books of canning companies which produced about 25 per cent of the total output of the chief kinds of vegetables covered. The Commission also examined the operations and profits of certain representative brokers and jobbers. Information is made available in the Commission's report covering the cost of producing and marketing the chief canned vegetables and fruits, and the profits made by the canners and distributors.

The Commission made certain recommendations in the canned foods industry, chief of which were as follows:

1. That the use of future contracts in the sale of canned foods be limited, both as to the period during which they may be made, and the percentage of the pack which may be sold under such contracts.
2. That unnecessary reselling be restricted in order to keep the product of the cannery moving along as directly as possible until it reaches the consumer.
3. That the use of labels by packers and distributors be regulated to prevent deception and encourage reasonable competition.
4. That associations of canners take steps to limit their activities in accord with law and public policy, particularly with regard to price-fixing activities.
5. That more adequate information concerning supply and demand factors be collected and made public.

Particular attention was also called to the need of better credit organizations in the industry and to the danger of abuse through exclusive sales agents handling the output of several canning companies.

In February, 1918, the Commission began the inquiry as to the canned salmon industry, and the work was in progress at the close of the fiscal year. The report will cover 79 canning companies, which packed more than 4,000,000 cases in 1917. The books of 20 companies, operating 62 plants, and packing 51 per cent of that year's total production, were examined. In June, 1918, the Commission prepared for the Food Administration a memorandum concerning the costs and profits of Oregon Salmon Canners, and the Commission's accountants have examined and reported on numerous salmon packing companies in aid of the Food Administration in adjusting prices.

*Cans and containers.*--In connection with its investigation of canned foods, the Commission has ascertained the cost of producing the tin cans used for packing the canned foods, covering the operations of the largest producers. This information, together with that concerning the costs and profits of the producers of canned food boxes of various kinds will be published as a part of the general food investigation report.

#### CORPORATION REPORTS AND STATISTICS OF INDUSTRIES.

*General corporation reports.*--In previous annual reports the desirability of organizing the work of securing reports from industrial corporations generally, under the provisions of section 6 of the organic act of the Commission, has been pointed out. This has been postponed on account of war work.

*Reports by industries.*--On account of the war, also, the Commission has suspended projected plans for securing and combining more specific and current data regarding the most important industries of

the country referred to in the last annual report. It should be noted, however, that in the cost finding work now being performed by the Commission in connection with the regulation of prices by other branches of the Government a substantial foundation has already been laid for securing current information regarding production, shipments, costs, prices, earnings, investment etc from numerous and important industries.

*Current trade statistics.*--The current reports to the paper trade which are compiled by the Commission from returns made by the producers was continued during the year (see p. 17). This work has covered the data formerly compiled by paper trade associations and, according to the statements of the trade, has been much more satisfactory. Where the Government does such work the statistics can be secured from the whole industry instead of from association members only, and is therefore more comprehensive and satisfactory. This suggests the expansion of such work by the Commission. The experience of the Commission has shown that one of the principal causes for abnormal price movements is the lack of sufficient current trade information regarding production, stocks, shipments, and similar data regarding market conditions. *Improvement of cost-accounting methods.*--The Commission has rendered considerable assistance to a number of industries in connection with its ascertainment of the cost of production of various commodities. While the Commission has not undertaken to install cost-accounting systems, it has often been expedient in order to obtain more accurate reports to cooperate with various associations. In the manufacture of hollow building tile, for example, the Commission's accountants found inadequate cost-accounting systems. In devising its schedule for collecting cost data for the War Industries Board, therefore, the Commission took into consideration the needs of the industry and in cooperation with the industry has been instrumental in introducing better cost-accounting methods. Apart from such instances of definite cooperation, the cost-finding work of the Commission has exercised a strong influence on numerous branches of industry, whether the information sought was obtained by direct audit or by costs returned on detailed forms prepared by the Commission.

#### LIBRARY.

The library was transferred from the Administrative to the Economic Division during the fiscal year. It has a collection of 4,410 books and pamphlets. It receives about 200 trade periodicals, and maintains a technical clipping file representing several thousand pieces. The number of trade periodicals is to be reduced as much as the work of the Commission will permit. The files of corporation reports and trade-association material have been added to largely.

#### ORGANIZATION AND PERSONNEL.

The work of the Economic Division during the fiscal year, as increased in response to requirements in aid of war agencies, necessitated a great increase in personnel. The total personnel amounted to 96 on July 1, 1917, or about 51 per cent of the total personnel of the Commission, and on June, 1918, to 421, or about 70 per cent of the total personnel.

The number of accountants, including junior accountants, increased from 18 to 180. The clerical staff increased from 45 to 170. The remainder in each case comprised economists and field agents. In April, 1918, the Economic Division was reorganized. Prior to that time the direction of the economic work was intrusted to an advisory economic board consisting of three members of time staff, each investigation being conducted by an examiner in charge, and each member of the advisory economic board having immediate supervision of a group of these investigations. A chief economist was substituted for time advisory economic board, who should have sole responsibility for the work performed by the Economic Division. The chief economist is aided by a number of assistants and by a chief accountant, under whose immediate supervision the accountants and clerks are assigned. The chief accountant is also responsible for maintaining consistency of methods in accounting matters. Each of the assistant chief economists has the general supervision of a group of inquiries.

### REPORTS.

The reports on economic investigations which were published by the Commission during the fiscal year ending June 30, 1918, are shown in the list on page 37.

The greater part of time economic work of the Commission was not done, however, with a view to issuing printed reports. This is especially true of the cost work which was done for various branches of the Government. A list of these unpublished reports is given below.

Date. made.	<i>Reports submitted during year.</i> Subject.	To whom
Sept. 7, 1917	Cost of producing gasoline and fuel oil for June, 1917	The President.
Do	Cost of producing lumber	Do.
Sept. 8, 1917	Preliminary report on steel costs	W a r
Industries Board.		
Sept. 18, 1917	Cost of iron ore, coke, pig iron, and other steel products	T h e
President.		
Sept. 20, 1917	Cost of producing Portland cement in 1916 and first 6 months in 1917.	Do.
Do	Cost of producing yellow pine mill-run lumber, and timbers	Do.
Do	Cost of producing Douglas fir, spruce, and hemlock mill-run timber.	Do.
Oct. 11, 1917	Cost of producing lead and zinc of companies supplying Navy,	T h e
President,		
	covering June, 1917	f o r
Navy.		
Do	Cost of producing lead and zinc in month of June, 1917	
Oct. 23, 1917	Cost of producing yellow pine lumber (supplemental)	Shipping
Board.		
Oct. 30, 1917	Supplemental report on cost of producing cement	T h e
President.		
Oct. 31, 1917	Cost of producing nickel and monel metal	T h e
President; Navy.		
Nov. 17, 1918	Cost of producing sheet steel	W a r
Industries Board.		
Nov. 30, 1917	Cost of producing aluminum ingots, sheets, tubes, canteens, meat cans, and cups.	

Dec. 10, 1917	Cost of lead covering 76 per cent of United States production, June, July, and August, 1917.	
Do President	Cost of producing gasoline, naphtha, fuel oil, gas oil, and kerosene covering 80 per cent of the refining industry (June, July, and August, 1917).	T h e
Dec. 14, 1917 Corps Air	No. 1 castor oil  Service.	S i g n a l
Dec. 17, 1917 President.	Report on cost of steel (second report)	T h e
Jan. 5, 1918	Supplemental report on copper.	
Feb. 7, 1918	Report on wages in the iron and steel industry.	
Mar. 8, 1918	Costs of Boston lumber dealers	Navy.
Mar. 19, 1918	Actual yields from refining companies using large percentage of Gulf coast crude oil.	F u e l
Administration Mar. 23, 1918 Board.	Data on the quantities of crude oil consumed by refineries located on the Atlantic seaboard for months of September and October, 1917.	Shipping
Mar. 25, 1918 Do Do. Administration;	Sand and gravel (tentative report). Cost of southern pine for January, 1918. Cost of boxes in 1917 (boxes, shooks, wooden boxes, and corrugated and fiber board boxes).	F o o d  Navy
Mar. 26, 1918 Board; Fuel	Stocks of crude oil held in storage and in transit by eastern refiners for October, 1917.  Administration	Shipping

*Reports submitted during year--Continued.*

Date.	Subject.	T o
	whom made.	
Mar. 30, 1918	Data on oil-producing companies operating in Mexico and Peru.	
Do	Cost of producing gasoline and fuel oil for certain companies supplying the Navy, June 1917	Navy.
Apr. 4, 1918	Cost of producing ingots, billets, and slabs for October, November, and December, 1917, January, 1918.	Do.
Apr. 15, 1918	Preliminary report on cotton duck	
Apr. 16, 1918	Cost of producing sulphuric acid; supplemental report Apr. 19, 1918	Do.
Apr. 22, 1918	Cost of producing Portland cement during last half of 1917	Do.
Apr. 25, 1918	Cost of producing gasoline and fuel oil by representative Administration;	Fuel
	during December, 1917	
	Navy.	
May 10, 1918	Cost of production of aviation gasoline Fuel Administration;	Navy.
	Army.	
May 15, 1918	Cost of producing grade A zinc during year 1917 and January-March, 1918.	Navy
May 16, 1918	Cost of producing zinc sheets and plates, 1917, and January-March, 1918	Do
May 18, 1918	Cost of producing nickel and monel metal for February, 1918	
June 8, 1918	Supplementary report on cost of producing grade A zinc and sheet and plate zinc.	Do.
Do	Statistics report cost of producing copper in order of 1918 figures: 1917 and March, 1918.	Do.
June 13, 1918	Cost of producing kerosene during December, 1917	
June 25, 1918	Steel wire rope costs	Do.
Do	Sand and gravel, crushed stone in New York City and vicinity Trade Board.	War
	(supplementary memorandum).	
June 28, 1918	Virginia-Carolina lumber, February, March, and April, 1918	Do.
June 29, 1918	Estimates regarding reasonable deduction from list price of companies supplying automatic sprinklers.	Do.
Do	Cost of producing hollow building the during 1917 and first quarter of 1918.	Do.

#### ADMINISTRATIVE DIVISION.

The additional work of the Commission has required a corresponding increase in the force of the Administration Division, to care for which an assistant secretary was appointed.

In the Administrative Division are: *Auditor's office and disbursing clerk*, in charge of the fiscal affairs of the Commission.

*Custodian's office and chief clerk*, in charge of the buildings and quarters of the Commission, the purchase of supplies and equipment, and the distribution of the same; supervision and charge of the watch force, messenger force, mechanics, laborers, char force, and telephone and elevator *service*. *Personnel Section*, in charge of all matters relating to appointments, promotions demotions, transfers, changes in designation, resignations, terminations of service, and dismissals; the keeping of the records concerning these matters, together with miscellaneous data relating to personnel; matters affecting time and leaves of absence; preparation and certification of pay rolls, and the general correspondence relating to the functions of such a division.

*Section of Mail and Files* receives and distributes the mail; indexes and files all papers and records of the Commission except those of the Docket Division and

those relating to appointments and personal records of employees; is responsible for the care and custody of files . and for the purposes of efficiency in the several locations, has charge of the decentralized files distributed among the Several divisions of the Commission, all of the files being kept according to a standardized system, thus making them interchangeable able and interlocking.

*Section of Publications and Printing*, in charge of matters which have the Public Printer and the superintendent of

documents; the distribution of publications; the maintenance of mailing lists; and the charge of multigraph and mimeograph duplicating work and the machinery and equipment necessary thereto.

*Stenographic Section* from which is supplied to the legal and economic divisions needed stenographic and typewriting assistance.

*Reportorial Section* in charge of official reporting; necessary correspondence with the official reporters, their assignment to cases, the keeping and distribution of the official transcripts of hearings, and the reporting of informal matters in the *Commission*. *Docket Section* is the repository of all applications for the issuance of complaints; assigns such applications in rotation to the several Commissioners for supervision, unless otherwise directed by the Commission; files all correspondence, exhibits, notices of assignment to attorneys, and field and office reports in connection with such applications; maintains complete indexes of the names of applicants and respondents, the unfair method of competition alleged, and the commodity involved, also a current record showing the complete history of all applications for the issuance of complaints from their receipt by the Commission until their final disposition by dismissal or issuance of formal complaint. Upon dismissal of applications, the division advises interested parties of such action, and transmits files and other material to other departments of the Government, when so directed by the Commission. This division assigns docket numbers to formal complaints as they are issued, determines the return day, and attends to the service; indexes and files all papers in connection with such formal complaints, including testimony in adversary proceedings; certifies copies of formal records to the different circuit courts of appeals, when required; and keeps a current docket record for the inspection of the public, showing, among other things, the date of issuance, names and addresses of the respondents and their attorneys, the commodity, allegations of unfair competition, petitions for intervention, continuances and extensions of time, date of filing answers, nature of motions, petitions and orders, dates and places of hearings, and final disposition. Service of all findings as to the facts, conclusions of law, and orders to cease and desist, in formal proceedings, is made by this division. The division answers inquiries from the general public and interested parties with reference to the status of formal proceedings, and furnishes for the use of the Commission statistical matter of various kinds pertaining to its activities.

*Reference and Research Section* systematically collects and arranges material bearing on current matters likely to become the subject of action by the Commission.

#### QUARTERS.

At the beginning of the fiscal year the Commission occupied quarters in the Department of Commerce Building. In the latter part of August it moved to the building at Fifteenth and K Streets NW which it now occupies as its main office. The available floor space in this building is 35,790 feet. Temporary additional space in the Building to 9,688 square feet was also occupied by cost accountants and clerks engaged in war work.



## PERSONNEL.

During the fiscal year ending June 30, 1918, the number of new employees entering the service of the Commission was 895, while 399 employees left the Commission during the same period, making a net increase for the year of 496. This made the number of employees in the Commission on June 30, 1918, as follows :

	Employees.
Total salary.	
Statutory -----	115
\$147,400	
Lump sum -----	574
1,083,476	
Grand total -----	689
1,230,878	

A more detailed analysis of. the personnel is shown in the following statement:

*Analysis of the personnel of the Federal Trade Commission and its Staff at the close of June 30, 1918.*

3 Commissioners	\$10,000
1 secretary	5,000
3 clerks to Commissioners	1,500
1 chief clerk	2,000
1 disbursing clerk	2,000
1 clerk 1	2,000
2 clerks	1,980
9 clerks, class 4 2	1,800
1 clerk 1	1,740
1 Do	1,620
14 clerks, class 3 3	1,600
1 clerk 1	1,560
15 clerks, class 2	1,400
3 clerks 1	1,320
63 clerks, class 1	1,200
1 clerk	1,100
112 clerks	1,000
20 clerks 7	900
1 messenger	840
1 assistant messenger	840
3 assistant messengers	720
19 messenger boys 8	480
4 watchmen 7	720
6 laborers 9	660
1 laborer	600
1 general mechanic 1	1,000
1 Do	840
2 elevator conductors	720
1 telephone operator	720

1 forewoman (charwoman)  
6 charwomen

300  
240  
----- \$355.280

- 1 Paid on lump-sum roll.
- 2 5 paid on lump-sum roll.
- 3 9 paid on lump-sum roll.
- 4 5 paid on lump-sum roll.
- 5 46 paid on lump-sum roll.
- 6 91 paid on lump-sum roll.
- 7 1 paid on lump-sum roll.
- 8 10 paid on lump-sum roll,
- 9 3 paid on lump-sum roll.

2 special attorneys -----	\$5,000	
1 special attorney -----	4,000	
Do -----	3,600	
4 special attorneys -----	2,800	
1 special attorney -----	2,400	
	-----	\$34,200
1 attorney and examiner -----	5,000	
7 attorneys and examiners -----	4,000	
1 attorney and examiner -----	3,300	
2 attorneys and examiners -----	3,000	
3 attorneys and examiners -----	2,800	
1 attorney and examiner -----	2,500	
3 attorneys and examiners -----	2,400	
2 attorneys and examiners -----	2,100	
	-----	64,600
1 special expert -----	4,800	
Do -----	4,000	
Do -----	2,500	
Do -----	2,400	
	-----	13,700
2 special examiners -----	5,000	
1 special examiner -----	4,500	
Do -----	4,000	
Do -----	2,520	
Do -----	2,220	
	-----	23,240
1 special agent -----	4,500	
Do -----	4,200	
Do -----	3,600	
Do -----	3,300	
3 special agents -----	3,000	
1 special agent -----	2,750	
Do -----	2,500	
6 special agents -----	2,400	
1 special agent -----	2,280	
Do -----	2,220	
7 special agents -----	2,100	
4 special agents -----	2,000	
2 special agents -----	1,920	
Do -----	1,800	
3 special agents -----	1,620	
2 special agents -----	1,500	
3 special agents -----	1,440	
	-----	91,070
1 examiner -----	6,000	
5 examiners -----	5,000	
3 examiners -----	4,500	
4 examiners -----	4,000	
15 examiners -----	3,600	
2 examiners -----	3,500	
Do -----	3,300	
16 examiners -----	3,000	
3 examiners -----	2,800	
Do -----	2,750	
12 examiners -----	2,700	
2 examiners -----	2,600	
10 examiners -----	2,500	
32 examiners -----	2,400	
1 examiner -----	2,340	
2 examiners -----	2,280	

4 examiners	-----	2,200
13 examiners	-----	2,100
1 examiner	-----	2,040
20 examiners	-----	2,000
1 examiners	-----	1,920

24 examiners -----	\$1,800
1 examiner -----	1,700
Do -----	1,620
11 examiners -----	1,600
21 examiners -----	1,500
3 examiners -----	1,440
5 examiners -----	1,400
8 examiners -----	1,320
11 examiners -----	1,200
3 examiners -----	1,080
7 examiners -----	1,000
1 examiner -----	900
Do -----	1
Do -----	115
Do -----	110
Do -----	210
Do -----	18
Do -----	28
2 examiners -----	25
Do -----	23
	----- \$585,406

APPROPRIATIONS AND EXPENDITURES.

The appropriations of the Commission for the fiscal year ended June 30, 1918, under the sundry civil appropriation act approved June 12, 1918, were \$802,920. In addition to this amount the Commission had the sum of \$35,945.92, which was allowed by the ruling of the Comptroller of the Treasury under the second paragraph of section 3 of the act creating the Commission, said amount representing the unexpended balance of the appropriations for the Bureau of Corporations for the fiscal years ended June 30, 1913 and 1914. The Commission also had, in addition to the above, allotments from the President aggregating \$750,000 from the national security and defense fund provided for in the deficiency bills approved April 17, 1917, and December 31, 1917, and \$20,000 from the appropriation provided for by the trading with the enemy act approved October 6, 1917.

The expenditures of the Commission for the fiscal year ended June 30, 1918, were \$1,423,394.25. The appropriations, allotments, and expenditures are tabulated below :

and allotted	Expended.	Appropriated
Salaries, Commissioners, secretary, etc		\$172,920.00
\$157,146.43		
Compensation, travel expenses, and per diem in lieu of subsistence		300,000.00
265,253.71		
Expense--foodstuff investigation		250,000.00
250,000.00		
Contingent expenses		20,000.00
17,226.62		
Witness fees and mileage		15,000.00
3,338.54		

Rental of quarters	15,000.00
13,636.35	
Printing and binding	30,000.00
11,114.06	
Federal Trade Commission--without year	35,945.92
84,703.58	
National security and defense fund	750,000.00
687,071.18	
Expenses--trading with the enemy act	20,000.00
13,903.78	
Total	1,608,865.92
1,423,394.25	

<sup>1</sup> Per day when actually employed.

<sup>2</sup> Per day. Including Sundays and holidays.

<sup>3</sup> Expenditures from the appropriation "Federal Trade Commission--without year" covered settlement of vouchers for contingent expenses incurred during the fiscal year ended June 30, 1917, the appropriation for contingent expenses for the said fiscal year being insufficient.

Expenditures from allotments made by the President from the national security and defense fund covered the following:

Salaries -----	
\$490,775.39	
Travel expenses and per diem in lieu of subsistence -----	
140,986.00	
Contingent expenses -----	
37,239.66	
Rental of quarters -----	
11,966.20	
Printing and binding -----	
6,193.93	
Total -----	
687,071.18	

Expenditures from allotments made by the President from the appropriation provided for by the trading with the enemy act covered the following:

Salaries -----	
\$11,085.33	
Travel expenses and per diem in lieu of subsistence -----	
140.66	
Contingent expenses -----	
2,414.39	
Printing and binding -----	
263.40	
Total -----	
13,903.78	

A detailed analysis of the expenditures of the Commission is given in the following statement:

*Detailed statement of expenditures of tile Federal Trade Commission for the fiscal year ended June 30, 1918.*

ADMINISTRATIVE DIVISION.

	Office.	Field.
Annual leave -----	\$42,073.36	
Sick leave -----	12,023.00	
Administration, general -----	107,587.28	\$1,966.69
Mail and Files section -----	23,762.26	
Disbursements and Accounts section -----	8,501.56	
Purchases and Supplies Section -----	5,475.59	
Docket Section -----	5,540.84	
Library -----	6,949.39	
Publications and Printing Section -----	4,681.50	
Stenographic Section -----	18,577.98	
Personnel Section -----	8,567.18	
Messengers -----	9,474.90	
Labor (watchmen, charwomen etc.) -----	9,905.23	
Detail -----	241.35	
Contingent expenses -----	61,584.25	
Rental of quarters -----	25,602.55	
Printing and binding -----	6,367.33	
Total -----	356,916.43	1,966.69

ECONOMIC DIVISION.

Corporation reports -----	\$737.57	
Print paper, news -----	206.34	\$160.88
Coal, bituminous -----	3,700.92	420.17
Oil, Oklahoma -----	3,438.93	1,667.57
Lumber -----		267.46
Resale prices -----	40.88	
Study of food conditions -----	302.30	
Coal, anthracite -----	1,454.13	2,132.49
Print paper, book -----	895.72	
Flags -----	11.97	
Alleged combination of salmon canners -----	2,488.12	349.69
Miscellaneous economic -----	6.70	91.32
Coal -----	115,700.00	77,089.28
Steel -----	57,671.88	13,177.73
Oil -----	22,566.53	32,153.18
Lumber -----	18,004.44	60,709.79
Cement -----	4,410.98	15,005.96
Copper, lead, and zinc -----	12,549.44	59,316.84
Aluminum -----		4,055.10
Canned goods -----	9,407.37	37,914.96



*Detailed statement of expenditures of the Federal Trade Commission for the fiscal year ended June 30, 1918--Continued.*

## ECONOMIC DIVISION--Continued

	Office.	Field.
Navy yards -----	\$17.22	\$194.97
Bread -----	1,310.92	6,458.57
Sulphur -----	55.49	93.51
Sisal, twine -----	127.74	1,830.70
Box shooks -----	595.98	4,817.66
Lard substitutes -----	1,009.23	7,690.03
Sulphuric acid -----	296.25	1,212.45
Cotton textiles tile -----	929.59	847.38
Hollow building -----	528.25	523.30
Sand and gravel -----	864.77	3,709.02
Beans -----	42.96	317.81
Locomotives -----	342.66	3,132.75
Cost system for packers -----	1,787.53	
Chestnut extract -----	55.87	771.81
Fire brick -----	1,798.81	3,497.92
Meat packers' profits -----	96.79	163.86
Leather costs -----	3.62	842.73
Common brick -----	7.16	59.82
Government paper contracts -----	57.27	92.58
Livestock and its products -----	65,525.16	107,480.50
Grain products -----	9,957.48	18,258.28
Grain and produce exchanges -----	2,743.72	31,200.00
Paper schedules -----	7,269.57	8.23
Paper prices -----	4,309.24	60,622.14
Leather and shoes -----	3,364.69	15,593.06
Farm operating equipment -----	327.81	
Formal complaints -----	1,687.38	224.03
Informal complaints. -----	603.22	3,762.09
Witness fees and mileage -----		272.30
Total -----	354,523.13	579,887.50

## LEGAL DIVISION.

Print paper, news -----		\$394.99
Oil, Oklahoma -----	\$9.62	
Print paper book -----	178.83	
Trading with the enemy -----	10,333.21	486.67
Oil -----	10.05	
Cement -----	5.98	
Live stock and its products -----	1,360.40	6,197.63
Grain products -----		13.49
Grain and produce exchanges -----	626.83	20,259.26
Canned goods -----	73.78	199.70
Export trade -----	121.72	
Paper prices -----	152.15	137.94
Leather and shoes -----	29.19	295.68
Independent Harvester Co -----	33.73	157.14
Farm operating equipment -----		20.10
Lumber -----		10.05
Briefs -----	1,391.03	
Formal complaints -----	10,703.86	13,533.32
Informal complaints -----	29,476.83	26,101.04
Advice requests -----	156.58	73.74
Miscellaneous legal -----	4,391.50	594.51
Witness fees and mileage -----		2,569.95
Total -----	59,055.29	71,045.21

## SUMMARY OF EXPENDITURES.

Office. Field.

Total.		
Administrative division	\$356,916.43	\$1,966.69
1 \$358,883.12		
Economic division	354,523.13	579,887.50
934,410.63		
Legal division	59,055.29	71,045.21
130,100.50		
Total	770,494.85	652,899.40
1,423,394.25		

1 Includes all charges for salaries of the Commissioners and secretary and for economic and legal supervision; annual and sick leave, contingent expenses, rental of quarters, printing and binding, etc.

The appropriations for the Federal Trade Commission for the fiscal year ended June 30, 1918, were as follows :

For five Commissioners, at \$10,000 each; secretary, \$5,000; five clerks to Commissioners, at \$1,500 each; chief clerk, \$2,000; disbursing clerk, \$2,000; clerks-four of class 4, five of class 3, ten of class 2, seventeen of class 1, twenty-one at \$1,000 each; messenger; four assistant messengers; nine messenger boys, at \$480 each; general mechanic, \$840; three watchmen ; two elevator conductors, at \$720 each; three laborers, at \$660 each; telephone operator, \$720; forewoman, \$300; six charwomen, at \$240 each; in all, \$172,920.

For all expenses necessary to carry out the order of the President of the United States to investigate within the scope of its powers and to report the facts relating to any alleged violations of the antitrust acts by any corporation in the production, ownership manufacture, storage, and distribution of foodstuffs and the products or the by-products arising from or in connection with the preparation and manufacture, \$250,000.

For compensation, travel expense, and per diem in lieu of subsistence at time rate of \$4 of such special attorneys, special experts, special examiners, special agents, clerks, and other employees as may be necessary for the purpose of carrying on the work of said Commission; no salary shall be paid hereunder exceeding the rate of \$5,000 per annum, \$300,000.

For contingent and miscellaneous expenses, including the purchase of professional and scientific books, law books, books of reference, periodicals, pamphlets, maps stationery, furniture and repairs to same, carpets, matting, oilcloth filling cases, towels, ice, brooms, soap, fuel, lighting and heating, freight and express charges, street car tickets, postage to foreign countries, telegraph and telephone service, typewriters and calculating machines, including their exchange, mind for a 11 necessary miscellaneous supplies not otherwise provided, \$20,000.

For rental of building or quarters, \$15,000.

For witness fees, and mileage, as provided in section 9 of the Federal Trade Commission act, \$15,000.

For printing and binding, \$30,000.

In all, for the Federal Trade Commission, \$802,920. Sunday civil act June 12, 1917.

#### PUBLICATIONS ISSUED.

The following publications were issued by the Commission during the fiscal year ended June 30, 1918:

Annual Report of the Federal Trade Commission. December 12, 1917. 74 pages.

The Book Paper Industry. August 21, 1917. 123 pages. <sup>1</sup>

Canned Foods; General Report and Canned vegetables and Fruits. May 15, 1918. 103 pages.

Commercial Bribery. May 15, 1918. 3 pages. <sup>2</sup>

Flour Milling and Jobbing. April 4, 1918. 27 pages.

Profiteering (letter in responses to a Senate resolution of June 10, 1918). June 29, 1918. 20 pages.<sup>3</sup>

Rules of Practice (Revised). December 21, 1917. 8 pages.

Instructions, Rules, and Forms Concerning Patents, Trade-Marks, Prints, Labels, Designs, and Copyrights. November 3, 1917. 22 pages. <sup>4</sup>

## EXPORT TRADE DIVISION

*Summary of the Law.*--Under the export trade act, approved April 10, 1918, the Federal Trade Commission is authorized to receive, and "associations" now, or hereafter, solely engaged in export trade are required to file statements in the form specified by the act.

- 1 S. Doc. No.79, 65th Cong., 1st sess.
- 2 H. Doc. No. 1107, 65th Cong.. 2nd. sess.
- 3 S. Doc. No.248, 65th Cong. , 2nd. sess.
- 4 Contains extracts from the trading-with-the-enemy act and Executive order of Oct.12, 1917.

The Commission is given authority to investigate all instances where it has reason to believe that an export trade "association" has committed an act, or made an agreement, which is in restraint of trade within the United States, or which is in restraint of the export trade of any domestic competitor of such "association." This applies also where such an "association" has entered into any agreement, understanding, conspiracy, or done any act in the United States or else-where, which artificially enhances or depresses prices within the United States of commodities exported by such association, or where the same substantially lessens competition within the United States, or otherwise restrains trade therein. In such event the offending "association," its officers, and agents may be summoned before the Commission, and it is thereupon required to conduct an investigation into the alleged violation of law. If upon investigation the Commission concludes that the law has been violated it may recommend to the "association" readjustment of its business in order that it may thereafter maintain its organization, management, and the conduct of its business in accordance with the law.

Where an association fails to comply with the recommendation of the Commission, the Commission is required to refer its findings and recommendations to the Attorney General of the United States for such action thereon as he may deem proper.

By section 4 of the export trade act the prohibition in the Federal Trade Commission act against unfair methods of competition, and the remedies provided for enforcing said prohibition, are directed to be construed as extending to unfair methods of competition used in export trade against competitors engaged in such trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

The act defines the term "export trade" wherever used in the act as follows:

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.

The words "trade within the United States" wherever used in the act are defined to mean trade or commerce among the several States or in any Territory of the United States, or in the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

The word "association" wherever used in the act is defined to mean:

Any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations.

Under section 5 of the act a penalty is imposed upon any association which shall fail to make the statement and furnish the statements required to be filed, and also furnish the Commission with such information as it may require, as to the organization, business,

conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals of such associations. The penalty imposed for failure to comply with section 5 of this act is that the association shall not have the benefit of the provisions of sections 2 and 3 of the act. and shall forfeit to the United States \$100 per day during the continuance of such failure to comply with its terms. This forfeiture is payable into the Treasury of the United States, and is recoverable in a civil suit in the name of the United States, in the district where the association has its principal office, or in any district in which it shall do business, by the district attorney under the direction of the Attorney General of the United States, and the costs and expenses of such prosecutions are payable out of the appropriation for the expense of the courts of the United States.

Under section 2 of the export trade act the provisions of the Sherman law, approved July 2, 1890, are directed to be construed in such a way that nothing therein contained shall declare to be illegal "associations," entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, nor any agreement made, or act done in the course of such export trade by such an association, provided such agreement or act is not in restraint of trade within the United States, and is not in restraint of the export trade of any domestic competitor of such an association, provided, however, that such association does not either in the United States or elsewhere enter into any agreement, understanding, or conspiracy, or do any act, which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein.

By section 3 of the act it is directed that section 7 of the Clayton Act, approved October 15, 1914, shall not be construed to forbid the acquisition or ownership by any corporation of the whole or any part of the stock or other capital of any corporation organized solely for the purpose of engaging in export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

*Form of statement.*--For the convenience of those who desire to file the statement required by section 5 of the act there have been prepared and printed forms of statement, which are available upon application.

*Applications for construction of the act.*--Numerous requests have been received by the Commission for rulings upon the construction of the export-trade act. It has been deemed inadvisable to attempt at this time to officially construe any of the provisions of the law upon informal applications. This is especially true, as the penalty for the violation of section 5 of the act is enforceable by the district attorneys of the United States under the direction of the Attorney General, and not by the Federal Trade Commission, and the enforcement of the Sherman Law is a duty of the Federal courts upon proceedings instituted by the Department of Justice.

It is exceedingly important that export associations in process of formation should give careful consideration to the wording of

sections 2 and 3 of the export-trade act. As to the statements which have been filed with the Export Trade Division under section 5 of this act, it has been noted that practically every corporation formed has been organized for the transaction of some business other than that of solely engaging in exporting from the United States to foreign nations as defined in the act.

Most of the articles of association filed have also contemplated the transaction of business other than that of exporting to foreign nations. It is apparent under the law that the provisions of the Sherman law and section 7 of the Clayton law remain applicable as to all combinations which are not organized solely for the business of exporting to foreign nations. The business of exporting to the Philippine Islands, to Porto Rico, or to Hawaii seems clearly to be domestic and not foreign trade, and the provisions of the Sherman law and section 7 of the Clayton law seem to continue in force as to any association or export corporation which engages in such business.

One of the difficulties which exporting houses seem to find with the law is that export companies usually both export and import, while the law provides that its protection is given to associations entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade.

Due to the facts that the business of the country is devoting its thought to war production, and that there is a lack of shipping facilities, general plans for cooperation in export trade are probably now in suspense or only in a formative state. This is indicated by the very small number of association papers which have been filed with the Commission since the passage of the act on April 10, 1918.

*Statements filed.*--Below is a list of all organizations that have filed papers purporting to be under section 5 of the export trade act (April 10, 1918, to June 30, 1918, inclusive).

In listing them the Commission does not indicate that those who have filed these papers are qualified under the act, or entitled to the benefits of sections 2 and 3 of the law. Undoubtedly many export houses have felt it was necessary to file statements to avoid any question as to the penalty imposed by section 5 for failure so to do. It is also probable that other export houses considered, without a thorough consideration of the law, that they could obtain some advantage thereby.

The list follows :

Allied Sugar Machinery Corporation, 120 Broadway, New York, N. Y.  
 Allied Construction Machinery Corporation, 120 Broadway, New York, N. Y.  
 Allied Machinery Co. of America, 120 Broadway, New York, N. Y.  
 American International Steel Corporation, 120 Broadway, New York, N. Y.  
 American Steel Export Co., Woolworth Building, New York, N. Y.  
 American Steel Export Co's Brazilian Corporation, Woolworth Building, New York, N. Y.  
 Automotive Products Corporation, Woolworth Building, New York, N. Y.  
 Cranz (Inc.), F., 2 Stone Street, New York, N. Y.  
 Cranz Importing Co., F. E., 2 Stone Street, New York, N. Y.  
 Deco Co., 51-53 White Street, New York, N. Y.  
 Dodge & Seymour, 12 Hudson Place, Hoboken, N. J., and  
 Dodge & Seymour (China, Ltd.), 12 Hudson Place, Hoboken, N. J., a subsidiary

company.

Douglas Fir Exploitation & Export Co., 260 California Street, San Francisco, Cal.



Dunnellon Phosphate Co. (The), 106 East Bay Street, Savannah, Ga.  
 European & Far-Eastern Sales Co. (Inc.), 27 William Street, New York, N. Y.  
 Export Trade Association ( Inc.), Borough of Manhattan, New York, N. Y.  
 Factory Products Export Corporation, 61 Broadway, New York, N. Y.  
 Fajardo Bros. & Co. (Inc.), 27 William Street, New York, N. Y.  
 Galban Noecker & Co. (Inc.), 82-92 Beaver Street, New York, N. Y.  
 Galena Signal Oil Co. of Brazil, Franklin, Pa.  
 Holsam Co. (Inc.), IS Broadway, New York, N. Y.  
 International Cleaning House of New York (Inc.), 748 Broadway, New York, N. Y.  
 Manufacturers Agents Co. (Inc.), Virginia Railway & Power Building, Richmond, Va.  
 Markt & Hammacher Co., 193 West Street, New York, N. Y.  
 Mexican Importing & Exporting Corporation, 29 Broadway, New York, N. Y.  
 Muller, Maclean & Co. (Inc.), 11 Broadway, New York, N. Y.  
 Parsons & Whittemore (Inc.). 174 Fulton Street, New York, N. Y.  
 Redwood Export Co., 260 California Street, San Francisco, Cal.  
 Semtec (Ltd.), 90 West Street New York, N. Y.  
 Simmons Co., Thomas W., 240 California Street, San Francisco, Cal.  
 Southern Products Co., Interurban Building, Dallas, Tex.  
 Sparks & Co., W. J., 17 Battery Place, New York, N. Y.  
 Sydney Ross Co., 147-153 Waverley Place, New York, N. Y.  
 Texas Co. (South America) (Ltd.) , The, 17 Battery Place, New York, N. Y.  
 United States Paper Export Association. 30 Broad Street, New York, N. Y.  
 Zoccola Co. (Inc.), 60 South Street, Boston, Mass.

Some fear has been expressed in South American countries that the effect of the export trade act will be disadvantageous to the consuming public of foreign nations by strengthening the hands of American trusts, monopolies, and combinations of capital in these markets. The Commission has pointed out the fact that the law permits the cooperation of manufacturers who would perhaps not otherwise be able to compete in foreign fields and who, without the law might hesitate to form cooperative export associations, which will in all probability increase the buying opportunities of the consuming public in foreign countries.

The Commission has been cooperating with the Bureau of Foreign and Domestic Commerce, and has availed itself of the privilege of publishing in Commerce Reports, statements from time to time.

The Commission is keeping informed as to the export needs of the country in order to be of assistance so that American producers may cooperate to the fullest extent in export fields, without injuriously affecting domestic commerce, or the foreign commerce of those exporters who are associated with export trade associations.

Progress has been made in the preparation of an additional report on foreign trade conditions under section 6, clause H, of the Federal Trade Commission act, reading as follows:

SEC. 6 That the Commission shall also have power--

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers,

merchants, or trader's, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

The world-wide dislocation of trade and industry incident to the war is creating new conditions which may vitally affect American business in the future. The Commission is closely following new developments in international trade, as they arise, with a view to ascertaining the bearing they may have on the foreign trade of the United States.

ADMINISTRATION OF PATENT AND TRADE-MARK MATTERS UNDER  
THE TRADING WITH THE ENEMY ACT.

Section 10 of the trading with the enemy act, approved October 6, 1917, granted to the President authority, which he delegated to the Federal Trade Commission by an Executive order issued October 12, 1917:

(a) To license citizens and corporations of the United States to file and prosecute in the country of an enemy or ally of enemy applications for patents or for registration of trade-marks, prints, labels, or copyrights, or to pay any taxes, annuities, or fees relating thereto.

(b) To license citizens and corporations of the United States to make use, and vend any machine, manufacture, composition of matter or design, or to use any process trade-marks, print, label, or copyright owned or controlled by an enemy or ally of enemy.

(c) To order that an invention be kept secret and the grant of a patent withheld until the end of the war, whenever the publication of an invention by the granting of a patent may be detrimental to the public safety or defense, or may assist the enemy, or endanger the successful prosecution of the war.

The Enemy Trade Division, which was established by the Commission to administer these provisions, has carried on its work in active cooperation with other governmental agencies, especially with the War Trade Board, the Censorship Board, the Military Intelligence Division of the General Staff of the Army, the Naval Intelligence Section of the Bureau of Naval Operations of the Navy, the Alien Property Custodian, and the Commissioner of Patents, and apparently valuable assistance has been given to these agencies. In addition to the administration of the trading with the enemy act, the division, under the authority of the creative act of the Commission, has carried on an extensive investigation of the ownership or control of United States corporations by enemies or allies of enemies, and the results have been very illuminating and highly useful to the Government. The authority to license the filing and prosecution of applications in enemy countries stated in paragraph (a) above was revoked by the President, at the suggestion of this Commission, in an Executive order issued April 11, 1918, and since that date no such license have been issued and very few applications received.

Each branch of the division's activity will be reviewed somewhat at length, but the following statistical summary will be of interest:

*Applications to file or prosecute or to pay taxes concerning patents and trademarks in enemy countries.*

Applications granted to file and prosecute	-----	248
Applications denied	-----	14
Informal applications	-----	10
Applications pending and returned on Apr. 11, 1918	-----	578
Total applications to file and prosecute	-----	850
Applications granted to pay taxes	-----	1,015
Informal applications	-----	15
Applications pending and returned on Apr. 11, 1918	-----	20
Total applications to pay taxes	-----	1,300



*Applications for licenses under enemy patents, trade-marks and copyrights.*

Applications granted under patents -----	128
Applications denied -----	7
Applications pending -----	10
Total applications under patents -----	145
Exclusive licenses issued -----	5
Nonexclusive licenses issued -----	29
Total licenses issued under patents -----	34
Licenses canceled -----	2

Of the applications granted, eight have not matured into licenses. The discrepancy between the number of applications and the number of licenses is caused by the fact that each application covers a single patent, while in some instances several patents have been included in a single license.

Applications granted under trade-marks -----	3
Applications denied -----	2
Applications pending -----	5
Total applications under trade-marks -----	10
Exclusive licenses issued -----	9
Nonexclusive licenses issued under trade-marks -----	1
Total licenses issued under trade-marks -----	3
Applications granted under copyrights -----	10
Applications denied -----	1
Total applications under copyrights -----	11
Nonexclusive licenses issued -----	10

*Orders enjoining secrecy of invention.*

Inventions disclosed in patent applications regarding which secrecy has been enjoined ---	1,640
Persons and corporations enjoined to secrecy regarding time foregoing inventions -----	2,977
Inventions regarding which orders have been vacated or modified -----	750

*Investigation of enemy control of corporations.*

Corporations which have reported -----	470
Corporations to report -----	158
Stockholders who have reported -----	1,736

*Licenses to file and prosecute applications and pay fees in enemy countries.--*

After sufficient time had elapsed to allow the Commission thoroughly to appreciate the dangerous possibilities in the transmittal to enemy countries of patent and trademark applications and correspondence and payments with respect thereto, the conclusion was reached that there was every reason why the ban on commercial intercourse generally should be extended to patent matters. Many documents which were sought to be transmitted by license from the Commission consisted of many sheets of descriptive matter and of drawings, and there could be no definite assurance that these communications were not the means of transmitting to the enemy both industrial information valuable in the prosecution of the war and secret code intelligence, despite the careful scrutiny of this Commission and the War Trade Board and the Censorship Board. The subject was fully considered with representatives of these boards and of the Military

and Naval Intelligence Sections, and, as a result a recommendation was made to the President that the authority to license the transmittal of such documents which was being exercised by this Commission, and by the War Trade Board under the delegation of authority of the Secretary of the Treasury, be revoked. The President issued an Executive order on April 11, 1918, in accordance with this recommendation, and since that date no further licenses have been issued to correspond in any way whatever with enemy countries regarding patents, trademarks, prints, labels, or copyrights.

Prior to the issuance of this Executive order, the situation had become chaotic. Some attorneys and industrial concerns had adopted the policy of not filing or prosecuting patent applications in enemy countries during the continuance of the war; others who were continuing to file and prosecute such applications found that in many instances their communications did not reach the intended destination, because of the sinking of ships or the withholding action by some censor through whose hands the papers passed. In view of the many uncertainties attending the transmittal of papers and documents generally, and in view of the potentially very dangerous character of the patent documents which were being transmitted, it was deemed best to stop the transmittal of such documents entirely, which was done by the Executive order of April 11. All the citizens and corporations of the United States are thus placed in one class, so that the status of their patent and trade-mark rights in enemy countries and the corresponding rights of enemies in this country, can be determined definitely and uniformly at the termination of the war.

It is interesting to observe that there has been substantially no objection from attorneys or industrial concerns to the enforced cessation of patent and trade-mark communication with enemy countries, although it has effected serious curtailment of the business of some attorneys, especially those who specialize in foreign work, and temporarily withholds or destroys patent and trade-mark protection of our own industrial concerns in enemy countries. The opinion seems to be the most unanimous that the end justified any means, however vigorous the latter might be.

*Licenses under enemy patents, trade-marks, and copyrights.*--When the Commission received its authority to grant licenses under enemy patents in the fall of 1917, it found an acute condition as to certain synthetic drugs which had formerly been entirely of German manufacture and importation. The drug which presented the gravest and most pressing problem was that introduced as "Salvarsan," or "606," for the available supply in this country was almost exhausted, and the demand from the Army, the Navy and the medical profession at large was very extensive, so that in many instances the price demanded for this product rendered its use prohibitive. The situation was carefully studied in conference with the Surgeon Generals of the Army, the Navy and Public Health Service and with the representatives of the subcommittee on synthetic drugs of the National Research Council, and of the American Medical Association. As one result of this conference and of further investigation following it, it was determined to prescribe new names in licenses, not only for "Salvarsan," but for other synthetic drugs, because the German patent owners or their American agents generally possessed trade-

mark rights for the only names by which the drugs had heretofore been known. On November 27, 1917, licenses to manufacture and sell "arsphenamine," which is the new name prescribed by the Commission in its licenses for "Salvarsan," were granted to the Dermatological Research Laboratories, the Takamine Laboratory (Inc.), and the Farbwerke-Hoeschst Co.--subsequently canceled and reissued to H. A. Metz Laboratories (Inc.)--and on January 12, 1918, a fourth license was issued to the Diarsenol Co. (Inc.). On March 4, 1918, licenses were issued to each of these concerns to manufacture and sell "neo-arsphenamine," which is a related and substitute drug introduced under the trade name "neosalvarsan." Difficulty was encountered in the determination of the patents under which these licenses should be granted, but they were finally issued under five patents, covering respectively the product "arsphenamine," the product "neorsphenamine," the process for making these products, the packaging of the products in glass ampules in an atmosphere of inert gas, and the method of administration by the physician.

Each of the licensees for "arsphenamine" and "neo-arsphenamine" is obliged to submit a specimen from each lot of its product to the Hygienic Laboratory of the United States Public Health Service, by whom it must be approved before the lot is released for sale.

The result of the issuance of these licenses has been a very decided alleviation of the distressing condition which previously existed, and the market now seems to be fairly supplied at a reasonable price.

After the apparent solution of the "Salvarsan" problem, the Commission considered the situation involving the drug introduced as "novocain," a local anaesthetic extensively used as a substitute for cocaine, and after investigation and consideration with the subcommittee on synthetic drugs of the National Research Council, licenses were issued on December 17, 1917, to the Farbwerke-Hoechst Co.--subsequently canceled and reissued to H. A. Metz Laboratories (Inc.)--and the Rector Chemical Co. (Inc.), and further licenses were issued to the Abbott Laboratories on January 10, 1918, and to the Calco Chemical Co., on February 18, 1918. These licenses prescribed the name "procaine" for this drug introduced as "novocain."

A third drug in great demand was a widely used hypnotic known under the trade name "veronal," and the manufacture and sale of this drug under the name "barbital" was licensed to the Abbott Laboratories on December 17, 1917, and to Antoine Chiris Co. on March 11, 1918.

The only other drug for the manufacture of which a license has been issued is phenylcinchoninic acid, formerly sold under the name "atophan." This drug is valuable in the treatment of rheumatism and gout, but the demand for it is not nearly so pressing as for the other licensed drugs, and a license has been issued only to the Abbott Laboratories, on March 23, 1918.

While each drug licensee must use the new name prescribed by the Commission, it may also use its own trade name under certain restrictions. The Commission retains control over the licensees to the extent necessary to assure the production of drugs in sufficient quantities and of satisfactory quality at reasonable prices.

The licensees for the manufacture of these various drugs were very seriously handicapped by lack of knowledge in the United



States of the manufacturing processes and by the difficulty of securing the necessary equipment and materials, but they have attacked these obstacles willingly and successfully. The Army, the Navy, and the Red Cross in addition to the medical profession are calling for vast quantities of these and other drugs and the manufacture of those quantities within the requisite time necessitates the installation of equipment which will be useless after these quantities have been supplied and normal conditions are again approached. It seems to be the fact that where the selling price of these drugs is undesirably high, it is due to enhanced cost of materials and equipment and to difficulties in unfamiliar processes rather than to any undue profit charged by the licensee, but reductions in prices may be expected as manufacturing processes become more nearly standardized. The Commission is inclined to be patient with its licensees, in view of the difficulties which they have encountered, and not only to stimulate production for the fulfillment of current needs, but also to develop a sound and enduring industry.

While the drug licenses have been the most important issued from a humanitarian viewpoint, the licenses for the production of coal-tar dyes have been the most important from the industrial viewpoint, and vast sums are being invested in the United States for the carrying on of this peculiarly German industry. E. I. du Pont de Nemours & Co. and the National Aniline & Chemical Co. (Inc.), as well as certain other concerns, are developing amid carrying on the coal-tar dye industry in the United States on a very large scale, but they have not been free to produce many of the colors covered by unexpired patents owned by German companies. Both the E. I. du Pont de Nemours & Co. and the National Aniline & Chemical Co. have quickly accepted the present opportunity to commence the manufacture of German-controlled colors, and have recognized the expediency of obtaining legal protection for such activity by license from the Commission.

The research work in identifying the processes of manufacturing these various colors, and their production in commercial quantities, was not materially aided by the disclosures of the patents, and it was an especially difficult task both for the applicants and for the Commission to determine under what patents these dye licenses should be granted to protect the licensees in what they desired to do. In many instances it was found that the disclosure in the patent was entirely inadequate. In other instances the disclosure was sufficient for laboratory practice, but entirely impracticable for commercial production. Again, one patent might disclose an incomplete process, while an essential step in the complete process would be covered by another patent, the title to which was in a different owner. Persistent investigation and experimentation by the applicants for license, together with extensive consideration by the Commission, finally resulted in a fairly satisfactory grouping of the necessary patents under which licenses were issued.

Four licenses have been issued to the E. I. du Pont de Nemours & Co. under 22 patents to manufacture, use, and sell, respectively, anthracene dyes, synthetic indigo, and its derivatives, sulphur dyes, and azo dyes. Licenses for the same four groups have been issued to the National Aniline & Chemical Co. under 46 patents.

Licenses

have also been issued to E. C. Klipstein & Sons Co., Merimac Chemical Co., and to E. I. du Pont de Nemours & Co. to manufacture and sell solid hydro sulfites, which are necessarily used in the application of certain dyes.

It is an interesting fact that some of these patents cover products which are sold by the dye manufacturer, and that other patented process must be used by the textile manufacturer in applying the product to dye his goods. The Germans used this condition to force the purchase of products, both patented and unpatented, from the owner of the patent covering the process of application, but the Commission's licensees have granted each manufacturer the right to authorize textile workers to employ these application processes.

Applications for further dye licenses will probably be made as the manufacturers determine other patented colors which they wish to produce.

The Pacific Flush Tank Co. was granted a license under which it is authorized to permit the use of the Imhoff process of sewage disposal. Lemboke, von Bernuth Co. (Inc.), has a license authorizing it to permit the use of the Rueping process for treating timber. The Hoevel Manufacturing Co. has a license to manufacture and sell certain sand blast machines. The American Parlograph Corporation is licensed to make and sell a certain diaphragm head for dictating machines.

Each of these four licenses is in terms exclusive, and they were so ordered by the Commission because of conditions continuously existing since long prior to the war, and to have licensed others would have seriously disrupted relations existing between the licensees and many concerns in the United States. Although these licenses are in terms exclusive, the public is entirely protected by the provision that the licenses are terminable in the absolute discretion of the Commission.

Licenses have been issued to Pfanstiehl Co. (Inc.), and to the New Process Metals Co. to manufacture, use, and sell pyrophoric alloy, which is a so-called "sparking metal" especially useful to the armies in star shells, and also extensively used in cigar lighters, miners' lamps, and gas lighters.

Licenses also have been issued to the French Battery & Carbon Co. to manufacture and sell certain flashlight batteries; to Albert B. Moses for the production of artificial milk; to F. L. Smith & Co. for grinding mills; to Robert Refiner Importing Co. for embroidering machines; to Stearns-Rogers Manufacturing Co. for drying apparatus; and to General Ceramics Co. for acid towers.

Only 10 applications have been filed for licenses under trade-marks, and only three of these have been allowed and licenses issued, while five applications are still pending. One of these licenses was issued to the Abbott Laboratories to use the trade-mark "Veronal" in order to identify the drug named "barbital" made under a patent license. Another was granted to Lehn & Fink to continued to use the trade-mark "Pebeco" on tooth paste made by a secret process known in the United States only to the licensee and formerly imported from Germany under contract with the trade-mark owner. The third was issued to the Anchor Packing Co. to use the trade-mark "Tauril" on packing, also made by a secret process known in this country only to the licensee. Licenses under trade-marks have been denied where

it was evident that to grant a license would permit misrepresentation or confusion.

Under copyrights, one license has been issued to Houghton Mifflin Co. to publish a German officer's description of submarine warfare; another to David McKay, of Philadelphia, to publish an English and Greek dictionary; and a third to the John Crearar Library, of Chicago, to reproduce certain pages of a German treatise on dyes. The remaining licenses under copyrights have been for the production of grand operas. The San Carlo Grand Opera Co. is licensed to produce "The Jewels of the Madonna," "The Secret of Suzanne," "Sahome," and "Hansel and Gretel." The Philadelphia Operatic Society is licensed to produce "The Secret of Suzanne," and the Ravinia Co., of Chicago, is licensed to perform "The Secret of Suzanne" and the second act of "The Jewels of the Madonna."

In all of the licenses issued by the Commission, a royalty is stipulated which is payable periodically to the Alien Property Custodian and the right is reserved in the Commission to investigate the licensee's business and to cancel a license at any time in its discretion, if in its opinion the licensee has failed to satisfy the reasonable requirements of the public with satisfactory articles at reasonable prices, or under any circumstances which in the opinion of the Commission make it advisable that the license be canceled in whole or in part.

Despite the complete control which the Commission thus retains over the licensee, in order to protect the interests of the public, the licensee is subject under the "trading with the enemy act" to a contingent liability which seems inadvisable and unnecessary. The act provides that the licensee shall be required to deposit with the Alien Property Custodian not to exceed 5 per cent of the gross sums received by the licensee, or not to exceed 5 per cent of the value of the use of the licensee. The act further provides that within one year after the war the enemy owner may bring suit against the Commission's licensee for recovery for all use and enjoyment of the subject matter and that the court may decree to the owner payment of a reasonable royalty, and may terminate the license and enjoin the licensee from infringement thereafter or continue the license for such period and upon such terms as it may find to be reasonable.

These provisions as to royalty and termination of the license have caused a decided feeling of uneasiness and uncertainty among the Commission's licensees, and many competent counsel are advising clients not to apply for licenses of such inconclusive character, but to take their chances of being sued for infringement after the war in the ordinary course.

Every license issued by the Commission has been granted, not for the duration of the war, but for the life of the right under which it is granted, and the Commission is firmly of the opinion that equity demands that the royalty prescribed in the license be fixed with more definiteness, and that the power of the courts to terminate the licenses be abrogated. In some instances 5 per cent of the gross sums received by the licensee is not a sufficiently high royalty to be reasonable and in other instances it is entirely too high, and the other provision as to the deposit of 5 per cent of the value of the use of the licensed subject matter apparently has no relation to what may be a reasonable royalty. Furthermore, after the war a court may establish what it considers a reasonable royalty without any relation to the



investigation by the Commission or the rate establishment by it in the license. Finally, in view of the fact that these licenses are designed to protect the United States concerns in establishing and carrying on industries which heretofore have been monopolized unfairly by German and Austrian interests to the very great disadvantage of the American public, it seems inequitable in high degree to have the Commission's licenses terminable by the courts at the suit of the enemy owners.

It is earnestly urged that these serious defects of the present act should be cured, to the end that the business license by the Commission may rest on a firm foundation. Senate Bill No.3523, which was introduced on January 16, 1918, at the request of the Commission, and another bill which was recently transmitted with a request for its introduction, together will remedy the present uncertainties. In substance they provide that the Commission in its license may pre-scribe a reasonable royalty and that at the suit of the enemy owner after the war, the court, although it may also establish a reasonable royalty, shall accept that prescribed in the license as prima facie reasonable, while the powers of the courts to terminate the licenses is entirely cut off. The enactment of these bills will certainly enable the Commission to do much more effective work in the establishment of industries which have heretofore been monopolized by our present *enemies*.

*Orders of secrecy regarding inventions.*--Section 10 (*I*) of the trading with the enemy act authorizes the President, whose power has been delegated to the Federal Trade Commission, to order that an invention be kept secret and the grant of a patent withheld until the end of the war, whenever in his opinion the publication of an invention by the granting of a patent may be detrimental to the public safety or defense, or may assist the enemy or endanger the successful prosecution of the war. If the invention be published in violation of the order without the consent of the Commissioner of Patents, or the Federal Trade Commission (acting for the President), the penalty is the abandonment of the invention and a fine of not to exceed \$10,000 or imprisonment for not to exceed 10 years, or both.

Coincident with the approval of the trading with the enemy act, on October 6, 1917, another act was approved which causes an anomalous situation. The second act is in substantially the same phraseology as section 10 (*I*) of the trading with the enemy act, except the authority to issue orders is vested in the Commissioner of Patents instead of in the President; that the modification of the order may be made by the Commissioner of Patents or the Secretary of Commerce, instead of by the Commissioner of Patents or the President; and that the penalty for violation of the order is merely abandonment of the invention and does not include either fine or imprisonment. The Secretary of Commerce has issued no licenses under this act modifying issued orders, and it may be that his inclusion in the terms of the act was inadvertent.

Considerable difficulty was encountered at the commencement of the administration of these two acts, because of the concurrent jurisdiction of the Federal Trade Commission and the Commissioner of Patents, but a workable plan of procedure was soon determined.

The Commissioner of Patents has appointed a committee of primary examiners to whom the members of the examining corps of the Patent Office report patent applications involving war inventions as they are filed or as they are subsequently reached for Patent Office action in the regular course. This committee recommends whether or not an order of secrecy should be issued with respect to the invention disclosed in a specific application. There is also a board composed of members appointed by the Secretaries of War and the Navy, whose duty it is to investigate patent applications pending in the Patent Office, for the purpose of bringing to the attention of the military authorities any inventions useful in the prosecution of the war. This board frequently suggests to the committee of primary examiners certain applications which in its opinion should be placed under orders of secrecy.

On the recommendation of the committee of primary examiners an order is issued by the Commissioner of Patents to the inventor, his attorney and assignee, enjoining them to maintain secrecy concerning the invention disclosed in the instant application, and withholding the grant of a patent thereon. This Commission is promptly informed of all orders issued by the Commissioner of Patents, where-upon orders of secrecy are issued by the Commission to each inventor, his attorney and assignee, and to all others having knowledge of the invention. The order of the Commissioner of Patents not only enjoins secrecy, but withholds the grant of a patent. The order of the Commission is subject to modification by the Commissioner of Patents or this Commission, and enjoins any disclosure of the invention except to the Secretary of War, the Secretary of the Navy, and such other persons as they may officially designate in writing. It would be impossible for this Commission without a material increase of personnel and facilities, to make the necessary investigation to determine whether or not an application for the modification of an issued order should be granted. The Commissioner of Patents, on the other hand, has the assistance of the technically trained examining corps, and intimate association with the Army and Navy Patent Board, so that as a general rule, applications for the revocation or modification of orders are referred to him. On the issuance of a vacating or modifying order by the Commissioner of Patents, the order previously issued by this Commission is automatically vacated or modified to the same extent.

Peculiar situations occur infrequently, in which it seems necessary and advisable to depart from the foregoing customary procedure and to have this Commission issue an order independently of the Commissioner of Patents. Such orders have been issued with respect to only about 15 inventions, and they were prompted by the special requests of the Army or the Navy, or by the necessity of exceedingly prompt action.

Orders maintaining secrecy and withholding patents are issued with respect to practically all inventions relating to submarine devices, airplanes, wireless apparatus, ordnance, gyroscopes, camouflage, gas and gas protective devices, and other strictly military inventions, while selected inventions in other lines of endeavor are ordered kept secret.

The present laws are seriously defective, because both the trading with the enemy act and the other similar act limit the issuances of in-



junctions to instances in which the publication of an invention by the granting of a patent may be detrimental. There are many instances in which it is highly desirable to forbid any disclosure of an invention for which no patent application has been filed and for which none is contemplated. Time reasonable interpretation of the act does not seem to authorize the issuance of injunctions maintaining the secrecy of such inventions, and Senate bill 3523 now pending includes an amendment to section 10 (*I*) of the trading with the enemy the phrase, "the publication of an invention act by changing by the granting g of a patent," to "the publication of an invention or the granting of a patent," which obviously will remedy the situation. In the meantime, at the suggestion of this division, a plan has been formulated with the Commissioner of Patents whereby an application may be prepared with knowledge of time invention limited to the inventor and an authorized officer of the Army or Navy who will present the application to the Commissioner of Patents personally for the purpose of having it properly filed, but with any knowledge of the invention limited to the invention to the fewest persons practicable and yet will furnish a legally filed application on which orders of secrecy may be issued under the present acts.

*Investigation of enemy control of corporations.*--Some months ago it was appreciated that under the authority of the creative act of the Commission, corporations could be required to the reports which could be made to disclose ownership or control by enemies. A comprehensive questionnaire was formulated which is sent to the corporation under suspicion, and the latter is required to disclose among other things stockholders for the years 1915, 1916, and 1917. On receipt of this list a questionnaire is sent to each stock-holder. The answers from the corporation and its stockholders reveal the real owner of the beneficial interest in the corporation and any relations it may have with other concerns.

The great value of the information obtained in this manner by the Commission and the usefulness of its power to obtain information which might otherwise remain unknown, are well evidenced by the numerous requests from the Alien Property Custodian, the War Trade Board, and the Intelligence Sections of the Army and Navy that the division send its questionnaires to specified concerns. When the answers to a questionnaire show any enemy interest in concerns under investigation, time facts are promptly reported to the Alien Property Custodian amid the War Trade Board, amid any other department is notified of facts that might peculiarly interest it.

The Commission informed that among the 470 companies and 1,736 stockholders who have filed answers to its questionnaires, there are included many enemy interests in American industries which were before unknown to the Alien Property Custodian. Many otherwise unsuspecting persons have been found to be intimately connected with enemy interests, amid such information has been welcomed by the Intelligence Sections of the Army amid Navy.

Of the 470 companies investigated, over 100 have been found to be controlled by enemies, who in a majority of cases are Germans. Some of the most important corporations in the United States have been found to be "outposts of Kultur."



In many instances, subsequent to the taking over of a corporation by the Alien Property Custodian, this Commission has been requested to make an investigation in its unique way, and we have been able to disclose stock held by or for enemies which it has been impossible to discover in any other manner.

#### CONCLUSIONS.

The results accomplished under the trading with the enemy act seem to be divisible into three general classes.

The work connected with the issuance of orders to maintain secrecy regarding inventions and the investigation and censorship of patent matters destined for enemy countries prior to the revocation of authority to do so, have been of immediate importance and value in protecting the military endeavors of the Nation, and the utility and scope of this work will certainly be increased if the trading with the enemy act be amended in accordance with pending legislation.

The extensive investigation to uncover enemy ownership or control of American industries has been and continues to be of especial value, both from the industrial and the military aspects. The information gathered by this investigation in many instances has disclosed ramifying enemy interests that had been otherwise undiscovered, and has been a powerful aid in nullifying the attempts of German and Austrian financial interests to dominate many American industries. At the same time this investigation, primarily designed to acquire industrial and economic information, has frequently disclosed information of a personal nature which has been of immediate value to the Military and Naval Intelligence Sections in apprehending individuals whose activities were inimical to the interests of the Nation.

The issuance of licenses under enemy-owned or controlled patents trade-marks, and copyrights is of high value in affording legal protection to those corporations and individuals who have been so licensed.

#### LEGAL DIVISION.

The work of the legal division during the fiscal year ending June 30, 1918, has been characterized by a very marked increase, not only in the number of proceedings instituted and disposed of but also in the scope and range of its activities over that of previous years.

By the provisions of the Federal Trade Commission act the Commission is required to prevent the use of unfair methods of competition in interstate commerce, in violation of section 5, and it is also charged with the duty of enforcing sections 2, 3, 7, and 8 of the Clayton Act, designed to prevent certain price discriminations, tying contracts, intercorporate stockholders, and interlocking directories. The jurisdiction of the Commission has been greatly enlarged during the past year by the enactment by Congress of the Webb Act, approved April 10, 1918, extending the powers of the Commission to embrace certain-phases of export trade of the United States. This act and the Commission's relation thereto, is referred to more fully elsewhere in this report.

There have been presented to the Commission during the year 332 applications for the issuance of complaints and for the institution of proceedings charging unfair methods of competition or violations of those sections of the Clayton Act which the Commission is required to enforce. In the applications involving unfair methods of competition the practices complained of, which were alleged to be unfair methods of competition, include:

- Advertising: False and misleading. Refusal to accept.
- Bogus independents.
- Commission's letter, misuse of.
- Commission's order, disobedience of.
- Combination of buyers to force down prices by refusal to purchase.
- Conspiracy: To injure competitor. Black lists. To eliminate competition and maintain exorbitant prices.
- Contracts: Abrogation of Exclusive agency. Exclusive dealing (full line forcing). Inducing breach of.
- Defamation: Libel. Slander.
- Division of territory.
- Direct selling to consumers by producers and wholesalers.
- Discounts: Quality or grade. Quantity.
- Discrimination, price.
- Disparagement of: Goods. Business.
- Employees : Bribery of. Enticement of.
- Espionage.
- Fraudulent marking of goods.
- Impairment of competitive power of other concerns by stock control.
- Intimidation: Threats. Boycott. Molestation or obstruction.
- Joint selling agencies.
- Holding back shipments to increase price of product.
- Limitation of outputs, agreements.
- Misbranding.
- Misrepresentations.
- Mergers.
- Making up cost sheets "in reckless disregard of true cost."
- Monopoly.
- Nondelivery of goods on bona fide orders.
- Open price exchanges.
- Organization of "trust" to increase prices.
- Passing off: Of goods. Of name.
- Patents and copyrights, infringement of.
- Price agreements.
- Price cutting: General. Local. Free goods or premiums (trading in).
- Price enhancement of product.
- Price enhancement of products, combinations.
- Price enhancement of raw material.
- Price fixing : By associations and combinations. By individuals and corporations.
- Prices, charging excessive for necessary supplies.
- Prosecution and persecution of alleged infringers of patents.
- Rebates.
- Refusal to sell.
- Refusal to furnish repair parts.
- Refusal to furnish service, at instigation of competitor.
- Restraint of trade.
- Restraint of trade, combinations.
- Resale price maintenance.
- Selling certain products at a loss and recouping on others.
- Suits, malicious and wrongful.

Spurious inquiries for estimates.  
Simulation of slogans.  
Supplies, cutting off of competitors.  
Unauthorized use of trade-mark.  
Using cars obtained for Government purposes for private purposes.

To make accurate determination of the facts involved in many of the application for the issuance of complaints, long and skillful

investigations are required of the industries involved and the trade practices and regulations of such industries. These investigations are made by attorneys and examiners of the Commission various sections of the country. In the making of such investigations, intricate questions of both law and fact very often arise which require the services of the Commission's attorneys in preparing briefs and opinions thereon which are, with reports of such investigations, submitted to the Board of Review for its consideration. This board, which is composed of two lawyers and one economist, after a complete review of the facts ascertained from such investigations, and the law applicable thereto, submits the matter to the Commission, with its opinion, either dismissal of the application or the issuance of a complaint in a proceeding authorized by law. With this report and opinion before it, the Commission then proceeds to a consideration of the matter to determine whether or not it has reason to believe that the facts developed from such investigations constitute a violation of any of the laws which the Commission is required to enforce, and in cases of unfair methods of competition, further, whether a proceeding by it would be to the interest of the public. If such situation affirmatively appears, then the Commission authorizes the issuance of a complaint and institution of proceedings, but if it does not so appear, then the matter is disposed of by dismissal or discontinuance of further consideration. Upon the ordering of the issuance of a complaint and the institution of proceedings, the matter is transmitted to the chief counsel, who prepares the Commission's complaint and conducts the proceedings and hearings thereon to final conclusion.

The method of practice is substantially as follows:

Although the complaints, in compliance with the statutes, have, when served, a notice that on a certain date fixed therein, not less than 30 days from the service thereof, the respondent show cause before the Commission why an order should not be entered requiring such respondent to cease and desist from the violations of law therein charged, the Commission has assumed that the burden of proof is upon it to establish, by proof, the allegations of the complaint. Therefore, the respondent is not required to bring its witnesses before the Commission on the return day; neither can the Commission, with its multitudinous other, generally sit at the taking of testimony in proceedings requiring many days of hearing. Therefore, on the return day, the usual practice is to fix a time and place for the beginning of the taking of the testimony, which place is usually a place most convenient and inexpensive for the parties and witnesses. The testimony is usually taken before an examiner of the Commission who has had experience in trials in the courts. He passes upon the admissibility of the evidence presented at the hearing before him. Before the taking of the testimony is finally closed before the examiner parties objecting to the ruling of the examiner upon the introduction of evidence may have such ruling reviewed by the Commission. The Commission has not furnished bills of particulars to respondents in any proceeding and it is careful that no injustice shall be done by reason of such refusal. The Commission is particularly desirous that all the facts in reference to the matter involved and within the scope of the investigation be brought out if respondents are surprised or unprepared for the cross-

examination of witnesses who testify in support of the Commission's complaint, the Commission will recall such witnesses at a later date for cross-examination by the respondents, or the Commission will give the respondents time to give consideration to the matter presented in evidence which causes such surprise. Besides this, after the testimony to support the Commission's complaint has all been presented ' the respondents are given a reasonable length of time to prepare evidence to be given in support of their answer or in rebuttal of the testimony presented in support of the complaint. In the proceedings, the Commission is represented, and the evidence is offered, by attorneys for the Commission who are designated as trial counsel. When the evidence has all been introduced before the examiner, the trial counsel and counsel for respondents present to the examiner briefs of the law and facts and are allowed to make oral argument before the examiner. The pleadings, evidence, and summary thereof, are then presented to the Commission and counsel, if desired, may make oral argument before the Commission. The Commission then makes its findings as to the facts and issues its order either to cease and desist or dismissal. The Commission's findings and the order based on such findings, conclude the disposition of the matter by the Commission.

On June 30, 1917, there were pending before the Commission 191 applications for complaints, and these, together with the 332 received up to June 30, 1918, make a total of 523. Of this number 240 were disposed of during the fiscal year ending June 30, 1918, either with or without formal proceedings, by conference rulings or by resolutions of the Commission, leaving undisposed of at the end of the fiscal year, 283 applications which are now under investigation.

*Comparative summary of applications.*

	1918	1917
Applications received -----	332	154
Applications disposed of -----	240	106
Applications pending -----	283	191

In June, 1918, the Commission established branch offices at New York City, 421 Post office Building, Eighth Avenue and Thirty-fourth Street; Chicago, Laden Building, 14 East Jackson Boulevard; at San Francisco Appraisers Store Building. Each office is in charge of an examiner of the legal department and it is expected that his work will decrease the expense incident to the investigation of applications and the preparation of the various proceedings for hearing. However, owing to the limited length of time which these offices have been in actual operation, it is not thought advisable to attempt to make a separate review of their activities in this report.

It has been time policy of the legal department, consistently adhered to throughout the fiscal year, to bring, whenever possible, formal proceedings to a conclusion by stipulation or agreement as to the facts, thereby reducing the volume of litigation, resulting in a saving of time and expense, both to the Commission and the respondents. This has been accomplished by submitting cases to the

Commission for its consideration and determination upon agreed state-

ments of facts wherein it is stipulated between the counsel for the Commission and the respondents, that the Commission shall proceed forthwith upon such agreed statements of facts to make and enter its findings and order to cease and desist from the practices charged without the introduction of evidence. The chief counsel has prepared a form of answer to complaints in proceedings where such agreement may be arranged, which, in itself, accomplishes the same purpose by virtually making the charges in the complaint and the answer an agreed statement of facts. This form of answer has been used by numerous respondents during the last fiscal year, thus eliminating the burden of lengthy and expensive trials. The many settlements of proceedings by agreed statements of fact is an indication of the thorough and impartial manner in which the attorneys and examiners of the Commission have made investigations of the facts involved.

The Commission takes modest pride in the achievements of the legal division during the past year. The orders issued by the Commission requiring respondents to cease and desist from unfair methods of competition is patently doing much to establish higher ethics of competition in industry, protecting the public from restraints of trade and monopoly, and appears to be an entire justification for the enactment of section 5 of the Federal Trade Commission act which requires the Commission to prevent unfair methods of competition in interstate commerce.

Appended hereto is a copy of a complaint of the Commission in a proceeding which is typical of the complaints issued by it (Exhibit 6), and likewise a copy of the findings as to the facts, conclusions of law, and an order to cease and desist (Exhibit 7).

A brief resume of the adversary proceedings under consideration by the Commission during the year ending June 30, 1918, is as follows:

#### PROCEEDINGS INSTITUTED SINCE JULY 1, 1917.

(June 30, 1918.)

*Complaint No. 15 (July 5, 1917, amended complaint Apr. 8, 1918).*--Federal Trade Commission v. The Curtis Publishing Co. Cause: Stifling and suppressing competition by refusal to sell its publications to dealers who will not agree to sell or distribute the publications of certain of its competitors in alleged violation of section 5 of the Federal Trade Commission act; and further, attempting to create a monopoly by means of price fixing conditioned on the non-sale of competitors' publications in alleged violation of section 3 of the Clayton Act.

*Complaint No 16 (Aug. 1, 1917).*--Federal Trade Commission v. The Whole-sale Saddlery Association of the United States and National Harness Manufacturers' Association of the United States. Cause: The complaint is in three parts, viz, (1) against the Wholesale Saddlery Association; (2) against both; and (3) against the National Harness Manufactures' Association. (1) Stifling and suppressing competition in the wholesale harness and saddlery trade by unfairly hampering and obstructing certain competitors who are not members of the association by inducing and compelling manufacturers of saddlery accessories to refuse to recognize such competitors as legitimate jobbers or wholesalers and entitled to

prices and terms as such; (2) stifling and suppressing competition in the combined or closely affiliated wholesale and retail harness and saddlery goods business by inducing and compelling manufacturers of saddlery accessories to refuse to recognize such competitors as legitimate jobbers entitled to prices and terms as such; and (3) stifling and suppressing competition by hampering and obstructing competition by inducing and compelling manufacturers by various means not to sell to certain competitors, among



which are mail-order houses, general stores, hardware stores, etc.: all in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No.17 (Aug. 7, 1917).*--Federal Trade Commission v. Bureau of Statistics of the Book Paper Manufacturers, Charles F. Moore, the bureau's secretary, and 23 paper manufacturers. Cause: Unfair methods of competition by engaging in a concerted movement to enhance prices and bring about a uniformity of such enhanced prices in the book-paper industry in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 18 ( Sept. 14, 1918).*--Federal Trade Commission v. Association of Flag Manufacturers of America, et al. Cause : Engaging in a concerted movement to unduly enhance the prices of American flags and to maintain such prices, and to bring about a general uniformity in such prices by meetings, correspondence, and other means of intercommunication, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No.19 (Nov.15, 1917).*--Federal Trade Commission v. Mishmawaka Woolen Manufacturing Co. Cause: (1) Unfair methods of competition by fixing a schedule of resale prices, by requiring purchasers to agree to maintain such prices, by refusing to sell unless such agreement is entered into, and by refusing to sell if agreement is violated, in alleged violation of section 5 of the Federal Trade Commission act; (2) price discrimination, the effect of which may be to substantially lessen competition or tend to create a monopoly in alleged violation of section 2 of the Clayton Act.

*Complaint No.20 (Nov.15, 1917).*--Federal Trade Commission v. The Cudahy Packing Co. Cause: (1) Price discrimination, the effect of which may be to substantially lessen competition or tend to create a monopoly in alleged violation of section 2 of the Clayton Act; (2) unfair methods of competition by fixing a schedule of resale prices and by making a price to those who do not adhere to time schedule so high that they can not make a fair and reasonable profit on resale, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No.21 (Nov.21, 1917).*--Federal Trade Commission v. Ward Baking Co. Cause: Stifling and suppressing competition in the manufacture and sale of bread by supplying gratis to each customer in certain localities daily a quantity of bread equal to the amount of bread daily bought and paid for by such customer, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 22 (Nov. 27, 1917).*--Federal Trade Commission v. Chicago Flexible Shaft Co. Cause: Attempting to lessen competition and create a monopoly by selling and making contracts for sale of sheep-shearing and horse-clipping machines at prices, or discounts, or with rebates dependent on agreement that the purchaser shall not use or deal in the sheep-shearing or horse-clipping machines, or parts thereof of competitors, in alleged violation of section 3 of the Clayton Act.

*Complaint No. 23 (Dec. 6, 1917).*--Federal Trade Commission v. Chicago Lino-Tabler Co. Cause: Unfair methods of competition in connection with the manufacture, sale, and leasing of a device to produce printed ruled lines for tabulation, by attempting to stifle and suppress competition by publishing an

Incorrect quotation of a patent claim, by threats, not made in good faith, to sue competitor's customers for infringement of patents, by endeavoring to persuade or force certain trade journals to refuse competitor's advertising during the pendency of a suit against a certain competitor's customer by making false and misleading statements, concerning the devices and apparatus and financial condition of this competitor, and by making false and misleading statements in trade journals and to certain customers of the competitor, etc., in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 24 (Jan. 10, 1918).*--Federal Trade Commission v. Galena-Signal Oil Co. Cause: Stifling and suppressing competition in the manufacture and sale of lubricants, etc., by price discrimination in alleged violation of section 2 of the Clayton Act; and by fixing its sales price or discount or rebate thereof, on the condition that the purchaser shall not use the goods of competitors, in alleged violation of section 3 of the Clayton Act; the effect of both practices being to substantially lessen competition or to tend to create a monopoly.

*Complaint No. 25 (Dec. 11, 1917).*--Federal Trade Commission v. J. F. Hillerich & Son Co. Cause: Unfair methods of competition in connection with the manufacture, marketing, and sale of baseball bats by fixing resale prices and refusing to supply those who do not agree to maintain such selling prices or who do not sell at the prices fixed, in alleged violation of section 5 of the

Federal Trade Commission act; price discrimination, the effect of which may be to substantially lessen competition or tend to create a monopoly in alleged violation of section 2 of the Clayton Act.

*Complaint No. 26 (Dec. 11, 1917).*--Federal Trade Commission v. National Distilling Co. Cause: Stifling or suppressing competition in the manufacture and sale of yeast by sampling in large quantities, by gratuities to bakers and their employees, by providing entertainment to bakers and their employees, etc., by supplying yeast without any immediate charge therefor, by making payments of cash to customers, which cash payments are included and distributed in the price of yeast delivered under a contract entered into at the time of said payment, in alleged violation of section 5 of the Federal Trade Commission act; price discrimination and fixing its sale prices, rebates and discounts conditioned that the purchaser shall not use or deal with the Goods of competitors, the effect of which may be to substantially lessen competition or tend to create a monopoly, in alleged violation of sections 2 and 3 of the Clayton Act.

*Complaint No. 27 (Dec. 6, 1917).*--Federal Trade Commission v. Chester Kent & Co. Cause: Attempting to eliminate competition in time sale of certain proprietary medicines by fixing resale prices and refusing to sell to those who fail to maintain such prices, in alleged violation of section 5 of the Federal Trade Commission act; price discrimination the effect of which may be to substantially lessen competition or tend to create a monopoly, in alleged violation of section 2 of the Clayton Act.

*Complaint No. 28 (Dec. 11, 1917).*--Federal Trade Commission v. Ward Baking Co. (complaint No. 21). Cause: Stifling and suppressing competition by fixing resale prices and refusing to sell to those who will not agree to maintain such standard resale prices or who do not resell at such standard selling prices, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 29 (Dec. 18, 1917).*--Federal Trade Commission v. Nulomoline Co. Cause: Stifling and suppressing competition in the manufacture and sale of inverted sugar sirup by claiming the exclusive right to, and monopoly of, the manufacture of inverted sugar sirup and of the process of manufacture; threatening suit against competitors for infringement of letters patent alleged to have been obtained originally by false and misleading statements; threatening to institute suit against customers; false and misleading advertisements; all in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 30 (Dec. 24, 1917).*--Federal Trade Commission v. Western Chock Co. Cause: Attempting to eliminate competition in the sale of certain alarm clocks by fixing resale prices and refusing to sell to those who fail to maintain such prices, in alleged violation of section 5 of the Federal Trade Commission act; price discrimination, the effect of which may be to substantially lessen competition or tend to create a monopoly in alleged violation of section 2 of the Clayton Act.

*Complaint No. 31 (Jan. 10, 1918).*--Federal Trade Commission v. National Biscuit Co. Cause: Stifling and suppressing competition in certain bakery products by means of a system of rebates and discounts calculated to cause time trade to purchase its goods either largely or exclusively; and by making contracts with advertising agencies which tend to stifle and suppress competition; all in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 32 (Jan. 29, 1918).*--Federal Trade Commission v. United Drug Co. Cause: Stifling and suppressing competition in the manufacture and sale of patent and proprietary medicines, tobacco in different forms, candy, foodstuffs, motions, etc., by selling and offering for sale certain of such merchandise through its various local retail stores at prices less than cost of which do not yield a fair return of profit in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 33 (Feb. 1, 1918).*--Federal Trade Commission v. American Radiator Co. Cause: Stifling and suppressing competition in the manufacture and sale of radiators by offering to the trade certain rebates or discounts in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 34 (Feb. 1, 1918).*--Federal Trade Commission v. Dearborn Typewriter Co. Cause: Stifling and suppressing competition in the sale of typewriters by publishing and causing to be published false and misleading advertisements designed and calculated to cause customers and prospective customers to believe that the repaired and rebuilt typewriters of standard makes

offered for sale at a price of less than one-half that charged by the makers of such machines are new typewriters in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 35 (Feb. 1, 1918).*--Federal Trade Commission v. Metro Type writer Co. Cause: Stifling and suppressing competition in the sale of type-writers by publishing and causing to be punished false and misleading advertisements designed and calculated to cause customers and prospective customers to believe that the repaired and rebuilt typewriters of standard makes offered for sale at a price of less than one-half of that charged by the makers of such machines are new typewriters in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 36 (Feb. 1, 1918).*--Federal Trade Commission v. Harry A. Smith. Causes: Stifling and suppressing competition in the sale of typewriters by publishing and causing to be published false and misleading advertisements designed and calculated to cause customers and prospective customers to believe that the repaired and rebuilt typewriters of standard makes offered for sale at a price of less than one-half of what charged by the makers of such machines are new typewriters in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 38 (Feb. 11, 1918).*--Federal Trade Commission v. Block & Emporium. Cause: Stifling and suppressing competition in the sale of type-writers by publishing and causing to be published false and misleading advertisements designed and calculated to cause customers and prospective customers to believe that the repaired and rebuilt typewriters of standard makes offered for sale at a price of less than one-half of that charged by the makers of such machines are new typewriters in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 38, (Feb. 11, 1918).*--Federal Trade Commission v. Block & Co. Cause: Stifling and suppressing competition in the manufacture and sale of certain preparations for the treatment of diseases of the skin, tissues, and muscles by adopting the trade name Mentholanum for its preparation and advertising the name, whereas for years past a preparation, bearing the trade name of Mentholanum, adapted for the use of treating such ailments, has been on the market, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 39 (Feb. 15, 1918).*--Federal Trade Commission v. The Coco Cola Co. Cause: Stifling and suppressing competition in the sale and distribution of sirups similar to Coco Cola by a system of espionage on the business of its competitors; refusing to sell to wholesalers who will not agree not to sell competitors' goods; fixing resale prices under threat to refuse to sell to those who fail to maintain the resale prices, and by a system of contracts by which jobbers and wholesalers are obligated to pay certain fixed rebates to the fountain dealers; rebates to wholesaler and jobbers; rebates to retailers or fountain dispensers either direct or through jobbers, etc.; all in alleged violation of section 5 of the Federal Trade Commission act ; and making contracts for the sale of Coco Cola sirup on condition that goods of similar color of competitors be not handled, or on condition that goods of competitors that are a substitute or imitation of Coco Cola sirup be not dealt in, the effect of which is to substantially lessen competition and tend to create a monopoly in alleged violation of section 3 of the Clayton Act.

*Complaint No. 40 (Feb. 15, 1918).*--Federal Trade Commission v. Time

Colorado Milling & Elevator Co. Cause: Attempting to eliminate competition by fixing resale prices and by refusing to sell to those who will not agree to maintain such prices in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 41 (Feb. 19, 1918).*--Federal Trade Commission v. Rockford Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 42 (Feb. 19, 1918).*--Federal Trade Commission v. Columbus Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 43 (Feb. 19, 1918).*--Federal Trade Commission v. Flood & Conklin Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 44 (Feb.19, 1918).*--Federal Trade Commission v. Warren Soap Manufacturing Co. Cause: Stifling and suppressing competition in connection with time manufacture and sale of soap and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No.45 (Feb.19, 1918).*--Federal Trade Commission v. Eagle Printing Ink Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of printing inks, through lavish entertainment of competitor's employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 46 (Feb. 19, 1918).*--Federal Trade Commission v. Sigmund Ullman Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of printing inks, through lavish entertainment of competitor's employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of time Federal Trade Commission act.

*Complaint No. 47 (Feb.19, 1918).*--Federal Trade Commission v. J. M. Huber. Cause: Stifling and suppressing competition in connection with the manufacture and sale of printing inks, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might other-wise buy goods from competing concerns in alleged violation of section 5 of time Federal Trade Commission act.

*Complaint No.48 (Feb.19, 1918).*--Federal Trade Commission v. Walter L. Trainer Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paints, varnish, and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No 49 (Feb.19, 1918).*--Federal Trade Commission v. N. Z. Graves Corporation. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paints, varnish, and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 50 (Feb. 19, 1918).*--Federal Trade Commission v. Van Camp Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paints, varnish, and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of time Federal Trade Commission act.

*Complaint No. 51 (Feb. 19, 1918).*--Federal Trade Commission m. Sun Varnish

Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No.52 (Feb. 19, 1918).*--Federal Trade Commission v. Lilly Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 53 (Feb. 19, 1918).*--Federal Trade Commission v. McCloskey Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

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*Complaint No.54 (Feb.19, 1918).*--Federal Trade Commission v. Lindemann Wood Finishing Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paints, stains, and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 55 (Feb.19, 1918).*--Federal Trade Commission v. Adams & Elting Co. Cause : Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 53 (Feb. 19, 1918).*--Federal Trade Commission v. Valentine & Co. Cause: Stifling and suppressing competition in collection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 57 (Feb.19, 1918).*--Federal Trade Commission v. Bridgeport Wood Finishing Co. Cause: Stifling and suppressing competition in connection with the manufacture and smile of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of costumers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 58 (Feb. 19, 1918).*--Federal Trade Commission v. George D. Wetherill & Co. (Inc.). Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 59 (Feb. 19, 1918).*--Federal Trade Commission v. Reliance Varnish Works. Cause: Stifling and suppressing competition in connection with



the manufacture and sale of varnish and kindred products through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 60 (Feb. 19, 1918).*--Federal Trade Commission v. Blackburn Varnish Co. Cause : Stifling and suppressing competition In connection with the manufacture and sale of varnish and kindred products through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 61 (Feb. 19, 1918).*--Federal Trade Commission v. F. W. Thurston Varnish Company. Cause : Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 62 (Feb. 19, 1918).*--Federal Trade Commission v. Grand Rapids Varnish Co. Cause: Stifling and suppressing competition in connection with time manufacture and sale of varnish and kindred products through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of time Federal Trade Commission act.

*Complaint No. 63 (Feb. 19, 1918).*--Federal Trade Commission v. National Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 64 (Feb. 19, 1918).*--Federal Trade Commission v. Standard Varnish Works. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise but goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

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*Complaint No. 65 (Feb. 19, 1918).*--Federal Trade Commission v. Mayer & Loewenstein. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the federal Trade Commission act.

*Complaint No. 66 (Feb. 19, 1918).*--Federal Trade Commission v. Boston Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 67 (Feb. 19, 1918).*--Federal Trade Commission v. Louisville Varnish Co. Cause: Stilling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish enter-

tainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 68 (Feb. 19, 1918).*--Federal Trade Commission v. Murphy Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 69 (Feb. 19, 1918).*--Federal Trade Commission v. Marietta Paint & Color Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paints, stains, and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 70 (Feb. 19, 1918).*--Federal Trade Commission v. O'Neil Oil & Paint Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paints, oils, and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 71 (Feb. 19, 1918).*--Federal Trade Commission v. Grand Rapids Wood Finishing Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 72 (Feb. 19, 1918).*--Federal Trade Commission v. The Forbes Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 73 (Feb. 19, 1918).*--Federal Trade Commission v. The Lawrence-McFadden Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 74 (Feb. 19, 1918).*--Federal Trade Commission v. Pratt & Lambert (Inc.). Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 75 (Feb. 19, 1918).*--Federal Trade Commission v. Essex Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish, lacquers, and japans through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, and by secretly and surreptitiously paying and offering to pay employees of its cus-

tomers, prospective customers, and competitors' customers "large sums of money to adulterate and spoil for their proper uses varnish, lacquers, and japans sold or offered for sale by its competitors to such customers" in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 76 (Feb. 19, 1918).*--Federal Trade Commission v. The Glidden Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 77 (Feb. 19, 1918).*--Federal Trade Commission v. The Ault & Wiborg Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 78 (Feb. 19, 1918).*--Federal Trade Commission v. Chas. R. Long, jr., Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paints and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 79 (Feb. 26, 1918).*--Federal Trade Commission v. American Agricultural Chemical Co. and Time Brown Co. Cause: Stifling and suppressing competition in the manufacture of fertilizer and in the refining of animal fats and the sale of the products by purchasing and offering to purchase raw materials in certain local areas at prices unwarranted by trade conditions and so high as to be prohibitive to small competitors, such prices being designed to punish certain competitors who had refused to enter into a working agreement to eliminate competitive bidding for raw materials; willfully causing their trucks to collide with automobiles owned and operated by competitors, in alleged violation of section 5 of the Federal Trade Commission act; acquiring all of the stock of The Brown Co. by the American Agricultural Chemical Co., the effect of which may be to substantially lessen competition between the two or to tend to create a monopoly in alleged violation of section 7 of the Clayton Act.

*Complaint No. 80 (Feb. 26, 1918).*--Federal Trade Commission v. Sears, Roebuck & Co. Cause: Stifling and suppressing competition by means of false and misleading advertising offering sugar and other commodities for sale at prices lower than offered by competitors and actually below cost, but conditioned on the purchase of other goods on which the profit is made, and by false and misleading advertisements relative to competitors, and all in alleged violation of section 5 of the Federal Trade Commission act; price discrimination, the effect of which may be to substantially lessen competition or tend to create a monopoly in alleged violation of section 2 of the Clayton Act.

*Complaint No. 81 (Mar. 6, 1918).*--Federal Trade Commission v. The Moller & Schumann Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods of competing concerns in alleged

violation of section 5 of the Federal Trade Commission act.

*Complaint No. 82 (Mar. 13, 1918).*--Federal Trade Commission v. Photo-Engravers' Club of Chicago. Cause: Adopting a standard scale or uniform price at which they sell their products and with the intent of stifling and suppressing competition in the manufacture and sale of photo-engravings, having entered into an agreement with the Chicago Photo-Engravers' Union No. 5, I.P.E.U., by the terms of which the respondents employ only union labor in their manufacturing plants, and the members of the unions do not do not accept employment from any manufacturing photo-engraver not a member of the respondent club, and in furtherance of such agreement the union has adopted a rule whereby union labor is to cease working in photo-engraving plants which do not maintain such standard scale of prices; and by fines and threats to withdraw labor, compelling members to maintain such prices against their will; in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 83 (Mar. 28, 1918).*--Federal Trade Commission v. American Mailing Device Corporation. Cause : Sting tiling and suppressing competition on the part of its sole and only competitor, the Cutler Mail Chute Co., in the manufacture, sale, and installation of its product in interstate commerce, has

sold, and is now selling the same at and for a price which is at or less than the cost of producing the same in alleged violation of section 5 of the Federal Trade Commission act

*Complaint No. 84 (Mar. 28, 1918).*--Federal Trade Commission v. Cutler Mail Chute Co. Cause: Stifling and suppressing competition on the part of its sole and only competitor, the American Mailing Device Corporation, in the manufacture, sale, and installation of its product in interstate commerce, has sold, and is now selling, the same at and for a price which is at or less than the cost of producing the same in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 85 (Apr. 15, 1918).*--Federal Trade Commission v. Standard Oil Co. of Indiana. Cause: Unfair methods of competition in the manufacture sale, and distribution of petroleum products by refusing to sell in quantity lots outside of its territory except to other Standard companies, by selling its surplus to other Standard companies at prices below the tank-wagon prices maintained by it in its own territory, selling at tank-wagon prices direct to customers in certain local competitive areas, etc., in alleged violation of section 5 of the Federal Trade Commission act; price discrimination and price fixing contingent on the nonuse of competitors' products by the purchaser tending to create a monopoly and substantially lessen competition in alleged violation of sections 2 and 3 of the Clayton Act.

*Complaint No. 86 (Apr. 15 1918).*--Federal Trade Commission v. F. E. Atteaux & Co. Cause: Unfair methods of competition in the manufacture and sale of dyestuffs and chemicals by giving gratuities and making gifts to employees of its own and its competitors' customers and by loaning and offering to loan money to such employees, all with the intent of inducing the respective employees to purchase materials from the respondents or to influence such employees to refrain from dealing or contracting to deal with its competitor, in alleged violation of section of the Federal Trade Commission act.

*Complaint No. 87 ( Apr 15, 1918).*--Federal Trade Commission v. Crescent Manufacturing Co. Cause: Stifling and suppressing competition in the manufacture, marketing, and sale of baking powder, spices, teas, coffees, and flavoring extracts by fixing resale prices and refusing to sell to those who will not agree to maintain such specified standard resale prices in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 88 (Apr. 15, 1918).*--Federal Trade Commission v. Beech-Nut Packing Co. Cause: Stifling and suppressing competition in the manufacture, marketing, and sale of chewing gum by fixing specified standard resale prices and refusing to sell to those who will not agree to maintain such prices in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 89 (Apr. 15, 1918).*--Federal Trade Commission v. L.E. Waterman Co. Cause: Stifling and suppressing competition in the manufacture, marketing, and sale of fountain pens by fixing specified standard resale prices and refusing to sell to those who will not agree to maintain such prices in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 90 (Apr. 15, 1918).*--Federal Trade Commission v. Cluett, Peabody & Co (Inc.). Cause: Stifling and suppressing competition in the manufacture, marketing, and sale of men's collars by fixing and maintaining resale prices, requiring its purchasers to maintain such prices, and refusing to sell to those who refuse so to maintain such prices in alleged violation of section 5 of the

Federal Trade Commission act.

*Complaint No. 91 (Apr. 15, 1918).*--Federal Trade Commission v. Massachusetts Chocolate Co. Cause: Stifling and suppressing competition in the manufacture, marketing, and sale of candy by fixing resale prices and refusing to sell to those who will not agree to maintain such specified standard resale prices in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 92 (Apr. - 15, 1918).*--Federal Trade Commission v. Standard Oil Co. of Now York. Cause: Acquiring a large part of the stock of the Magnolia Petroleum Co., the effect of which may be to substantially lessen competition between the two companies and to restrain commerce in petroleum or tend to create a monopoly in that business in alleged violation of section 7 of the Clayton Act.

*Complaint No. 93 (Apr. 15, 1918).*--Federal Trade Commission v. Atlantic Ice & Coal Corporation. Cause: Unfair methods of competition in the sale of coal and the manufacture and sale of ice by dividing territory with ostensible competitors, by intimidating competitors, threatening customers of a competitor by obtaining secrets of competitors' business through interests ostensi-

bly Independent but actually affiliated, etc., in alleged violation of section 5 of the Federal Trade Commission act; by price discrimination, by price fixing on the condition that the buyer buy not elsewhere, by acquiring stock of other corporations engaged in like commerce, the effect of all of which may be to substantially lessen competition or tend to create a monopoly in alleged violation of sections 2 and 7 of the Clayton Act.

*Complaint No. 94 (Apr. 15, 1918).*--Federal Trade Commission v. The American Tobacco Co. Cause: Attempting to eliminate competition by adopting and maintaining a system of fixing resale prices for jobbers and wholesalers in tobacco products, entering into agreements with such jobbers and wholesalers for the maintaining of such prices, threatening to refuse to sell to those who fail to maintain such prices, selling to those who agree at lower prices than to others, inducing jobbers who maintain prices not to sell to those who do not, and causing diverting of retailers' orders, etc., in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 95 (Apr. 15, 1918).*--Federal Trade Commission v. United States Gold Leaf Manufacturers' Association and the individuals, firms, and corporations, the members thereof. Cause: Unfair methods of competition in connection with the manufacture and sale of gold leaf by engaging in a concerted movement to unduly enhance the prices of gold leaf and to maintain such prices, through meetings, correspondence, etc., and by pooling their surplus products and selling the same abroad at a less price than such products are being sold in the United States at the same time, assessments being made to cover losses on foreign sales when made below cost, the effect being to curtail supply, restrain competition, and enhance prices, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 96 (Apr. 15, 1918).*--Federal Trade Commission v. Ringwalt Linoleum Works (Inc.). Cause: Stifling and suppressing competition in the manufacture and sale of floor covering by advertising, holding out, and selling its product to the public as linoleum, whereas its product is composed of a felt base impregnated with asphaltum with a paint backing and facing which simulation is designated and calculated to deceive and mislead the public and cause purchasers to believe that the products is linoleum, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 97 (Apr. 15, 1918).*--Federal Trade Commission v. S. M. Hexter & Co. Cause: Stifling and suppressing competition in the sale of cotton fabrics by offering its cotton fabric to the public under the trade name of "Sol Satin," which simulation is designed and calculated to, and does, deceive the public and cause purchasers to believe that respondents' fabric is composed of silk, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 98 (Apr. 19, 1918).*--Federal Trade Commission v. J. H. Allen & Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were, and are, redeemable in various prizes or premiums, consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 99 (Apr. 19, 1918).* --Federal Trade Commission v. C. F. Bonsor

& Co. (Inc.). Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective costumers, as an inducements to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 100 (Apr. 19, 1918).*--Federal Trade Commission v. Buddha Tea Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes or premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 101 (Apr. 19, 1918).*--Federal Trade Commission v. The Climax Coffee & Baking Powder Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by



giving to its customers and prospective customers, as an inducement to secure trade and patronage, certain papers, coupons or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of sections 5 of the Federal Trade Commission act.

*Complaint No. 102 (Apr. 19, 1918).*--Federal Trade Commission v. The Dannemiller Grocery Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 103 (Apr. 19, 1918).*--Federal Trade Commission v. J. S. Elliott Coffee Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or hot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 104 (Apr. 19, 1918).*--Federal Trade Commission v. Enterprise Coffee Co. Cause: Unfair methods of competition, in time business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 105 (Apr. 19, 1918).*--Federal Trade Commission v. A Ethridge & Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducements to secure their trade and patronage, certain papers, coupons or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 106 (Apr. 19, 1918).*--Federal Trade Commission v. B L. Gerhart & Co. Cause: Unfair methods of competition in the business of roasting coffee amid packing tea and selling time same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or hot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 107 (Apr. 19, 1918).*--Federal Trade Commission v. The Grocers Coffee Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea amid selling the same by giving to its customers and

prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act

*Complaint No. 108 (Apr. 19, 1918).*--Federal Trade Commission v. F. W. Hinz & Sons. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, time distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 109 (Apr. 19, 1918).*--Federal Trade Commission v. Thomas C. Jenkins. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates, which were and are redeemable in various prizes and premiums consisting of personal property of unequal values,

the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission acts.

*Complaint No. 110 (Apr. 19, 1918).*--Federal Trade Commission v. The Johnson Layne Coffee Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 111 (Apr. 19, 1918).*--Federal Trade Commission v. G D. -Kenny Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea amid selling the same by giving to its customers and prospective customers, is an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes amid premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 112 (Apr. 19, 1918).*--Federal Trade Commission v. Levering Coffee Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, time distribution of which was amid is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 113 (Apr. 19, 1918).*--Federal Trade Commission v. A L. Mars & Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling time same by giving to its customers and prospective customers, as an inducements to secure their trade amid patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 114 (Apr. 19, 1918).*--Federal Trade Commission v. M. S. Miller Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission acts.

*Complaint No. 115 (Apr. 19, 1918).*--Federal Trade Commission v. Rice Bros. Cause: Unfair methods of competition in the business of roasting coffee and packing tea amid selling the same by giving to its customers and prospective customers, as an inducements to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of

which was and is determined by chance or lot, in alleged violation of section 5 of time Federal Trade Commission act.

*Complaint No. 116 (Apr. 19, 1918).*--Federal Trade Commission v. Roth-Homeyer Coffee Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of time Federal Trade Commission act.

*Complaint No.117 (Apr.19, 1918).*--Federal Trade Commission v. William S. Scull Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 118 (Apr. 19, 1918).*--Federal Trade Commission v. Sioux Falls Coffee & Spice Co. Cause: Unfair methods of competition in the busi-

ness or roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducements to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of or unequal values, the distribution of which was and is determined by chance lots, alleged violation of section 5 Federal Trade Commission acts.

*Complaint No. 119 (Apr. 19, 1918).*--Federal Trade Commission v. Valley City Coffee & Spice Mills. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were amid are redeemable In various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lots, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No 120 (Apr.19, 1918).*--Federal Trade Commission v. The E. R Webster Co. Cause: Unfair methods of competition in the business of roasting coffee and packing tea and selling the same by giving to its customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes and premiums consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 121 (Apr. 30, 1918).*--Federal Trade Commission v. E. J. Brach & Sons. Cause: Stifling and suppressing competition in the sale of candy by falsely advertising that its was selling and offering to sell candy at cost or at less than costs in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 122 (Apr. 30, 1918).*--Federal Trade Commission v. George Muench. Cause: Unfair methods of competition in the manufacture and sale of machinery of various kinds by making gifts of liquor, cigars, etc., to employees of customers and prospective customers and by paying and loaning money to employees of customers and prospective customers in an effort to influence such customers to refrain from dealing with competitors in alleged violation of section 5 of the Federal Trade Commission acts.

*Complaint No.- 123 (May 1, 1918) .*--Federal Trade Commission v. American Can Co. Cause: Price discrimination and price fixing on condition that the purchasers shall not use or deal in the product of competitors, the effect of which is to substantially lessen competition and to tend to create a monopoly in the tin can business in alleged violation of sections 2 and 3 of the Clayton Act; stifling and suppressing competition in the manufacture and sale of tin cans by attempting to induce customers to enter into long term contracts, by giving certain customers more favorable terms than others in reference to allowances for leaky cans, and storage privileges by rebating if prices are lowered and by other discriminations in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 124 (May 3, 1918).*--Federal Trade Commission v. Pennsylvania Specialty Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paints, varnish, and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged

violation of section 5 of the Federal Trade Commission act.

*Complaint No. 125 (May 3, 1918).*--Federal Trade Commission v. Advance Paint Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paint and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 126 (May 7, 1918).*--Federal Trade Commission v. Ironite Co., Master Builders Co., and United Products Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of cement amid concrete hardener containing crushed iron particles by entering into an agreement by which a consent decree was obtained with the intent and purpose of securing a patents monopoly, by threatening suits for alleged infringement against those who refuse to enter into license agreements, by misleading statements as to the extent and effect of the consent decree, by concealing the true agreement by which the suit was settled, by misleading statements as to the scope of their patent, by false and disparaging statements regarding competitors, and by re-

sale price fixing in alleged violation of section 5 of the Federal Trade Commission acts.

*Complaint No. 127 (May 7, 1918).*--Federal Trade Commission v. Meccano (Ltd.) and The Meccano Co. (Inc.). Cause: Unfair methods of competition in the sale of "Meccano" mechanical toys by vague and indefinite threats, not made in good faith, to institute legal proceedings against their competitors and their competitors' customers for alleged unfair and unlawful competition with the Meccano outfits and books of instruction in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 128 (May 7, 1918).*--Federal Trade Commission v. The Vaudeville Managers Protective Association, The National Vaudeville Artists (Inc.), The United Booking Office et al. Cause: Combining in restraints of trade and creating a monopoly of the vaudeville theater, burlesque theater, and circus business by insisting, except in isolated cases, that performers be members of time National Vaudeville Artists (Inc.); that they be not members of the White Rats Actors Union and Associated Actresses of America, by circumventing the law relative to maximum fees to be paid by performers to secure engagements, by controlling and domination the vaudeville industry, by requiring actors to advertise in "Variety," by publishing blacklists, etc., in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 129 (May 13, 1918).*--Federal Trade Commission v. Wayne Oil Tank & Pump Co. Cause: Stifling and suppressing competition in the manufacture amid sale of automatic-measuring oil pumps, etc.; by circulating a clipping purporting to be a copy of a newspaper item relative to an injunctive decree against a competitor, inducing its customers and its competitors' customers to cancel orders for its competitors' product, inducing its competitors' employees to leave their employment, making false statements relative to its own and its competitor's business and product, and by mutilating its competitors' outfits in alleged violation of section 5 of time Federal Trade Commission act; price discrimination, the effect of which may be to substantially lessen competition or tend to create a monopoly in alleged violation of section 2 of the Clayton Acts.

*Complaint No. 130 (May 13, 1918).*--Federal Trade Commission v. Gilbert & Barker Manufacturing Co. Cause: Unfair methods of competition in the manufacture and sale of automatic measuring oil pumps, tanks, etc., by falsely representing the product of certain of their competitors to be unsatisfactory, defective, and that such would not operate and was being sold at exorbitant prices, by inducing competitors' customers to cancel orders, and by holding itself out to be the agent of its competitors, quoting exorbitant prices, in alleged violation of section 5 of the Federal Trade Commission act ; price discrimination, the effect of which may be to substantially lessen competition or tend to create a monopoly, in alleged violation of section 2 of the Clayton Act.

*Complaint No. 131 (May 13, 1918).*--Federal Trade Commission v. Atlantic Refining Co. Cause: Unfair methods of competition in the sale of petroleum and in the sale of automatic measuring oil pumps, tanks, etc., the product of the Gilbert & Barker Manufacturing Co. (see Complaint No. 130), by falsely representing the product of certain of their competitors to be unsatisfactory, defective, and that such would not operate and was being sold at exorbitant prices, by inducing competitors' customers to cancel orders, selling and lending pumps, etc., without

adequate consideration, threatening to sell oil direct by retail unless dealers used the Gilbert & Barker product, and by holding itself out to be the agent of its competitors as well as of the Gilbert & Barker Manufacturing Co., quoting exorbitant prices, in alleged violation of section 5 of the Federal Trade Commission act; price discrimination, the effect of which may be to substantially competition or tend to create a monopoly, in alleged violation of section 2 of the Clayton Act.

*Complaint No. 132 (May 13, 1918).*--Federal Trade Commission v. Standard Oil Co. of Ohio. Cause: Unfair methods of competition in the sale of petroleum and In the sale of automatic measuring oil pumps, tanks, etc., the product of the Gilbert & Barker Manufacturing Co. (see Complaint No 130), by falsely representing the product of certain of their competitors to be unsatisfactory, defective, and that such would not operate and was being sold at exorbitant prices, by inducing competitors' customers to cancel orders, selling and lending pumps, etc., without adequate consideration, threatening to sell oil directs by retail unless dealers used the Gilbert & Barker product, and by holding itself out to be the agent of its competitors as well as of the Gilbert & Barker Manufacturing Co., quoting exorbitant prices, in alleged violation of section 5 of the Federal Trade Commission act; price discrimination, the effect of



which may be to substantially lessen competition or tend to create a monopoly, in alleged violation of section 2 of the Clayton Act.

*Complaint No. 133 (May 13, 1918).*--Federal Trade Commission v. Standard Oil Co. of Indiana. Cause: Unfair methods of competition in the sale of petroleum and in the sale of automatic measuring oil pumps, tanks, etc., the product of the Gilbert & Barker Manufacturing Co. (see Complaints No. 130), by falsely representing the product of certain of their competitors to be unsatisfactory, defective, and that such would not operate and was being sold at exorbitant prices, by inducing competitors' customers to cancel orders, selling and lending pumps, etc., without adequate consideration, threatening to sell oil direct by retail unless dealers used the Gilberts & Barker product, anti by holding itself omit to be the agent of its competitors as well as of the Gilberts & Barker Manufacturing Co., quoting exorbitant prices in alleged violation of section 5 of the Federal Trade Commission act; price discrimination, the effect of which may be to substantially lessen competition or tend to create a monopoly, in alleged violation of section 2 of the Clayton Act.

*Complaint No 134. ( May 13, 1918 )* .--Federal Trade Commission v. Standard Oil Co. of New York. Cause: Unfair methods of competition in the sale of petroleum and in the sale of automatic measuring pumps, tanks, etc., the products of the Gilbert & Barker Manufacturing Co. (see Complaint No. 130) by falsely representing the product of certain of their competitors to be unsatisfactory, defective, and that such would not operate and was being sold at exorbitant prices, by inducing competitors' customers to cancel orders, selling and lending pumps, etc., without adequate consideration, threatening to sell oil direct by retail unless dealers used the Gilbert & Barker product, and by holding itself outs to be the agent of its competitors as well as of the Gilbert & Barker Manufacturing Co., quoting exorbitant prices, in alleged violation of section 5 of the Federal Trade Commission act; price discrimination, the effects of which may be to substantially lessen competition or tend to create a monopoly in alleged violation of section 2 of the Clayton Act.

*Complaint No. 135 (May 13, 1918).*--Federal Trade Commission v. Standard Oil Co. of Louisiana. Cause: Unfair methods of competition in the sale of petroleum and in the sale of automatic measuring pumps, tanks, etc., the product of the Gilbert & Barker Manufacturing Co. (see Complaint No. 130) by falsely representing the product of certain of their competitors to be unsatisfactory, defective, and that such would not operate and was being sold at exorbitant prices, by inducing competitors' customers to cancel orders, selling and lending pumps, etc., without adequate consideration threatening to sell oil direct by retail unless dealers used the Gilbert & Barker product and by holding itself out to be the agent of its competitors as well as of the Gilbert & Barker Manufacturing Co., quoting exorbitant prices, in alleged violation of section 5 of the Federal Trade Commission act ; price discrimination, the effect of which may be to substantially lessen competition or tend to create a monopoly in alleged violation of section 2 of the Clayton Act.

*Complaint No. 136. (May 13, 1918).*--Federal Trade Commission v. American Tank & Pump Co. Cause: Unfair methods of competition in the manufacture and sale of automatic measuring oil pumps, etc., by inducing and attempting to induce, by divers means and methods, its customers and the customers of its competitors

to cancel and rescind orders and contracts for the purchase of the products of its competitors with the intent and effect of stifling and suppressing competition in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 137. (May 13, 1918).*--Federal Trade Commission v. Milwaukee Tank Co. Cause: Unfair methods of competition in the sale of automatic measuring oil pumps, etc., by inducing and attempting to induce, by divers means and methods, its customers and the customers of its competitors to cancel and rescind orders and contracts for the purchase of the product of its competitors with the intent and effect of stifling and suppressing competition in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 138. (May 13, 1918).*--Federal Trade Commission v. Tokheim Manufacturing Co. Cause: Unfair methods of competition in the manufacture and sale of automatic measuring oil pumps, etc., by inducing and attempting to induce, by divers means and methods, its customers and the customers of its competitors to cancel and rescind orders and contracts for the purchase of the products of its competitors with the intent and effect of stifling and suppressing competition in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 139. (May 13, 1918).*--Federal Trade Commission v. Guarantee Liquid Measure Co. Cause: Unfair methods of competition in the manufacture and sale of automatic measuring oil pumps, etc., by inducing and attempting to induce, by divers means and methods, its customers and the customers of its competitors, to cancel and rescind orders and contracts for the purchase of the product of its competitors and by falsely representing certain products of its competitors to be old style and to have been or to be about to be condemned by public officials, with the intent and effect of stifling and suppressing competition, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 140 (May 15, 1918).*--Federal Trade Commission v. Stanley Booking Corporation. Cause: Stifling and suppressing competition in the sale and leasing of moving-picture films by causing contracts entered into between producers and certain of its competitors to be broken, exhibiting films in theaters in close proximity to those of competitors in advance of production by competitors and at a less price, but after contemplated exhibition of the same pictures had been advertised by competitors selling and leasing films on condition that films of competitor's be not exhibited, by compelling certain theaters to pay to it 10 per cent of time cost of films of other producers booked direct, by compelling certain theaters to book their films through respondent and by threats of withdrawing patronage, etc., compelling producers to cease supplying its competitors with films, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 141 (May 15, 1918).*--Federal Trade Commission v. The Evans Dollar Pen Co. Cause: Stifling and suppressing competition in the manufacture, marketing, and sale of its fountain pens, as a means of securing the trade of dealers and with the purpose of eliminating competition in the selling price of its fountain pens by fixing certain specified standard resale prices and by refusing to sell to those who will not agree to maintain such resale prices, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 142 (May 17, 1918).*--Federal Trade Commission v. Wilson & Co. Cause: Unfair methods of competition in the sale of meats, chickens, and other similar products by selling meat, chickens, etc., to the United States with the knowledge that such food products were to be used by the United States as food for its soldiers and that such food products were spoiled and unfit for human consumption, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No 143 ( May 17, 1918).*--Federal Trade Commission v. Morris & Co. Cause: Unfair methods of competition in the sale of meats, chickens, and other similar products by selling meat chicken, etc., to the United States with the knowledge that such food products were to be used by the United States as food for its soldiers and that such food products were spoiled and unfit for human consumption, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 144 (May 17, 1918).*--Federal Trade Commission v. Weyl-Zuckerman Co. Cause: Stifling and suppressing competition in the sale and distribution of farm products and foodstuffs by obtaining the use of freight cars by means of an preferential order secured through statements made that such cars were to be employed in the transportation of farm products, foodstuffs, and perishable commodities to be used by the Government in persecution of the war, and then diverting certain of such cars to its private muse, in alleged violation of

section 5 of the Federal Trade Commission act.

*Complaint No. 145 (May 24, 1918).*--Federal Trade Commission v. Consolidated Rendering Co., New Haven Rendering Co., Atlantic Packing Co., and L.T. Frisbie Co. Cause: Stifling and suppressing competition in the rendering business by purchasing and offering to purchase in certain local areas raw materials necessary in the manufacture of their products at and for prices unwarranted by trade conditions and so high as to be prohibitive to small competitors in such areas, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 146 (June 6, 1918).*--Federal Trade Commission v. The Acme White Lead & Color Works. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paint and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 147 (June 6, 1918).*--Federal Trade Commission v. American Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish en-

tainment of competitors employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 148 (June 6, 1918).*--Federal Trade Commission v. Chicago Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payments of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission acts.

*Complaint No. 149 (June 6, 1918).*--Federal Trade Commission v. James B. Day & Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitor's employees, secret payments of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 150 (June 6, 1918).*--Federal Trade Commission v. S. G Johnson & Sons. Cause: Stifling and suppressing competition in connection with the manufacture and sale of stains, fillers and other wood finishing products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 151 (June 6, 1918).*--Federal Trade Commission v. G. J. Liebich Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of paint, varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 152 (June 6, 1918).*--Federal Trade Commission v. The Royal Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission acts.

*Complaint No. 153 (June 6, 1918).*--Federal Trade Commission v. Twin City Varnish Co. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through secret payment of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 154 (June 6, 1918).*--Federal Trade Commission v. The Wheeler Varnish Works. Cause: Stifling and suppressing competition in connection with the manufacture and sale of varnish and kindred products, through lavish entertainment of competitors' employees, secret payments of money to employees of customers who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 155 (June 6, 1918).*--Federal Trade Commission v. Eli Lilly & Co. Cause: Stifling and suppressing competition in the manufacture and sale of drugs, as a means of securing the trade of jobbers and wholesalers and with the purpose of eliminating competition, by fixing resale prices and refusing to sell to those who

refuse to maintain such fixed resale prices, in alleged violation of section 5 of the Federal Trade Commission act; price discrimination and granting discounts and rebates contingent on purchaser not using goods of competitors, in alleged violation of section 2 of the Clayton Act.

*Complaint No.156 (June 6, 1918) .--Federal Trade Commission v. Purity Preserving Co. and R J. McGuiar Co.* Cause: The same interests are alleged to control and directs the two companies: The Purity Preserving Co. between January and September, 1917, entered into a large number of contracts for sale of tomato catsup; during September, October, and November a sharp rise in price occurred in the catsup market; the company made no effort to fill contracts; the McGuiar Co. took over the Purity Co. plants and during November and December offered for sale, in open market, catsup manufactured in the Purity plant by the employees of said company and under the direction and supervision of the officers of the Purity Co. at prices higher than the prices at which the Purity Co. Agreed to sell said catsup, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 157 (June 6, 1918).*--Federal Trade Commission v. Saenger Amusement Co. Cause: Stifling and suppressing competition in the purchase and sale, leasing and exhibition of moving-picture films by forcing exchanges to accept its terms on threat to cause exhibitors to refuse to handle otherwise; causing contracts between exhibitors and exchanges to be broken by divers means and methods, including prior exhibition of films in neighboring theaters after "first exhibition" had been advertised by the other, threatening withdrawal of patronage if exchanges continued to supply exchanges, threatening curtailing supply unless exhibitors dealt with respondent, inducing employees of competitors to leave their employment, all in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 158 (June 6, 1918).*--Federal Trade Commission v. Clayton F., Summy Co. Cause: Unfair methods of competition in the publishing and sale of sheet music, by fixing resale prices and refusing to sell to those who fail to maintain such fixed resale prices, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 159 (June 10, 1918).*--Federal Trade Commission v. The United Rendering Co., M. L. Shoemaker & Co. (Inc.), the Berg Co., The D. B. Martin Co., Consolidated Dressed Beef Co., Baugh & Sons Co., Winfield S. Alien, Nathan Berg, F. W. English, Christopher Offenhauser. Cause: Stifling and suppressing competition in the business of refining animal fats and the manufacture and sale of products therefrom by engaging in a combination or conspiracy to purchase and offer to purchase raw materials in certain local areas at prices unwarranted by trade conditions and prohibitive to small competitors thus punishing the latter for refusing to enter into a working arrangement to eliminate competitive bidding, and by interfering with competitors' business by causing their trucks to be followed for the purpose of spying on competitors' business and customers, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 160 (June 10, 1918).*--Federal Trade Commission v. Time Victor Electric Corporation. Cause : Stifling and suppressing competition in the manufacture and sale of X-ray machines by making false and misleading statements concerning machines of competitors and concerning financial responsibility of competitors and by suggesting tests for competitors' machines with knowledge that such tests would be destructive of the machines, in alleged violation of section 5 of the Federal Trade Commission act; and acquiring all of the stock of other companies engaged in the same business or using such stock for voting purposes, the effect of which may be to substantially lessen competition or tend to create a monopoly, in alleged violation of section 7 of the Clayton Acts.

*Complaint No. 161 (June 28, 1918).*--Federal Trade Commission v. Dearborn Chemical Co. Cause: Unfair methods of competition in the business of manufacturing and selling boiler compounds, chemicals, and other preparations, namely, the giving of gratuities to the employees of certain railroads and other customers and prospective customers and the making of secret payments of money to such employees who might otherwise buy goods from competing concerns, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 162 (June 28, 1918).*--Federal Trade Commission v. Henry O Shepard Co. Cause: Stifling and suppressing competition in connection with the printing and selling of railway tariffs, schedules, and other printed matter through

lavish entertainment of competitors' employees, secret payment of money to employees of customers who might otherwise purchase goods from competing concerns, in alleged violations of section 5 of the Federal Trade Commission act.

*Complaint No.163 (June 28, 1918).*--Federal Trade Commission v. Armour & Co. Cause: Stifling and suppressing competition in the manufacture and sale of dairy products by concerning its control of and affiliation with Beyer Bros. Co., a creamery company, while directing the efforts and business of said company; discriminating in prices paid for butter fat or cream; and by purchasing and offering to purchase butter fats or cream in certain localities at prices unwarranted by trade conditions and so high as to be prohibitive to small competitors, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No.164 (June 29, 1918).*--Federal Trade Commission v. Federal Rope Co. (Inc.). Cause: Stifling and suppressing competition in the manufacture and sale of rope by representing by letterheads, price lists, tags, stencils, ect., certain of its product to be "manila" rope, that is, composed of new manila fiber entirely and exclusively, whereas it is in fact composed of fiber



taken from old and used rope, in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 165 (June 29, 1918).*--Federal Trade Commission v. The Esterbrook Steel Pen Manufacturing Co. Cause: Stifling and suppressing competition in the manufacture, marketing, selling, and reselling of its pens by fixing standard resale prices and refusing to sell their products to those who fail to maintain such resale prices and by price discrimination in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 166 (June 29, 1918).*--Federal Trade Commission v. E. E. Gray Co. Cause: Stifling and suppressing competition in the sale of Mocha and Java coffees by selling and offering for sale Santos and Columbia coffees under the trade-brand "M & J" coffee, the natural result of which is to confuse, mislead, and deceive purchasers and the public into the belief that said coffee is Mocha and Java coffee in alleged violation of section 5 of the Federal Trade Commission act.

*Complaint No. 167 (June 29, 1918).*--Federal Trade Commission v. United Electric Co. Cause: Stifling and suppressing competition in the manufacture, marketing, selling, and reselling of its vacuum cleaning machines by fixing standard resale prices and refusing to sell to those who fail to maintain such prices. in alleged violation of section 5 of the Federal Trade Commission act; price fixing and establishing discounts or rebates on condition that the purchaser shall not use or deal in the goods of competitors, the effect of which is to substantially lessen competition or to tend to create a monopoly, in alleged violation of section 3 of the Clayton Act.

*Complaint No. 168 (June 29, 1918).*--Federal Trade Commission v. The National Wholesale Druggists Association et al. Cause: Wrongfully and unlawfully engaged in a combination or conspiracy among themselves with the intent, purpose and effect of discouraging, stifling and suppressing competition in the wholesale drug trade and of unfairly hampering and obstructing certain of their competitors, by inducing or compelling manufacturers to refuse to recognize competitors as jobbers and as entitled to the benefits such competitors, as jobbers, would receive, by means of oral and written notices, to manufacturers to the effect that certain competitors, not eligible to membership in the association, were not entitled to recognition as jobbers, the appointment of committees to confer with manufacturers to the end that they adopt sales methods in harmony with the policies of the association, written and oral notices by the secretary of the association to manufacturers to effect that competitors are selling below the manufacturers' established resale price or that such competitors are persistent price cutters, the compilation and distribution among manufacturers and wholesalers of lists of so-called legitimate jobbers. and by bringing influence to bear on various local associations of drug jobbers and wholesalers to adopt policies in harmony with the policies of the association, in alleged violation of section 5 of the Federal Trade Commission act.

#### PROCEEDINGS DISPOSED OF.

*Complaint No. 6 (Apr. 8, 1918).*--Federal Trade Commission v. Fleischmann Co. of Ohio. Cause: Stifling and suppressing competition by undue sampling, by

distribution of gratuities, by making contributions to associations and conventions, by extensive entertainment, by making deliveries of yeast without any immediate charge therefor, by cash payments, substituting competitors' samples and deliveries, trailing competitors' agents, misrepresenting competitors' methods, by concealing its control of a supposed independent yeast company, etc., in alleged violation of section 5 of the Federal Trade Commission act; and further, attempting to create a monopoly by price fixing conditioned on the nonuse of competitors' goods in alleged violation of section 3 of the Clayton Act. Disposition: A portion of the evidence having been introduced, the case, by stipulation, was submitted to the Commission upon an agreed statement of facts and an order was entered requiring the respondent to cease and desist from the practices complained of.

*Complaint No. 7 (July 14, 1917).*--Federal Trade Commission v. Muenzen Specialty Co. of New York. Cause: Unfair methods of competition in connection with sale of vacuum cleaners by misrepresentation in advertising, by injurious statements relative to competitors' cleaners, and competitors' financial standing, ect., in alleged violation of section 5 of the Federal Trade Commission act. Disposition : Upon the answer of respondent admitting the charges alleged in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No 8 (Dec. 15, 1917).*--Federal Trade Commission v. Victor Talking Machine Co. of New Jersey. Cause: Attempting to create a monopoly by price fixing in connection with leasing, selling, and contracting to sell talking machines, sound records, sound boxes, and needles conditioned on nonuse of competitors' goods, in alleged violation of section 3 of the Clayton Act. Disposition: Upon the filing of certain stipulations as to facts by the respondent, the complaint was withdrawn and further proceedings ordered discontinued without prejudice.

*Complaint No. 9 (Apr. 16, 1918).*--Federal Trade Commission v. Standard Car Equipment Co. and Standard Construction Co. Cause: Unfair methods of competition in connection with leasing and selling tank cars by inducing employees of competitors to leave, by making false representations that it is closely affiliated with one of its competitors, by acquiring trade secrets of competitor from former employees, etc., in alleged violation of section 5 of the Federal Trade Commission act. Disposition: After the submission of the evidence and arguments of counsel an order was entered by the Commission requiring the respondent to cease and desist from the practices complained of.

*Complaint No. 10 ( Dec. 31, 1917).*--Federal Trade Commission v. National Binding Machine Co. of New York. Cause: Stifling and suppressing competition by purchasing gummed sealing tape in large quantities on condition that the manufacturers thereof do not sell to others, by interference with customers of competitors, by "license agreement," by threats of suit for infringement against users of tape on machines other than the National binding machine in alleged violation of section 5 of the Federal Trade Commission act; and attempting to create a monopoly in connection with leasing, sale, and contracting to sell gummed sealing tape and binding machines conditioned on nonuse of either with goods of competitors, in alleged violation of section 3 of the Clayton Act. Disposition: Upon the filing of certain findings as to time facts, an order was entered requiring the respondent to cease and desist from the practices complained of.

*Complaint No. 13 (Jan. 9, 1918).*--Federal Trade Commission v. C. L. Colman Lumber Co. Cause: Selling and delivering lumber and building material at different prices to purchasers in certain cities and communities than those made to other purchasers in the same or other cities and communities, in alleged violation of section 2 of the Clayton Act. Disposition: Dismissed by resolution of the Commission, it appearing that the price discriminations complained of were made in good faith to meet competition.

*Complaint No. 14 (Jan. 9, 1918).*--Federal Trade Commission v. Interior Lumber Co. Cause: Selling and delivering lumber and building material at different prices to purchasers in certain cities and communities than those made to other purchasers in the same or other cities and communities, in alleged violation of section 2 of the Clayton Act. Disposition: Dismissed by resolution of the Commission, it appearing that the price discriminations complained of were made in good faith to meet competition.

*Complaint No. 17 (Nov. 8, 1917).*--Federal Trade Commission v. Bureau of Statistics of the Book Paper Manufacturers, Charles F. Moore, the bureau's secretary, and 23 paper manufactures. Cause: (Ante.) Disposition: By stipulation an order was entered requiring the respondent to cease and desist from the practices complained of.

*Complaint No. 18 (Jan. 29, 1918).*--Federal Trade Commission v. Association of Flag Manufactures or America et al. Cause: (Ante.) Disposition: An order to cease and desist entered against certain of the respondents, findings of fact abating the cause as to the Association of Flag Manufacturers of America, and cause dismissed as to National Flag Co. and R. J. Patton Co.

*Complaint No.23 (Apr. 4, 1918).*--Federal Trade Commission v. Chicago Lino-Tabler Co. Cause: (Ante.) Disposition: By stipulation submitted upon an agreed statement of facts, and an order thereupon issued requiring respondent to cease and desist from time practices complained of.

*Complaint No. 26 (Feb. 15, 1918).*--Federal Trade Commission v. National Distilling Co. Cause: (Ante.) Disposition: By stipulation submitted upon an agreed statement of facts, and an order thereupon issued requiring respondent to cease and desist from the practices complained of.

*Complaint No. 27 (Apr. 30, 1918).*--Federal Trade Commission v. Chester Kent & Co. Cause : (Ante.) Disposition: By stipulation submitted upon an agreed statement of facts, and an order there upon issued requiring respondent to cease and desist from the practices complained of.

*Complaint No. 34 (Apr. 30, 1918).*--Federal Trade Commission v. Dearborn Typewriter Co. Cause: (Ante.) Disposition: Upon respondent's answer, ad-

mitting the charges in the complaint, an order was issued requiring it to cease and desist from the practices complained of.

*Complaint No.35 (June 6, 1918).*--Federal Trade Commission v. Metro Typewriter Co. Cause: (Ante.) Disposition: Upon respondent's answer, admitting the charges in the complaint, an order was issued requiring it to cease and desist from the practices complained of.

*Complaint No. 36 (May 24, 1918).*--Federal Trade Commission v. Harry A. Smith. Cause: (Ante.) Disposition: Upon respondent's answer, admitting the charges in the complaint, an order was issued requiring it to cease and desist from the practices complained of.

*Complaint No.37 (Mar. 26, 1918).*--Federal Trade Commission v. Typewriter Emporium. Cause: (Ante.) Disposition: Upon respondent's answer, admitting the charges in the complaint, an order was issued requiring it to cease and desist from the practices complained of.

*Complaint No. 38 (June 6, 1918).*--Federal Trade Commission v. Block & Co. Cause: (Ante.) Disposition: Upon respondent's answer admitting the charges in the complaint, an order was issued requiring it to cease and desist from the practices complained of.

*Complaint No.42 (Apr.15, 1918).*--Federal Trade Commission v. Columbus Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 43 (Apr. 15, 1918).*--Federal Trade Commission v. Flood & Conklin Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 44 (Apr. 26, 1918).*--Federal Trade Commission v. Warren Soap Manufacturing Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 45 (June 6, 1918).*--Federal Trade Commission v. Eagle Printing Ink Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 46 (June 6, 1918).*--Federal Trade Commission v. Sigmund Ullman Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No.47 (June 6, 1918).*--Federal Trade Commission v. J. M. Huber. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring It to cease and desist from the practices complained of

*Complaint No.48 (Apr.15, 1918).*--Federal Trade Commission v. Walter L. Trainer Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No.49 (May 3, 1918).*--Federal Trade Commission v. N. Z. Graves

Corporation. Cause: (Ante.) Disposition: It appearing that the respondent corporation had dissolved and ceased to exist, the complaint was dismissed.

*Complaint No. 50 (Apr. 15, 1918).*--Federal Trade Commission v. Van Camp Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No.51 (Apr.15, 1918).*--Federal Trade Commission v. Sun Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No.52 (Apr.15, 1918).*--Federal Trade Commission v. Lilly Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No.54 (Apr.15, 1918).*--Federal Trade Commission v. Lndemann Wood Finishing Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring It to cease and desist from the practices complained of.

*Complaint No. 55 (Apr. 15, 1918).*--Federal Trade Commission v. Adams & Elting Co. Cause: (Ante.) Disposition: Upon the answer of respondent ad-

mitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 56 (Apr. 15, 1918).*--Federal Trade Commission v. Valentine & Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 57 (June 18, 1918).*--Federal Trade Commission v. Bridgeport Wood Finishing Co. Cause: (Ante.) Disposition: It appearing that the business of the respondent corporation had been sold prior to the filing of the complaint, the same was dismissed.

*Complaint No. 58 (Apr. 15, 1918).*--Federal Trade Commission v. George D. Wetherill & Co. (Inc.). Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 59 (Mar. 13, 1918).*--Federal Trade Commission v. Reliance Varnish Works. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 60 (Apr. 15, 1918).*--Federal Trade Commission v. Blackburn Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 61 (Apr. 15, 1918).* --Federal Trade Commission v. F. W. Thurston Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 62 (Apr. 15, 1918).*--Federal Trade Commission v. Grand Rapids Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease amid desist from the practices complained of.

*Complaint No. 63 (Apr. 15, 1918).*--Federal Trade Commission v. National Varnish Co. Cause: (Ante.) Disposition : Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 64 (Apr. 24, 1918).* --Federal Trade Commission v. Standard Varnish Works. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 65 (Apr. 15, 1918).*--Federal Trade Commission v. Mayer & Loewenstein. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 66 (Apr. 15, 1918).*--Federal Trade Commission v. Boston Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 67 (Apr. 15, 1918).* --Federal Trade Commission v. Louisville

Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 68 (Apr. 15, 1918)* .--Federal Trade Commission v Murphy Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 69 (Apr. 15, 1918)* .--Federal Trade Commission v. Marietta Paint & Color Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring It to cease and desist from the practices complained of.

*Complaint No. 70 (Mar. 13, 1918)* .--Federal Trade Commission v. O'Neil Oil & Paint Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 71 (Apr. 30, 1918)* .--Federal Trade Commission v. Grand Rapids Wood Finishing Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 72 (Apr. 15, 1918)* .--Federal Trade Commission v. The Forbes Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent



admitting the allegations complaint, in order was entered requiring it to cease and desist from the complained of.

*Complaint No. 73 (Apr. 15 1918).*--Federal Trade Commission v. The Lawrence-McFadden Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 74 (Apr. 15, 1918).*--Federal Trade Commission v. Pratt & Lambert (Inc.). Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 75 (Apr. 15, 1918).*--Federal Trade Commission v. Essex Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 76 (Apr. 15, 1918).*--Federal Trade Commission v. The Glidden Varnish Co. Cause: (Ante.) Disposition: Upon the answer or respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 77 (Apr. 15, 1918).*--Federal Trade Commission v. The Ault & Wiborg Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 78 (Mar. 13, 1918).*--Federal Trade Commission v. Chas. R Long, Jr., Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 80 (June 24, 1918).*--Federal Trade Commission v. Sears, Roebuck & Co. Cause: (Ante.) Disposition: Submitted to the Commission on agreed statement of facts, upon which an order was entered requiring the respondent to cease and desist from the practices complained of.

*Complaint No. 81 (Apr. 15, 1918).*--Federal Trade Commission v. The Moller & Schuman Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 94 (June 28, 1918).*--Federal Trade Commission v. The American Tobacco Co. Cause: (Ante.) Disposition: Complaint and proceedings dismissed and discontinued, it appearing to the Commission that there was not sufficient evidence to support the allegations of the said complaint.

*Complaint No. 95 (June 28, 1918).*--Federal Trade Commission v. United States Gold Leaf Manufacturers' Association and the individuals, firms, and corporations, the members thereof. Cause: (Ante.) Disposition: Upon the answers of the respondents admitting the allegations of the complaint, an order was entered requiring them to cease and desist from the practices complained of.

*Complaint No. 98 (May 17, 1918).*--Federal Trade Commission v. J. H. Allen & Co. Cause: (Ante.) Disposition: It appearing to the Commission that the respondent had entered into a written agreement with the Commission to cease and desist the practices complained of prior to the filing of the complaint herein, this

case was dismissed.

*Complaint No. 99 (July 22, 1918).*--Federal Trade Commission v. C. F. Bonsor & Co. (Inc.). Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 100 (June 6, 1918).*--Federal Trade Commission v. Buddha Tea Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegation of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 102 (June 6, 1918).*--Federal Trade Commission v. The Danemiller Grocery Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 105 (June 6, 1918).*--Federal Trade Commission v. A. Ethridge & Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 108 (June 6, 1918).*--Federal Trade Commission v. F. W. Himmz & Sons. Cause: (Ante.) Disposition: Upon the answer of the respondent ad-

mitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 109 (June 6, 1918).*--Federal Trade Commission v. Thomas C. Jenkins. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 110 (June 6, 1918).*--Federal Trade Commission v. The Johnson Layne Coffee Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 112 (June 6, 1918)* .--Federal Trade Commission v. Levering Coffee Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 113 (June 6, 1918)* .--Federal Trade Commission v. A. L. Mars & Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 114 (June 6, 1918).*--Federal Trade Commission v. M. S. Miller Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complain No.115 (June 6, 1918).*--Federal Trade Commission v. Rice Bros. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 116 (June 6, 1918).*--Federal Trade Commission v. Roth-Homyer Coffee Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 117 (June 6, 1918)* .--Federal Trade Commission v. William S. Scull Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 118 (June 6, 1918).*--Federal Trade Commission v. Sioux Falls Coffee & Spice Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint in t No. 119 (June 6, 1918)* .--Federal Trade Commission v. Valley City Coffee & Spice Mills. Cause: (Ante.) Disposition : Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No.120 (June 6, 1918).*--Federal Trade Commission v. Tue E. It. Webster Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 124 (June 28, 1918).*--Federal Trade Commission v. Pennsylvania

Specialty Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 125 (June 6, 1918).*--Federal Trade Commission v. Advance Paint Co. Cause: (Ante.) Disposition: Upon the answer of the respondent admitting the allegations of the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 147 (June 28, 1918).*--Federal Trade Commission v. American Varnish Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 149 (June 29, 1918).*--Federal Trade Commission v. James B. Day & Co. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

*Complaint No. 150 (June 24, 1918)* .--Federal Trade Commission v. S. C. Johnson & Son. Cause: (Ante.) Disposition: Upon the answer of respondent admitting the allegations in the complaint, an order was entered requiring it to cease and desist from the practices complained of.

## PROCEEDINGS PENDING.

(June 30, 1918.)

*Complaint No. 5.*--Federal Trade Commission v. The Shredded Wheat Co. Cause: Unfair methods of competition against the Ross Food Co., in alleged violation of section 5 of the Federal Trade Commission act. Status: This proceeding is at issue upon the complaint of the Commission and the answer of the respondent and negotiations are pending for a settlement of the same by stipulation.

*Complaint No. 11.*--Federal Trade Commission v. Botsford Lumber Co. et al. Cause: Stifling and suppressing competition on the part of mail order houses in the lumber and building material trade by bogus and spurious requests for estimates, quotations, printed matter, etc.; by influencing credit reporting houses: by inducing manufacturers to refrain from furnishing materials; by surreptitiously obtaining trade secrets and by trailing salesman, in alleged violation of section 5 of the Federal Trade Commission act. Status: By stipulation order to cease and desist the practices complained of in the complaint, has been issued against a large number of the respondents, and negotiations are now pending for the issuance by stipulation of similar orders against the remaining respondents.

*Complaint No. 12.*--Federal Trade Commission v. Anderson Gratz and Benjamin Gratz, doing business under the name of Warren, Jones & Gratz, and others. Cause: Discouraging and stifling competition in the sale of jute bagging by refusing to sell steel ties for binding bales of cotton unless jute bagging is ordered at the same time, in alleged violation of section 3 of the Clayton Act. Status: The evidence in this proceeding has all been introduced and the Commission's brief filed with the Examiner. Upon the filing of the respondent's brief time proceedings will be finally disposed of.

*Complaint No. 15.*--Federal Trade Commission v. The Curtis Publishing Co. Cause: (Ante.) Status: All of the evidence in this proceeding has been introduced and the briefs for both the Commission and the respondent are in preparation. Upon their completion there will be a final disposition of the matter.

*Complaint No. 16.*--Federal Trade Commission v. The Wholesale Saddlery Association of the United States and National Harness Manufacturers' Association of the United States. Cause: (Ante.) Status: The Commission has introduced a large portion of its evidence herein. Time proceeding now stands pending negotiations for a settlement by stipulation without the introduction of further evidence.

*Complaint No. 19.*--Federal Trade Commission v. Mishawaka Woolen Manufacturing Co. Cause: (Ante.) Status: Thus proceeding is at issue upon the complaint of the Commission and the answer of the respondent and is awaiting trial and determination along with similar resale price maintenance cases pending before the Commission.

*Complaint No. 20.*--Federal Trade Commission v. The Cudahy Packing Co. Cause: (Ante.) Status: The Commission has introduced all of its evidence in this proceeding and the matter is awaiting the outcome of pending negotiations for the entering of an order upon the testimony introduced mind without the introduction

of any further testimony.

*Complaint No. 21.*--Federal Trade Commission v. Ward Baking Co. Cause: (Ante.) Status: All of the evidence has been introduced in this proceeding and the briefs of both the Commission and the respondent are now in preparation. Upon the filing of same the matter will be finally terminated.

*Compliant No. 22.*--Federal Trade Commission v. Chicago Flexible Simaft Co. Cause: (Ante.) Status: This proceeding is now in the course of trial, the Commission having introduced a part of its evidence.

*Complaint No 24.*--Federal Trade Commission v. Galena-Signal Oil Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the answer of the respondent and is now being prepared for trial.

*Complaint No 25.*--Federal Trade Commission v. J. F. Hillerich & Son Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the answer of the respondent, and is awaiting trail and determination along with similar resale price maintenance eases pending before the Commission.

*Complaint No. 28.*--Federal Trade Commission v. Ward Baking Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Com-

mission and the answer of the respondent, and is awaiting trial and determination along with similar resale price maintenance cases pending before the Commission.

*Complaint No. 29.*--Federal Trade Commission v. Nulomoline Co. Cause: (Ante.) Status: This proceeding is now in the course of trial, the Commission having introduced a part of its evidence.

*Complaint No 30.*--Federal Trade Commission v. Western Clock Co. Cause: (Ante.) Status: The proceeding is at issue upon complaint of the Commission and the answer of the respondent, and is awaiting trial and determination along with similar resale price maintenance proceedings pending before the Commission.

*Complaint No. 31.*--Federal Trade Commission v. National Biscuit Co. Cause: (Ante.) Status: This proceeding is at issue on the complaint of the Commission and the answer of the respondent, and is being prepared for trial.

*Complaint No. 32.*--Federal Trade Commission v. United Drug Co. Cause: (Ante.) Status: This proceeding is at issue of the complaint of the Commission and the answer of the respondent and is being prepared for trial.

*Complaint No. 33.*--Federal Trade Commission v. American Radiator Co. Cause: (Ante.) Status: This proceeding is at issue on the complaint of the Commission and the answer of the respondent, and is being prepared for trial.

*Complaint No. 39.*--Federal Trade Commission v. The Coco Cola Co. Cause: (Ante.) Status: This proceeding is at issue on the complaint of the Commission and the answer of the respondent, and is being prepared for trial.

*Complaint No 40.*--Federal Trade Commission v. The Colorado Milling & Elevator Co. Cause: (Ante.) Status: The proceeding is at issue upon the complaint of the Commission and the answer of the respondent, and is awaiting trial and determination along with similar resale price maintenance cases pending before the Commission.

*Complaint No. 41.*--Federal Trade Commission v. Rockford Varnish Co. Cause: (Ante.) Status: Negotiations pending for settlement by stipulation upon answer filed by the respondent.

*Complaint No. 53.*--Federal Trade Commission v. McCloskey Varnish Co. Cause: (Ante.) Status: Negotiations pending for settlement by stipulation upon answer filed by the respondents.

*Complaint No. 79.*--Federal Trade Commission v. American Agricultural Chemical Co. and The Brown Co. Cause: (Ante.) Status: Negotiations are pending for settlement of the proceeding by stipulation and agreement.

*Complaint No. 82.*--Federal Trade Commission v. Photo-Engravers' Club of Chicago. Cause: (Ante.) Status: Respondent has presented to the Commission its argument in support of a motion filed by it to dismiss the complaint and the proceeding is now awaiting the presentation of time Commission's argument upon the said motion.

*Complaint No 83.*--Federal Trade Commission v. American Mailing Device Corporation. Cause: (Ante.) Status: Negotiations are pending for a settlement of the proceeding by stipulation and agreement.

*Complaint No. 84.*--Federal Trade Commission v. Cutler Mail Chute Co. Cause: (Ante.) Status: The proceeding is at issue upon the complaint of the Commission and the answer of the respondent and is ready for trial.

*Complaint No. 85.*--Federal Trade Commission v. Standard Oil Co. of Indiana. Cause: (Ante.) Status: Negotiations are pending for an adjustment of the proceeding by stipulation and agreement.

*Complaint No. 86.*--Federal Trade Commission v. F. E. Atteaux & Co. Cause: (Ante.) Status: This proceeding is at issue on the complaint of the Commission and the answer of the respondent and is ready for trial.

*Complaint No. 87.*--Federal Trade Commission v. Crescent Manufacturing Co. Cause: (Ante.) Status: The proceeding is at issue upon the complaint of the Commission and answer of the respondent and is awaiting trial and determination along with similar resale price maintenance proceedings pending before the Commission.

*Complaint No. 88.*--Federal Trade Commission v. Beech-nut Packing Co. Cause: (Ante.) Status: The proceeding is at issue upon the complaint of the Commission and answer of time respondent and is awaiting trail and determination along with similar resale price maintenance proceedings pending before the Commission.

*Complaint No. 89.*--Federal Trade Commission v. L. E. Waterman Co. Cause: (Ante.) Status: The proceeding is at issue upon the complaint of the Com-  
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mission and the answer of the respondent and is awaiting trial and determination along with similar resale price maintenance proceedings pending before the Commission.

*Complaint No 90.*--Federal Trade Commission v. Cluett, Peabody & Co. (Inc.). Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the answer of the respondent, and is awaiting trial and determination along with similar resale price maintenance cases pending before the Commission.

*Complaint No. 91.*--Federal Trade Commission v. Massachusetts Chocolate Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the answer of the respondent, and is awaiting trial and determination along with similar resale price maintenance cases pending before the Commission.

*Complaint No. 92.*--Federal Trade Commission v. Standard Oil Co. of New York. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and answer of the respondent, and is ready for trial.

*Complaint No. 93.*--Federal Trade Commission v. Atlantic Ice & Coal Corporation. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and answer of the respondent, and is now being prepared for trial.

*Complaint No. 96.*--Federal Trade Commission v. Ringwalt Linoleum Works (Inc.). Cause: (Ante.) Status: The proceeding is at issue on the complaint of the Commission and answer of the respondent, and is being prepared for trial.

*Complaint No. 97.*--Federal Trade Commission v. S. M. Hex ter & Co. Cause: (Ante.) Status: This proceeding is at issue on the complaint of the Commission and the answer of the respondent, and is being prepared for trial.

*Complaint No. 101.*--Federal Trade Commission v. The Climax Coffee & Baking Powder Co. Cause: (Ante.) Status: Negotiations are pending for the dismissal of this proceeding upon the showing by the respondent that it had discontinued the practices complained of prior to the filing of the complaint.

*Complaint No. 103.*--Federal Trade Commission v. J.S. Elliott Coffee Co. Cause: (Ante.) Status: Negotiations are pending for the determination of this proceeding by stipulation and agreement.

*Complaint No. 104.*--Federal Trade Commission v. Enterprise Coffee Co. Cause:



(Ante.) Status: Negotiations are pending for the determination of this proceeding by stipulation and agreement.

*Complaint No. 106.*--Federal Trade Commission v. B L. Gerhart & Co. Cause: (Ante.) Status: Negotiations are pending for the determination of this proceeding by stipulation and agreement.

*Complaint No. 107.*--Federal Trade Commission v. The Grocers Coffee Co. Cause: (Ante.) Status: Negotiations pending for the determination of this proceeding by stipulation and agreement.

*Complaint No. 111.*--Federal Trade Commission v. C. D. Kenny Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the answer of the respondent denying the allegations in the complaint.

*Complaint No. 121.*--Federal Trade Commission v. E. J. Brach & Sons. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the answer of the respondent and negotiations are pending for a settlement of the same by stipulation and agreement.

*Complaint No. 122.*--Federal Trade Commission v. George Muench. Cause: (Ante.) Status: This proceeding is pending on the respondent's answer and motion to dismiss.

*Complaint No. 123.*--Federal Trade Commission v. American Can Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the answer of the respondent and is now being prepared for trial.

*Complaint No. 126.*--Federal Trade Commission v. Ironite Co., Master Builders Co., and United Products Co. Cause : (Ante.) Status : This proceeding is at issue upon the complaint of the Commission and the respondent's answer and Is being prepared for trial.

*Complaint No. 127.*--Federal Trade Commission v. Mecanno (Ltd.) and The Mecanno Co. (Inc.). Cause: (Ante.) Status: This proceeding Is at Issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial.

*Complaint No. 128.*--Federal trade Commission v. The Vaudeville Managers Protective Association, The Vaudeville Artists (Inc.), The United

Booking Office, et al. Cause: (Ante.) Status: This proceeding is being prepared for trial.

*Complaint No. 129.*--Federal Trade Commission v. Wayne Oil Tank & Pump Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer, and is being prepared for trial and final determination.

*Complaint No. 130.*--Federal Trade Commission v. Gilbert & Barker Manufacturing Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer, and is being prepared for trial and final determination.

*Complaint No. 131.*--Federal Trade Commission v. Atlantic Refining Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial and final determination.

*Complaint No. 132.*--Federal Trade Commission v. Standard Oil Co. of Ohio. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial and final determination.

*Complaint No. 133.*--Federal Trade Commission v. Standard Oil Co. of Indiana. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial and final determination.

*Complaint No. 134.*--Federal Trade Commission v. Standard Oil Co. of New York. Cause: (Ante.) Status: Thus proceeding is at issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial and final determination.

*Complaint No. 135.*--Federal Trade Commission v. Standard Oil Co. of Louisiana. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial and final determination.

*Complaint No. 136.*--Federal Trade Commission v. American Tank & Pump Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial and final determination.

*Complaint No. 137.*--Federal Trade Commission v. Milwaukee Tank Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial and final determination.

*Complaint No. 188.*--Federal Trade Commission v. Tokheim Manufacturing Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial and final determination.

*Complaint No. 139.*--Federal Trade Commission v. Guarantee Liquid Measure Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial and final determination.

*Complaint No 140.*--Federal Trade Commission v. Stanley Booking Corporation. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the respondent's answer and is being prepared for trial and final

determination.

*Complaint No. 141.*--Federal Trade Commission v. The Evans Dollar Pen Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the answer of the respondent and is awaiting trial and determination along with similar resale price maintenance proceedings pending before the Commission.

*Complaint No. 142.*--Federal Trade Commission v. Wilson & Co. Cause: (Ante.) Status: This proceeding is in course of trial, the greater part of the evidence having been introduced.

*Complaint No. 143.*--Federal Trade Commission v. Morris & Co. Cause: (Ante.) Status : This proceeding is at issue upon the complaint of the Commission and the answer of the respondent and is awaiting trial.

*Complaint No. 144.*--Federal Trade Commission v. Weyl-Zuckerman Co. Cause: (Ante.) Status: This proceeding is at issue upon time complaint of the Commission and the answer of the respondent and is awaiting trial.

*Complaint No. 145.*--Federal Trade Commission v. Consolidated Rendering Co., New Haven Rendering Co., Atlantic Packing Co., and L. T Frisbie Co. Cause: (Ante.) Status: This proceeding is at issue upon the complaint of the Commission and the answer of the respondent and is awaiting trial.

*Complaint No. 146*--Federal Trade Commission v. The Acme White Lead & Color Works. Cause: (Ante.) Status: Answer not due.

*Complaint No. 148*--Federal Trade Commission v. Chicago Varnish Co. Cause: (Ante.) Status: Answer not due.

*Complaint int No. 151*--Federal Trade Commission v. G. J. Liebich Co. Cause: (Ante.) Status: Answer not due.

*Complaint No. 152*--Federal Trade Commission v. The Royal Varnish Co. Cause: (Ante.) Status: Answer not due.

*Complaint No. 153*--Federal Trade Commission v. Twin City Varnish Co. Cause: (Ante.) Status: Answer not due.

*Complaint No. 154*--Federal Trade Commission v. The Wheeler Varnish Works. Cause: (Ante.) Status: Answer not due.

*Complaint No. 155*--Federal Trade Commission v. Eli Lilly & Co. Cause: (Ante.) Status: Answer not due.

*Complaint No. 156*--Federal Trade Commission v. Purity Preserving Co. and R. J. McGuiar Co. Cause: (Ante.) Status : Answer not due.

*Complaint No. 157*--Federal Trade Commission v. Saenger Amusement Co. Cause: (Ante.) Status: Answer not due.

*Complaint No. 158*--Federal Trade Commission v. Clayton F. Summy Co. Cause: (Ante.) Status: Answer not due.

*Complaint No. 159*--Federal Trade Commission v. United Rendering Co., M. L. Shoemaker & Co. (Inc.), Time Berg Co., The D. B. Martin Co., Consolidated Dressed Beef Co., Baugh & Sons Co., Winfield S. Allen, Nathan Berg, F. W. English, Christopher Offenhauser. Cause: (Ante.) Status: Answer not due.

*Complaint No. 160*--Federal Trade Commission v. The Victor Electric Corporation. Cause: (Ante.) Status: Answer not due.

*Complaint No 161*--Federal Trade Commission v. Dearborn Chemical Co. Cause: (Ante.) Status: Answer not due.

*Complaint No. 162*--Federal Trade Commission v. Henry O. Shepard Co. Cause: (Ante.) Status: Answer not due.

*Complaint No. 163*--Federal Trade Commission v. Armour & Co. Cause: (Ante.) Status: Answer not due.

*Complaint No. 164*--Federal Trade Commission v. Federal Rope Co. (Inc.). Cause: (Ante.) Status: Answer not due.

*Complaint No. 165*--Federal Trade Commission v. The Esterbrook Steel Pen Manufacturing Co. Cause: (Ante.) Status: Answer not due.

*Complaint No. 166*--Federal Trade Commission v. E. E. Gray Co. Cause: (Ante.) Status: Answer not due.

*Complaint No 167*--Federal Trade Commission v. United Electric Co. Cause: (Ante) Status: Answer not due.

*Complaint No. 168*--Federal Trade Commission v. The National Wholesale Druggists Association et al. Cause: (Ante.) Status: Answer not due.

*Comparative summary of adversary proceedings.*

	1918	1917
Adversary proceedings instituted -----	154	9
Adversary proceedings disposed of -----	79	4
Adversary proceedings pending:		
In preparation for trial -----	24	
Answers not due -----	20	
Resale price -----	14	
Pending negotiations for settlement -----	13	

Ready for trial -----	8	
In course of trial -----	6	10
	85	10

### MISCELLANEOUS LEGAL WORK.

In addition to the formal and informal proceedings heretofore reviewed, the legal department has taken an active and prominent part in many of the matters which have arisen under the jurisdiction of the Commission.

In the various investigations and surveys of trade and industrial conditions, corporate affairs, and economic questions, conducted during the fiscal year, members of the legal department have rendered service not only in ascertaining and determining the exact conditions and surrounding facts, but also have assisted in the preparation of the various reports made by the Commission to the public and to different branches of the Government, by briefing the legal propositions arising from the facts ascertained, conducting the examination of witnesses called in the various investigations, compelling returns to demands of the Commission for information in the determination of costs of production of materials used for war purposes, giving opinions as to the legal effect of the documentary evidence obtained, and, in general, rendering a involving legal advice upon all matters and questions propositions which have arisen. Much of the work of this character has arisen from the effect of the war upon commerce generally, a notable example of which was in the inquiry by the Commission as to the cost of news print paper. By agreement between the Attorney General and certain news-print manufacturers, this matter was referred to the Commission to determine and fix, after due hearing and investigation, subject to review by the judges of the United States Circuit Court of Appeals for the Second Circuit, the just and reasonable maximum prices and terms of contracts for the sale of news print paper by such manufacturers after April 1, 1918, during the period of the war and for three months thereafter. The legal department assisted the Commission in conducting the hearings in this matter, which covered a period of 36 days, during which time many witnesses from different parts of the United States and Canada gave testimony and a large amount of documentary evidence was introduced.

At the suggestion of the United States Food Administrator, Mr. Herbert C. Hoover, the Federal Trade Commission conducted an investigation of food profiteering. Eighty-three applications for the issuance of complaints were docketed and three cases were investigated under section 6 of the Federal Trade Commission act. Numerous hearings were held. The legal department conducted these investigations and represented the public at the hearings. As a result of the activities of the Commission in this respect, licenses were revoked by the United States Food Administrator on recommendation of the Commission. The investigation was particularly directed to the vegetable bottling and canning industries, in which inadequate crops and rising prices caused the withholding of contract deliveries and the selling of spots on the market at a higher price.

The legal department also investigated cases in which the Government fixed a definite margin of profit above cost, as in the case of flour, where there was a considerable incentive to a fictitious enhancement of the cost of goods by account juggling.

From the evidence adduced in the investigation and carrying on of the proceedings involving commercial bribery, the legal department is of the opinion that the only manner in which this evil can be effectively stopped is by legislation of the character heretofore reported by the Commission to Congress, and it therefore recommends that the passage of this legislation be strongly urged upon the members of that body.

Under section 6 of the Federal Trade Commission act the Commission is only authorized to gather and compile information and to investigate the organization, business, conduct, practices, and management of corporations engaged in interstate commerce, except banks and common carriers, and their relations to other corporations and to individuals, associations, and partnerships. Under section 5 of the Federal Trade Commission act the Commission may proceed against individuals and partnerships for using unfair methods of competition; but it can not, under section 6, make an investigation of the business and practices of individuals and partnerships engaged in interstate commerce. The Commission can not make a full economic investigation into industries under section 6 for the reason that many individuals and partnerships are engaged in such industries and the Commission is without legal authority to investigate the business of such individuals or partnerships. The Commission can not require reports from such individuals and partnerships for the purpose of determining the cost of production of war materials for time purpose of the determination of a fair price, nor can it make a report on general conditions in such industries without an investigation or report on the business of individuals engaged in such industries.

Therefore the legal department urgently requests that the Commission recommend to Congress an amendment to section 6 of the Federal Trade Commission act to meet the difficulties here pointed out. This the Commission does.

All of which is respectfully submitted.

WILLIAM B. COLVER, *Chairman.*  
JOHN FRANKLIN FORT,  
VICTOR MURDOCK.

## EXHIBIT 1.

### FEDERAL TRADE COMMISSION ACT.

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

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a Commission Is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission), which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the Commissioners shall be members of the same political party. The first Commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the late of the taking effect of this act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. The Commission shall choose a chairman from its own membership. No Commissioner shall engage In any other business, vocation, or employment. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the Commission shall not impair the right of the remaining Commissioners to exercise all the powers of the Commission.

The Commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each Commissioner shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The Commission shall appoint a secretary, who shall receive a salary of \$5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

With the exception of the secretary, a clerk to each Commissioner, the attorneys, and such special experts and examiners as the Commission may from time to time find necessary for the conduct of its work, all employees of the Commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the Commission and by the Civil Service Commission.

All of the expenses of the Commission, including, all necessary expenses for transportation incurred by the Commissioners or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

Until otherwise provided by law, the Commission may rent suitable offices for Its use.



The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the Commission.

SEC. 3. That upon the organization of the Commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the Commission.

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

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

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

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

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

“Corporation” means any company or association incorporated or unincorporated, which is organized to carry on business for profit and has shares of capital or capital stock, and any company or association, incorporated or unincorporated, without shares of capital or capital stock, except partnerships, which is organized to carry on business for its own profit or that of its members.

“Documentary evidence” means all documents, papers, and correspondence in existence at and after the passage of this act.

“Acts to regulate commerce” means the act entitled “An act to regulate commerce,” approved February fourteenth, eighteen hundred and eighty-seven, and all acts amendatory thereof and supplementary thereto.

“Antitrust acts” means the act entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” approved July second, eighteen hundred and ninety; also the sections seventy-three to seventy-seven, inclusive, of an act entitled “An act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved August twenty-seventh, eighteen hundred and ninety-four; and also the act entitled “An act to amend sections seventy-three and seventy-six of the act of August twenty-seventh, eighteen hundred and ninety-four, entitled ‘An act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February twelfth, nineteen hundred and thirteen.

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

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

Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnerships or corporation a complaint starting its charges in their respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person,

partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition in question is prohibited by this act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. 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 may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by It under this section.

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

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

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

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

Complaints, orders, and other processes of the Commission under this section may be served by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the

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

SEC. 6. That the Commission shall also have power--

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

(b) To require, by general or Special orders, corporations engaged in commerce, excepting, banks, and common carriers subject to the act to regulate

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

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

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make recommendation for the readjustment of the business of any corporation alleged to be violating the antitrust acts in order that the corporation may thereafter maintain its Organization, management, and conduct of business in accordance with law.

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

(g) From time to time to classify corporations and to make, rules and regulations for the purpose of carrying out the provisions of this act.

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, mid to report to Congress thereon, with such recommendations as it deems advisable.

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the 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 tile 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

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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 may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the Commission in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the Commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the Commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this act to file any annual or special report shall fail so to do within the time fixed by the Commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable



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

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

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

Approved, September 26, 1914.

## EXHIBIT 2.

### PROVISIONS OF THE CLAYTON ACT WHICH CONCERN THE FEDERAL TRADE COMMISSION.

“Commerce,” as used herein, means trade or commerce among the Several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That nothing in this act contained shall apply to the Philippine Islands.

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

SEC. 2. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers, of commodities, on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of Selling or transportation, or discrimination in price in the same or different communities made in good faith to meet competition: *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.

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 therefore or discount, rebate, 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 maybe to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

No corporation shall acquire, directly or indirectly the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, may be to substantially lessen competition

between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

This section shall not apply to corporations purchasing such stock solely for Investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

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

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this act is

eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any crime in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

SEC. 11. That authority to enforce compliance with sections two, three, seven and eight of this act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers, in the Federal Reserve Board where applicable to banks, banking associates and trust companies, and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections two, three, seven and eight of this act, it shall issue and serve upon such person a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at

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

If such person fails or neglects to obey such order of the Commission or board while the same is in effect, the Commission 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 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 pleading's, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission or board. The findings of the Commission 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 or board, the court may order such additional evidence to be taken before the Commission 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 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 recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the Commission or board to cease and desist from a violation charged may obtain a review of such order In said circuit court of appears by finite in the court a written petition praying that the order of the Commission or board be set aside. A copy of such petition shall be forthwith served upon the Commission or board, and thereupon the Commission 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 or board as in the case of an application by the Commission or board for the enforcement of its order, and the finding of the Commission 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 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 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 tile Commission or board under this section may be served by anyone duly authorized by the Commission 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 tile 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 tile service of the same.

Approved, October 15, 1914.



## EXHIBIT 3.

### RULES OF PRACTICE BEFORE THE FEDERAL TRADE COMMISSION.

#### I. SESSIONS.

The principal office of the Commission at Washington, D. C., is open each business day from 9 a.m. to 4:30 p.m. The Commission may meet and exercise all its powers at any other place, and may, by one or more of Us members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

Sessions of the Commission for hearing contested proceedings will be held as ordered by the Commission.

Sessions of the Commission for the purpose of making orders and for the transaction of other business, unless otherwise ordered, Will be held at the office of the Commission at Washington, D. C., on each business day at 10.30 a. in. Three members of the Commission shall constitute a quorum for the transaction of business.

All orders of the Commission shall be signed by the Secretary.

#### II. 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 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, and if upon investigation the Commission shall have reason to believe that there is a violation of law over which the Commission has jurisdiction, tile Commission shall issue and serve upon the party complained of a complaint, stating its charges and containing a notice of a hearing -upon a day and at a place therein fixed at least 40 days after the service of said complaint.

#### III. ANSWERS.

Within 30 days from the service of the complaint, unless such time be extended by order of the Commission, the defendant shall file with the Commission an answer to the complaint. Such answer shall contain a short and simple statement of the facts which constitute the ground of defense. It shall specifically admit or deny or explain each of the facts alleged in the complaint, unless the defendant is without knowledge, in which case lie shall so state, such statement operating as a denial. Answers in typewriting must be on one side of the paper only, on paper not

more than 8 ½ inches wide and not more than 11 inches long, and weighing not less than 16 pounds to the ream, folio base, 17 by 22 Inches, with left-hand margins not less than 1 ½ inches wide, or they may be printed in 10 or 12 point type on good unglazed paper 8 inches wide by 10 ½ inches long, with inside margins not less than 1 inch wide.

#### IV. SERVICE.

Complaints, orders, and other processes of the Commission may be served by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer, or a director of the corporation or association to be served; or (b) by leaving a copy thereof at

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

#### V. 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 lie or it claims to be interested. The Commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem just.

Applications to intervene must be on one side of the paper only, on paper not more than 8 ½ inches wide and not more than 11 inches long, and weighing not less than 16 pounds to the ream, folio base, 17 by 22 inches, with left-hand margin not less than 1 ½ inches wide, or they may be printed in 10 or 12 point type on good unglazed paper 8 inches wide by 10 ½ inches long, with inside margins not less than 1 inch wide.

#### VI. CONTINUANCES AND EXTENSIONS OF TIME.

Continuances and extensions of time will be granted at the discretion of the Commission.

#### VII. WITNESSES AND SUBPOENAS:

Witnesses shall be examined orally, except that for good and exceptional cause for departing from the general rule the Commission may permit their testimony to be taken by deposition.

Subpoenas requiring the attendance of witnesses from any place in the United States at any designated place of hearing may be issued by any member of the Commission.

Subpoenas for the production of documentary evidence (unless directed to issue by a Commissioner upon his own motion) will issue only upon application in writing, which must be verified and must specify, as near as may be, the documents desired and the facts to be proved by them.

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.

#### VIII. TIME FOR TAKING TESTIMONY.

Upon the joining of issue in a proceeding by the Commission the examination of witnesses therein shall proceed with all reasonable diligence and with the least practicable delay. Not less than 5 nor more than 10 days' notice shall be given by the Commission to counsel or parties of the time and place of examination of witnesses before the Commission, a Commissioner, or an examiner.

#### IX. OBJECTIONS TO EVIDENCE.

Objections to the evidence before the Commission, a Commissioner, or an examiner shall, in any proceeding, be in short form. stating the grounds of objections relied upon, and no transcript filed shall include argument or debate.

#### X. MOTIONS.

A motion in a proceeding by the Commission shall briefly state the nature of the order applied for, and all affidavits, records, and other helpers upon which the same is founded, except such as have been previously filed or served in the same proceeding, shall be filed with such motion and plainly referred to therein.

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#### XI. HEARINGS ON INVESTIGATIONS.

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

The general counsel or one of his assistants, or such other attorney as shall be designated by the Commission, shall attend and conduct such hearings, anti such hearings way, in the discretion of the Commissioner holding same, be public.

#### VIII. DEPOSITIONS IN CONTESTED PROCEEDINGS.

The Commission may order testimony to be taken by deposition in a contested proceeding.

Depositions may be taken before any person designated by the Commission and having power to administer oaths.

Any party desiring to take the deposition of a witness shall make application in writing, setting out the reasons why such deposition should be taken, and stating the time when, the place where, and the name and post-office address of the person before whom it is desired the deposition be taken, the name and post-office address of the witness, and the subject matter or matters concerning which the witness is expected to testify. if good cause be shown, the Commission will make and serve upon the parties of their attorneys an order wherein the Commission shall name the witness whose deposition is to be taken, and specify the time when, the place where, and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is to be taken, so specified in the Commission's order, may or may not be the same as those named in said application to the Commission.

The testimony of the witness shall be reduced to writing by the officer before

whom the deposition is taken, or under his direction, after which the deposition shall be subscribed by the witness and certified in usual form by the officer. After the deposition has been so certified it shall, together with a copy 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. Upon receipt of the deposition and copy the Commission shall file in the record in said proceeding such deposition and forward the copy to the defendant or the defendant's attorney.

Such depositions shall be typewritten on one side only of the paper, which shall be not more than 8 ½ inches wide and not more than 11 inches long and weighing not less than 16 pounds to the ream, folio base, 17 by 22 inches, with left-hand margin not less than 1 ½ inches wide.

No deposition shall be taken except after at least 6 days' notice to the parties, and where the deposition is taken in a foreign country such notice shall be at least 15 days.

No deposition shall be taken either before the proceeding is at issue, or, unless under special circumstances and for good cause shown, within 10 days prior to the date of the hearing thereof assigned by the Commission, and where the deposition is taken in a foreign country it shall not be taken after 30 days prior to such date of hearing.

#### IX. DOCUMENTARY EVIDENCE.

Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be put in evidence, such document will not be filed, but a copy only of such relevant and material matter shall be filed.

#### X. BRIEFS.

Unless otherwise ordered, briefs may be filed at the close of the testimony in each contested proceeding. The presiding Commissioner or examiner shall fix the time within which briefs shall be filed and service thereof shall be made upon the adverse parties.

All briefs must be filed with the secretary and be accompanied by proof of service upon the adverse parties. Fifteen copies of each brief shall be furnished for the use of the Commission, unless otherwise ordered.

Application for extension of time in which to file any brief shall be by petition in writing, Stating the facts upon which tile application rests, which must be filed with the Commission at least 5 days before the time for filing the brief.

Every brief shall contain, in the order here stated-

(1) A concise abstract, or statement of the case.

(2) A brief of the argument, exhibiting, a clear statement of the points of fact or law to be discussed, with the reference to the pages of the record and the authorities relied upon in support of each point.

Every brief of more than 10 pages shall contain on its top fly leaves a subject index with page references, the subject index to be supplemented by a list of all cases referred to, alphabetically arranged, together with references to pages where the cases are cited.

Briefs must be printed in 10 or 12 point type on good unglazed paper 8 inches *by* 101 inches, with inside margins not less than 1 inch wide, and with double leaded text and single-leaded citations.

Oral arguments will be had only as ordered by the Commission.

#### XI. ADDRESS OF THE Commission.

All communications to the Commission must be addressed to Federal Trade Commission, Washington, D. C., unless otherwise specifically directed.

EXHIBIT 4.

[PUBLIC--NO. 126--65TH CONGRESS.]

[H. R 2316.]

An Act To promote export trade, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States Of America in Congress assembled,* That the words “export trade” 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 District of Columbia and any State or States.

That the word “association” wherever used in this act means any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations.

SEC. 2. That nothing contained in the act entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” approved July second, eighteen hundred and ninety, shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, or an agreement made or act done in the course of export trade by such association, provided such association, agreement, or act is not in restraint of trade within the United States, and is not in restraint of the export trade of any domestic competitor of such association: *And provided further,* That such association does not, either in the United States or elsewhere, enter into any agreement, understanding, or conspiracy, or do any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein.

SEC. 3. That nothing contained in section seven of the act entitled “An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October fifteenth, nineteen hundred and fourteen, shall be construed to forbid the

acquisition or ownership by any corporation of the whole or any part of the stock or other capital of any corporation organized solely for the purpose of engaging in export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

SEC. 4. That the prohibition against "unfair methods of competition" and the remedies provided for enforcing said prohibition contained in the act entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September twenty-sixth, nineteen hundred and fourteen, shall be construed as extending to unfair methods of competition used in export trade against competitors engaged in export trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

SEC 5. That every association now engaged solely in export trade, within sixty days after the passage of this act, and every association entered into hereafter which engages solely in export trade, within thirty days after its creation, shall file with the Federal Trade Commission a verified written statement setting forth the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and changes in its articles or certificate of incorporation or in its articles or contract of association. It shall also furnish to the Commission such information as the Commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals. Any association which shall fail so to do shall not have the benefit of the provisions of section two and section three of this act, and it shall also forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the association has its principal office, or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of the forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Whenever the Federal Trade Commission shall have reason to believe that an association or any agreement made or act done by such association is in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, or that an association either in the United States or elsewhere has entered into any agreement, understanding, or conspiracy, or done any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the



class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein it shall summon such association, its officers, and agents to appear. Therefore it, and thereafter conduct an investigation into the alleged violations of law. Upon investigation, if it shall conclude that the law has been violated, it may make to such association recommendations for the readjustment of its business, in order that it may thereafter maintain its organization and management and conduct its business in accordance with law. If such association fails to comply with the recommendations of the Federal Trade Commission, said Commission shall refer its findings and recommendations to the Attorney General of the United States for such action thereon as he may deem proper.

For the purpose of enforcing these provisions the Federal Trade Commission shall have all the powers, so far as applicable, given it in "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

Approved, April 10, 1918.

EXHIBIT 5.

EXTRACTS FROM THE TRADING WITH THE ENEMY ACT AND  
EXECUTIVE ORDER OCTOBER 12, 1917

The act of Congress approved October 6, 1917, known as the trading with the enemy act, contains the following provisions:

\* \* \* \* \*

(b) Any citizen of the United States, or any corporation organized within the United States, may, when duly authorized by the President, pay to an enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally of enemy nation in relation to patents and trademarks, prints, labels, and copyrights; and any such citizen or corporation may file and prosecute an application for letters patent or for registration of trademark, print, label, or copyrights in the country of an enemy, or of an ally of enemy, after first submitting such application to the President and receiving license so to file and prosecute, and to pay the fees required by law and customary agents' fees, the maximum amount of which in each case shall be subject to the control of the President.

(c) Any citizen of the United States or any corporation organized within the United States desiring to manufacture, or cause to be manufactured, a machine, manufacture, composition of matters or design, or to carry on, or to use any trademark, print, label, or cause to be carried on a process under any patent or copyrighted matter owned or controlled by an enemy or ally of enemy at any time during the existence of a state of war may apply to the President for a license; and the President is hereby authorized to grant such a license, nonexclusive or exclusive as he shall deem best, provided he shall be of the opinion that such grant is for the public welfare, and that the applicant is able and intends in good faith to manufacture, or cause to be manufactured, the machine, manufacture, composition of matter, or design, or to carry on, or cause to be carried on, the process or to use the trademark, print, label, or copyrighted matter. The President may prescribe the conditions of this license, including the fixing of prices of articles and products necessary to the health of the military and naval forces of the United States or the successful prosecution of the war, and the rules and regulations under which such license may be granted and the fee which shall be charged therefore not exceeding \$100, and not exceeding one per cent of the fund deposited as hereinafter provided. Such license shall be a complete defense to any suit at law or in equity instituted by the enemy or ally of enemy owners of the letters patent, trade-mark, print, label, or copyright, or otherwise, against the licensee for infringement or for damages, royalty, or other money award on account of anything done by the licensee under such license, except as provided in subsection (f) hereof.

(d) The licensee shall file with the President a full statement of the extent of the use and enjoyment of the license, and of the prices received in such form and at such stated periods (at least annually) as the President may prescribe; and the licensee shall pay at such times as many be required to the alien property custodian not to exceed five per cent of the gross sums received by the licensee from the sale of said inventions or use of the trademark, print, label, or copyrighted matter or, if the President shall so order, five per cent of the value of the use of such inventions, trademarks, prints, labels, or copyrighted matter to the licensee as

established by the President; and sums so paid shall be deposited by said alien property custodian forthwith in the Treasury of the United States as a trust fund for the said licensee and for the owner of the said patent, trade-mark, print, label, or copyright registration as hereinafter provided, to be paid from the Treasury upon order of the court, as provided in sub-

division (f) of this section, or upon the direction of the alien property custodian.

(e) Unless surrendered or terminated is provided in this act, any license, granted hereunder shall continue during the term fixed in the license or in the absence of any such limitation during the term of the patent, trademark, print, label, or copyright registration under which it is granted. Upon violation by the licensee of any of the provisions of this act, or of the conditions of the license, the President may, after due notice and hearing, cancel any license granted by him.

(f) The owner of any patent, trade-mark, print, label, or copyright under which a license is granted hereunder may, after the end of the war and until the expiration of one year thereafter, file a bill in equity against the licensee in the, district court of the United States for the district in which the said licensee resides, or, if a corporation, in which it has its principal place of business (to which suit the Treasurer of the United States shall be made a party), for recovery from the said licensee for all use and enjoyment of the said patented Invention, trade-mark, print, label, or copyrighted matter: *Provided, however,* That whenever suit is brought, as above, notice shall be filed with the alien property custodian within thirty days after date of entry of suit: *Provided further,* That the licensee may make any and all defenses which would be available were no license granted. The court on due proceedings had may adjudge and decree to the said owner payment of a reasonable royalty. The amount of said judgment and decree, when final, shall be paid on order of the court to the owner of the patent from the fund deposited by the licensee, so far as such deposit will satisfy said judgment and decree; and the said payment shall be in full or partial satisfaction of said judgment and decree, as the all such judgments and decrees, facts may appear; and if, after payment of, there shall remain any balance of said deposit, such balance shall be repaid to the licensee on order of the alien property custodian. If no suit is brought within one year after the end of the war, or no notice is filed as above required, then the licensee shall not be liable to make any further deposits, and all funds deposited by him shall be repaid to him on order of the alien property custodian. Upon entry of suit and notice filed as above required, or upon repayment of funds as above provided, the liability of the licensee to make further reports to the President shall cease.

If suit is brought, as above provided, the court may, at any time, terminate the license, and may, in such event, issue an injunction to restrain the licensee from infringement thereafter, or the court, in case the licensee, prior to suit, shall have made investment of capital based on possession of the license, may continue the license for such period and upon such terms and with such royalties as it shall find to be just and reasonable.

(g) Any enemy, or ally of enemy, may institute and prosecute suits in equity against any person other than a licensee under this act to enjoin Infringement of letter patent, trade-mark, print, label, and copyrights in the United States, owned or controlled by said enemy or ally of enemy in the same manner and to the extent that he would be entitled so to do if the United States was not at war: *Provided,* That no final judgment or decree shall be entered in favor of such enemy or ally of enemy by any court except after thirty days' notice to the alien property custodian. Such notice shall be in writing and shall be served in the same manner as civil process of Federal Court.

(h) All powers of attorney heretofore or hereafter granted by an enemy or ally of enemy to any person within the United States, in so far as they may be requisite

to the performance of acts authorized in subsections (a) and (g) of this section, shall be valid.

(i) Whenever the publication of an invention by the granting of a patent may, in the opinion of the President, be detrimental to the public safety or defense, or may assist the enemy or endanger the successful prosecution of the war, he may order that the invention be kept secret and withhold the grant of a patent until the end of the war: *Provided*, That the invention disclosed in the application for said patent may be held abandoned upon it being established before or by the Commissioner of Patents that, in violation of said order, said invention has been published or that, in application for a patent therefor has been filed in any other country, by the inventor or his assigns or legal representatives without the consent or approval of the Commissioner or under a license of the President.

When an applicant whose patent is withheld as herein provided, and who faithfully obeys the order of the President above referred to shall tender his

invention to the Government of the United States for its use, the shall, if the ultimately receives a patent, have the right to sue for compensation in the Court of claims, such right to compensation to begin from the date of the use of the, invention by the Government.

By the Executive order of October 12, 1917, the power and authority to administer the above section was vested in the Federal trade Commission, as follows:

XVII. I further hereby vest in the Federal Trade Commission the power and authority to issue licenses under such terms and conditions as are not inconsistent with law or to withhold or refuse the same, to any citizen of the United States or any corporation organized within the United States to file and prosecute applications in the country of an enemy or ally of enemy for letters patent or for registration of trademark, print, label, or copyright, and to pay the fees required by law and the customary agents' fees, the maximum amount of which in each case shall be subject to the control of such Commission ; or to pay to any enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally of enemy nation In relation to patents, trademarks, prints, labels, and copyrights.

XVIII. I hereby vest in the Federal Trade Commission the power and authority to issue, pursuant to the provisions of section 10 (c) of the trading-with-the-enemy act, upon such terms and conditions as are not inconsistent with law, or to withhold or refuse a license to any citizen of the United States or any corporation organized within the United States, to manufacture or cause to be manufactured a machine, manufacture, composition of matter, or design, or to carry on or cause to be carried on a process under any patent, or to use any trade-mark, print, label, or copyrighted matter owned or controlled by all enemy or ally of enemy, at any time during the present war; and also to fix the prices of articles and products manufactured under such licenses necessary to the health of the military and the naval forces of the United States, or the successful prosecution of the war; and to prescribe the fee which may be charged for such license, not exceeding \$100 and not exceeding 1 percent of the fund deposited by the licensee with the alien property custodian as provided by law.

XIX. I hereby further vest in the said Federal Trade Commission the executive administration of the provisions of section 10 (d) of the trading-with-the-enemy act, the power and authority to prescribe the form of, and time and manner of filing statements of the extent of the use and enjoyment of the license and of the prices received and the times at which the licensee shall make payments to the alien property custodian, and the amounts of said payments, in accordance with the trading-with-the-enemy act.

XX. I further hereby vest in the Federal Trade Commission the power and authority, whenever in its opinion the publication of an invention or the granting of a patent may be detrimental to the public safety or defense or may assist the enemy, or endanger the successful prosecuting of the war, to order that the invention be kept secret and the grant letters patent withheld until the end of the war.

XXI. The said Federal Trade Commission is hereby authorized to take all such measures as may be necessary or expedient to administer the powers hereby conferred.

By the Executive order of April 11, 1918, the power and authority vested in the Federal Trade Commission under section 10 (*b*) of the Trading with the Enemy Act and Section XVII of the Executive order of October 12, 1917, was revoked as follows:

I hereby revoke the power and authority vested in the Federal Trade Commission by section XVII of the Executive order of October 12, 1917, to issue license to any citizen of the United States or any corporation organized within the United States, to file or prosecute application in the country of an enemy or ally of enemy for letters patent or for registration of trade-mark, print, label, or copyright, and to pay any fees or agent's fees in connection therewith or to pay to any enemy or ally of enemy any tax, annuity, or fee in relation to patents, trade-marks, prints, labels, and copyrights, and no such license shall be granted until further order.

APPLICATIONS FOR LICENSES UNDER PATENTS AND COPYRIGHTS  
OWNED OR CONTROLLED BY AN ENEMY OR ALLY OF ENEMY.

Applicants for a license under patents or copyrights owned or controlled by an enemy or an ally of an enemy are required to file a verified statement with the Federal Trade Commission in concise and nontechnical language, covering the following points, stating in each instance the facts upon which any conclusion may be based:

(a) If an individual, that he is a citizen of the United States. If a corporation, that it is organized within the United States.

(b) That the patent or copyright desired to be licensed is owned or controlled by an enemy or an ally of an enemy. (For definitions of "enemy" and "ally of an enemy," see footnote.)

If it is claimed that the patent or copyright is controlled by an enemy or ally of an enemy, the nature and origin of the control should be plainly stated, whether by contract, agency, stock ownership, or otherwise.

(c) There shall be attached to the application a Patent Office copy of the patent and a certified abstract of title to it, or a specimen of the copyright article and a certified copy of the copyright entries and, in the case of a patent, of a certified copy of the petition and all powers of attorney in the file of the application.

DEFINITIONS OF "ENEMY" AND "ALLY OF ENEMY" IN THE TRADING  
WITH THE ENEMY ACT

SEC. 2. That the word "enemy" as, used herein shall be deemed to mean, for the purpose of such traditions and of this act-

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by their military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory.

(b) The government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official, agent, or agency thereof.

(c) Such other individual, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy."

The words "ally of enemy," as used herein, shall be deemed to mean-

(a) Any individual, partnership, or other body of individuals of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation which is an ally of a nation with which the United States is at and doing business within such territory, and any incorporated within any country other than the United States and doing business within such territory, and any corporation incorporated within such territory of such ally nation, or incorporated within such territory of such ally nations or incorporated within any country other than the United States and doing business within such territory.



(b) The government of any nation which is ally of a nation with which the united states is at war, or any political or municipal subdivision of such ally nation, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals as may be natives, citizens, or subjects of any nation which is an ally of a nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation include within the term "ally of the enemy."

(d) That licensing the applicant is for the public welfare. Specifically, that there is a demand for the patented or copyrighted article or the product of the patented process which is not being met.

(e) That the applicant is able to make or cause to be made the patented or copyrighted article or exercise the patented process. Specifically, that the applicant is technically and otherwise, equipped to undertake or procure the manufacture or operate the process and is in fact able to do so.

(f) That the applicant intends to do so in good faith.

(g) The application must be verified by the person applying for the license, and in the case of a corporation by an officer thereof acquainted with the facts recited.

Each application shall be accompanied with a remittance of one hundred dollars. A suggested form of application is appended.

A separate application is required for each patent or copyright.

The application should be prepared in duplicate and, for convenience in filing, on good unglazed paper 8 inches by 10 ½ inches, directed to the Federal Trade Commission, Patent, Trade-mark, and Copyright Division, and may be transmitted by mail or delivered personally. Personal attendance at the outset is not necessary. If any hearings are desired, notice of them will be given.

In every case where practicable notice of applications for license will be given to the attorney of the patentee or copyright proprietor whose name appears in the file of the application in the Patent Office. or the office of the Register of Copyrights.

*The burden of establishing affirmatively the facts upon which under the terms of the act, license may be granted is placed upon the applicant for license.*

#### THE TERMS OF THE LICENSE.

The act provides and the Executive order vests in the Federal Trade Commission the duty of prescribing the conditions of the license.

The form of licenses proposed to be issued is appended.

Only nonexclusive licenses will be issued unless the public interest shall otherwise require.

#### DURATION OF LICENSE.

The act provides (sec. 10 [e]) that licenses shall continue during the terms fixed in the license, or, in the absence of any such limitation, during the term of the patent \* \* \* or copyright registration under which it is granted, and that upon violation by the licensee of any of the provisions of the act, or of the conditions of the license, after due notice and hearing, the license may be canceled.

#### LICENSES UNDER TRADE-MARKS, PRINTS AND LABELS OWNED OR CONTROLLED BY AN ENEMY OR ALLY OF AN ENEMY.

Licenses for the use, of trade-marks, prints, and labels will be granted only under exceptional circumstances. Applications for licenses under the following conditions will be entertained:

- (1) Where the alleged trademark is the, name of a patented or copyrighted article and a license is granted tinder the patent or copyright.
- (2) Where the alleged trade-mark is the name of an article manufactured tinder tin expired patent or copyright.

THE LICENSE FEE.

The act provides that the license fee shall not exceed \$100, and not exceeding 1 per cent of the sum deposited with the alien property custodian. This fund is an amount not to exceed (a) 5 per cent of the gross sums received by the licensee from the sale of the licensed subject matter, or (b) 5 per cent of the value of the use of the licensed subject matter as established by the Federal Trade Commission.

ACCOUNTING AND PAYMENT TO THE ALIEN PROPERTY CUSTODIAN.

The licensee shall file with the Federal Trade Commission, semiannually on January 1 and July 1 of each year and oftener if required, a full statement of the extent of the use and enjoyment of the license, and of the prices received from the sale or use of the subject matter of it, and within 30 days thereafter the licensee shall pay to the alien property custodian not to exceed 5 per cent of the gross sums received from the sale of the licensed subject matter, or if the Federal Trade Commission so order not to exceed 5 per cent of the value of the use of the licensed subject matter as established by the Federal Trade Commission.

FORM OF LICENSE UNDER PATENT.

Patent licenses issued by the Federal Trade Commission under the provisions of the "Trading with the enemy act" will be in substantially the following form:

Patent No -----, dated ----- to -----  
 ----- for -----.

The Federal Trade Commission, under the authority of and in conformity with the "Trading with the enemy act," and of the Executive order of October 12, 1917, hereby licenses ----- to make, use, and vend within the United States the invention described and claimed in United States letters patent to ----- No----- dated-----  
 ----- (copy annexed hereto) for the period of ----- unless sooner terminated.

The licensee during the continuance of this license shall pay to the alien property custodian, semiannually, within 30 days after the 1st day of January and the 1st day of July, respectively, of each year, a royalty at the rate of ----- per cent of the gross sums received by the licensee from the sale of the invention so herein licensed (or ----- per cent of the value of the use thereof to the licensee as established by the Federal Trade Commission).

The licensee shall, during the continuance of this license, keep proper accounts and separate books containing full particulars of:

- (a) All articles made or caused to be made by the licensee under the said letters patent and of the price or prices charged therefore;
- (b) All items of cost incurred in the use of such invention and the manufacture and sale of articles inside thereunder; and
- (c) All other matters and things which in the opinion of the Federal Trade

Commission may be material for the purpose of showing the amounts from time to time payable by the licensee concerning such royalty and what is a fair and reasonable price to the public for such article.

The licensee shall, within 10 days after each of the semiannual days aforesaid, deliver a sworn statement to the Federal Trade Commission in writing showing the aforesaid particulars.

The licensee shall, during the continuance of this license, give all such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee under this license, the cost of the use of such invention, the cost of producing and the price or prices charged by the licensee for the said article, and for that purpose shall, if requested by the Federal Trade Commission, permit such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business in which the use of the said invention or the manufacture shall be carried on and all books, papers, and documents of such licensee relating to such use, manufacture, and sale.

If any payment under this license shall not be made, within one month after the same shall have become due under the provisions herein contained (whether demand therefor shall have been made or not), or if the licensee shall or shall attempt to assign or part with the benefit of or grant any sublicense under this license, or shall make default in the performance or observance of any obligations on his part herein contained, or shall have violated any of the conditions of this license or any of the provisions of the statute under which it is granted, and if, after 10 days' notice in writing, shall have failed to comply with the aforesaid, then the Federal Trade Commission may, by notice in writing, and after a hearing, cancel and terminate this license as from the date of such notice, but without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

If in the opinion of the Federal Trade Commission the licensee has failed to use this license so as to satisfy the reasonable requirement of the public with regard to the subject matter thereof; or

If in the opinion of the Federal Trade Commission the licensee has failed to supply to the public tire articles made under this license at reasonable prices; or

If in the opinion of the Federal Trade Commission the licensee has charged unreasonable or excessive prices for articles made under this license; or

If in the opinion of the Federal Trade Commission the articles made under this license are of unsatisfactory quality (and the licensee shall furnish to the Federal Trade Commission in the manner prescribed by it and when and as often as required, samples and specimens for inspection, analysis, and test); or

Circumstances have arisen which, in the opinion of the Federal Trade Commission, make it just and equitable that this license be canceled in whole or in part ;

The Federal Trade Commission may, in its discretion, give notice in writing to the licensee to terminate and cancel this license in whole or in part, and, if canceled and terminated, the same shall be without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

Any sums which may at any time be payable by the licensee under the provisions of this license shall be a debt due from the licensee to the people of the United States and shall be recovered in an appropriate action in the name of the people of the United States against the licensee.

Dated \_\_\_\_\_ 191\_\_

Accepted and agreed to.

\_\_\_\_\_  
*Licensee.*

A copy of the patent is to be attached.

If the licensee is not to be the actual manufacturer, the licensee will be held

accountable to the Federal Trade Commission for the observance of the terms of his license by the actual manufacturer of the article, and the license will contain the following addendum, naming the actual manufacturer who shall sign:

-----, m a n u f a c t u r e r f o r  
\_\_\_\_\_, the licensee \_\_\_\_\_  
of the article herein licensed, separately agrees to keep separate books containing full particulars of all articles manufactured, and the cost thereof, sold to \_\_\_\_\_ the licensee, and the price or prices

charged therefore and his books and plant shall be open to inspection in the same manner as provided for the licensee. The licensee and the undersigned, during the continuance of the license, shall furnish or procure to be furnished all such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee, the cost of producing or procuring the patented article, the price or prices charged for said article, and shall permit or procure permission to be given to such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business in which the manufacture of the patented article shall be carried on by the undersigned for the licensee, and all books, papers, and documents relating to such manufacture and sale.

The undersigned, manufacturer, is not authorized to make, use, or vend - the Invention of the patent except for \_\_\_\_\_, the licensee, and not further or otherwise, and the undersigned undertakes to observe and perform the terms and conditions of the license to \_\_\_\_\_ to which this is attached.

Dated \_\_\_\_\_, 191\_\_.

Accepted and agreed to.

\_\_\_\_\_,  
*Manufacturer.*

#### FORM OF LICENSE UNDER COPYRIGHT.

Copyright licenses issued by the Federal Trade Commission under the provisions of the "Trading with the enemy act" will be in substantially the following form:

Copyright No. \_\_\_\_\_, dated \_\_\_\_\_ to \_\_\_\_\_ for the (book, etc., as the case may be; see copyright act of March 4, 1909, sec. 5, for classification) entitled (Insert title of work).

The Federal Trade Commission, under the authority of and in conformity with the "Trading with the enemy act" and of the Executive order of October 12, 1917, hereby licenses \_\_\_\_\_ to exercise within the United States all the rights created by the copyright laws of the United States of America, being the act of March 4, 1909, as amended with respect to the subject matter of copyright to \_\_\_\_\_, No. \_\_\_\_\_, dated \_\_\_\_\_ for the (book, etc., as the case may be; see copyright act of March 4, 1909, sec. 5, for classification) entitled (insert title of work), a copy of which is annexed hereto, for the period of \_\_\_\_\_, unless sooner terminated.

The licensee, during the continuance of this license, shall pay to the alien property custodian, semiannually, within 30 days after the 1st day of January, and the 1st day of July, respectively, of each year, a royalty at the rate of \_\_\_ per cent of the gross sums received by the licensee front the sale of the copyright work so herein licensed (or \_\_\_ per cent of the value of the use thereof to the licensee as established by the Federal Trade Commission).

The licensee shall, during the continuance of this license, keep proper accounts and separate books containing full particulars of-

(a) All copies of said copyright work made or caused to be inside by the licensee under the said copyright and of the price or prices charged therefor;

(b) All items of cost incurred in the use of said copyright work and in the manufacture and sale of such copyright work; and

(c) All other matters and things which, in the opinion of the Federal Trade Commission, may be material for the purpose of showing the amounts from there to time payable by the licensee concerning such royalty and what is a fair and reasonable price to the public for such copyright work.

The licensee shall, within 10 days after each of the semiannual days aforesaid, deliver a sworn statement to the Federal Trade Commission in writing showing the aforesaid particulars.

The licensee shall the continuance of this license give all such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee under this license, the cost of producing, and the price or prices charged by the licensee for the said copyright work, and for that purpose shall, if requested by the Federal Trade Commission, permit such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business of the licensee



in which the use or manufacture of the said copyright work shall be carried on, and all books, papers, and documents of such licensee relating to such use, manufacture, and sale.

If any payment under this license shall not be made within one month after the same shall have become due under the provisions herein contained (whether demand therefor shall have been made or not), or if the licensee shall or shall attempt to assign or part with the benefit of or grant any sublicense under this license, or shall make default in the performance or observance of any obligation on his part herein continued, or shall have violated any of the conditions of this license or any of the provisions of the statute under which it is granted, and if after 10 days' notice, in writing, shall have failed to comply with the aforesaid, then the Federal Trade Commission may, by notice in writing, and after a hearing, cancel, and terminate this license as from the date of such notice, but without prejudice to and so as not in any manner to affect any liability hereunder on part of the licensee which may be subsisting or have accrued.

If in the opinion of the Federal Trade Commission the licensee has failed to use this license so as to satisfy the reasonable requirement of the public with regard to the copyright work; or

If in the opinion of the Federal Trade Commission the licensee has failed to supply to the public the copyright work at reasonable prices; or if in the opinion of the Federal Trade Commission the licensee has charged unreasonable or excessive prices for said copyright work; or

Circumstances have arisen which in the opinion of the Federal Trade Commission make it just and equitable that this license be canceled in whole or in part;

The Federal Trade Commission may, in its discretion, give notice in writing to the licensee to terminate this license in whole or in part, and if canceled and terminated the same shall be without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

Any sums which may at any time be payable by the licensee under the provisions of this license shall be a debt due from the licensee to the people of the United States and shall be recovered in an appropriate action in the name of the people of the United States against the licensee.

Dated \_\_\_\_\_, 191 \_\_\_\_

Accepted and agreed to.

\_\_\_\_\_  
*Licensee.*

If the licensee is not to be the actual manufacturer or producer of the copyright work, the licensee will be held accountable to the Federal Trade Commission for the observance of the terms of his license by the actual manufacturer or producer of the article, and the license will contain the, following addendum, naming the actual manufacturer or producer of the article, who shall sign:

\_\_\_\_\_, the manufacturer for \_\_\_\_\_ the licensee of the copyright work herein licensed, separately agrees to keep separate books containing full particulars of all of such copyright works manufactured and the cost thereof, sold to \_\_\_\_\_, the licensee, and the price or prices charged therefor, and his books and plant shall be open to inspection in the same manner as provided for the licensee. The licensee and the undersigned, during the continuance of the license, shall furnish or procure to be furnished till such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee, the cost of producing or procuring the copyright work, the price or prices charged therefor,

and shall permit or procure permission to be given to such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business in which the manufacture of the copyright work shall be carried out by the undersigned for the licensee, and all books, papers, and documents relating to such manufacture and sale.

The undersigned, manufacturer, is not authorized to exercise any right conferred by the copyright statutes with respect to the copyright work here in-

volved except for \_\_\_\_\_, the licensee, and not further or otherwise, and the undersigned undertakes to observe and perform the terms and conditions of the license to \_\_\_\_\_ to which this is attached.

Dated \_\_\_\_\_, 191\_\_.

Accepted and agreed to.

\_\_\_\_\_.

*Manufacturer.*

A surety company bond may be required of the licensee, if, in the opinion of the Federal Trade Commission, it is necessary to safeguard the public interest.

## FORM OF APPLICATION FOR LICENSE.

### TRADING WITH THE ENEMY ACT.

To the FEDERAL TRADE Commission:

Application of \_\_\_\_\_ for a license under patent to \_\_\_\_\_, date \_\_\_\_\_ No. \_\_\_\_\_.

(If under copyright, state title of work, name of copyright proprietor, and date of copyright registration.)

The undersigned, for the purpose of securing a license, represents to the Federal Trade Commission as follows:

(a) The undersigned is a citizen of the United States, residing at street, in the city of \_\_\_\_\_, State of \_\_\_\_\_, United States of America. (If a corporation, state under the laws of what State it is organized; the location of its corporate offices, its business offices, and plants or factories.)

(b) The undersigned is desirous of being licensed under the patent (or copyright) above United, which is owned or controlled by a citizen or subject of \_\_\_\_\_. (State the enemy country or the ally of the enemy of which the patentee or copyright proprietor is a citizen or subject, or if a corporation where it is incorporated, and if the patent or copyright is not owned but is claimed to be controlled state fully the facts which establish the nature and origin of the enemy or ally of enemy control, whether it is means of an agency, by contract, by stock ownership in corporations, or otherwise.)

(c) Attached here is a Patent copy of the letters patent and a certified abstract of its title, from the Patent Office and a certified copy of the petition and all powers of attorney in the file of the application (or, in the case of a copyright, a specimen of the copyrighted work, and a certified copy of the copyright entries from the office of the Register of Copyrights).

(d) It is for the public welfare that the license applied for be granted because-- (Here state briefly but completely and in nontechnical language the reason why it is for the public benefit that the license be granted and specifically the demand for the article prior to the war, the demand for the article at the present time whether or not this demand is being met or can be met, prices obtained prior to the war and prices at the present time.)

(e) Applicant is able to make or cause to be made the patented or copyrighted article because (Here state specifically the applicant's experience in the production of articles of the kind covered by the patent or copyright, his technical equipment for manufacturing and selling such articles and his ability to do so, the estimated cost of manufacture and price proposed to be charged if the license is granted.)

(If the applicant does not intend to manufacture but to procure the manufacture of the article, state specifically what arrangements have been made or proposed to

this end and their terms and conditional. State the name and address of the manufacturer proposed to be employed and his technical equipment,. etc., and article copies of any contracts or proposals.)

(f) The license desired is exclusive or nonexclusive for the following reasons: (Here state reasons why, in the opinion of the applicants the license be exclusive or nonexclusive.)

(g) The license is desired-

(1) For the term of the patent or copyright, (2) the duration of the war, or (3) any other period, stating reasons in each case.

(h) The application is also to contain the following: "The undersigned intends in good faith to manufacture or cause to be manufactured the article licensed and understands that the license, if granted, may not be assigned and may be canceled by the Federal Trade Commission, after due notice of hearing upon violation by the undermined of any of the provisions of the "Trading with the enemy act ' or of any of the conditions of the license."

(Signed) \_\_\_\_\_,

*Applicant.*

OATH FOR AN INDIVIDUAL.

STATE OF \_\_\_\_\_  
County of \_\_\_\_\_, ss:

\_\_\_\_\_, being duly sworn, deposes and states that the is the same person whose name is signed to the foregoing statement; that lie has read this statement and' knows and understands its contents; and that it is true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 191\_\_.  
\_\_\_\_\_

*Notary Public.*

OATH FOR A CORPORATION.

STATE OF \_\_\_\_\_  
County of \_\_\_\_\_, ss:

\_\_\_\_\_, being duly sworn, deposes and states that he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation whose name is signed to the foregoing statement; that the is duly ,authorized to swear to such statement on behalf of such corporation; that the has read this statement and knows and understands its contents; and that it is true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_

\_\_\_\_\_  
*Notary*

*Public.*

EXHIBIT 6.

FEDERAL TRADE COMMISSION v. BOTSFORD LUMBER CO. ET AL.

UNITED STATES OF AMERICA,  
*Before Federal Trade Commission, ss:*

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 31st day of May, A. D. 1917.

Present: William J. Harris, chairman; Joseph E. Davies, William B. Colver, J. Franklin Fort, Commissioners.

Federal Trade Commission v. Botsford Lumber Company et al. Docket No. 11.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF  
SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26,  
1914.

The Federal Trade Commission having reason to believe from a preliminary investigation made by it that the Botsford Lumber Co, Winona Minn.; Hayes-Lucas Lumber Co., Winona, Minn.; C. M. Younians Lumber Co., Winona, Minn.; Wilcox Lumber Co., Detroit, Minn. ; Hubbard & Palmer Lumber Co., Garden City, Minn.; Mora Lumber Co., Mora, Minn.; Rudd Lumber Co., Milaca, Minn.; Koenig & Lambert Lumber Co., Lambertson, Minn.; J. Borgerding & Co., Melrose, Minn.; Dower Lumber Co., Wadena, Minn.; Stenerson Bros. Lumber Co., Felton, Minn.; Johnson & Larson Lumber Co., Atwater, Minn.; Morrison Country Lumber Co., Little Falls, Minn.; Nortz Lumber Co., Breckenridge, Minn.; Kensington Hardware & Lumber Co., Kensington, Minn.; International Lumber Co., International Falls, Minn.; Lowry Lumber Co., Lowry, Minn.; Frank Underwood, Eyota, Minn.; Anton Roseth, Boyd, Minn.; Standard Lumber Co., Winona, Minn.; St. Anthony & Dakota Elevator Co., Minneapolis, Minn.; Atlas Lumber Co., Minneapolis, Minn.; J. H. Queal & Co., Minneapolis, Minn.; Langworthy Lumber Co., Minneapolis, Minn.; Bertram-Wright Lumber Co., Minneapolis, Minn.; Bovey-Shute Lumber Co., Minneapolis, Minn.; S. H. Bowman Lumber Co., Minneapolis, Minn.; L. P. Dolliff & Co., Minneapolis, Minn.; Fullerton Lumber Co., Minneapolis, Minn.; Imperial Elevator Co., Minneapolis, Minn.; Mandan Mercantile Co., Minneapolis, Minn.; Midland Lumber Co., Minneapolis, Minn.; Rogers Lumber Co., Minneapolis, Minn.; H. W. Ross Lumber Co., Minneapolis, Minn.; Superior Lumber & Coal Co., Minneapolis, Minn.; Winnor-Torgersen Lumber Co., Minneapolis, Minn.; Interior Lumber Co., Minneapolis, Minn.; Lamport Lumber Co., Minneapolis, Minn.; Salzer Lumber Co., Minneapolis, Minn.; John W. Tuthill Lumber Co., Minneapolis, Minn.; Powers Elevator Co., Minneapolis, Minn.; Libby Lumber Co., Minneapolis, Minn.; Midland Lumber & Coal Co., Minneapolis, Minn.; Central Lumber Co., Minneapolis, Minn.; E. A Bartlett & Co., Farmingdale, S. Dak.; A. E. Clough & Co., Canova, S. Dak.; C. W. Darr, Mitchell, S. Dak.; Hamilton Lumber Co., Britton, S. Dak.; Bartlett & Co.,

Edgemont, S. Dak.; J. J. Stehly, Hecla, S. Dak.; C. A. Finch Lumber Co., La Moure, N. Dak.; Bond Lumber Co., Minot, N. Dak.; Piper-Howe Lumber Co., Minot, N. Dak.; Crane-Johnson Lumber Co., Cooperstown, N. Dak.; Dunham Lumber Co., Bismarck, N. Dak.; Valley Lumber Co., Hillsboro, N. Dak.; Washburn-Merrick Lumber Co., Bismarck, N. Dak.; Robertson Lumber Co., Grand Forks, N. Dak.; Jones Lumber & Implement Co., Lisbon, N. Dak.; Wisconsin Lumber Co., Des Moines, Iowa; Central Lumber & Coal Co., Dubuque, Iowa; Biddick-Holman Lumber Co., Collins, Iowa ; W. J. Dixon Lumber Co., Sac City, Iowa; Eclipse Lumber Co., Clinton, Iowa ; Joyce Lumber Co., Clinton, Iowa; Floete Lumber Co., Spencer, Iowa; Schoenennan Bros. Co., Hawarden, Iowa ; E. M. Slagle & Co., Alton, Iowa; James A. Smith Lumber Co., Osage, Iowa; Smith-Hovelson Lumber Co., Sioux City, Iowa ; F. I. Gardner & Co., Cherokee, Iowa; C. A.

Grant & Son, Rolfe, Iowa; Jasper Lumber Co., Newton, Iowa; P. Schertz & Co., Gibson City, Ill.; Alexander Lumber Co., Chicago, Ill.; Chicago Lumber & Coal Co., East St. Louis, Ill.; Miner & Frees, Ridgeway, Mo.; Leidigh & Havens Lumber Co., Kansas City, Mo.; Noll Welty Lumber Co., Kansas City, Mo.; Chicago Lumber Co. of Omaha, Omaha, Nebr.; F. H. Gilcrest Lumber Co., Kearney, Nebr.; W. L. Stickel Lumber Co., Kearney, Nebr.; Nye-Schneider-Fowler Co., Fremont, Nebr.; Walrath & Sherwood Lumber Co., Omaha, Nebr.; Welpton Lumber Co., Ogallala, Nebr.; L. W. Cox & Co., McCook, Nebr.; Dierks Lumber & Coal Co., Lincoln, Nebr.; J. A. Gardner & Co., Orleans, Nebr.; Albert Caughey, Deshler, Nebr.; S. W. Lightner, St. Edward, Nebr.; Pawnee Lumber Co., Pawnee City, Nebr.; H. Petersen & Sons, Dannenbrog, Nebr.; Seward Lumber & Fuel Co., Seward, Nebr.; Westrup & Kohler Lumber Co., Woodbine, Kans.; Humburg Lumber Co., Bison, Kans.; G. E. Miller & Son, Stroh, Ind.; E. A. Chapman & Bros., South Wayne, Wis.; William Dukelow, Wilton, Wis.; C. L. Colman Lumber Co., La Crosse, Wis.; John D. Young Co., La Crosse, Wis.; Deacon Lumber Co., Le Moore, Cal.; Santa Barbara Lumber Co., Santa Barbara, Cal.; Potlatch Lumber Co., Potlatch, Idaho; Standard Lumber Co., Moscow, Idaho; E. R. Woodbury Lumber Co., Spokane, Wash.; Lamb Davis Lumber Co., Leavenworth, Wash.; Reliance Lumber & Timber Co., Seattle, Wash.; J. C. Starkey, Pine City, Wash.; Goodridge Call Lumber Co., Great Falls, Mont.; A. W. Miles Lumber & Coal Co., Livingston, Mont.; H. M. Allen & Co., Billings, Mont.; Gibson-Faw Lumber & Mercantile Co., Colona, Colo.; B. S. Lewis, Nashville, Tenn.; Mayhew & Isbell Lumber Co., Uvalde, Tex.; Pioneer Lumber Co., Sheridan, Wyo.; Lumberman Publishing Co., Minneapolis, Minn.; Platt B. Walker Minneapolis, Minn.; and Luke W. Boyce, Minneapolis, Minn., hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce, in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be in the interest of the public, issues this complaint, stating its charges in that respect on information and belief, as follows:

PARAGRAPH ONE. That all of the respondents, except those specifically named in the next succeeding two paragraphs, are now, and for several years last past have been, engaged in selling, at retail, lumber and building materials in yards located in many towns, villages, and cities, principally in the States of Illinois, Wisconsin, Minnesota, North Dakota, South Dakota, Iowa, and Montana, each operating from one to one hundred retail yards in said States, and they are called by themselves, and hereinafter referred to, as regular dealers; that each of said respondents referred to in this paragraph has its principal office in the city and State mentioned immediately after the name of such resident; that all of the respondents referred to in this paragraph are corporations except C. W. Derr, Mitchell, S. Dak.; William Dukelow, Wilton, Wis.; B. S. Lewis, Nashville, Tenn.; J. J. Stehly, Hecla, S. Dak.; J. C. Starkey, Pine City, Wash.; Albert Caughey, Deshler, Nebr.; S. W. Lightner, St. Edward, Nebr.; Frank Underwood, Eyota,



Minn.; Anton Roseth, Boyd, Minn.; Miner & Frees, Ridgeway, Mo. (a copartnership, the members of which are at this time unknown to the Commission); Westrup & Kohler Lumber Co., Woodbine, Kans. (a copartnership, the members of which are at this time unknown to the Commission); Humburg Lumber Co., Bison, Kans. (a copartnership, the members of which are at this time unknown to the Commission); Pawnee Lumber Co., Pawnee City, Nebr. (a copartnership, the members of which are at this time unknown to the Commission); H. Petersen & Sons, Dannebrog, Nebr. (a copartnership, the members of which are at this time unknown to the Commission); C. A. Grant & Son, Rolfe, Iowa (a copartnership, the members of which are at this time unknown to the Commission); and the Jasper Lumber Co., Newton, Iowa (a copartnership, the members of which are at this time unknown to the Commission).

PARAGRAPH TWO. That time respondent, Lumberman Publishing Co., is a corporation organized under and by virtue of the laws of the State of Minnesota, having its principal office and place of business at the city of Minneapolis, in the State of Minnesota, and is the owner and publisher of a periodical or lumber-trade paper known as the Mississippi Valley Lumberman, published at said city of Minneapolis, State of Minnesota, and generally circulated throughout the Middle Western States and received and read by lumber dealers therein, including said regular dealers and their agents and employees, and the respondent, Platt B. Walker, residing at Minneapolis, State of Minnesota, is

the manager of said Lumberman Publishing Co. and the editor of said Mississippi Valley Lumberman, and the said respondent, Platt B. Walker and the Lumberman Publishing Co., hold out said periodical to be the official organ and representative of said regular dealers in the various States where they are located and do business, and said regular dealers receive and accept such trade journal as their official organ and representative.

PARAGRAPH THREE. That the respondent, Luke W. Boyce, residing at Minneapolis, Minn., is a detective, doing business under the trade name and style of "Northern Information Bureau," which bureau is conducted and operated by the said Luke W. Boyce under a plan or system of subscription contracts, whereby subscribers are entitled to the services of said bureau, its agents, and detectives, at cost, in securing information desired, by said subscribers, among whom are the respondent, Platt B. Walker, and many of the respondent regular dealers.

PARAGRAPH FOUR. That a branch or form of retail lumber trade In the United States is carried on by so-called "mail-order houses," which sell, generally through the medium of mail orders, lumber and building materials, in interstate commerce, direct to the consumer in nearly all of the States of the United States; that such mail-order houses are ether manufacturers of lumber or commercial establishments, located in many cities of the United States; that said commercial establishments generally purchase their supplies of lumber and lumber products from the manufacturer and wholesale dealer without the Intervention of the retail dealer; and that said mail-order houses are engaged iii competition with such of said respondents who conduct retail lumber yards for the sale, at retail, of lumber and building materials.

PARAGRAPH FIVE. That all of the respondents are, and for more than two years last past have been, wrongfully and unlawfully engaged In a combination or conspiracy, entered into, carried out, and continued by said respondents with the intent, purpose, and effect of discouraging, stifling, and suppressing competition in interstate commerce In the retail lumber amid building material trade in the United States on the part of said mail-order houses, amid to force the ultimate consumer to buy his required supply of lumber and building materials from the regular and recognized retail merchants operating retail yards where such lumber or building materials are used, and who conduct and carry on their business after the manner of the respondent regular dealers.

PARAGRAPH SIX. That such conspiracy is carried on by means of verbal and written communications between the respondents, by articles published in said Mississippi Valley Lumberman by exchange and publication of information through the medium of said Mississippi Valley Lumberman to the various respondent regular retailers, and by means of information procured by and through the said respondent, Luke W. Boyce.

PARAGRAPH SEVEN. That the specific acts of the respondents, consummated through and pursuant to such conspiracy, are the following:

(a) Said respondents, who are regular dealers, largely through the urging, encouragement, and suggestion of the respondent, Platt B. Walker, by published articles in the Mississippi Valley Lumberman and otherwise, and acting thereon and pursuant to such conspiracy, systematically, and on a large scale, write and send, and cause to be written and sent, and procure others to write and send, to said mail-order houses, letters containing requests for statements or estimates of

the quantity and quality of lumber or building material required for certain building purposes, and the prices therefor, and also containing requests for the printed matter, advertisements, and other special information furnished bona fide customers and prospective customers by such mail-order houses; that the writers and senders of such letters have no purpose or intention of buying any lumber or building material from such mail-order houses, but write and send such letters to cause such mail-order houses annoyance and delay in the transaction of their business and damage and expense, and for the purpose, among other things, of furnishing time information thus secured to time respondent, Platt B. Walker, for publication, and said respondent, Platt B. Walker, does publish in said trade journal a large amount of the information thus obtained, and thereby, and by other means, the said respondent regular dealers acquaint the said respondent, Platt B. Walker, and each other, of their activities amid participation in such scheme of making such bogus and spurious requests of said mail-order houses, and thus encourage time continued participation in such scheme on the part of the respondents, and thereby cause an increase in the amount of such correspondence with mail-order houses.

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(b) That the respondents, who are regular dealers, largely through the urging, encouragement, and suggestion of the respondent, Platt B. Walker, by published articles in the Mississippi Valley Lumberman and otherwise, and acting thereon and pursuant to such Conspiracy, systematically urge, and use their Influence with, banks, credit-reporting agencies, and others who are called upon by said mail-order houses to make reports as to the identity and occupation of the persons from whom they receive such bogus and spurious requests, to fail to make such reports or to make misleading reports thereon, with the result that such mail-order houses do not, in many cases, receive such reports or receive misleading reports In reference thereto.

(c) That said respondents have endeavored to induce, and in some instances have induced, manufacturers to refrain from and to discontinue furnishing supplies of lumber and building material to some of said mail-order houses, and the said respondents, who are regular dealers, acting with said respondents, Platt B. Walker and Luke W. Boyce, and pursuant to such conspiracy, have, by threats of withdrawal or actual withdrawal, of patronage, compelled certain manufacturers to discontinue selling to mail-order houses, and by the well-known attitude of intolerant hostility of said regular dealers toward the competition of mail-order houses, have deterred and do deter manufactures from selling supplies to such mail-order houses, the same being accomplished (1) by means of information surreptitiously obtained by the respondent, Luke W. Boyce, as to the names and methods of manufacturers selling to mail-order houses and communicated by said respondent, Luke W. Boyce, to said respondent, Platt B. Walker; (2) by means of correspondence carried on by said respondent, Platt B. Walker, with such manufacturers; (3) by the publication in the Mississippi Valley Lumberman by said respondent, Platt B. Walker, of the names of manufacturers who supply mail-order houses; (4) by publication in said trade journal by said respondent, Platt B. Walker, of articles containing direct or implied threats that the regular dealers will withdraw their patronage from such manufacturers if they sell to the mail-order houses; (5) by articles published in said trade journal by the respondent, Platt B. Walker, advising the regular dealers to withdraw their patronage from such

manufacturers; and (6) by publication in said trade journal by the respondent, Platt B. Walker, of a false report to the effect that an Investigation had been instituted by detectives of the Northern Information Bureau, conducted by the respondent, Luke W. Boyce, to ascertain the names of all manufacturers selling to mail-order houses.

(d) That the respondents, Platt B. Walker and Luke W. Boyce, have surreptitiously sought and obtained from employees of mail-order houses confidential information as to the business of mail-order houses, and, in particular, in reference to their source of supplies, financial condition, internal affairs, amid business secrets; and said respondent, Platt B. Walker, has published much of such information so obtained in the Mississippi Valley Lumberman, together with numerous false and disparaging statements concerning the business methods, financial condition, and internal affairs of such mail-order houses, for the use and benefit of the regular dealers in their competition with mail-order houses, and such information so published is used by such regular dealers in their competition with mail-order houses.

(e) That some of the respondents, or their employees, acting with the respondent, Luke W. Boyce, or his agents or employees, have followed and trailed salesmen of mail-order houses from place to place, with the object and effect of hindering and embarrassing such salesmen in the making of sales and in the transaction of their business.

## II.

And the Federal Trade Commission, further stating separate and distinct charges in respect to the violation of said section 5 on the part of the above-named respondents, on information and belief alleges:

PARAGRAPH EIGHT. That with the effect of stifling and suppressing competition in interstate commerce in time retail lumber and building-material trade in the United States on the part of said mail-order houses, and to force the ultimate consumer to buy his required supply of lumber and building materials from the regular and recognized retail merchants operating retail yards where such lumber or building materials are used, and who conduct and carry on their business after the manner of the respondent regular dealers, all of said respondent regular dealers, systematically and on a large scale, write and send, and cause to be written and sent, and procure others to write and send, to said mail-order houses letters containing requests for statements of estimates of the

quantity and quality of lumber or building material for certain building purposes, and the prices therefor, and also containing requests for the printed matter, advertisements, and other special information furnished bona fide customers and prospective customers by such mail-order houses ; that the writers and senders of such letters have no purpose or intention of buying any lumber or building material from such mail-order houses, but write and send such letters to cause such mail-order houses annoyance and delay in the transaction of their business and damage and expense, and for the purpose, among other things, of furnishing the information thus secured to the respondent, Platt B. Walker, for publication in the Mississippi Valley Lumberman.

PARAGRAPH NINE. That for the purpose of stifling and suppressing competition in interstate commerce in the retail lumber and building material trade in the United States on the part of the mail-order houses, the said respondents, who are regular dealers, systematically and on a large scale urge upon and use their influence with banks, credit reporting agencies, and others who are called upon by said mail-order houses to make reports as to the identity and occupation of the persons from whom they receive such bogus and spurious requests, to fail to make such reports, or make misleading reports thereon with time result that such mail-order houses do not, in many cases, receive such reports or receive misleading reports in reference thereto.

PARAGRAPH TEN. That for the purpose of stifling and suppressing competition in interstate commerce in the retail lumber and building material trade in the United States on the part of said mail-order houses, the said respondents, who are regular dealers, have endeavored to induce, and in many instances have induced, manufacturers to refrain from and to discontinue furnishing supplies of lumber amid building material to some of said mail-order houses by threats of withdrawal or actual withdrawal of patronage from such manufacturers.

PARAGRAPH ELEVEN. That said respondents, who are regular dealers, have followed and trailed salesmen of mail-order houses with the object and effect of hindering and embarrassing such salesmen in the making of sales and the transaction of their business.

Therefore, notice is hereby given you, the said respondents, and to each of you, that the charges of thus complaint will be heard by the Federal Trade Commission at its office in the Commerce Building, in the city of Washington, D. C., on the 31st day of July, A. D. 1917, at 10:30 o'clock in the forenoon of said day, or as soon thereafter as the same may be reached, at which time and place you, and each of you, shall have the right to appear and show cause why an order should not be entered by the Federal Trade Commission requiring you, and each of you, to cease and desist from the violations of law charged in this complaint.

And you, and each of you, will further take notice that within 30 days after service of this complaint you are required to file with the Commission an answer in conformity with Rule III of the Rules of Practice before the Commission.

In witness whereof the Federal Trade Commission has caused this complaint to be issued, signed by its secretary, and its official seal to be affixed hereto at the city of Washington, D. C., this 31st day of May, A. D. 1917.

By the Commission.

[SEAL.]  
BRACKEN,

LEONIDAS L.

*Secretary.*  
JOHN WALSH,  
*Chief Counsel for the Commission.*

EXHIBIT 7.

FEDERAL TRADE COMMISSION v. THE FLEISCHMANN CO.

UNITED STATES OF AMERICA

Before Federal Trade Commission, ss:

At a regular meeting of the Federal Trade Commission held at its office in the city of Washington, D. C., the 8th day of April, A. D. 1918.

Present: William J. Harris, chairman; William B. Colver, John Franklin Fort, Victor Murdock, Commissioners.

Federal Trade Commission v. The Flieschmann Co. Docket No. 6.

FINDINGS AS TO THE FACTS AND CONCLUSIONS OF LAW.

The Federal Trade Commission having issued and served its complaints herein, wherein it is alleged that it had reason to believe that the above-named respondent, the Fleischmann Co., has been, and now is, using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and has been, and now is, discriminating in prices in the course of inter-state commerce between different purchasers of compressed yeast in the same or different localities, and has been, and now is, making contracts in the course of interstate commerce, for the sale of compressed yeast to operative bakers on the condition, agreement, or understanding that said operative bakers shall not purchase compressed yeast from competitors or respondent, in violation of sections 2 and 3, respectively, of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," and that a proceeding by it in respect to he allegations herein set forth would be to the interest of the public and fully stating its charges in this respect, and the respondent having entered its appearance, by Henry A. Wise, its attorney, and having stipulated of record that the Commission might forthwith proceed to make its findings and order disposing of these proceedings, the Commission makes this report and findings as to the facts and conclusions of law.

FINDINGS AS TO THE FACTS.

I.

PARAGRAPH ONE. That the Fleischmann Co. is a corporation, Organized, existing, and doing business under and by virtue of the laws of the State of Ohio, having its principal office and place of business at the city of Cincinnati, in said State, and is now, and was at all times hereinafter mentioned, engaged in manufacturing and selling compressed yeast, hereinafter referred to as yeast, in

commerce among the several States and Territories of the United States.

PARAGRAPH TWO. That the respondent has, for more than a year last past, systematically given and offered to give to operative bakers using compressed yeast, both its customers and prospective customers and its competitors' customers and prospective customers, as an inducement to purchase or contract to purchase from respondent yeast, without other consideration therefor, in quantities larger than required under the particular circumstances for proper sample or demonstration purposes.

PARAGRAPH THREE. That the respondent has, for more than a year last past, made a systematic practice of giving and offering to give to operative bakers using compressed yeast, both its customers and prospective costumers and its competitors' customers and prospective customers, as an inducement to pur-



chase or contract to purchase yeast from the respondent, and to employees of such users or yeast as an inducement to said employees to influence their respective employers to purchase or contract to purchase yeast from the respondent, gratuities such as liquors, cigars, meals, and other personal property and, in some instances, money.

PARAGRAPH FOUR. That the respondent has, for more than a year last past, systematically given and offered to give to operative bakers using compressed yeasts, both its customers and prospective customers and its competitors' customers and prospective customers, as an inducement to purchase or contract to purchase yeast from the respondent, and to employees of such users of yeast, as an inducement to said employees to influence their respective employers to purchase or contract to purchase yeast from the respondent, Christmas presents and special holiday presents, such as liquors, cigars, silverware, and, in some instances, money.

PARAGRAPH FIVE. That the respondent has, for more than a year last past, systematically provided entertainment for operative bakers using compressed yeast, both its customers and prospective customers, as an inducement to purchase or contract to purchase yeast from the respondent, and to employees or such users of yeast, as an inducement to said employees to influence their respective employers to purchase or contract to purchase yeast from the respondent, and that such entertainment includes, among other things, meals, drinks, cigars, theater tickets, other articles of personal property, and, in some instances, money.

PARAGRAPH SIX. That the respondent has, for more than a year last past, systematically made contributions of sums of money to funds raised by numerous associations known as "Bakers' Associations," composed of operative and boss bakers, both its customers and prospective customers, ranging from \$10 to \$1,800, depending on the relative size and importance of the association, to defray expenses of periodic conventions held by said associations in various parts of the United States; that such contributions were, and have been, made for the purpose of obtaining and retaining the patronage of said operative bakers; that in the year 1915 the aggregate amount of such contributions was \$26,601.45; that in the year 1916 the aggregate amount of such contributions was \$26,456.43; that in the year 1917 the aggregate amount of such contributions was \$17,034.67; that such sums were distributed throughout the various States and Territories of the United States; and that such contributions have operated in the interest of the good will of respondent's business.

PARAGRAPH SEVEN. That time respondent is now, and for more than a year last past has been, systematically providing entertainment to operative and boss bakers using compressed yeast, both its customers and prospective customers, attending the association conventions referred to in paragraph 6 above; that said entertainment is furnished by agents of respondent sent to said conventions; that the expense thereof is charged on the books of respondent as "convention expenses," and is provided to obtain and retain the patronage of said operative and boss bakers, and includes, among other things, cigars, drinks, meals, theater tickets, and automobile rides.

PARAGRAPH EIGHT. That the respondent has, for more than a year last past systematically provided entertainment to operative bakers using compressed yeast, both its customers and prospective customers; that such entertainment was

furnished to said users of yeast at the respondent's principal distributing centers by its representatives known as "sales agents"; that the expense of such entertainments is charged on the books of account of the respondent as "sales agent's expenses," and is made to obtain and retain the patronage of said operative bakers, and includes, among other things, cigars, drinks, meals, theater tickets, and automobile rides.

PARAGRAPH NINE. That the respondent has, for more than a year last past, systematically delivered, and offered to deliver, to operative bakers, using compressed yeast, as an inducement for said users of yeast to continue or to enter into contracts of purchase of yeast from the respondent, yeast for various periods without any immediate charge therefor, the price of such compressed yeast, so delivered, being included and distributed in the price of yeast delivered during the term of a contract then in existence or made subsequent to the period of such delivery of yeast for which no immediate charge is made.

PARAGRAPH TEN. That time respondent has for more than a year last past systematically made and offered to make to operative bakers using yeast, as an inducement for said users of yeast to continue, or to enter, contracts of purchase of yeast from the respondent, payments of cash, the amount of said

cash payments being included and distributed in the price of yeast delivered under a contract entered at the time of said payment of cash.

PARAGRAPH ELEVEN. (a) That occasionally respondent's representatives have removed, or attempted to remove, competitors' trial samples of compressed yeast from the possession of operative bakers using yeast by substituting or attempting to substitute respondent's yeast therefor, or by purchasing or attempting to purchase from said operative bakers such competitors' trial samples.

(b) That occasionally respondent's representatives have purchased or offered to purchase, or have substituted or offered to substitute, respondent's compressed yeast for competitors' compressed yeast in the hands of competitors' customers.

(c) That occasionally respondent's representatives have followed up competitors' representatives as the latter made the rounds of competitors' customers and prospective customers, with the object of hindering and embarrassing competitor's agents in the sale and delivery of yeast and the transaction or business incident thereto.

PARAGRAPH TWELVE. That at divers times certain agents and representatives or the respondent have made misrepresentations to the trade as to time methods pursued by its competitors in time transaction of said competitors' business.

PARAGRAPH THIRTEEN. That the respondent for more than a year last past has concealed its control of and affiliation with a yeast company, to wit, the Bakers & Consumers' Compressed Yeast Co., a corporation organized and existing under and by virtue of the laws of the State of New Jersey, having its principal office and place of business in the city of New York, State of New York; that the respondent has permitted the said Bakers & Consumers' Compressed Yeast Co. to be held out and advertised as wholly independent and without connection with the respondent and has directed the efforts and business of said Bakers & Consumers' Compressed Yeast Co. to the acquisition of certain trade which respondent was in danger of losing.

## II.

PAR. 1. That from October 1, 1915, until the present time the respondent has sold practically 90 per cent of the compressed yeast used by commercial bakers, including hotels, restaurants, and institutions, in the United States, and that upward of 30 per cent of such bakers have been under contract with respondent for the purchase of compressed yeast, which amounts to approximately 75 per cent of the bakers' yeast sold by the respondent, and that from October 1, 1905, until May 1, 1917, the contract used by respondent was in time form as follows:

The undersigned purchaser hereby agrees, in consideration of the reduced price at which the goods named herein are sold, to buy of the Fleischmann Co., which agrees to sell to the undersigned purchaser upon the terms and conditions hereinafter stipulated, all the compressed yeast required to be used for \_\_\_ own and sole use at the baking establishment of the undersigned purchaser for and during the term of \_\_\_ year ending \_\_\_ 191\_\_\_, at time rate of 35 cents per pound delivered by the seller on terms of cash, the Fleischmann Co., on the faithful performance of the above condition on the part of the purchaser, agreeing to give a discount of \_\_\_ cents per pound on every pound of yeast bought by them under and pursuant to the terms and conditions of this contract, such discount to be paid to the undersigned purchaser about once a month.

And it is further mutually agreed that the Fleischmann Co., shall not be held

responsible for any failure to sell or deliver said compressed yeast, if such failure be occasioned by strikes or by any other cause beyond their control.

Dated \_\_\_\_\_, 191\_\_.

\_\_\_\_\_  
Purchaser.

In the presence of:

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 191\_\_.

THE

FLEISCHMANN Co., *Seller.*

that approximately 8,032 of such contracts are still in force; that on May 1, 1917, the respondent adopted a new form of contract, which is as follows:

Form 883. (10 '17 6M.)

The undersigned purchaser hereby agree , in consideration of the price at which the goods named herein are sold, to buy of the Fleischmann Co., which agrees to sell to the undersigned purchaser upon the terms and conditions hereinafter stipulated such quantities of Fleischmann's compressed yeast as \_\_\_\_ may require \_\_\_\_ for \_\_\_\_ own and sole use at the baking establishment \_\_\_\_ of the

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undersigned purchaser for and during the term of \_\_\_\_ year ending \_\_\_\_\_, 191\_\_, at the rate of 35 cents per pound delivered by the seller on terms of cash, the Fleischmann Co., on the faithful performance of the above condition on the part of the purchaser, agreeing to give a discount of \_\_\_\_ cents per pound on every pound of yeast bought of then under and pursuant to the terms and conditions of this contract, such discount to be paid to the undersigned purchaser about once a month.

And it is further mutually agreed that the Fleischmann Co. shall not be held responsible for any failure to sell or deliver said compressed yeast if such failure be occasioned by strikes or by any other cause beyond their control.

Dated at \_\_\_\_\_, 191\_\_.

\_\_\_\_\_  
*Purchaser.*

In presence of:

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 191\_\_.

THE FLEISCHMANN

CO., *Seller.*

that such contracts were entered into for a period of from one to five years; that since May 1, 1917, contracts entered into are of the form of contract last mentioned, and represent 3,147 commercial bakers, hotels, restaurants, and institution; that in making all of such contracts respondent has entered into the same in the hope and with the expectation that the baker making such contract would live up to the same, and it is the fact that 90 per cent of such bakers entering into both forms of such contracts have lived up to the same and have taken their entire requirements of yeast from the respondent; that there are approximately 4,000 of respondent's customers who are now under contract in the form adopted May 1, 1917, as aforesaid; that of respondent's customer's east of the Mississippi River under contract with respondent as aforesaid, substantially all of them have been solicited by agents of competitors for the purpose of having said customers disregard their contracts and purchase compressed yeast from respondent's competitors; that in a large number of instances where customers under contract have been so solicited they have declined to purchase yeast from competitors of

respondent, giving as their reason that they were under contract with respondent.

### III.

PAR. 1. That for more than one year last past respondent has sold compressed yeast to operative bakers on time basis of :

Bakers using 500 pounds or more per week, 10 cents per pound (which price is called time wholesale price; there have been and are a few customers who used or use from 4,000 to 12,000 pounds per week who have received or are receiving a discount of from 2 per cent to 5 per cent from this price for cash payment of monthly bills within 10 days); bakers using from approximately 300 to 500 pounds per week, 17 cents per pound; bakers using approximately from 200 to 300 pounds per week, 18 to 19 cents per pound; bakers using approximately from 100 to 200 pounds per week, 19 to 20 cents per pound; bakers using approximately from 60 to 100 pounds per week, 21 to 22 ½ cents per pound; bakers using approximately from 30 to 60 pounds per week, 25 cents per pound; bakers using under 25 pounds per week, 25 ½ to 25 cents per pound, largely depending on remoteness of point of delivery. The above figures are the figures applying in the territory of the United States east of the Rocky Mountains.

That owing to competition in various localities it has deviated from such basic prices in order to retain the patronage of its customers by reducing its prices to them to meet the price of its competitors, and in the event that such reduction in price did not result in the retention of the business of said customers it has in a number of cases reduced its prices to a price below that offered to such customers by such competitors; and in many cases where, as a result of such competition, its customers have abandoned their contracts with respondent it has reduced its prices to such customers to meet time price of such competitors to obtain said customers' business.

### CONCLUSIONS OF LAW.

That the methods of competition, as set forth in the foregoing findings as to the facts in Division I, paragraph 2 to 13, inclusive, and each and all of them are, in the circumstances therein set forth, unfair methods of competition

in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purpose."

That the contracts for sale used by the respondent, is set forth in the foregoing findings as to the facts, in Division II, paragraph 1, are made on the condition, agreement, or understanding that the purchaser shall purchase his entire requirement of compressed yeast from respondent and shall not purchase compressed yeast from a competitor, and the effect thereof may be to substantially lessen competition or tend to create a monopoly in the sale of compressed yeast; that the use of such contracts is in violation of section 3 of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purpose."

That the discriminations in prices in so far as they are admitted by respondent to be below the prices offered by its competitors, as set forth in the foregoing findings as to the facts in Division III, paragraph 1, are not made oil account of differences in the grade, quality, or quantity of the commodity sold, nor do such discriminations make due allowance for difference in the cost of selling or transportation, and are not made in good faith to meet competition, and the effect of such discriminations may be to substantially lessen competition or tend to create a monopoly in the sale of compressed yeast; that such discriminations are made in violation of section 2 of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes."

(Signed) W M . J H A R R I S ,

*Chairman.*

[SEAL.]

WILLIAM B COLVER,  
JOHN FRANKLIN

FORT,

VICTOR MURDOCK,

*Commissioners.*

UNITED STATES OF AMERICA,

*Before Federal Trade Commission, ss:*

At a regular meeting of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 8th day of April, A. D., 1918.

Present: William J. Harris, chairman; William B. Colver, J. Franklin Fort, Victor Murdock, Commissioners.

Federal Trade Commission v. The Fleischmann Company. Docket No. 6.

#### ORDER TO CEASE AND DESIST.

The Federal Trade Commission, having issued and served its complaints herein, and the respondent, the Fleischmann Co., having entered its appearance by Henry A. Wise, its attorney, and having stipulated of record that the Commission may forthwith proceed to make its findings as to the facts in these proceedings, and issue its order disposing of the same, and the Commission, on the date hereof,

having made and filed a report containing its findings as to the facts, and its conclusions that the respondent has violated section 5 of an act of Congress approved September 26, 1914, entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and has violated sections 2 and 3, respectively, of an act of Congress approved October 15, 1914, entitled, "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," which said report is hereby referred to and made a part hereof:

Therefore it is ordered that the respondent, the Fleischmann Co., its officers and agents, cease and desist from:

1. Giving, or offering to give, compressed yeast without any consideration therefor, to operative bakers, both its customers and prospective customers, and its competitors' customers and prospective customers, in quantities larger than required under the particular circumstances for proper sample or demonstration purposes.

2. Giving, or offering to give, operative bakers using compressed yeast, both its customers and prospective customers, and its competitors' customers and prospective customers, their agents, servants, and employees, as an inducement for such operative bakers to purchase or contract to purchase yeast from the respondent, gratuities such as liquors, cigars, meals, and other personal property, or money.

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3. Giving, or offering to give, operative bakers using compressed yeast, both its customers, prospective customers, and its competitors' customers and prospective customers, their agents, servants, and employees, as an inducement for said operative bakers to purchase or contract to purchase yeast from the respondent, Christmas presents and special holiday presents, such as liquor, cigars, silverware, or money.

4. Providing entertainment, including among other things, meals, drinks, cigars, theater tickets, or money, for operative bakers using compressed yeast, both its customers and prospective customers, their agents, servants, and employees, as an inducement for said operative bakers to purchase, or contract to purchase, yeast from the respondent.

5. Making contributions of sums of money to funds raised by associations known as "bakers' associations," composed of operative and boss bakers, both its customers and prospective customers, for the purpose of obtaining and retaining the patronage of said operative bakers: *Provided, however,* That nothing in this paragraph shall be construed to prevent respondent from making reasonable contributions to such associations for educational and scientific purposes as relates to the use of compressed yeast.

6. Providing entertainment, including, among other things, cigars, drinks, meals, theater tickets, and automobile rides, to operative and boss bakers using compressed yeast, both its customers and prospective customers, attending the association conventions referred to in paragraph 5 above, for the purpose of obtaining and retaining the patronage of said operative and boss bakers.

7. Providing entertainment, including among other things, cigars, drinks, meals, theater tickets, and automobile rides to operative bakers using compressed yeast, both its customers and prospective customers, at the respondent's principal

distribution centers by its representatives known a “sales agents,” for the purpose of obtaining and retaining the patronage of said operative bakers. *Provided, however,* That nothing in this paragraph shall be construed to prohibit respondents from furnishing reasonable entertainment to operative bakers visiting its manufacturing plants and laboratories.

8. Delivering, or offering to deliver, as an inducement to operative bakers using a compressed yeast to continue or to enter into contracts of purchase of yeast from respondent, quantities of such yeast to said operative bakers without making any immediate charge therefor, and including distributing the price for the same in the price of yeast delivered during the term of a contract then in existence or made subsequent to the period of delivery of yeast for which no immediate charge is made.

9. Making, or offering to make, as an inducement for operative bakers using compressed yeast to continue or to enter into contracts of purchase of yeasts from the respondent, payments of cash, the amount of said cash payments being included and distributed in the price of yeast delivered under a contract entered into at the time of said payment of cash.

10. (a) Removing, or attempting to remove, competitors’ trial samples of compressed yeast from the possession of operative bakers using yeast by substituting, or attempting to substitute, respondent’s yeast therefor, or by purchasing or attempting to purchase from said operative bakers such competitors’ trial sampler; (b) purchasing, or offering to purchase, or substituting or offering to substitute respondent’s compressed yeast for competitors’ compressed yeast for the possession of competitors’ customers; (c) following up competitors’ representatives as the latter make the rounds of their customers and prospective customers with the object of hindering and embarrassing competitors’ agents in the sale or delivery of compressed yeast and the transaction of business incident thereto.

11. Making misrepresentations to the trade as to the methods pursued by respondent’s competitors in the transactions of said competitors’ business.

12. Concealing its control of and affiliation with a yeast company known as the Bakers’ & Consumers’ Compressed Yeast Co., a corporation organized and existing under and by virtue of the laws of the State of New Jersey, having its principal office and place of business in the city of New York, State of New York, and permitting said Bakers’ & Consumers’ Compressed Yeast Co. to be held out and advertised as wholly independent and without connection with the respondent, or, directing the efforts and business of said Bakers’ & Consumers’ Compressed Yeast Co. to the acquisition of certain trade which respondent is in danger of losing.

13. Making a sale or contract for sale of compressed yeast 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 purchaser thereof shall purchase his entire requirement of compressed yeast from the Fleischmann Co. and shall not purchase compressed yeast from a competitor or competitors of said Fleischmann Co.

14. Discriminating, either directly or indirectly, in territories where the Fleischman Co. and its competitors are doing business, in price between different purchasers of compressed yeast which commodity is sold for use, consumption, or resale with the United States, or any Territory thereof, or the District of Columbia, or any insular possession or other place insular the jurisdiction of the United States, where such discriminations in prices, if made, would be below the price or prices of a competitor or competitors of the Fleischman Co. in such competitive territory.

By time Commission.

LEONIDAS L.

BRACKEN,

*Secretary.*

JOHN WALSH,

*Chief Counsel for the Commission.*

## EXHIBIT 8.

### FEDERAL TRADE COMMISSION v. THE CUDAHY PACKING COMPANY.

UNITED STATES OF AMERICA,

*Before Federal Trade Commission, ss:*

At a regular session of the Federal Trade Commission, held at its office in the city  
o f W a s h i n g t o n ,  
D. C., on the 26th day of July, A. D. 1918.

Present: William B. Colver, chairman; John Franklin Fort, Victor Murdock,  
Commissioners.

Federal Trade Commission v. The Cudahy Packing Company. Docket No.20.

#### REPORT AND FINDINGS.

The Federal Trade Commission, having issued and served its complaint herein, wherein it alleged that it had reason to believe that the above-named respondent, the Cudahy Packing Company, has been and now is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and has been and is violating the provisions of section 2 of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes, "and that a proceeding by it in respect of such alleged violation of section 5 of the act of September 26, 1914, would be to the interest of the public, and fully stating its charges in that respect, and the respondent having entered its appearance by Thomas Creigh and Gilbert H. Montague, its attorneys, and having dully flied its answer admitting certain of the allegations of said complaint and denying certain other thereof, and particularly denying that respondent has ever violated any of the provisions of the acts of Congress above mentioned or of any other law, and the Commission having offered testimony in support of the charges of said complaint, and respondent having rested its case at the close of the Commission's case, and counsel for both parties having waived the filing of briefs or the hearing of argument on the exceptions and on the merits, the Commission, having duly considered the record and being fully advised in the premises, now makes this its report and findings as to the facts and conclusions of law :

#### FINDINGS AS TO THE FACTS.

(1) That respondent, the Cudahy Packing Company, is a corporation organized, existing, and holding business under and by virtue of the laws of the State of

Maine, having its principal office and place of business at the city of Chicago, in the State of Illinois, and is the successor to the Cudahy Packing Company of Illinois.

(2) That respondent, the Cudahy Packing Company, is now and for more than two years last past has been engaged in commerce among the several States, Territories, and the District of Columbia of the United States, in the manufacture, sale, and distribution of a powdered cleanser known as "Old Dutch Cleanser."

(3) That respondent, the Cudahy Packing Company, sells "Old Dutch Cleanser" principally to jobbers, but also, to a limited extent, to certain other selected dealers, both being known as distributing agents, at prices hereinafter referred to as distributing agents' prices, and that it also sells to concerns other than those classified or designated as distributing agents in the same quantities at higher prices, hereinafter referred to as general sales list prices.

(4) That the amount of "Old Dutch Cleanser" manufactured, sold, and distributed by respondent, the Cudahy Packing Company, has been and is substantial; that the same forms an important item of commerce among the several States, Territories, and the District of Columbia of the United States, and that in such distribution respondent utilizes the services of about 4,000 of the so-called distributing agents.

(5) That, in pursuance of its price-maintenance plan, respondent discriminates, and for more than two years last past has discriminated, between customers in the prices at which it sells "Old Dutch Cleanser," in the course of such commerce, in that it has

(a) Made sales to jobbers and other wholesalers at both general sales list prices and distributing agents' prices;

(b) Made sales to cooperative organizations at both general sales list prices and distributing agents' prices;

(e) Made sales among retail organizations at distributing agents' prices and at general sales list prices and at special prices.

That none of the aforesaid discriminations comes within any of the exceptions or provisions of section 2 of the act approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," and that in so far as said discriminations accomplish their purpose, their effect may be and is to eliminate competition price among jobbers and other dealers in a line of commerce, to wit, in the sale of powdered cleansers and especially in the sale of "Old Dutch Cleanser."

(6) That respondent causes and for more than two years last past has caused, its so-called distributing agents to resell "Old Dutch Cleanser" at general sales-list prices:

(a) By repeatedly setting forth in its distributing agents' price list its resale prices, and by stating that distributing agents must conform to the selling policy of the company;

(b) By repeatedly withdrawing, as distributing agents, jobbers, wholesalers, and other dealers classed as distributing agents who fail to maintain the general sales-list prices of respondent, and by quoting and in some instances selling jobbers so withdrawn at the general sales list price;

(c) By repeatedly reinstating as distributing agents, jobbers, wholesalers, and other dealers withdrawn as aforesaid for failing to maintain the resale price:

1. Upon the basis of letters from such jobbers, wholesalers, and other dealers to respondent specifically stating that they will agree to maintain the general sales-list price of respondent;

2. Upon the basis of letters stating in effect, that such jobbers, wholesalers, and other dealers understand the selling policy of respondent and will act in harmony therewith; and

3. Upon the basis of reports from salesmen to the effect that they have interviewed jobbers, wholesalers, and other dealers withdrawn as distributing agents and explained to them respondent's selling policy and that the said jobbers and dealers are in harmony therewith and will conform thereto.

(d) By requiring its salesmen to investigate applications for distributing agents terms and to report to the home office whether the applicant understands and is in

harmony with the selling policy of respondent;

(e) By repeatedly adding to its so-called distributing agents, concerns reported as aforesaid by its salesmen as being in harmony with its selling policy;

(f) By refusing in occasional instances to sell to jobbers, wholesalers, and other dealers withdrawn as aforesaid for failing to resell its product at general sales list prices.

(7) That respondents maintains a large force of specialty salesmen, numbering over 100, whose duty it is to solicit from retailer's orders to be turned over to and filled through jobbers or other wholesalers, which orders are customarily designated and known as "turn-over orders"; that said salesmen are instructed in soliciting turn-over orders to refuse to accept such orders where the retailer desires the same filled through a jobber or other wholesaler who sells at less than the general sales list prices of respondent, and to state to the retailer that they can not take an order for delivery through that jobber or other wholesaler and to request him to name another; and that said salesmen in soliciting such orders, in pursuance of these instructions, refuse and have refused orders where retailers desired the same filled through jobbers

or other wholesalers selling at less than general sales list prices, and request and have requested such retailers to name other jobbers or wholesalers.

(8) That respondent, in frequent instances, withdraws, and for more than two years last past has withdrawn, distributing agents' prices from jobbers and other wholesales who have:

(a) Sold to other jobbers or wholesalers at less than general sales-list prices;

(b) Filled orders pooled by several retailers, when the jobbers or wholesalers have sold the same at quantity prices set; out in the general sales list;

(c) Filled orders at quantity prices set out; in the general sales list, where the retailers require more than one delivery upon the quantity specified in the order.

(9) That respondent utilizes, and for more than two years last; past has utilized, a system of key-symbols for identifying the cases containing "Old Dutch Cleanser"; that repeatedly, when instances of price cutting are reported to it, respondent instructs its salesmen to investigate; that in pursuance of these instructions, the salesmen aforesaid frequently trace the jobber or other wholesaler making the cut; price by means of the key-symbols which enable the identity of said jobber or other wholesaler to be ascertained; that in occasional instances respondent's salesmen, in tracing price cutting, have examined the stocks in the warehouses of retail dealers; have taken key-symbols from cases on the wagons of jobbers and other wholesalers delivering goods; have impersonated retailers sometimes with their permission, in order to ascertain from jobbers and other wholesalers the prices at which they sell "Old Dutch Cleanser," and have impersonated retailers for the purpose of obtaining the key-symbols from cases containing "Old Dutch Cleanser."

(10) That individual jobbers and wholesalers, as shown by their letters, voluntarily state and have stated that they will support and cooperate with respondent in pushing its goods and that they desire to deal with respondent on account of its policy in maintaining resale prices, and that jobbing and wholesale grocery trade associations have adopted resolutions endorsing price-maintained goods, which endorsements would include the goods of respondent company.

(11) That grocery jobbers and wholesalers handling respondent's goods repeatedly report and have reported to respondent price cutting in their respective localities, and in many such instances report and have reported specifically the names of such price cutters.

(12) That jobbers' and other wholesalers' costs show great divergences, owing to different methods in selling, and also great divergences in the case of different concerns using the same methods of selling, owing to differences in selling expense, turnover, efficiency of management, and other factors;

That the costs of grocery jobbers and wholesalers selling by mail are in some instances as low as 4 ½ per cent, expressed as a percentage of the cost of goods to the jobber, and the costs of cooperative grocery jobbing and wholesaling concerns are in some instances as low as 3 to 3 ½ per cent, expressed in the form of a percentage of the selling price of the goods;

That, expressed in the form of a percentage of the net sales, the total costs or expense of jobbers and wholesalers selling according to customary jobbing methods range from 6.3 per cent to 10.71 per cent, and that the common figure (I. e., time predominant, typical, and most frequent figure and the one around which the figures of all wholesalers center) is 8 per cent; that some of such concerns have interest charges which range from 0.4 per cent to 3.03 per cent on net sales, and that the common figure is 1.5 per cent.

That time gross profits of concerns selling according to customary jobbing methods show at least as great variations as from 7.7 to 17.2 per cent on net sales; and in the majority of instances their gross profit is between 10.5 per cent and 13.4 per cent; that the rate of stock turn of grocery jobbers and other wholesalers selling according to customary jobbing methods varies from about one to twelve times a year.

(13) That for more than two years prior to January 1, 1918, the gross-profit margins (I. e., the difference between the cost of "Old Dutch Cleanser" from respondent and the price at which jobbers or other wholesalers were required in which the jobber or wholesaler bought, from 11.1 to 13.9 per cent on the said resale price fixed by respondent for sales of less than five cases.

That retailers' orders and purchases of "Old Dutch Cleanser" are in the great majority of instances for less than five cases, and that large orders by them are comparatively exceptional.

(14) That the gross profit margins of jobbers and other wholesalers handling respondent's goods are adjusted as aforesaid in order to secure a large number of jobbers and other wholesalers to handle its product, and that the margins aforesaid are greater than necessary to enable many relatively low-cost and efficient jobbers and wholesalers to resell and make a profit.

(15) That respondent, by its policy of maintaining prices and discriminating and refusing to sell to jobbers and other wholesalers failing to adhere to such prices, endeavors to protect and has protected the relatively higher cost and less efficient jobbers and other wholesalers, constituting the bulk of the jobbing and wholesale trade, in the gross profit margins fixed as aforesaid against the competition of relatively lower cost and more efficient jobbers and other wholesalers.

(16) That the effect of the price fixing aforesaid has been and is:

(a) To secure for respondent, The Cudahy Packing Company, on its "Old Dutch Cleanser," the trade of jobber's and other wholesalers, and especially the relatively higher cost and more inefficient jobbers and other wholesalers, constituting the bulk of the jobbing and wholesale trade, and to enlist their active support and cooperation in enlarging the sale of its price-maintained cleanser, to the prejudice of competing manufactures who do not fix, require, or enforce the maintenance of resale prices upon their cleansers, thereby protecting such jobber's and other wholesalers against the price competition of other jobbers and wholesalers, and especially the relatively lower cost and more efficient establishments;

(b) To tend to force manufacturer's who do not fix, require, or enforce the maintenance of resale prices and who compete with respondent in the sale of powdered cleansers, also to inaugurate and enforce a system of maintenance of resale prices upon their powdered cleansers, in order to offset the preference of jobbers and other wholesalers for respondent's price-maintained cleanser and to enable manufacturers who do not maintain resale prices upon powdered cleansers to compete upon more equal terms with respondent;

(c) To eliminate competition in prices among jobbers and wholesalers handling "Old Dutch Cleanser," thereby interfering with many such jobbers and other wholesalers, and especially the relatively lower cost and more efficient establishments in their sales of such cleanser at such prices as they may deem adequate and as are warranted by their costs, selling efficiency, and existing trade conditions;

(d) To compel the public, or such portion thereof as require or prefer "Old Dutch Cleanser," to pay prices therefor based on a gross-profit margin fixed, as aforesaid, according to the costs of the relatively higher cost and less efficient establishments, constituting the bulk of the jobbing and wholesale trade, instead of a price based upon the competition of jobbers and other wholesalers with widely varying stock turns, costs, and efficiency.

#### CONCLUSIONS OF LAW.

That the acts and conduct set forth in paragraph (5) of the foregoing findings,



are, and each of them is, under the circumstances therein set forth, in violation of the provisions of section 2 of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes"; and that the methods of competition set forth in the findings, are, and each of them is, under the circumstances therein set forth, unfair methods of competition in interstate commerce, in violation of the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

[SEAL.]

(Signed)

WILLIAM B. COLVER,  
JOHN FRANKLIN FORT,  
VICTOR MURDOCK,

*Commissioners.*

UNITED STATES OF AMERICA,

*Before Federal Trade Commission, ss:*

At a regular meeting of the Federal Trade Commission, held at its office in the city of Washington, D. C., On the 26th day of July, 1918.

Present: William B. Colver, chairman; John Franklin Fort, Victor Murdock, Commissioners.

Federal Trade Commission v. The Cudahy Packing Company. Docket No.20.

ORDER TO CEASE AND DESIST.

The Federal Trade Commission having issued and served its complaint herein, and the respondent having entered its appearance by Thomas Creigh and Gilbert H. Montague, its attorneys, and having duly filed its answer admitting certain of the allegations of said complaint and denying certain other allegations thereof, and particularly denying that respondent has ever violated any of the provisions of the acts of Congress mentioned in said complaint or any of the provisions of any other law; and the Commission having offered testimony in support of the charges of said complaint, and respondent having rested its case at the close of the Commission's case, and the Commission on the date hereof having made and filed its report containing its findings as to the facts and its conclusions that respondent has violated section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and section 2 of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," which said report is hereby referred to and made a part hereof;

*Now, therefore, it is ordered,* That respondent, The Cudahy Packing Company, and its officers, directors, agents, servants, and employees, cease and desist from directly or indirectly recommending, requiring, or by any means whatsoever bringing about the resale by dealers of "Old Dutch Cleanser" according to any system of prices fixed or established by respondent, and more particularly by any or all of the following means:

1. Entering into contracts, agreements, or understandings with such dealers to the effect that such dealers, in reselling "Old Dutch Cleanser," will adhere to any system of prices fixed or established by respondent;
2. Securing from such dealers contracts, agreements, or understandings that they will adhere to any such system of prices;
3. Refusing to sell to any such dealers because they fail to adhere to any such system of prices;
4. Discriminating in prices against such dealers because they fail to adhere to any such system of prices;
5. Discriminating in prices in favor of such dealers because they adhere to any such system of prices.

*Provided,* That nothing herein contained, shall prohibit respondent from issuing price lists, or printing prices in its advertising or upon containers of “Old Dutch Cleanser,” so long as respondent shall refrain from directly or in directly recommending, requiring, or by any means whatsoever bringing about the resale of “Old Dutch Cleanser” at such prices; and

*Provided, further,* That nothing herein contained shall prohibit respondent from selling to or soliciting order’s from dealers directly at such prices, or at any other prices fixed by the party through whom such orders are filled.

(SEAL.)

(Signed)

L. L. BRACKEN,

*Secretary.*