

ANNUAL REPORT
OF THE
FEDERAL
TRADE COMMISSION
FOR THE
FISCAL YEAR ENDED JUNE 30
1940

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1940

For sale by the Superintendent of Documents. Washington, D. C.

Price 30 cents (paper)

FEDERAL TRADE COMMISSION

EWIN L. DAVIS, *Chairman*¹
GARLAND S. FERGUSON
CHARLES H. MARCH
WILLIAM A. AYRES
ROBERT E. FREER
OTIS B. JOHNSON, *Secretary*

FEDERAL TRADE COMMISSIONERS--1915-41

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar. 16, 1915-Mar. 18, 1918.
Edward N. Hurley	Illinois	Mar. 16, 1915-Jan. 31, 1917.
William J. Harris	Georgia	Mar. 16, 1915-May 31, 1918.
Will H. Parry	Washington	Mar. 16, 1915-Apr. 21, 1917.
George Rublee	New Hampshire	Mar. 16, 1915-May 14, 1916.
William B. Colver	Minnesota	Mar. 16, 1917-Sept. 25, 1920.
John Franklin Fort	New Jersey	Mar. 16, 1917-Nov. 30, 1919.
Victor Murdock	Kansas	Sept. 4, 1917-Jan. 31, 1924.
Huston Thompson	Colorado	Jan. 17, 1919-Sept. 25, 1926.
Nelson B. Gaskill	New Jersey	Feb. 1, 1921-Feb. 24, 1925.
John Garland Pollard	Virginia	Mar. 6, 1920-Sept. 25, 1921.
John F. Nugent	Idaho	Jan. 15, 1921-Sept. 25, 1927.
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926.
Charles W. Hunt	Iowa	June 16, 1924-Sept. 25, 1932.
William E. Humphrey	Washington	Feb. 25, 1925-Oct. 7, 1933.
Abram F. Myers	Iowa	Aug. 2, 1925-Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb. 11, 1927-Jan. 23, 1933.
Garland S. Ferguson	North Carolina	Nov. 14, 1927,
Charles H. March	Minnesota	Feb. 1, 1929.
Ewin L. Davis	Tennessee	May 26, 1933.
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25, 1933,
James M. Landis	Massachusetts	Oct. 10, 1933-June 30, 1934.
George C. Mathews	Wisconsin	Oct. 27, 1933-June 30, 1934.
William A. Ayres	Kansas	Aug. 23, 1934.
Robert E. Freer	Ohio	Aug. 27, 1935.

¹ Chairmanship rotates annually. Commissioner March will become chairman in January 1941.

EXECUTIVE OFFICES OF THE COMMISSION

Constitution Avenue at Sixth Street, Washington, D. C.

BRANCH OFFICES

45 Broadway, New York	548 Federal Office Building,
433 West Van Buren Street,	San Francisco
Chicago	801 Federal Building, Seattle
	321 Federal Office Building, New Orleans

LETTER OF SUBMITTAL

To the Congress of the United State:

I have the honor to submit herewith the Twenty-sixth Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1940.

By direction of the Commission.

EWIN L. DAVIS, *Chairman.*

CONTENTS

INTRODUCTION

	Page
Powers and duties of the Commission	1
General legal activities	2
Trade practice conference procedure	5
Temporary National Economic Committee	6
General investigations	7
The Commissioners and their duties	8
How the Commission's work is handled	9
Publications of the Commission	11
Recommendations	12

PART I. GENERAL INVESTIGATIONS

Corporation reports	17
Accounting methods and practices	18
Resale price maintenance (1939)	21

PART II. GENERAL LEGAL WORK

Description of procedure	25
Chart	Facing p. 25
Legal investigation	29
Disposition of cases by stipulation	35
Complaints	36
Orders to cease and desist	46
Types of unfair methods and practices	71
Cases in the Federal courts	77
Tabular summary of legal work	101

PART III. TRADE PRACTICE CONFERENCES

Purposes of the trade-practice conference procedure	111
Trade practice conference activities during the year	112
Types of practices covered in approved rules	113
Group I and group II rules defined	115
Trade practice rules in effect and their administration	115

PART IV. RADIO AND PERIODICAL ADVERTISING

Special procedure provides continuous survey of published and broadcast matter	119
--	-----

PART V. FOREIGN-TRADE WORK

The Export Trade Act	127
Exports in 1939 total \$237,060,000	127
Forty-four export groups represent 434 member companies	128

	Page
Recommendations for readjustment of the business of Pacific forest industries	129
Report for T. N. E. C. on operation of the Export Trade Act, 1918-40	130
Trust laws and unfair competition in foreign countries	131

PART VI. MEDICAL ADVISORY SERVICE

Furnishes opinions in cases concerning advertisement of food, drugs, devices, and cosmetics	145
---	-----

PART VII. FISCAL AFFAIRS

Appropriation acts providing funds for Commission work	149
Appropriations and expenditures for fiscal year	149
Appropriations and expenditures, 1915-40	151

APPENDIXES

Federal Trade Commission Act	155
Clayton Act	163
Robinson-Pitman Act	168
Export Trade Act	169
Wool Products Labeling Act of 1939	170
Sherman Act	175
Miller-Tydings Act	176
Rules of practice	176
Statement of policy	186
Investigations, 1915-40	187
Index	211

INTRODUCTION

POWERS AND DUTIES OF THE COMMISSION

GENERAL LEGAL ACTIVITIES

TRADE PRACTICE CONFERENCE PROCEDURE

TEMPORARY NATIONAL ECONOMIC COMMITTEE

GENERAL INVESTIGATIONS

THE COMMISSIONERS AND THEIR DUTIES

HOW THE COMMISSION'S WORK IS HANDLED

PUBLICATIONS OF THE COMMISSION

RECOMMENDATIONS

ANNUAL REPORT
OF THE
FEDERAL TRADE COMMISSION
FOR THE
FISCAL YEAR ENDED JUNE 30, 1940

INTRODUCTION

POWERS AND DUTIES OF THE COMMISSION

The Federal Trade Commission herewith submits its report for the fiscal year, July 1, 1939, to June 30, 1940. Organized March 16, 1915, under the Federal Trade Commission Act, approved September 26, 1914, which was amended March 21, 1938, the Commission is an administrative tribunal.

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

Legal activities I have to do with (1) prevention and correction of unfair methods of competition and unfair or deceptive acts or practices, in accordance with section 5 of the Federal Trade Commission Act, in which it is declared that unfair methods of competition and unfair or deceptive acts and practices in commerce are unlawful; (2) administration of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, dealing with price and other discriminations, and sections 3, 7, and 8 of the Clayton Act dealing with tying amid exclusive dealing contracts, acquisitions of capital stock, and interlocking directorates, respectively, and (3) administration of the Webb-Pomerene or Export Trade Act, aimed at promotion of foreign trade by permitting the organization of associations to engage exclusively in export trade, and providing that nothing contained in the Sherman Act shall be construed as declaring to be illegal any combinations or

¹ As respects certain special and limited fields excepted from the Commission's jurisdiction, see second paragraph of sec. 5 of the Federal Trade Commission Act in appendixes, p. 156, and sec. 11 of the Clayton Act, p. 166.

“associations” entered into for the sole purpose of engaging in, and actually solely engaged in, export trade: *Provided further, however,* That the same are not in restraint of trade within the United States. The provisions of section 5 of the Federal Trade Commission Act are also extended to foreign trade of American exporters by the Export Trade Act.

In connection with its foreign-trade work, the Commission has the power under section 6 (h) of the Federal Trade Commission Act-

to investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States and to report to Congress thereon, with such recommendations as it deems advisable.

The general investigational and economic work of the Commission arises chiefly under section 6 (a), (b), and (d) of the Federal Trade Commission Act, giving the Commission power:

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

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

* * * * *

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

An investigation under section 6 (d) of the organic act, when requested by Congress, is undertaken by the Commission as a result of a concurrent resolution of both Houses. This is in conformity with the United States Code (48 Stat. 291, 15 U. S. C. A., see. 46a), and the Independent Offices Appropriation Act, 1934 (Public, No. 78, 73d Cong.).

GENERAL LEGAL ACTIVITIES

Upon authority of the acts which it administers, the Commission, during the fiscal year ended June 30, 1940, continued to direct its efforts toward the correction and elimination of unlawful practices prohibited by those statutes.

Cases before the Commission.--The Commission made almost 1,900 investigations in cases which were in a preliminary stage or had not progressed to the status of formal complaint or stipulation. These cases were disposed of either by progression to *the* status of formal complaint, by stipulation, or by closing.

The Commission approved a total of 575 stipulations to cease and desist from various practices, executed by parties against whom informal proceedings had been instituted. Of these, 190 were specially concerned with misleading advertising matter in newspapers, magazines, or radio continuities.

The Commission issued 331 complaints against companies, associations, or individuals, alleging various forms of unfair competition or unfair, deceptive, or other unlawful acts or practices. These included 25 cases of alleged combination or conspiracy in restraint of trade through price fixing and other unlawful agreements, 220 complaints of misleading representations in advertisements, on labels, and otherwise, and complaints charging violation of the Clayton Act. In a net total of 281 cases the Commission served upon respondents its orders to cease and desist from unlawful practices which had been alleged in complaints and which were found to have been engaged in by the respondents.

Cases before the Federal courts.--In the Federal courts results favorable to the Commission were obtained in 42 cases while adverse decisions were rendered in only 3 cases. Of the 42 cases resulting favorably, 25 were appellate matters before the United States circuit courts of appeals and 17 were temporary injunction matters before the United States district courts. Of the cases adversely decided, 2 were in the circuit courts and the other in a district court. The Supreme Court of the United States denied petitions for certiorari filed by respondents in 10 cases in their efforts to reverse the circuit courts in prior decisions favorable to the Commission. Petitions for review of the Commission's orders in the circuit courts were dismissed in 7 cases on motions of the petitioners (respondents before the Commission).

Two of the favorable decisions concerned violation of the brokerage provision of the Clayton Act, the opinion in *The Great Atlantic & Pacific Tea Co.* case having been deemed a clear-cut ruling on the most important questions arising in connection with interpretation and application of that provision. In another Clayton Act case, that of *the Goodyear Tire & Rubber Co.*, the Commission petitioned for certiorari to review a circuit court's decision (rendered during the last previous fiscal year) setting aside its order which had required the Goodyear company to cease and desist from price discrimination

in violation of the Clayton Act, prior to that Statute's amendment by the Robinson-Patman Act.

Ten cases embracing lottery methods in the sale of candy were litigated, the decisions generally having been favorable to the Commission. However, in a matter involving Bunte Brothers, Inc., Chicago, in which the Commission had held that this respondent's use of lottery methods in *intrastate* commerce had injuriously affected *interstate* commerce, the Court overruled the Commission on jurisdictional grounds although it condemned the respondent's practice on moral grounds. The Commission petitioned for certiorari.²

Constitutionality of section 5 of the Federal Trade Commission Act, as amended by the Wheeler-Lea Act, was unsuccessfully challenged by three Utah candy companies (Ostler Candy Co., Glade Candy Co., and Shupe-Williams Candy Co.), and jurisdiction of unfair and deceptive acts and practices in interstate commerce conferred upon the Commission by amendment of that section of the act was involved in the case of Sheffield Silver Co., Jersey City, N.J.

Unanimous decision sustaining the order of the Commission was handed down by a circuit court in the case of Millinery Creators' Guild, Inc., and others, New York, who had been ordered by the Commission to cease and desist from the use of certain means in the prevention of so-called style piracy of designs in women's hats.

Injunctive proceedings.--The injunction cases in the United States District Courts as mentioned above were instituted to stop false advertisement of certain products alleged to be detrimental to public welfare, pending issuance of the Commission's complaints and its final disposition thereof. Under the Federal Trade Commission Act as amended, the Commission concluded 18 suits for injunctive relief from false advertising, which was an increase of 12 over the last preceding fiscal year. All but one of the injunctions were granted. Sixteen of these temporary injunctions related to medicinal preparations or devices alleged to be dangerous to public health while in two cases the proceedings concerned dissemination of advertisements of prize contests in connection with the sale of cosmetics, alleged to result in irreparable pecuniary injury.

Civil and criminal penalties.--Under authority of the Federal Trade Commission Act as amended, the Commission certified the facts concerning 15 alleged violations of its cease and desist orders to the Attorney General, an increase of 3 over the last preceding fiscal year. The Government had collected or was collecting, at the close of the year, \$12,000 in civil penalties from six of these defendants whose cases were tried. In one criminal prosecution brought because of the de-

² Petition was granted and the case is pending in the United States Supreme Court.

fendant's false advertisement of a dangerous drug, the result was a plea of guilty and a fine of \$1,000.

Foreign trade work.--Forty-four export trade associations representing 434 member companies, were organized and operating under the Export Trade (Webb-Pomerene) Act and had their papers on file with the Commission at the close of the year. Exports by Webb law groups in 1939 totaled more than \$237,000,000. The report on the Commission's foreign trade work in part V of this volume contains an illuminative summary of laws and decrees relating to wartime control of trade and prevention of unfair competition in 39 countries or dominions of the world.

Radio and periodical advertising.--The Commission examined more than 300,700 newspaper and magazine advertisements and approximately 685,000 commercial radio broadcast continuities, of which more than 24,000 advertisements and 22,500 continuities were designated for further review as to possible misleading advertising matter. The Commission sent questionnaires to advertisers in 739 cases, and to advertising agencies in 109 cases, and disposed of 190 advertising cases by stipulation.

Medical advisory service.--The Commission maintains a Medical Advisory Service consisting of a medical director and two medical assistants, who perform advisory services in matters pertaining to the validity of claims made in cases embracing the advertisement of food, drugs, devices and cosmetics instituted under the Federal Trade Commission Act as amended.

TRADE PRACTICE CONFERENCE PROCEDURE

The trade practice conference work of the Commission is concerned with the holding of industry conferences and the establishment and observance of fair trade practice rules. Under such procedure various practices in an industry which are deemed to be harmful or unfair are examined into amid rules provided for their elimination, to the end that the business of such industry may be conducted under free and fair competitive conditions amid that the public, as well as the industry, may be protected from such harmful and unfair acts. By means of this procedure members of an industry are afforded opportunity amid a practical method for joint action in cooperation with the Commission in a definite, supervised program to eliminate unfair and unlawful methods of competition and other trade abuses, and to receive official guidance and help in self-correction and voluntary endeavor to maintain competitive practices in their industry on a high plane of ethics and fairness.

This activity of the Commission during the past year has continued to expand both in volume and effectiveness. Industry trade practice

rules promulgated during the fiscal year, together with those remaining in effect from prior years, form in the aggregate a codified body of trade practice provisions and business ethics constituting a valuable guide to industry and an effective influence in maintaining the conduct of business on principles of fair competition.

TEMPORARY NATIONAL ECONOMIC COMMITTEE

Pursuant to Public Resolution No. 113, Seventy-fifth Congress, creating the Temporary National Economic Committee, Commissioners Garland S. Ferguson and Ewin L. Davis continued to serve during 1939 and 1940 as representatives of the Commission on the Committee.

The Federal Trade Commission was originally assigned the basic task of studying monopolistic practices in American industry. In the year 1938-39, the Commission presented to the Temporary National Economic Committee extensive evidence on the existence of monopolistic practices in many important American industries. During the year 1939-40, a small staff under the direction of the Economic Adviser to the Commission was engaged in preparing a final group of studies for presentation in the form of written reports or hearings. Among the data submitted to the Committee were included:

- The basing point system in the steel industry.

- The rate of return on invested capital for producers of sulfur.

- The rate of return on invested capital in the cement industry.

- The rate of return on invested capital for farm machinery manufacturers.

- The rate of return on invested capital for tobacco processors.

- The rate of return on invested capital for iron and steel manufacturers.

- The rate of return on invested capital for rayon manufacturers.

- Operations of the Webb-Pomerene Act.

- Report on monopolistic conditions in natural gas and natural gas pipe lines in the United States.

- Report on monopolistic conditions in the wood encased lead pencil industry.

- Relative efficiency of large, medium-sized and small business in the United States.

- Factors in the Penn-Dixie merger in the cement industry.

- Factors in the Bethlehem-Midvale-Lackawanna mergers in the steel industry.

- Factors in mergers, consolidations and combinations in American industry and an appraisal of the purpose and results of such mergers, consolidations and combinations.

- The fundamental principle of efficiency in mass production.

One of the most important works undertaken by the Commission for the Temporary National Economic Committee during the year 1939-40 was the preparation of the Commission's report on the relative efficiency of large, medium-sized and small business in the United States. This study embraced more than 233 tests of business efficiency made in 18 important industries in the United States. The report included a 140-page summary and an appendix of more than 300 tables.

A number of the reports mentioned above were ready for hearings when the Temporary National Economic Committee met on May 6, 1940. The Committee, however, decided that no further hearings should be held until November 1940. In view of the Committee's decision, the Commission submitted all of its reports, except one, in written form to the Committee. The Commission reserved for hearings in the fall a study on freight discriminations in American industry. The essence of this study is a survey of the extent to which large corporations in American industry owning or controlling short line railroads receive in effect, through the operation of these lines, rebates from the large railroads.

During the year 1939-40, the Temporary National Economic Committee published as part of its publication series on *Investigation of Concentration of Economic Power* the following bulletins containing Federal Trade Commission hearings or reports:

Part 5: Monopolistic Practices in Industries.

Part 5 A: Federal Trade Commission Report on Monopolistic Practices in Industries.

Part 6: Liquor Industry (Department of Treasury and Federal Trade Commission cooperating).

Part 7.. Milk Industry. Poultry Industry.

The activities of the Temporary National Economic Committee will cease as of January 1, 1941, with the expiration of the original act.

GENERAL INVESTIGATIONS

General investigations of the Commission in progress during the fiscal year related to corporation reports, accounting methods and practices, and resale price maintenance.

Corporation reports.--A Commission resolution adopted in 1939 authorized the periodic collection of annual or special reports of corporations engaged in interstate commerce, except common carriers and banks, in accordance with the Commission's powers conferred in section 6 of the Federal Trade Commission Act. The first reports appeared in summary form in October 1940, subsequent to the close of the fiscal year.

Accounting methods and practices.--Inquiry into the accounting practices of trade and industry in the United States was undertaken

in accordance with a Commission resolution adopted in 1939 and which outlined the following general objectives: Ascertaining how accounting practices may be made to serve better the needs of business management and of the public in its relation to business; providing legislative bodies the basis for guidance in the enactment and revision of legislation, and making more effective the administration of existing legislation.

Resale price maintenance (1939) -This inquiry, authorized in 1939 under a Commission resolution, has developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon the sales volumes of commodities in both the price maintained and non-price maintained categories. This study had not been completed at the close of the fiscal year.

Approximately 115 general inquiries or studies have been conducted during the Commission's existence, most of them in pursuance of congressional resolutions, although many have been conducted pursuant to Presidential orders and others, like those in progress during the fiscal year 1939-40, on the Commission's initiative. Many of these inquiries have supplied valuable information bearing on competitive conditions and trends in interstate trade and industrial development and have shown the need for, and wisdom of, legislation or other corrective action.

The Commission made more than 150 cost reports to the Government. during the World War.

COMMISSIONERS AND THEIR DUTIES

The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate. Not more than three of the Commissioners may belong to the same political party. The term of office of a Commissioner is 7 years, as provided in the Federal Trade Commission Act. The term of a Commissioner dates from the 26th of September last preceding his appointment (September 26 marking the anniversary of the approval of the act in 1914), except when he succeeds a Commissioner who relinquishes office prior to expiration of his term, in which case, under the act, the new member "shall be appointed only for the unexpired term of the Commissioner whom he shall succeed". Upon the expiration of his term of office, a Commissioner continues to serve until his successor has been appointed. and has qualified.

As of June 30, 1940, the Commission was composed of the following members: Ewin L. Davis, Democrat, of Tennessee, Chairman; Garland S. Ferguson, Democrat, of North Carolina Charles H. March,

Republican, of Minnesota; William A. Ayres, Democrat, of Kansas, and Robert E. Freer, Republican, of Ohio. Commissioner March will become Chairman in January 1941.

Each December the Commission designates one of its members to serve as Chairman during the ensuing calendar year. Commissioner Davis was Chosen Chairman for the calendar year 1940, succeeding Commissioner Freer. The chairmanship rotates, so that each Commissioner serves as Chairman at least once during his term of office. The Chairman presides at meetings of the Commission, supervises its activities, and signs the more important official papers and reports at the direction of the Commission.

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

Every case that is to come before the Commission is first examined by a Commissioner and then reported on to the Commission, but all matters under its jurisdiction are acted upon by the Commission as a whole. The Commissioners meet for the consideration and disposal of such matters every business day. They have administrative charge of the work of a staff which, as of June 30, 1940, numbered 668 officials and employees including attorneys, economists, accountants, and administrative personnel engaged in Washington, and in 5 branch offices. The Commissioners hear final arguments in the cases before the Commission; usually preside individually at trade practice conferences held for industries in various parts of the country, and have numerous other administrative duties incident to their position.

HOW THE COMMISSION'S WORK IS HANDLED

The various activities of the Federal Trade Commission may be classified generally under the headings: legal, economic, and administrative.

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

The Chief Counsel acts as legal adviser to the Commission, supervises its legal proceedings against respondents charged with violations of the acts administered by the Commission, has charge of the trial of cases before the Commission and in the courts, and supervises the export trade work of the Commission as conducted pursuant to the Export Trade Act.

The Chief Examiner has charge of legal investigations of applications for complaint alleging violations of the laws over which the Commission has jurisdiction, except as to probable violations which come under the observation of the Radio and Periodical Division as hereinafter explained. When the Commission undertakes investigations in response to congressional resolutions, or under section 6 of the Federal Trade Commission Act, the Chief Examiner supervises such general investigations as are primarily of a legal nature.

Members of the Chief Trial Examiner's Division president hearings for the reception of evidence in formal proceedings and certain of the investigations conducted by Executive direction, pursuant to congressional resolutions, upon the Commission's initiative, or at the request of the Attorney General. Other members of the division, who have no other function, arrange settlements by stipulation of applications for complaint, subject to the approval of the Commission.

The Division of Trade Practice Conferences conducts activities relative to the formulation and approval of trade practice rules, the holding of industry conferences in respect thereto, the administration and enforcement of such rules which have received Commission approval and are in effect, and other staff duties incident to the trade practice conference procedure.

The Radio and Periodical Division conducts preliminary investigations in cases involving allegations of false and misleading advertising. Such cases usually result from the division's continuing examination of radio and periodical advertising and are conducted under a special procedure.

The Medical Advisory Division furnishes to the Commission or any of its branches professional opinions in matters pertaining to the validity of claims made by advertisers of food, drugs, cosmetics, and devices in connection with cases instituted under the advertising provisions of the Federal Trade Commission Act as amended.

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

The Commission has on its staff an economic adviser. This official has charge of the special staff assisting the Commission in the studies assigned to it by the Temporary National Economic Committee.

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

The Commission has access to the laboratories, libraries, and other facilities of Federal Government agencies, to any of which it may refer matters for scientific opinions or information. The Commission also obtains, when necessary, certain medical and other scientific information and opinions from nongovernment hospitals, clinics, and laboratories.

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

PUBLICATIONS OF THE COMMISSION

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

Findings and orders of the Commission, as published in book form in the *Federal Trade Commission Decisions*, contain interesting and important material regarding business and industry. They tell, case by case, the story of unfair competition, unfair or deceptive acts or practices, exclusive dealing contracts, price discriminations, and capital-stock acquisitions in violation of the statutes which the Com-

mission administers, and of the measures taken by the Commission to prevent such violations of law.

The Commission publishes a monthly summary of its work reporting current progress in its various activities.

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

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

Publications of the Commission for the fiscal year ended June 30, 1940, were:

Annual Report of the Federal Trade Commission for the Fiscal Year Ended June 30, 1939. House Document No.500, Seventy-sixth Congress, second session, December 29, 1939.

Trade Practice Rules, September 1, 1935, to August 31, 1939.

Protection of the Consumer by the Federal Trade Commission. October 14, 1939.
Report to the President of the United States on Distribution Methods in the Millinery Industry, November 21, 1939.

Selected List of References on the Federal Trade Commission and Its Activities. Reproduced from the George Washington Law Review, January-February 1940.

Federal Trade Commission Rules, Policy, and Acts. June 28, 1940.

Federal Trade Commission Decisions, Volume 24, December 1, 1936-May 31, 1937; Volume 25, June 1-November 30, 1937; Volume 26, December 1, 1937-May 31, 1938; Volume 27, June 1-December 31, 1938; Volume 28, January 1-May 31, 1939, and Volume 29, June 1-November 30, 1939.

Trade practice rules for the following industries: *Mirror Manufacturing Industry,* July 19, 1939; *Radio Receiving Set Manufacturing industry,* July 22, 1939; *Cotton Converting Industry,* August 18, 1939; *Marking Devices Industry,* August 19, 1939; *Public Seating Industry,* October 3, 1939; *Curled Hair Industry,* January 12, 1940; *Sardine industry,* March 5, 1940; *Umbrella Industry,* March 9, 1940; *Tuna Industry,* March 22, 1940; *Folding Paper Box Industry,* April 5, 1940; *Uniform Industry,* May 18, 1940, and *Ripe Olive Industry,* June 14, 1940.

RECOMMENDATIONS

The Commission has nothing to add to, and nothing to subtract from, its former recommendations as frequently expressed for some years past in its various annual reports to the Congress and in reports

on particular industries. It has pointed out the steady trend toward consolidation of competing corporate entities and the resultant concentration of economic power. It has proposed amendments to section 7 of the Clayton Act calculated to halt or possibly to reverse that trend. It has emphasized that section 7 as it now stands is a practically impotent instrument to halt or reverse such a trend.

The Temporary National Economic Committee endorsed the Commission's recommendations in a report to the United States Senate in July 1939, as was shown in the Commission's Annual Report to Congress for the Year Ended June 30, 1939 (p. 15). The Committee's report recognized that the concentration of economic power in which corporate consolidations were an important factor threatens fundamental alteration in our economic structure and has created far-reaching social maladjustments reflected by "increasing unemployment and narrowing markets."

The Commission again recommends that the acquisition of corporate assets be declared unlawful under the same conditions that the acquisition of capital stock has been so declared since 1914. While renewing the other recommendations for amendment of section 7 which were incorporated in its annual report for 1939 (pp. 14, 16) and which were also endorsed by the Temporary National Economic Committee, the Commission desires to quote from that report as follows:

The Commission would emphasize that among its various recommendations for the amendment of section 7, the one of outstanding and basic importance is that the acquisition of assets should be made as unlawful as the now forbidden acquisition of stock when it produces the same results. Unless that recommendation be translated into legislative action, the other recommendations made are of relatively minor importance. If that recommendation were accepted, then the importance of the others would be greatly enhanced. As the Supreme Court has said, the acquisition of stock was probably forbidden in 1914 because it was the method then most commonly employed. The prohibition of that method made the acquisition of assets the method most commonly employed since 1914. If evil results be the criterion, the methods more recently employed should be forbidden.

PART I. GENERAL INVESTIGATIONS

CORPORATION REPORTS

ACCOUNTING METHODS AND PRACTICES

RESALE PRICE MAINTENANCE (1939)

PART I. GENERAL INVESTIGATIONS

CORPORATION REPORTS

A Commission resolution adopted December 12, 1939, authorized the periodic collection of annual or special reports of corporations engaged in interstate commerce, except common carriers and banks, all in accordance with powers of the Commission as expressly provided for in section 6 of its organic act which states that the Commission shall have power--

(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 * * *

Under this provision of the Federal Trade Commission Act, the Commission had shortly after its organization, and particularly after the end of the World War, attempted to develop a system of corporation reports. Reference thereto is made in several annual re-ports of the Commission, particularly for 1916-17 and 1919-20.

On May 27, 1940, the Commission entered an order requiring approximately 900 individual corporations to file financial reports covering their 1939 operations and a statement of their financial position at the end of the year 1939. These 900 corporations included the principal enterprises operating in 83 important industries.

The plan for this project, which the Commission has long regarded as one of great possible benefits to the national economy, was developed in cooperation with the Central Statistical Board, the Securities and Exchange Commission, and other Federal agencies.

Because many of the principal corporations operating in various industries already file annual financial reports with the Securities and Exchange Commission, the Federal Trade Commission's project was designed to avoid any unnecessary duplication of work by corporations already making similar reports to the Government. For that reason, corporations already filing an annual report with the Securities and Exchange Commission were requested to submit a copy of that report together with a few items of information supplementary thereto, particularly with respect to operating results.

More fully stated, the purpose of this project is to collect and compile in combined statements, by industries, for publication, information regarding business conditions and financial results obtained periodically from representative corporations in each of a large number of important industries. The information is to be compiled with a view to developing and publishing the significant facts regarding the general trend of, or changes in, the economic situation, but without disclosing the results of any individual corporation. The combined financial statistics published for a specific industry will be essentially a factual presentation of basic business data.

The Commission believes that the published summaries of the information obtained from these reports will be of increasing value to the Government in showing the trends of industrial activity, as well as to managers of corporations, stockholders, lenders of capital, and the general public. Managers of corporations can compare their own rates of return on investment and their operating ratios with the combined results of the principal corporations operating in their industry. Security owners can observe the trends of a particular industry in which they may have investments. By this plan the general public can be better served, because much of the information will not be elsewhere available in the same quantity and detail as that presented by the Commission.

The reception of this project by the corporations requested to report was gratifying to the Commission. There were many commendations and only a very few unfavorable criticisms.

ACCOUNTING METHODS AND PRACTICES

In accordance with a resolution of the Commission adopted August 9, 1939, an inquiry was undertaken into the accounting practices of trade and industry in the United States. This resolution stated the general objectives of this project as follows: (1) Ascertaining how accounting practices may be made to serve better the needs of business management and of the public in its relation to business; (2) providing legislative bodies the basis for guidance in the enactment and revision of legislation, and (3) making more effective the administration of existing legislation.

The Commission has long had a deep interest in the subject of adequate accounting, as have also several other agencies of the Government; and the business world is also vitally concerned. In 1916,

¹ The first summaries appeared in October 1940, subsequent to the close of the fiscal year, under the titles Financial Statistics for Six Corporations Manufacturing "Cigarettes and Other Tobacco Products"; Aircraft Manufacturing Corporations--Financial Statistics for Nine Corporations; Bread and Bakery Products Manufacturing Corporations--Financial Statistics for Seven Corporations, and Lead and Zinc Producing and Manufacturing Corporations--Financial Statistics for Six Corporations. Additional summaries for other industries were to follow.

following an inquiry made on motion of the Commission, two elementary reports on accounting methods were published (see p. 187). During the World War, the Commission was the general cost-finding agency of the Government. Determination of costs was made the principal basis for fixing the maximum prices of manufactured products. This required the specific determination of what principles should be applied in concrete cases. These cases involved a large variety of methods. In numerous reports made by the Commission on various industries and general problems of business since that time, inquiry has been made not only into costs but also into a great variety of accounting practices of manufacturing, trading, utility, and holding companies.

While there is room, no doubt, for much to be done to assist certain lines of business, and especially the smaller units in such lines, to improve their systems of accounting, perhaps the most pressing reason for clarifying, simplifying, and unifying accounting practices is to enable business, with as little friction or expense as is necessary, to comply with Federal and State laws where accounting is involved and to enable the Government with the utmost effectiveness to administer those laws,

The resolution referred to above authorized the investigation of accounting practices generally. Because of the limited staff and funds available for the inquiry, however, it became necessary to narrow its scope; and, because of the requirements of the Robinson-Patman Act and similar recently enacted State legislation, making distribution cost accounting of immediate interest and importance, the inquiry has been largely restricted to that field of accounting.

Price discrimination in interstate commerce may, under the Robinson-Patman Act, be justified by "differences in the cost of manufacture, sale, or delivery." In most of the Commission's cases under that act, where costs have been involved, they have been costs of sale or delivery, that is, distribution costs. More than a score of States have anti-discrimination laws patterned in greater or less degree after the Robinson-Patman Act and under most of these a discrimination may be justified also by differences in cost. Sales below cost are also forbidden by the laws of more than half the States.

In many of these statutes, both State and Federal, the costs referred to are not defined. It becomes, therefore, a matter of practical importance that a business concern should be able to find its manufacturing and distributing costs, not merely in total, but also, in many cases, by commodity and by groups of purchasers, with the highest practicable degree of accuracy.

A further limitation on the scope of the inquiry has been to confine the methods of distribution cost accounting to those relating to

the field of wholesaling (whether by the manufacturer or by any other wholesaler) as against retailing. This is a natural limitation inasmuch as there are considerable differences in detail of methods between the two fields even though their underlying principles are much the same. Moreover, the Federal Trade Commission, in the administration of Federal legislation, is less directly concerned with the field of retailing.

The sources of information for the inquiry have been principally: (1) Business concerns whose cooperation was requested specifically for the purposes of this investigation, and (2) the Commission's files accumulated in its administration of the Robinson-Patman Act, and in other investigations.

Respecting these two sources, the more important detailed information was obtained from the business firms which cooperated with the Commission for this purpose. It is important to note, however, that many firms, even among those of large size, have no really adequate distribution cost accounting system. Such system may be deemed adequate for some purposes, yet may fail to satisfy the requirements of the Robinson-Patman Act where justification of price differences by differences in costs is attempted. However, among the many companies approached on the matter, a substantial proportion had made considerable progress in developing a distribution cost accounting system. In very large measure, the Commission has had the cooperation of such companies in its inquiry.

The second source of case material for the inquiry included the records of Robinson-Patman cases where costs were submitted to the Commission in the respondents' attempts to justify differences in prices made to its customers. These records frequently contained material illustrative of accounting methods and procedures in the analysis of distribution costs which have been drawn upon, where possible.

The practical problems of cost accounting appear to arise chiefly in the allocation of "joint costs" where, as in distribution, two or more commodities, order-sizes, methods of sale or delivery, selling territories, etc., are involved. Certain marketing data, acquired continuously or by special studies, must be available, and sound methods of analysis must be followed. These data and methods will, to a greater or less extent, vary with the differing conditions under which a firm is operating.

Cost accounting for distribution is a much less developed field than that for production and in some of its aspects is more difficult, at least in practice. While in both fields there are commonly joint costs which require allocation by a process of analysis, the expenses of the distribution process are less highly standardized than those of pro-

duction, and the distribution costs, therefore, are often subject to greater variation than those of production. (See Clayton Act, section 2, as amended by the Robinson-Patman Act, p. 32.)

At the close of the fiscal year field work of the inquiry had been practically completed and the material gathered was being analyzed.

RESALE PRICE MAINTENANCE (1939)

The Commission's inquiry into resale price maintenance as authorized under a Commission resolution of April 25, 1939, has developed facts of particular public interest concerning (1) the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts and (2) the effects of the operation of such contracts upon consumer prices and upon the sales volume of commodities in both the price-maintained and nonprice-maintained categories. Among such commodities were foods, groceries, drugs, toiletries, tobacco, liquors, and hardware. This study had not been completed at the close of the fiscal year.

PART II. GENERAL LEGAL WORK

DESCRIPTION OF PROCEDURE

LEGAL INVESTIGATION

DISPOSITION OF CASES BY STIPULATION

COMPLAINTS

ORDERS TO CEASE AND DESIST

TYPES OF UNFAIR METHODS AND PRACTICES

CASES IN THE FEDERAL COURTS

TABULAR SUMMARY OF LEGAL WORK

PART II. GENERAL LEGAL WORK

DESCRIPTION OF PROCEDURE

(SEE CHART OPPOSITE THIS PAGE)

A case before the Federal Trade Commission may originate in any one of several ways. The most common origin is through complaint by a consumer, a competitor, or from public sources other than the Commission itself. However, the Commission may initiate an investigation to determine whether the laws administered by it are being violated. ¹

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

INFORMAL PROCEDURE

When an application for complaint is received, the Commission considers the essential jurisdictional elements. Frequently it is necessary to obtain additional data by further correspondence or by a preliminary field investigation before deciding whether to docket an application for complaint.

When an application for complaint has been docketed, it is assigned by the Chief Examiner to an attorney for investigation, in which the facts regarding the matter are developed. The attorney to whom the application is assigned interviews the party complained against and advises such party of the charges and requests the submission of such evidence as the party may care to submit in defense or in justification. In making such investigation, it is the policy of the Commission not to disclose the identity of the complainant. If necessary, competitors of the respondent are interviewed to determine the effect of the practice from a competitive standpoint. It is often desirable to interview consumers to assist in determining whether the practice alleged constitutes an unfair method of competition or an unfair or deceptive act or practice and also to establish the existence of the requisite public interest.

After developing the facts from all available sources, the examining attorney summarizes the evidence in a report, reviews the law

¹ For a brief statement of the provisions of these laws see p. 1. Full texts of the acts appear in the appendixes.

applicable thereto, and makes recommendations as to what action he believes the Commission should take.

The record is then reviewed by the Chief Examiner and, if found to be complete, is submitted, with a brief statement of facts, and conclusions and recommendations, to the Commission for its consideration.

If a published or broadcast advertisement coming under the observation of the Radio and Periodical Division appears to be misleading, it is investigated by that division and report and recommendation are made to the Commission under the procedure more fully explained on page 123.

The Chief Examiner or the Director of the Radio and Periodical Division may recommend: (1) That a case be closed without further action because of lack of evidence in support of the charge or for the reason that the practice does not violate any law over which the Commission has jurisdiction, (2) settlement of the application upon the signing by the respondent of a stipulation as to the facts and an agreement to cease and desist from the unlawful practices as set forth in the stipulation, or (3) issuance of formal complaint.

If, after consideration of the entire file, the Commission decides that formal complaint should issue, the case is referred to the Chief Counsel for preparation of the complaint and trial of the case. Or, if the Commission should permit stipulation, the case is referred to the Chief Trial Examiner or the Radio and Periodical Division for its negotiation and submission to the Commission for approval.

All proceedings prior to issuance of formal complaint or publication of a stipulation are confidential.

FORMAL PROCEDURE

Only after careful consideration of the facts developed by the investigation does the Commission issue a complaint. The complaint and the answer of respondent thereto and subsequent proceedings are a public record.

A complaint is issued in the name of the Commission acting in the public interest. It names a respondent, alleges a violation of law, and contains a statement of the charges. The party complaining to the Commission is not a party to the formal complaint issued by the Commission, nor does the complaint seek to adjust matters between parties; rather, the prime purpose of the proceedings to prevent, for the protection of the public, those unfair methods of competition and unfair or deceptive acts or practices forbidden by the Federal Trade Commission Act and those practices within the Commission's jurisdiction, which are prohibited by the Clayton Act

(as amended by the Robinson-Patman Act) and by the Export Trade Act.

The Commission's rules of practice provide that in case the respondent desires to contest the proceedings he shall, within 20 days from service of the complaint, file answer thereto admitting or denying each allegation thereof. They also specify a form of answer for use should the respondent decide to admit all the facts alleged .

Under these rules, "Failure of the respondent to file answer within the time * * * provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to the respondent, to proceed in regular course on the charges set forth in the complaint."

Where evidence is to be taken, either in a contested case or where the respondent has failed to file answer, the matter is set down for hearing before a member of the Commission's staff of trial examiners, who may sit anywhere in the United States, the Commission being represented by one of its staff of attorneys and the respondent having the privilege of appearing on his own behalf or by attorney. Hearings consume varying periods of time, depending upon the nature of the charge and the number and availability of the witnesses examined.

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

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

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

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

PROCEDURE SUBSEQUENT TO ISSUANCE OF A CEASE AND DESIST ORDER

Up to and including the issuance of an order to cease and desist, there is no difference in procedure whether the case is under the

Federal Trade Commission Act., as amended, or under the Clayton Act. Both acts embody procedure for their enforcement by the Commission and their provisions in this regard were substantially the same until the passage of the amendatory Wheeler-Lea Act. However, the provisions of this act worked substantial changes in the provisions of the Federal Trade Commission Act, applicable after the Commission has issued its order to cease and desist, but did not amend the corresponding provisions of the Clayton Act.

Under the Federal Trade Commission Act, as amended, an order to cease and desist becomes final 60 days after date of service thereof upon the respondent, unless within that period the respondent petitions the United States Circuit Court of Appeals to review the order. In case of such a review, the Commission's order becomes final after affirmance by the Circuit Court of Appeals or by the Supreme Court of the United States, if taken to that court. Violation of an order to cease and desist after the same shall have become final and while it is in effect subjects the offender to a civil penalty of not more than \$5,000 for each violation, recoverable by the United States.

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

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

SPECIAL PROVISIONS FOR PREVENTING DISSEMINATION OF FALSE ADVERTISEMENTS

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

Further, the dissemination of such a false advertisement, where the use of a commodity advertised may be injurious to health or where it is published with intent to defraud or mislead, constitutes a misdemeanor and conviction subjects the offender to a fine of not more than \$5,000, or imprisonment of not more than 6 months, or both. Succeeding convictions may result in a fine of not more than \$10,000, or imprisonment of not more than 1 year, or both.

LEGAL INVESTIGATION

INQUIRIES PRIOR TO FORMAL COMPLAINT OR STIPULATION

The legal investigational work of the Commission includes the investigation of applications for complaint preliminary to formal action for the correction of unfair methods of competition or other acts or practices violative of the laws administered by the Commission. This work is directed by the Chief Examiner and by the Director of the Radio and Periodical Division. (See Radio and Periodical Advertising, p.119.)

At the beginning of the fiscal year, July 1, 1939, there were pending for investigation in the legal investigation division 473 preliminary or undocketed cases. Eight hundred forty-two additional applications of this character were received during the year, making a total of 1,315 on hand, of which 866 were investigated. As a result, 288 of the investigated cases were docketed and transmitted to the Commission for action and 578 closed without docketing because of lack of jurisdiction or other deficiencies. This left 449 preliminary cases of this type pending for investigation at the end of the fiscal year, June 30, 1940.

Six hundred forty-four applications for complaint, which had been docketed without preliminary investigation, were pending for regular investigation by the legal investigation staff at the year's beginning. Subsequently, 825 additional cases of this type were received, making a total of 1,469 such cases docketed for investigation. Of these, 811 were investigated and transmitted to the Commission for action, leaving 658 cases of this character pending for investigation at the year's close.

During the year 842 further investigations included (1) inquiries into alleged violations of cease and desist orders and stipulations, (2) investigations for the Chief Counsel, and (3) others of a supplemental nature. At the end of the year 264 such matters awaited completion of investigation.

Thus, during the year, the Commission's legal investigation staff completed 2,519 investigations. It also disposed of 25,937 pieces of incoming and outgoing mail, requiring varying degrees of research and study.

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

This work is directed from the Commission's Washington central office and conducted through that office and five branch offices located respectively at 45 Broadway, New York; 433 West Van Buren Street Chicago; 548 Federal Office Building, San Francisco; 801 Federal Building, Seattle, and 321 Federal Office Building, New Orleans.

STOCK ACQUISITIONS, MERGERS, AND CONSOLIDATIONS

Section 7 of the Clayton Act declares unlawful the acquisition by one corporation engaged in commerce, of the capital stock of a competing corporation similarly engaged, or the acquisition by a holding company of the capital stock of two or more competing corporations, engaged also in commerce, where the effect in either case may be to Substantially lessen competition between the acquiring and acquired corporations, restrain commerce, or tend to create a monopoly of any line of commerce. The acquisition of capital stock of one or more competing corporations by an individual or unincorporated company is not prohibited by the statute even though the effect of such acquisition may be to substantially lessen competition, restrain commerce, or tend to create a monopoly. Nor does the statute prohibit the acquisition of assets, or preclude a corporation from acquiring the capital stock of a competing corporation solely for investment purposes.

The Supreme Court of the United States has held that section 7 of the Clayton Act does not forbid mergers made pursuant to State laws, or mergers effected directly by the shareholders, and further, that the statute confers no authority upon the Commission to order divestiture of physical assets, even though such assets are obtained as a result of an illegal acquisition of stock (291 U. S. 587, and 272 U.S. 554).

Pursuant to the authority vested in the Commission there were instituted during the year upon the Commission's own motion, 18 inquiries into acquisitions, mergers or consolidations involving corporations engaged in the manufacture and sale of conveying and elevating machinery, power transmission chains and sprockets, petroleum products, industrial chemicals, chemical railway signals, fuses and

torpedoes, plastics, compressed gases, power presses, machine tools, hardware, steel fabricated products, oil well equipment and supplies, rubber tires, decorative lighting products, sewing machine needles and supplies, baby foods and other products. The year had begun with 8 such inquiries pending concerning corporations manufacturing and selling storage batteries, building materials, glassware, oil well equipment and supplies, crude oil emulsion dehydration processes and equipment, refractories, and steel fabricated products. Of the total of 26 inquiries, 21 were disposed of and 5 were pending at the close of the year. Of the 21 preliminary matters considered and disposed of, 10 concerned only the acquisition or merger of assets and not of capital stock ; 1 was closed because the contemplated stock acquisition was not consummated ; 7 matters with respect to the acquisition of capital stock were closed because investigation failed to indicate violation of law ; and in 3 matters the acquisitions appeared to be violative of the statute.

Three complaints charging violation of section 7 of the Clayton Act were issued during the year against corporations manufacturing and selling, respectively, electric storage batteries, building materials, and oil well pumping equipment, and were pending at the close of the year. (See Complaints Charging Violation of Section 7 of the Clayton Act, p.46.) A complaint pending at the beginning of the year against a distilling corporation and another against a holding company engaged through subsidiaries in the manufacture and sale of hydraulic products, were dismissed. No orders of divestiture and sale issued, and no proceedings involving violation of the law were instituted in the courts, nor were any such proceedings pending before the courts at the close of the year.

CLAYTON ACT, SECTION 2, AS AMENDED BY THE ROBINSON-PATMAN ACT

The Commission has completed its fourth year of administering the Robinson-Patman Act. This statute, approved June 19, 1936, as an amendment to section 2 of the Clayton Act, restates in more inclusive form the basic principle of prohibiting price and related discriminations which injuriously affect competition.

The volume of investigational work has continued at approximately the level attained in the last previous fiscal year. During the year ending June 30, 1940, the Commission's legal investigation staff instituted field investigations of alleged violations of the amended section 2 in 164 cases and completed such investigations in 156 cases. This brought the total of inquiries initiated since the passage of the statute to 853, and the number completed to 634. The extent to which the administration of this statute has touched various fields of industry and commerce is indicated by the investigations completed or in prog-

ress at the close of the fiscal year, classified by commodities involved: Food products, 214; building materials, 83; manufacturers' supplies, 73; furniture and household equipment, 55; automobiles and automobile accessories, 38; clothing and accessories, 35; farm supplies, 34; petroleum products, 34 ; specialties, 31; toilet preparations, 30; pharmaceutical preparations, 26; tobacco products, 20; recreational and sporting goods, 17; school and office supplies, 13; hardware, 12; machinery, 11; publications, 11; general merchandise, 7; optical supplies, 7; medical and surgical equipment and supplies, 6; and coal, 4.

Experience has shown that a proceeding for unlawful price discrimination against one member of an industry frequently necessitates other investigations and sometimes other proceedings in the same industry. It has also been observed that the increasing numbers of Commission and court decisions on proceedings brought pursuant to the statute have served as useful signposts for others concerned with pricing and distribution questions. This has been reflected in the large number of requests for copies of the decisions as they become available.

The nature of the statute and the number of possible grounds for justification and other defenses available for price differences results in the necessity for expensive and time-consuming investigations in cases of alleged violation under this statute. This is sometimes due to the fact that a single investigation may involve from one to several hundred possible respondents. Where justification for price differences is claimed upon a basis of costs to the seller resulting from differing methods or quantities in which goods are sold or delivered, careful cost accounting studies are necessary.

Where cost studies are required every effort is made to coordinate the accounting work with the legal issues involved so that the results will be responsive to those issues, and also to avoid any excessive accounting expense to the Commission or to the proposed respondent. Although recognition of the need for distribution cost data is noticeably increasing among the business firms, such information is frequently not readily available from records of proposed respondents, and it is often difficult to relate such data as can be readily obtained to actual price differences which exist. Distribution cost accounting is by no means as advanced as manufacturing cost accounting, but the growing recognition of the need for this information, not only because of its use in connection with the Robinson-Patman Act but also because of its value in business management, is encouraging. (See *Accounting Methods and Practices*, p. 18.)

The policy of furnishing businessmen or their attorneys, who call at the Commission offices, with available information concerning decisions of the Commission or of the courts with respect to ap-

plicable portions of the act, has been continued in an effort to aid business concerns in their desire to comply with the provisions of the statute.

CLAYTON ACT, SECTION 3

The increase in the number of investigations and proceedings under section 3 of the Clayton Act which was referred to in the annual report for 1938-39 has continued during the fiscal year ended June 30, 1940. This section makes it unlawful to lease, sell, or contract to sell, fix a price, discount from or rebate upon a price on condition that the lessee or purchaser shall not use or deal in the commodities of a competitor of the lessor or seller where the effect may be substantially to lessen competition or create a monopoly in any line of commerce. (See Complaints Charging Violation of Section 3 of the Clayton Act, p.45.)

PRICE FIXING AND OTHER TRADE RESTRAINTS

Passage of the Federal Trade Commission Act in 1914 had as a fundamental purpose the establishment of an agency to detect and eliminate illegal trade restraints in their incipency before they developed into monopolies. The importance of this phase of the Commission's work is indicated by the presence on its calendar at the year's beginning of 166 cases of this type either awaiting investigation or being investigated. Ninety cases were instituted during the year, making a total of 256 restraint-of-trade cases for investigation. One hundred thirty-eight investigations were completed by the legal investigation staff and the files were forwarded to the Commission for its consideration and disposition, leaving 118 cases pending at the end of the year on the Commission's active investigational calendar.

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

The following general classifications of commodities involved are given to convey an idea of the widespread nature of the restraint-of-

trade investigations: Agricultural supplies; automotive equipment and supplies; beauty and barber supplies; beverages; bottle tops; burial vaults; clothing, cloth, notions, etc.; confectionery; construction materials and supplies; containers; dental equipment and appliances; fertilizer; food products; fuel; golf clubs and equipment; household wares, furnishings, and equipment; ice lumber and lumber products; machinery, tools, and equipment; metal and metal products; mineral fibers; office supplies and equipment; paint, varnish, etc.; paper and paper products; paving supplies; photographic supplies and optical goods; printing and engraving; publications; radios; razors and accessories; rubber and rubber products; silverware; technical instruments; textile fabrics; tobacco; vegetable fibers; vending machines; and vitrified products.

Federal, State and city governments or their agencies continue to be important sources of applications for complaint in cases involving the receipt of identical bids or other evidence of the existence of unlawful price fixing. Forty-five applications from these sources were before the Commission and its staff for investigation and disposition during the fiscal year ended June 30, 1940. These represented a decrease of 26 from the previous year, which was largely due to the Commission's activity against price-fixing combinations. The benefits resulting from this activity are well explained in a letter received by the Commission. It read, in part:

The present system of reporting suspected collusive bidding on municipal contracts and the subsequent examination of the facts by your Commission has resulted in the breaking up of many monopolistic and surreptitious practices in connection with city purchases and has saved the tax-payers thousands upon thousands of dollars annually.

Thirty-four restraint-of-trade investigations were initiated by the Commission on its own motion; a few applications for complaint came from miscellaneous sources, but the great majority continued to come from individuals or concerns whose business had been jeopardized by the alleged unfair and illegal practices against which they complained.

FIELD INVESTIGATIONS OF CASES INVOLVING FOOD, DRUGS, DEVICES, AND COSMETICS

Since enactment of the Wheeler-Lea amendment to the Federal Trade Commission Act, the Commission has completed 991 field investigations of alleged violations of section 12 which relates to false advertising of food, drugs, devices, and cosmetics. Of these, 442 were completed during the fiscal year ended June 30, 1940. This number included new cases as well as old cases reinvestigated to determine whether or not Commission cease and desist orders, and stipulations executed by advertisers and accepted by the Commission,

were being violated, and whether additional practices not previously prohibited were being carried on in contravention of the amended act.

The Commission had under investigation at the year's close a total of 417 applications for complaint respecting alleged false advertising of food, drugs, devices, and cosmetics. Of this number, 337 applications had to do with drug and cosmetic preparations and devices alleged to be injurious to the health of users.

DISPOSITION OF CASES BY STIPULATION

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

Under certain circumstances the Commission, instead of disposing of cases by formal complaint and trial, affords the respondent the privilege of disposition by signing a statement of fact and an agreement to discontinue the unfair practice.

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

In those classes of cases in which the Commission affords the respondent an opportunity to dispose of a matter by stipulation, that procedure accomplishes economically and expeditiously the cessation of the unlawful practice. It is a simplified procedure and saves both the Government and the respondent the expense incident to trial of a complaint.

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

Where signed stipulations are approved and accepted by the Commission, the public interest is deemed satisfied without issuance of formal complaint. These stipulations are not permitted in cases where a fraudulent business is concerned, where a legitimate business is conducted in a fraudulent manner, or where the circumstances are such that there is reason to believe that an agreement entered into with the concern involved will not be kept; neither are they permitted where there is violation of section 14 of the Federal Trade Commis-

sion Act involving false advertisement of dangerous food, drugs, curative devices, or cosmetics, or where violation of the Clayton Act, or the criminal sections of the Sherman Act, or of any other Statute, is believed to have occurred. The Commission reserves the right in all cases, for any reasons which it regards as sufficient, to refuse to extend the privilege of stipulation.

All stipulations are for the public record.

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

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

A total of 575 stipulations in which various individuals, firms, and corporations agreed to cease and desist from unlawful practices were approved by the Commission during the fiscal year ended June 30, 1940. These included 385 general cases and 190 cases specially limited to misleading advertising matter more fully described on page 122.

Since the enactment of the Wheeler-Lea amendment to the Federal Trade Commission Act, the Commission has negotiated and accepted 448 stipulations executed by manufacturers and distributors of food (92 cases), drugs (187 cases), devices (45 cases), and cosmetics (124 cases), under the terms of which the parties agreed to discontinue using various claims and representations in promoting their products, which claims and representations the Commission had found to be false and misleading. Of the total, 196 stipulations were negotiated and accepted during the last fiscal year, representing food (47 cases), drugs (91 cases), devices (21 cases), and cosmetics (37 cases).

COMPLAINTS

ALLEGED VIOLATIONS OF FEDERAL TRADE COMMISSION ACT, AND OF CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT

During the fiscal year ended June 30, 1940, the Commission issued 331 complaints charging violation of the acts it administers, as follows:

	<i>Complaints</i>
Federal Trade Commission Act	306
Clayton Act, sec. 2 as amended	19
Clayton Act, sec. 3	3
Clayton Act, sec. 7	3
Total	331

Complaints alleging violation of the Federal Trade Commission Act also charged contravention of the Clayton Act, section 2, in three cases ; section 3, in one case, and both sections 2 and 3, in one case.

Since enactment of the Wheeler-Lea amendment to the Federal Trade Commission Act, the Commission has issued and served 221 formal complaints alleging unfair and deceptive acts, practices, and methods of competition through dissemination of false advertisements of food (20 cases), drugs (117 cases), devices (24 cases), and cosmetics (60 cases). During the last fiscal year, 92 complaints were issued concerning food (6 cases), drugs (57 cases), devices (10 cases), and cosmetics (19 cases).

I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT²

(Complaints which also involve section 2 or section 3 of the Clayton Act are discussed under those headings on pp.43 amid 45, respectively)

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

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

I. ALLEGED COMBINATIONS TO FIX AND MAINTAIN PRICES

Twenty-five complaints were issued charging combination and conspiracy in restraint of trade, usually among members of certain industries, to fix minimum prices at which their products were to be sold or to fix uniform prices and discounts among members. Several of the se complaints alleged that the agents for establishing and making the combinations effective were trade associations. A brief description of the complaints follows:

Plate glass manufacturers and associates.--The complaint, charging unfair methods and practices restraining competition in the sale of glass in the Indianapolis trade area, was against 15 respondents, including glass corporations, executives, labor unions, and officials. (For further details see Orders to Cease and Desist, p.66.) (3858.)

Wholesalers of glassware.--Twelve corporations and individuals in Wisconsin, Ohio, West Virginia, and Indiana, were charged with a combination to suppress competition in glassware through an understanding and agreement to cut off the source of supply of at least one competing jobber, and other unlawful practices. (3861.)

Association of manufacturers of vitrified clay sewer pipe.--Combination and conspiracy to suppress competition in the sale of vitrified clay sewer pipe and to maintain identical delivered prices, including refusal to quote Government purchasing agencies on f. o. b.

² For text of Federal Trade Commission Act, see Appendixes, p. 155.

mill basis, was charged against manufacturers of such product, and their officials, members of an association controlling the output of the product in the territory east of the Mississippi and south of the Ohio and Potomac rivers. (For further details see Orders to Cease and Desist, p.65.) (3868.)

Association of members of the transparent materials converting industry and nine members.--A trade association and 9 member manufacturers, controlling more than 90 percent of the country's output of transparent cellulose sheeting products, were charged with a combination and conspiracy to fix and maintain uniform prices. (3897.)

Jewish kosher delicatessen dealers association and suppliers.--An association of Jewish kosher delicatessen dealers and its members, together with three suppliers of products dealt in by them, were charged with combination and conspiracy to restrain competition in kosher food products, with the result of enhancing prices to the consuming public. (3908.)

Association of retail coal dealers and producers and wholesalers of coal.--This complaint alleges an agreement between an association of retail coal merchants and a number of producing companies and their wholesalers to fix uniform prices for the sale of coal at retail. The producers and their wholesalers agreed that they would not sell to dealers unless they were members of the local association or observed the prices fixed by the association. The respondent retailers were charged with threatening to boycott, and boycotting, the producers and wholesalers who would not adhere to the price-fixing policies of the dealers' association. (3911.)

An association of bean shippers, and others.--The complaint charges a bean shippers' association, its officers, directors, and members, with having combined and conspired to eliminate and suppress competition in the purchase and sale of beans in interstate commerce. The membership is comprised of 9 jobbers and some 150 operators of country elevators in Michigan. These jobbers and elevator men handle more than 80 percent of the beans grown in that State, and the State produces some 80 percent of the total crop of white pea beans (commonly known as navy beans) entering into commerce in the United States. (For further details see Orders to Cease and Desist, p.66.) (3937.)

Association of ice manufacturers, its officers and members.--An agreement and combination to fix and maintain uniform minimum prices for ice and to suppress and eliminate competition, and the unfair disparagement of the product of certain competitors, were charged against an association of ice manufacturers, its officers and members. (3946.)

I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT 39

Association of producers and distributors of compressed air machinery and pneumatic tools.--An unincorporated association and its members were charged with entering into a combination, having the effect of restricting and monopolizing trade, and eliminating competition in the sale and distribution of compressed air machinery and pneumatic tools. (3958.)

Informal association of manufacturers of lower priced automobile storage batteries.--Five manufacturers of lower priced automobile storage batteries in the northern and eastern part of the United States were charged with an agreement, combination, understanding and conspiracy to fix and maintain minimum prices and uniform discounts, terms and conditions of sale, and to allocate territory and customers. (3978.)

Association of dealers in builders' supplies.--A builders' supply association, its members and others, including manufacturers, were charged with a combination and conspiracy in restraint of trade to fix and maintain uniform delivered prices in the Rochester, N. Y., area. It was alleged that pursuant to their agreement and combination the respondent manufacturers and dealers, in cooperation with each other and their association and its officers, by coercion, fixed and maintained uniform delivered prices to consumers, maintained minimum prices at which building materials were sold by the respondent jobbers, dealers and contractors, interfered with or prevented competitors of the dealers from obtaining building supplies, and established and maintained uniform terms, discounts, and conditions of sale; with the effect of creating monopoly, suppressing competition and enhancing prices to the public. (4034.)

Association of paper drinking cup and paper food container manufacturers and others.--An association of paper drinking cup and paper food container manufacturers, its officers and members and others, were charged with agreements and understandings for suppression of price competition in the sale of those and related products by fixing and maintaining uniform prices. (4036.)

Purchasers of foreign type cheese at wholesale.--The complaint in this case charges that six corporations purchasing for resale approximately 75 percent of the foreign type cheese produced in Wisconsin entered into a combination and conspiracy to control the prices and monopolize the supply of these products. It is further alleged that the acts and practices of this combination have had the tendency and effect to bring about the control of prices at which foreign type cheese is sold in the United States, and the monopolization of the entire supply of foreign type cheese in the Monroe, Wis., area. (4071.)

Cotton ginner, compressors, warehousemen and others.--A cotton compress and warehouse company and a number of ginning companies, were charged with a combination and conspiracy to restrain competition and create a monopoly in the compressing and storing of cotton, and in the sale of burlap bagging and steel band used in compressing cotton. (4090.)

Wholesale liquor distributors' association and others.--An association of wholesale liquor distributors, and others engaged in the liquor business, were charged with conspiring to suppress competition in the wholesale liquor trade in the "Northern California Territory" by preventing cooperative buying associations and others classified by them as "irregular" distributors from obtaining supplies. (4093.)

Monopoly of trade in dates.--Several concerns, some English and some American, and their agents, were charged with having combined and conspired to gain a monopoly in dates. It is alleged that a large share of the dates consumed in the United States are imported from the country of Iraq ; that government entered into an agreement with a London concern whereby it was given the exclusive right to dispose of the entire crop of dates grown in Iraq ; that the London concern entered into an understanding with two British firms, and an American corporation, whereby these three organizations agreed to dispose of specified quantities of dates in the United States and Canada in return for exclusive rights in those two countries. The other concerns named in the complaint allegedly cooperated in carrying out the plan. (4105.)

Association of confectioners, its officers and members.--A complaint issued against a western association of confectioners and its members alleged a combination to restrain price competition and to establish uniform prices. The complaint charged that the respondents sought to accomplish their purposes by adoption of a minimum price, adopting arbitrary figures as cost figures, arbitrary classification of various dealers, uniform discounts, uniform price lists, advance notices of price changes, and threats of prosecution under the California "Fair Trade Act." (4132.)

Association of fur coat pattern style designers.--A complaint was issued against a designers' league or association and 10 New York producers, members of the league and the dominant factor in the fur coat pattern trade, alleging a price-fixing conspiracy in the fur coat pattern business. (4136.)

Association of manufacturers of chemicals, fertilizers, insecticides, fungicides, and related items, its members, and others.--An unlawful price-fixing conspiracy in the sale of chemicals, fertilizers, insecticides, fungicides, and related items was charged against an association of

I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT 41

manufacturers of such products, its members, and others. Activities included the use of "White Lists" or "Distributor Guides" containing names of dealers to whom to sell on a wholesale basis, to the exclusion of other dealers, and the maintenance of an open price filing system. (4145.)

National association and State and local associations of retail liquor package dealers.--A national association of retail liquor package stores, its officers and members, comprised of state associations, in turn comprised of local associations, were charged with fixing prices for the sale of packaged liquor, with compelling distillers, importers, and wholesalers to sell only by means of "Fair Trade" contracts and with fixing the differentials to be provided for in such contracts. The alleged coercive methods used against distillers, importers, and wholesalers included boycott and threats of boycott. (4108.)

Manufactures of rubber erasers.--A combination and agreement to fix and maintain prices, terms, and bids in connection with the sale of rubber erasers was charged against six corporations constituting practically all of the manufacturers of such products in the United States. (4170.)

Bakery products dealers and labor unions.--Four separate complaints were issued against four groups of dealers in bakery products, charging them with combining to restrain competition. In each case a local labor union was charged with being a part of the combination and with using intimidation and force in assisting in the accomplishment of the purposes. The means used were allegedly to prevent peddlers and so-called "independent routemen" from obtaining supplies for resale.

The four groups named in the complaints were eight dealers and a labor union in the Sioux City, Iowa, area; six dealers and a labor union in the Des Moines, Iowa, area; eight bakery companies and a labor union in the Omaha, Nebr., and Council Bluffs, Iowa, area; and nineteen bakery companies and a labor union in the Minneapolis area. (3900, 3999, 4139, 4140.)

B. ALLEGED FALSE ADVERTISING AND MISREPRESENTATION

A total of 220 complaints issued during the fiscal year ended June 30, 1940, charged false and misleading representations in advertisements and labels, and otherwise. They may be classified broadly as follows:

Fifty-three complaints alleged false and misleading representations as to the therapeutic value of various medicinal and food preparations and devices ; 45 alleged misrepresentations as to the potency,

performance, or results to be obtained by the use of various products ; 28 charged misrepresentation as to composition, quality, ingredients, construction, or condition, including alleged misrepresentation of old products for new; 17 alleged passing off of products as possessing quality or qualities they did not have or as being made of material of a different character from that of which they actually were composed, the latter classification embracing principally leather goods or furs; 7 complaints alleged misbranding of pocket knives to indicate they were standard Boy Scout equipment; 13 alleged passing off of domestic products as imported or of imported products as domestic, and three complaints charged misrepresentation of correspondence schools or home-study courses.

Fifteen complaints alleged misrepresentation as to business status such as business connections, and size and extent of plant or business. This category also included the representation by distributors that they were producers. Eleven complaints alleged use of fictitious price markings, including in some instances also alleged misrepresentation as to the character of the product. Other complaints alleged appropriation or simulation of the trade name of a competitor or of a well-known manufacturer, disparagement of a competitor's product, or misrepresentation of the advertiser's as compared with competing products; misrepresentation of financial returns to agents or to purchasers; misrepresentation of methods of doing business, involving prices, terms and conditions, ingredients used, and quality of work; misrepresentation of the value of products and coupons, of the terms under which coupons are redeemed, and with respect to prize contests; misleading practices in the issuance of guarantees and seals of approval, and publication of exaggerated claims for products advertised; false representation that a patent was pending, and misleading use of the name "Junior League."

C. MISCELLANEOUS COMPLAINTS

Alleged lotteries or gift enterprises.--More than 50 complaints charged manufacturers and dealers in candy, novelty merchandise, cigars, peanuts, food products, pipes, clothing, furs and fur garments, liquor chests, radios, silverware, and kitchen utensils, with using schemes involving an element of chance or lottery in the sale of such products to the ultimate consumer; or with furnishing to dealers the means with which to conduct such enterprises. Novelty merchandise and confections constituted the principal commodities involved.

Alleged commercial bribery.--Unlawful payment of fees to certain officials and employees of their customers so as to induce the purchase

by such customers, through such officials or employees, of the respondents' products, was charged in a complaint issued against a corporation and its president and sales manager, manufacturing paints, varnishes, stains, thinners, sealers and other wood-finishing products. (For further details see Orders to Cease and Desist, p.67.) (4048.)

Alleged monopolistic practices.--A manufacturer of piston rings and other replacement parts for motor vehicles, was charged with practices having a tendency to create monopoly, and unreasonably restrain manufacturers of competitive products in disposing of their merchandise to jobbers and wholesale distributors. These practices, allegedly intended to lure away the distributors of competitors, included offering to buy up stocks of competing products or give credit for them in exchange for the products of the respondent, offering to lend money and to guarantee increases in profits to dealers, and disparagement of the products of competitors. (4030.)

Alleged misleading practices in the issuance of guaranties and seals of approval and publication of exaggerated claims for products advertised.--Complaint was issued against a magazine publisher alleging, among other things, that the respondent represented that its shopping service was a "free" service, when in fact the magazine received substantial commissions for the service from the sellers ; that the respondent guaranteed generally all products advertised in the pages of its magazine when the guarantee provided only a "money-back" special guarantee ; that the magazine had a number of so-called seals of approval which it authorized advertisers to use, both in its own amid other publications, and that, because of similarity of text and the appearance of the name of the magazine in all of them, the public was confused and misled into the belief that all such seals indicated the products had been scientifically tested and approved by the magazine. In truth, it was charged, some of the seals were for use, and were used, in connection with the advertisement of products which had not been tested and approved. Further, it was alleged that use of these seals and of statements made and authorized by the magazine, had a capacity and tendency to lead the public to believe that the magazine accepted only truthful advertising, when in fact it had accepted advertisements that were false and misleading. (3872.)

II. COMPLAINTS UNDER THE CLAYTON ACT³

ALLEGED VIOLATION OF SECTION 2 (A) OF CLAYTON ACT AS AMENDED BY

ROBINSON-PATMAN ACT

For the purpose of brevity, the following summaries do not mention that each complaint contains allegations concerning a necessary ele-

³ For text of Clay ton Act, see Appendixes, p.163.

ment in all price-discrimination cases, namely, the effects of the practices charged which “may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them.”

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

Spark plugs.--Two corporations, which together manufacture about 90 per cent of the spark plugs sold in the United States for all uses, were charged in separate complaints with discriminating in price in the sale of such products. Each corporation was also charged with violating section 5 of the Federal Trade Commission Act by engaging in unfair methods of competition in compelling its distributors to maintain prices fixed for retail and by entering into agreements with wholesalers, the effect of which has been to persuade and compel many of such wholesalers to refuse to sell the products of the respondents' competitors. One of the respondent corporations was also charged with violating section 3 of the Clayton Act by inserting exclusive dealing conditions in its contracts with distributors. (3886 and 3977.)

Bakers' yeast.--Supplementary to complaints heretofore issued charging the largest manufacturers of bakers' yeast with discriminations in price in the sale thereof, the Commission similarly charged two of the smaller corporations engaged in the manufacture of such yeast. (3903 and 3926.)

Cigarette manufacturers.--Practically all members of the industry were charged in separate complaints with having discriminated in price in the sale of their cigarettes and other tobacco products largely through the use of methods of sale and distribution whereby some favored customers obtained additional quantities of goods for which no charge was made, thereby reducing the price paid for the goods purchased. Several of the manufacturers were also charged with the payment of substantial sums of money to chain stores for window and counter displays, which compensation was not made available to competing customers. The complaints further alleged that some customers were granted 60 days or more within which to pay for goods purchased, whereas competing customers were required to pay within 10 days to obtain the same cash discounts. Some of the complaints contained a charge that the cigarette manufacturer paid vending-machine operators a certain compensation for including such manufacturer's cigarette in the machines. (3912, 3913, 3914, 3915, 3919, 3921, 3922, 3927.)

Paint.--One of the largest manufacturers and distributors of paint, and its wholly-owned subsidiary corporations, were charged with discriminations in price in various ways ; among others, by the discriminatory use of discounts allegedly granted through classifying buyers selling to consumers as wholesalers or distributors in some instances and as retailers in other instances, and the combining of orders to obtain quantity discounts. (3965.)

Crayon manufacturers.--Two of the largest manufacturers and distributors of crayons, chalk, and allied products were charged in separate complaints with having directly discriminated in price between their customers purchasing such products and with having indirectly discriminated by compensating some customers for services connected with the resale of such products and not making available on proportionally equal terms such compensation to other customers competing with those so favored. (4142 and 4143.)

Bread company.--One of the large nation-wide manufacturers and distributors of bakery products was charged with violation of the Robinson-Patman Act through discriminating in price and with violation of the Federal Trade Commission Act through use of various oppressive, monopolistic, and deceptive acts and practices, including setting prices and stating or implying that reprisals in the form of price cutting would follow deviation from such prices by any competing manufacturer ; promotion of the sale of its bread by retailers through lottery devices ; secretly giving away to some retail-store operators certain free goods to the detriment of competing bakers, and giving to some of its retail customers, free of charge, valuable facilities such as bread racks and trays, thereby preventing competitors from having their bread adequately displayed for resale. (4149.)

**ALLEGED VIOLATION OF SECTION 2 (c) OF THE CLAYTON ACT. AS AMENDED
BY THE ROBINSON-PATMAN ACT**

Department-store chain.--A number of department stores operating under substantially the same name in many cities and towns of North Carolina, South Carolina, and Virginia were charged with having received brokerage fees and commissions, or allowances in lieu thereof, on purchases of merchandise. Orders allegedly were placed by a common director having office in New York, who was employed as a vice president to act in the capacity of purchasing agent. (3955.)

ALLEGED VIOLATIONS OF SECTION 3 OF THE CLAYTON ACT

Spark plugs and oil filters.--See Complaints Charging Violation of Section 2, etc., Spark Plugs, p.44. (3886 and 3977.)

Fire-fighting equipment, parts and supplies.--A manufacturer of fire-fighting equipment was charged, among other things, with entering into license agreements with other corporations, such agreements con-

taining provisions whereby the licensee corporations were to purchase from the respondent licensor all the parts, apparatus, and equipment necessary for the manufacture, sale, and installation by them of carbon-dioxide fire-extinguishing systems and carbon-dioxide portable fire extinguishers. Violation of section 5 of the Federal Trade Commission Act was also alleged. (For further details, see Orders to Cease and Desist, p.64. (3929.)

Tubular rivets.--Three manufacturers of rivet-setting machines and tubular rivets for use therein were charged with leasing and licensing their rivet-setting machines to customers on the condition agreement, or understanding that the lessees or licensees thereof would not use the machines for setting tubular rivets other than those manufactured by the respondent. (4110, 4111, 4113.)

In addition to the complaints listed above, which were filed during the fiscal year ended June 30, 1940, there were pending, and in the process of trial, similar representative complaints against three wire and steel strap-tying machine manufacturers; an automobile parts and accessories manufacturer; a miner and distributor of pyrophyllite, which is an aluminum silicate used in the manufacture of earthenware; a manufacturer of bowling alley equipment a manufacturer of corn products, and a manufacturer of frozen confections.

ALLEGED VIOLATIONS OF SECTION 7 OF THE CLAYTON ACT⁵

Automobile storage batteries.--electric storage-battery company and its subsidiary were charged with unlawful acquisition of the capital stock of a competitor. (3892.)

Cane-fiber board.--One of the country's largest manufacturers of structural insulation and acoustical material (the only manufacturer of such material horn cane fiber with factories located in the United States proper was charged with acquisition of the capital stock of competitor. (3927.)

Oil-well equipment.--A manufacturer of oil-well equipment was charged with unlawful acquisition of the capital stock of competing corporations. (4172.)

ORDERS TO CEASE AND DESIST⁶

UNFAIR TRADE PRACTICES PROHIBITED IN 282 CASES

The Commission issued 282 orders to cease and desist from the use of unfair methods of competition and other violations of law during

⁵ See Stock Acquisitions, Mergers, and Consolidations, p.30.

⁶ Under sec. 12 of the Federal Trade Commission Act, as amended by the Wheeler-Lea Act, a total of 204 orders to cease and desist have been entered (since the effective date of the act is amended , preventing dissemination of false advertisements of food (31 cases) , drugs (108 cases), devices (19 cases). and cosmetics (40 cases). Of the total, 11.5 orders were entered during the last fiscal year representing food (16 cases) , drugs (65 cases) , devices (7 cases), and cosmetics (27 cases).

the fiscal year ended June 30, 1940. One of the 282 orders was rescinded, leaving a net total of 281.

The following list of respondents who were served With orders to cease and desist contains 280 names, due to the rescission of the one order and to the fact that 2 of the orders had been directed against the same respondent and related to substantially the same subject matter, this respondent's name consequently appearing but once.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Adele, Mme., and others Misrepresenting results effected: cosmetics.	San Francisco.
Affiliated Products, Inc Misrepresenting results effected: cosmetics.	Jersey City, N. J.
Alviola Products Misrepresenting results effected preparation for tightening dentures.	Los Angeles.
Alle-Rhume Remedy Co., Inc., and others Misrepresenting therapeutic value: medicinal preparations.	Jersey City, N. J.
American Clinical Laboratories, Inc., and others Misrepresenting results effected and failing to disclose harmful potentialities: flesh-reducing compound.	Flushing, N. Y.
American Distributors, Inc., and others Misrepresenting therapeutic value : medicinal preparations	Linton, Ind.
American Memorial Co Distributor claiming to be manufacturer; advertising as gifts or premiums articles whose cost is included in the price charged for other purchases: granite and marble monuments.	Atlanta.
American Oil Co., and others Price discrimination: gasoline.	Baltimore.
American Products Co., and others Misrepresenting financial returns to agents : food products and cosmetics.	Cincinnati.
American Veneer Package Association, Inc., and others Combining in restraint of trade : wooden containers for fruits and vegetables.	Washington, D. C.
America's Medicine, amid others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Chicago.
Anesthetic Laboratories, Inc Passing off a commercial enterprise as a guild operating without profit for the benefit of the dental and medical professions : anesthetics.	Do.
Anheuser-Busch, Inc Price Discrimination: bakers' yeast.	St. Louis.
Anthony Co., C. R., and others Price discrimination : wearing apparel.	Oklahoma City.
Antisepto Products Co., and others Misrepresenting therapeutic value and falling to disclose harmful potentialities: medicinal preparations.	Chicago.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Arvil Co Misrepresenting results effected and failing to disclose harmful potentialities : hair dyes.	Chicago.
Association of American Arts, Inc., and others Passing off tinted enlargements of photographs as paintings; misrepresenting prices and conditions of sale: picture frames and tinted enlargements of photographs.	Boston.
Aurine Co., Inc Misrepresenting results effected : oil for use in the ears.	Chicago.
Averbach Go., Inc., and others Distributor claiming to be manufacturer; misrepresenting quality of merchandise and financial returns to agents: food products, cosmetics, and novelty merchandise.	St. Paul.
B & T Floor Co Misrepresenting chromium content; distributor claiming to be manufacturer: metal trimmings.	Columbus, Ohio.
B & T Sales Co Misrepresenting therapeutic value: medicinal preparations.	Indianapolis.
Bauer & Black Misrepresenting results effected : cosmetics.	Chicago.
Belmont Sales Co., and others Lottery : novelty merchandise.	Do.
Benson Specialty Co. Misrepresenting prices, quality, construction, and durability and falsely claiming products have been approved by an underwriters' laboratory: fountain pens, jewelry, and electrical appliances.	Minneapolis.
Bergman, Henry Misrepresenting prices, value of merchandise, and results effected : books, divining rods, and fortune telling crystals.	Springfield, Mo.
Berkeley Studios International Press Service, Inc., and others Falsely claiming to be affiliated with press agencies : photographs.	Boston.
Beruardi, G. Misrepresenting therapeutic value: medicinal preparations.	Cleveland.
Brunswick Worsted Mills, Inc., and others Misrepresenting wool content : fabrics.	Moosup, Conn.
Buford & Owens College, and others Misrepresenting results effected: hair restorer and shampoo.	Oklahoma City.
Canepa Co., John B. Unwarranted disparagement of competing products: macaroni and spaghetti.	Chicago.
Capital City Candy Co. Lottery: candy.	Atlanta.

LIST OF RESPONDENTS

<i>Responded</i>	<i>Location</i>
Cardinal Company, and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	St. Louis.
Casa Blanca Cigar Co., and others Passing off cigars not hand-made or composed of Cuban tobacco, as hand-made, Havana cigars: cigars.	York, Pa.
Chanel, Inc. Passing of domestic products as imported products: cosmetics.	New York.
Chapman Health Products Co., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Cleveland.
Chenille Corporation of America Passing off machine-made products as hand-made products: rugs.	Chicago.
Christopher Candy Co. Lottery: candy.	Los Angeles.
Civilian Preparatory Service, Inc. Misrepresenting availability of positions and relation to Federal Government: correspondence school (civil service).	Huntington, W. Va.
Clearwater, H. P. Misrepresenting therapeutic value: medicinal preparations.	Hallowell, Me.
Commonwealth Publishing Co Distributor claiming to be publisher and printer; misrepresenting financial returns to agents; representing that products have been approved by state and government officials, and that their use is a requirement in making tax returns: accounting systems for income tax.	Chicago.
Consolidated Candy Co., Inc., and others Lottery: candy.	Dallas.
Consolidated Pinnacle Coal Co., and others Passing off respondent's products as a superior product handled by competitors: coal.	Denver.
Consolidated Silver Co. Of America Misrepresenting value of premiums and terms under which coupons are redeemed; falsely claiming affiliation with favorably known business firms: silverware distributed as premiums in connection with a sales-promotion plan.	Detroit.
Coty, In., and others Passing off domestic products as imported products: cosmetics.	Wilmington, Del.
Crete Mills Misrepresenting results effected: poultry feed.	Crete, Nebr.
Crown Distributing Co., and others Lottery: novelty merchandise.	Los Angeles.
Cuban Health Products, Inc. Misrepresenting therapeutic value: honey.	Lansing, Mich.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Curl-O-Wave Co Misrepresenting results effected and failing to disclose harmful potentialities: cosmetics.	Chicago.
Curtice Brothers Co Price discrimination: food products.	Rochester, N. Y.
Danson Laboratories, and others Misrepresenting therapeutic value: treatments for alcoholism.	Chicago.
Darling & Co., Inc Buying raw materials at enhanced prices unwarranted by trade conditions: hides and fertilizers.	Do.
Dearborn Sales Co Lottery: novelty merchandise.	Do.
Dearborn Supply Co Misrepresenting results effected: cosmetics.	Do.
Dewberry Engraving Co., and others Unwarranted disparagement of methods used by competitors: photo-engravings.	Birmingham, Ala.
Diamond Knitting Mills Inc Misrepresenting silk content: knitted wearing apparel.	Philadelphia.
Diesel Power-United Engineering Schools, and others Misrepresenting instruction, availability of positions, and prospective earnings of students: correspondence school (diesel engines, air conditioning, and refrigeration).	San Francisco.
Diesel Engineers, Associated Misrepresenting instruction, availability of positions, and prospective earnings of students; passing off a school as an association of engineers: correspondence school (diesel engines and air conditioning).	Los Angeles.
Dixon Crucible Co., Joseph, and others Combining in restraint of trade: pencils.	Jersey City, N.J.
Economy Men's Hat Co., Inc., and others Passing off reconditioned merchandise as new merchandise: hats.	New York.
Ehrhart Conrad Co Lottery by means of sales-promotion plan: food products.	Hanover, Pa.
Eileen-Joy Fashions, Inc., and others Misrepresenting silk content: wearing apparel.	New York.
Erwin Feather Quilt Co Quoting regular prices as reduced prices: bedding and draperies.	Columbus, Ohio.
Esquire Products Lottery: novelty merchandise.	Chicago.
Establishments Rigaud, Inc., and others Passing off domestic products as imported products: cosmetics.	New York.
Evans Candy Co Lottery: candy.	Atlanta.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Excelsior Hat Works Passing off reconditioned merchandise as new merchandise: hats.	Jersey City, N. J.
Fairbanks Tailoring Co Misrepresenting wool content; misrepresenting financial returns to agents: wearing apparel.	Chicago.
Fairfield Engineering Co Misrepresenting performance: coal feeding mechanisms.	Marion, Ohio.
Fascination Candy Co Lottery: candy.	Chicago.
Federal Organization, Inc., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities : medicinal and hygienic preparations and appliances.	Brooklyn, N. Y.
Felloin Publishing Co Misrepresenting circulation to induce purchase of advertising space: magazines	San Francisco.
Ferrell, Jean, Inc Misrepresenting therapeutic value and failing to disclose harmful potentialities : dehydrated food products.	Chicago.
Floracube Co., Inc Misrepresenting therapeutic value: medicinal preparations.	Los Angeles.
Ford Motor Co., and others Misrepresenting Interest rates: financing plans for the purchase of automobiles.	Dearborn, Mich.
Forson Laboratories, Inc Misrepresenting therapeutic value: medicinal preparations.	New York.
Fruit & Produce Exchange, and others Price discrimination : food products.	Memphis.
Frye Co Misrepresenting therapeutic value: medicinal preparations.	Watertown, Mass.
Gair Manufacturing Co Lottery : novelty merchandise.	Chicago.
Gardner Remedies, Inc Misrepresenting therapeutic value: medicinal preparations.	Seattle.
General American Sales Corporation, and others Lottery : novelty merchandise.	Chicago.
General Distilleries Corporation Rectifier, blender ammo] bottler claiming to be distiller: spirituous beverages.	Hartford, Conn.
General Motors Corporation, and others Misrepresenting interest rates : financing plans for the purchase of automobiles.	Detroit.
Gimmibel Brothers, Inc., and others Misrepresenting wool content: fabrics.	New York.
Globe Rummage Mart Misrepresenting quality and condition of merchandise: reconditioned wearing apparel.	Chicago.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Gold Medal Farms, Inc., and others Coercing farmer producers Into Joining a cooperative association organized by respondents rather. than a cooperative bargaining agency created under the provisions of the New York State law : milk.	New York.
Gravitonic Life Ray Corporation, Inc., and others Misrepresenting therapeutic value : electric table for diagnosis and treatment.	Hollywood, Calif.
Great Britain Spiritualist Church, and others Distributor claiming to be manufacturer; quoting enhanced prices as regular prices and passing off domestic products as imported products : cosmetics, soap, horoscopes, etc.	Detroit.
Great Buckeye Candies, Inc Lottery : candy.	Akron.
Grey The Fur Designer, John, Inc Passing off domestic products as imported products; passing off designs of domestic origin as the work of certain well-known foreign designers : patterns for fur garments.	New York.
Grove Laboratories Inc Misrepresenting therapeutic value : medicinal preparations.	St. Louis.
Harmony Centre Misrepresenting results effected; unwarranted disparagement of competing products : books outlining a treatment for cancer and disparaging certain medicines and aluminum cooking utensils.	New York.
Hart, Schaffner & Marx, and others Misrepresenting silk content : wearing apparel.	Chicago.
Heddon's Sons, James Falsely representing that tests made by employees were made by disinterested experts; misrepresenting construction of competing products : steel fishing rods.	Dowagiac, Mich.
Helfier & Jackson Misrepresenting results effected and falling to disclose harmful potentialities : hair dyes.	Brooklyn, N. Y.
Herron, Charles V., and others Price discrimination : food products.	Evansville, Ind.
Hoffman Candy Co., E. A Lottery : candy.	Los Angeles.
Hydrosal Co Misrepresenting therapeutic value : medicinal preparations and ointments.	Cincinnati.
Hygienic Corporation of America, and others Misrepresenting therapeutic value and falsely representing products have been approved by health authorities: hygienic preparations and appliances.	Los Angeles.
Indian River Medicine Co Misrepresenting therapeutic value: medicinal preparations.	La Follette, Tenn.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Inland Sales Corporation Lottery : novelty merchandise.	Chicago.
International University of Commerce, and others Passing off a business school as a university; misrepresenting instruction, availability of positions, and financial returns to agents: correspondence school (accountancy, commercial law, and business administration).	Do.
Interstate Premium Novelty Co Lottery : novelty merchandise.	Brooklyn, N. Y.
Jelke Co., John F., Inc Unwarranted disparagement of competing products: oleomargarine.	Chicago.
Johns-Manville Corporation, and others Misrepresenting mineral content: building insulation.	New York.
Johnson & Johnson, and others Combining in restraint of trade : surgical supplies.	New Brunswick, N. J.
Johnson Co., Howard D Passing off factory-made merchandise as home-made merchandise: ice cream, candy, and bakery products.	Wollaston, Mass.
Johnson's Lixolene Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Elsinore, Calif.
K & S Sales Co., and others Misrepresenting value of premiums and terms under which coupons are redeemed: silverware distributed as premiums in connection with a sales-promotion plan.	Chicago.
Kaufman Brothers & Bondy, Inc Lottery : novelty merchandise.	West New York, N. J.
Kidde & Co., Walter, Inc., and others Negotiating exclusive dealing contracts; collusive bidding: fire extinguishers.	New York.
Kidder Oil Co Misrepresenting financial returns to agents: auxiliary lubricating oil.	La Crosse, Wis.
Kirk Medicine Co Misrepresenting therapeutic value: medicinal preparations	North Hollywood, Calif
Knox Co Misrepresenting therapeutic value: medicinal preparations.	Los Angeles.
Kronbehn & Son, Milton S., Inc., and others Combining in restraint of trade : spirituous beverages.	Washington, D. C
Lady Esther Ltd Misrepresenting results effected : cosmetics.	Chicago.
Laing, Harrar & Chamberlain, Inc., and others Combining in restraint of trade: shoe findings and leather.	Philadelphia.
Le Flor Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Chicago

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Lee-Moore & Co., and others Lottery : novelty merchandise.	Chicago.
Lenoir Woodfinishing Co., Inc., and others Inducing the purchase or recommendation of merchandise by employees of prospective customers by dispensing gratuities to said employees without the knowledge of their employers: paints and varnishes.	Lenoir, N. C.
Linkman & Co., M Lottery : novelty merchandise.	Chicago.
Longfield, Arthur New York. Appropriating trade name and simulating trade dress of competitor : table sauce.	
Longwear Paint & Varnish Works Misrepresenting composition : paints and varnishes.	North Kansas City Mo.
Magnecoil Co., Inc Salt Lake City. Misrepresenting therapeutic value : electric blankets.	
Manhattan Hat Co., Inc., and others Passing off reconditioned merchandise as new merchandise : hats.	New York.
Marharn Sales Co Lottery : novelty merchandise.	Philadelphia
Marlin Firearms Co Distributor claiming to be manufacturer: razor blades.	New Haven, Conn.
Marrow Manufacturing Co., J. W Misrepresenting results effected : cosmetics.	Chicago.
Martin Custom-Made Tires Corporation Passing off regular merchandise as custom-made merchandise; misrepresenting the number of plies: automobile tires.	New York.
Mayos Products Co., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Chicago.
Maze Co., W. H Unwarranted disparagement of competing products: roofing nails.	Peru, Ill.
McDonnell & Sons, Inc Distributor claiming to be quarrier : granite monuments and memorials.	Buffalo.
McDowell, Pyle & Co., Inc Lottery : candy and nuts.	Baltimore.
McKesson & Robbins, Inc Unwarranted disparagement of competing products; misrepresenting results effected and failing to disclose harmful potentialities : dentifrices.	Bridgeport, Conn.
McKinley-Roosevelt College of Arts and Sciences Passing off a business school as a college or university; misrepresenting instruction offered : correspondence school (business administration, law, chemistry, arts and sciences, etc.).	Chicago.
Mentho-Mulsion, Inc., and others Misrepresenting therapeutic value: medicinal preparations.	Atlanta.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Merrill Candy Co Lottery : candy.	Merrill, Wis.
Metz Brothers Baking Co Price discrimination : bakery products.	Sioux City, Iowa.
Michigan Bean Shippers Association, and others Combining in restraint of trade : food products.	Saginaw, Mich.
Midwest Merchandise Co Lottery : novelty merchandise.	Kansas City, Mo.
Mills Sales Co. of New York, Inc., and others Lottery : novelty merchandise.	New York.
Milton Products Co Misrepresenting quality ; misrepresenting adequacy of instruction : telescopes, jewelry, and books of instruction in music, ventriloquism, dancing, etc.	Chicago.
Mississippi Sales Co., Inc., and others Price discrimination : food products.	Meridian, Miss.
Mode Novelty Co., and others Newark, N. J. Passing off reconditioned merchandise as new merchandise : hats.	
Model Lingerie Co., and others Lottery : clothing.	Chicago
Mon roe Chemical Co., and others Misrepresenting results effected : hair dyes.	Quincy, Ill.
Monticello Drug Co Misrepresenting therapeutic value: medicinal preparations.	Jacksonville, Fla.
Morben Hat Works, Inc., and others Passing off reconditioned merchandise as new merchandise : hats.	New York.
Morgan & Company, E. A., and others Misrepresenting results effected: run-proof preparations for lingerie.	Cincinnati.
Motex Co., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Lowell, Mass.
Murin Co., Inc. Misrepresenting results effected : cosmetics.	Chicago.
Napp's Longlife Hosiery Misrepresenting quality; shipping merchandise that does not correspond to that specified in the order; using misleading tests to demonstrate "run-proof" qualities of merchandise : hosiery.	New York.
Nash Brothers Drug Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Jonesboro, Ark
National Employees Training Service Misrepresenting instruction, prices, availability of positions, prospective earnings of students, and relation to Federal Government: correspondence school (civil service)	Detroit.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
National Folio Service Misrepresenting competency of plans and financial returns to purchasers : books setting forth business plans and offers.	Los Angeles.
National Institute for Physical Advancement Misrepresenting results effected : physical culture books.	New York.
National Numbering Machine Co., Inc Price discrimination: typographic numbering machines	Do.
National Pen Co., and others Misrepresenting price, quality, construction, and durability : pencils, fountain pens, and jewelry.	Flushing, N. Y.
National Sure-Fit Quilting Co., Inc Misrepresenting down content : comforts.	Long Island City
N. Y. National Training Institute, Inc., and others Misrepresenting instruction, prices, availability of positions, prospective earnings of students, and relation to Federal Government: correspondence school (civil service).	Chicago.
New York Diesel Institution, Inc., and others Misrepresenting equipment and availability of positions: correspondence school (diesel engines and air conditioning).	Newark, N. J.
Noonan & Sons Co., T Misrepresenting results effected : hair tonic.	Boston.
Northwestern Products Co., and others Misrepresenting therapeutic value and falling to disclose harmful potentialities: medicinal preparations.	Seattle.
Novelty Home Furnisher Lottery : novelty merchandise.	Chicago.
Nutrine Candy Co Price discrimination and lottery: candy	Do.
Oak Lane Candy Co Lottery : candy and nuts.	York, Pa.
Ohio Novelty Co Lottery : novelty merchandise.	Akron.
Old Mission Tablet Co Misrepresenting therapeutic value: medicinal preparations.	Pasadena, Calif.
Ostrex Co., Inc Misrepresenting therapeutic value: medicinal preparations.	New York.
Oxol Laboratories, and others Misrepresenting therapeutic value : medicinal preparations.	Denver.
Paradise Products Co., and others Lottery : candy and novelty merchandise.	Paradise, Pa

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Paramount Institute Falsely claiming affiliation with, and approval of Federal Government ; misrepresenting prices and availability of positions; passing off a correspondence school devoted exclusively to coaching for civil service examinations, as an "Institute" : correspondence school (civil service).	San Francisco.
Parfums Corday, Inc Passing off domestic products as imported products: cosmetics.	New York.
Parfums Lengyel, Ltd Passing off domestic products as imported products: cosmetics.	Do.
Patch Premek Corporation, and others Misrepresenting therapeutic value: medicinal preparations.	Los Angeles.
Peanut Novelty Co Lottery : candy and nuts.	Dallas.
Peanut Specialty Co Lottery : candy.	Chicago.
Pennsylvania Salt Manufacturing Co., and others Passing off as smoked salt, a product that has not been exposed to wood smoke: salt preservatives for meats.	Philadelphia.
Perasthman Co., Inc., and others Misrepresenting therapeutic value and falling to disclose harmful potentialities: medicinal preparations.	New York.
Perfect Recondition Spark Plug Co., and others Passing off reconditioned merchandise as new merchandise : spark plugs.	Brooklyn, N. Y.
Perma-Maid Co., Inc Unwarranted disparagement of competing products: steel cooking utensils.	Cincinnati.
Petersime Incubator Co Misrepresenting therapeutic value and falling to disclose harmful potentialities: electric bath cabinet.	Gettysburg, Ohio.
Philadelphia Rubber Waste Co., and others Simulating trade name of competitor: automobile accessories.	Philadelphia.
Pittsburgh Plate Glass Co., and others Combining in restraint of trade : glass.	Pittsburgh.
Popular Publications, Inc Passing off imitation stones as precious stones : jewelry.	New York.
Pow-O-Lin Laboratories Misrepresenting therapeutic value : medicinal herbs.	Danville, Va
Premier Color Works, and others Falsely representing products have received medals and awards from various institutions and expositions: medicinal preparations.	New York.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Prime Hat Co., Inc., and others Passing off reconditioned merchandise as new merchandise : hats.	New York.
Process Engraving Co Passing off process printing as engraving : stationery.	San Francisco.
Progressive Medical Co., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities : medicinal preparations.	Chicago.
Prudential Sales Corporation Lottery : novelty merchandise.	Do.
Puritan Undergarment Corporation Misrepresenting silk and wool content : lingerie.	Brooklyn, N. Y.
Purity Products Co., and others Misrepresenting therapeutic value: medicinal preparations.	Redlands, Calif.
Radin, Theodore, Inc Misrepresenting therapeutic value and failing to disclose harmful potentialities: inhalants and electrical devices.	New York.
Ralston Purina Co Misrepresenting ingredients and food value : dog food.	St. Louis.
Ransom Electric Co Passing off imported products as domestic products: electric light bulbs.	Nashville.
Rayson Service Bureau Misrepresenting instruction, prices, availability of positions, and prospective earnings of students; passing off a correspondence school as a bureau of the Federal government : correspondence school (civil service and forestry).	Denver.
Reliable Sales Co Lottery : novelty merchandise.	St. Louis.
Research Associates, Inc., and others Misrepresenting results effected : cosmetics.	Washington, D. C.
Research Products Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Cleveland Heights, Ohio
Restoria Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Milwaukee
Retonga Medicine Co Misrepresenting therapeutic value : medicinal herbs.	Atlanta.
Rock, Monica M., and others Misrepresenting therapeutic value: medicinal preparations.	Milwaukee.
Ron-Al Medicine Co., Dr., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Philadelphia.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Roosevelt Mercantile Co Misrepresenting quality, variety, and condition of merchandise ; misrepresenting financial returns to purchasers : wearing apparel, both new and reconditioned.	Chicago.
Rose & Co., J Lottery : candy and novelty merchandise.	St. Louis.
Roxanna Canning Co Misrepresenting Ingredients : dog food.	Lebanon, Ohio.
Rub Co., and others Misrepresenting results effected : gasoline-saving devices and auxiliary lubricating oil.	Los Angeles.
Saks & Co Misrepresenting silk content; misrepresenting prices and style: wearing apparel.	New York.
Saks at 34th Street Passing off domestic products as imported products : cosmetics.	Do.
Sales Stimulators, and others Misrepresenting value of premiums and terms under which coupons are redeemed : silverware, clocks, and electric shavers distributed as premiums in connection with a sales-promotion plan.	Chicago.
Schall Candy Co Lottery : candy.	Clinton, Iowa.
Schickerling Research Laboratory, Conrad Distributor falsely claiming to maintain a laboratory and to hold patents on the merchandise distributed; misrepresenting results effected: electric lamps used in connection with photography.	Orange, N. J.
Schottland, A., Inc., and others Misrepresenting silk content : lingerie.	New York.
S. M. Laboratories Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Seattle.
Scidel & Son, M Lottery , passing off rabbit peltries as superior furs : furs and fur garments.	New York.
Sekine, Co., I., Inc Passing off imported products as domestic products : tooth brushes.	Do.
Shanks Laboratories Misrepresenting therapeutic value and results effected : dog remedies and hair tonic.	Columbus, Ohio.
Shaw & Davis, Inc., and others Retail dealer claiming to be wholesale dealer: jewelry, silverware, and leather goods.	New York.
Sifers Candy Co Lottery : candy	Iola, Kans.
Silver Manufacturing Co., and others Lottery : novelty merchandise.	Chicago.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Simmons Co Price discrimination: metal beds, bed springs, and mattresses.	New York.
Smoked Products Co., and others Passing off, as smoked salt, a product that has not been exposed to wood smoke: salt preservatives for meats.	Cincinnati.
Southern Art Stone Co Passing off products made from cast stone as marble or granite; advertising as gifts, merchandise whose cost is included in the cost of other merchandise purchased: cast stone monuments and memorials.	Atlanta.
Southern Vitrified Pipe Association, and others Combining in restraint of trade : sewer pipe.	Cincinnati.
Spencer Business College, and others Representing respondent maintains branch offices in various cities and advertising tuition as "free" when its cost is included in the price charged for the materials used : correspondence school (secretarial, business administration).	New Orleans.
Spors Co Lottery : novelty merchandise.	Le Center, Minn.
Sprague-Kitchen & Co Misrepresenting results effected and failing to disclose harmful potentialities : hair dyes.	Chicago.
Square Deal Candy Co Lottery : candy.	Los Angeles.
Standard Container Manufacturers' Association, Inc., and others Combining in restraint of trade : wooden containers for fruit and vegetables.	Jacksonville, Fla.
Standard Sales Co Lottery : novelty merchandise.	Chicago.
Standard Toykraft Products, Inc Passing off imported products as domestic products: toys.	Brooklyn, N. Y.
Steel Office Furniture Institute, and others Combining in restraint of trade : steel office furniture.	Cleveland.
Steffy, William C., and others Misrepresenting value of premiums and terms under which coupons are redeemed ; falsely claiming affiliation with favorably known business firms: silverware, chinaware, and radio sets distributed as premiums in connection with a sales-promotion plan.	Chicago.
Sterling Products Corporation, and others Passing off imported products as domestic products: surgical instruments, laboratory supplies, and drugs.	New York.
Stone Brothers, Inc Lottery : candy and novelty merchandise.	Chicago.
Strauss Tailoring Co., and others Misrepresenting wool content : wearing apparel.	Do.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Sumlak Co. Misrepresenting therapeutic value and failing to disclose harmful potentialities : medicinal preparations.	Cincinnati.
Superior Textile Mills Advertising as gifts or premiums, articles whose cost is included in the price charged for other merchandise purchased : wearing apparel.	New York.
Supreme Manufacturing Co., and others Dealer claiming to be manufacturer ; misrepresenting results effected : "run proof" preparations for lingerie.	Omaha, Neb.
Thomas Quilt Factories Passing off factory irregulars as merchandise of superior quality being sold at a reduced price for a limited time : quilts.	Denver.
Tone Co. Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Chicago.
Turmel, Madame Marguerite, Inc., and others Misrepresenting results effected : hair dyes.	New York.
U-Need Candy Co., Inc., and others Lottery : candy.	South Bend, Ind.
U. S. Drug & Sales Co., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities : medicinal preparations.	Denver.
United Candy Co. Lottery : candy.	Charlotte, N. C.
United Distributors, Inc. Misrepresenting therapeutic value: medicinal preparations.	Louisville, Ky.
United Educators, Inc., and others Misrepresenting prices and relation to Federal authorities ; passing off a commercial enterprise as a foundation or research bureau operating in the interests of child development ; obtaining signatures to contracts and promissory notes while representing the papers are receipts or order blanks : encyclopedias.	Chicago.
United Factories, Inc Misrepresenting results effected ; falsely representing products have been approved by competent, disinterested testing laboratories : auxiliary lubricating oil.	Kansas City, Mo.
United States Business Card Co., and others Falsely representing that products have been approved by the Federal Government : accounting systems.	New York.
United States Distilling Co Distributor and rectifier claiming to be distiller : spirituous beverages.	San Francisco.

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Universal Cordage Co., Inc Passing off reconditioned merchandise as new merchandise : reconditioned rope.	Brooklyn, N. Y.
Universal Studios, Inc., and others Misrepresenting prices and passing off tinted enlargements of photographs as paintings : tinted photographs.	St. Paul.
Usona Shirt Co Passing off factory-made merchandise that is susceptible to shrinkage, as fully shrunk, custom-made merchandise : wearing apparel.	New York.
Valligny Products, Inc. Misrepresenting results effected ; passing off domestic products as Imported products : hair dyes.	Do.
Van Products Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: hygienic preparations.	New Milford, N. J.
Van Vleck Co., Dr Misrepresenting therapeutic value: medicinal preparations.	Jackson, Mich.
Virginia Products Co., and others Passing off as "Virginia ham", products not produced from Virginia livestock : canned meat.	Richmond, Va.
Vit-O-Net Co. and others Chicago. Misrepresenting therapeutic value : electric blankets.	
W. E. and M E. Medicine Co Misrepresenting therapeutic value: medicinal preparations.	Philadelphia.
Waco Drug Co Misrepresenting therapeutic value: medicinal preparations.	Portland, Oreg.
Wagner's Sons Co., W. T Passing off domestic products as imported products : soft drinks.	Cincinnati.
Wahl Co Misrepresenting construction and quality : fountain pens.	Chicago.
Waldes Koh-I-Noor, Inc., and others Passing off Inferior merchandise as reproductions of superior goods : handbags.	Long Island City, N. Y.
Ward Manufacturing Co Misrepresenting results effected : a flue attachment for gas ranges.	Detroit.
Wardell Piano Co Sioux City, Iowa. Quoting regular prices on new merchandise as reduced prices on repossessed merchandise : musical instruments.	
Washington Laundry Washington, D C. Falsely representing that Ivory soap is used exclusively : laundry service.	

LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Weiss Bedding Co., Inc., and others Misrepresenting cotton felt content and falsely representing that merchandise complies with state requirements: mattresses.	Louisville, Ky.
Wells Cosmetic Co., Betty Misrepresenting results effected : cosmetics.	Capitola, Calif.
Wells Sales Co Lottery : novelty merchandise.	Chicago.
Western Novelty Co Lottery : novelty merchandise.	Denver.
Westminster Tire Corporation Misrepresenting number of plies : automobile tires.	New York.
Williams & Wilkins Co Price discrimination : medical and scientific books.	Baltimore.
Wright Products Co Lottery : novelty merchandise.	Chicago.
Wyeth Chemical Co. Misrepresenting therapeutic value: preparations for removing corns and calluses	Jersey City, N. J.
Yardley of London, Inc Passing off domestic products as imported products: cosmetics.	Union City, N. J.
Zelle Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Chicago.
Zendejas Products Corporation, and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Los Angeles.
Zo-Ak Co., Inc Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	New York.
Zonite Products Corporation Misrepresenting results effected and failing to disclose harmful potentialities : preparations to dispel or prevent moths.	Do.
Zo-Ro-Lo, Inc Misrepresenting therapeutic value : medicinal preparations.	Ada, Ohio.

Illustrative of the orders to cease and desist issued during the fiscal year ended June 30, 1940, are the cases briefly described as follow :

COMBINATIONS TO FIX PRICES AND RESTRAIN TRADE

(Violations of the Federal Trade Commission Act)

Joseph Dixon Crucible Co. and others, Jersey City, N. J.--Thirteen companies manufacturing approximately 75 percent of the woodcased lead pencils produced in the United States were ordered by the Commission to cease entering into agreements

to fix or maintain uniform prices, terms, or conditions in the sale of comparable wood-

cased lead pencils, changing simultaneously the prices at which such pencils are to be sold, adopting, fixing, or determining uniform schedules of quantity or annual cumulative discounts on such pencils, fixing or determining uniform prices of lead pencils known as "blanks," and offering uniform bids on such pencils to prospective purchasers. (3643.)

Johnson & Johnson, New Brunswick, N. J.; The Kendall Co., Walpole, Mass., and The Bay Co., Bridgeport, Conn.--The Commission ordered these companies to cease and desist from entering into or carrying out a conspiracy to fix and maintain uniform prices in the sale of gauze, bandages, bandage rolls, and similar products, and from agreeing to maintain their published list prices and from agreeing to divide the United States into zones for executing price-fixing agreements. (3393.)

Laing Harrar & Chamberlin, Inc., Philadelphia, and others.--The respondents were directed to discontinue restraint of trade practices in the purchase and sale of shoe findings and leather and supplies for shoe manufacturers, shoe stores, and shoe repair shops. Boycotting methods were found to have been used to effect the restraint of competition. (3725.)

The Steel Office Furniture Institute and others, Cleveland.--This trade association and its members were ordered to cease and desist from fixing by agreement identical delivered prices, uniform discounts, and terms and conditions of sale ; from inducing dealers and customers to join or form local associations having for their objective the maintenance of resale prices, and from other monopolistic practices. (3319.)

Standard Container Manufacturers' Association, Inc., and others, Jacksonville, Fla.--This association, 3 officers, and 25 members and ex-members, all of whom were engaged in the manufacture, sale, and distribution of wooden containers used in packaging fruits and vegetables, were required to cease and desist from combining to restrict competition and to fix and maintain uniform and minimum prices. (For further details of the order and subsequent court case, see Cases in the Federal Courts, page 93.) (3289.)

American Veneer Package Association, Inc., and others, Washington, D C.--Five trade associations, their officers, and members, engaged in the veneer packers industry in the Midwest, Northeast, East, and South, and a firm of business managers and business engineers operating under the name of Stevenson, Jordan & Harrison, were served with a Commission order prohibiting them from fixing and maintaining uniform prices, discounts, and other terms and conditions of sale ; determining or establishing a system of zones throughout the United States in connection with the fixing of prices, discounts, terms, and conditions of sale; agreeing to curtail the production of veneer fruit

and vegetable containers ; preparing, publishing, and circulating lists of recognized dealers and jobbers for the purpose or with the effect of indicating that the persons or concerns so specified are entitled to certain discounts not to be accorded others. (See *The Stevenson Corporation*, Cases in the Federal Courts, p.93.) (3556.)

Walter Kidde & Co., Inc., New York, and others.--The respondents are five companies engaged in the manufacture, assembly, and sale of fire-fighting equipment, including carbon dioxide fire-extinguishing systems and carbon dioxide portable fire extinguishers. The Commission ordered them to cease and desist from the following practices by agreement or combination : Fixing and maintaining uniform prices for parts, accessories, and apparatus for use or in connection with the manufacture or assembly of carbon dioxide fire-extinguishing systems and carbon dioxide portable fire extinguishers ; compiling, publishing, and distributing any list of prices for such parts, accessories, and apparatus ; and filing uniform bids where competitive bids are called for by governmental agencies or other buyers. The respondent *Walter Kidde & Co.* was further ordered to cease making any sale or contract for the sale of such parts, or fixing a price charged therefor, on the condition, agreement, or understanding that the purchaser thereof should not use or deal in the goods of a competitor of such respondent in violation of section 3 of the Clayton Act. (The complaint in this case is referred to under *Fire-Fighting Equipment, Parts, and Supplies*, p.45.) (3929.)

Milton S. Kronheim & Son, Inc., Washington, D C., and others.--Resale-price maintenance by agreement and threats of boycott are among practices prohibited in an order to cease and desist issued against six Washington wholesale liquor dealers, a wholesale and a retail trade association, and the Secretary of the retail association. Each organization was found to have enforced observance by its members and others of price-maintenance policies. In furtherance of these policies it was found that the retail association, its secretary, and the dealer members agreed that District of Columbia wholesalers should be notified not to supply liquors to price-cutting retailers under threatened penalty of boycott, and that products of wholesalers who permitted their liquors to be sold to price-cutting retailers should be boycotted, and threats of boycott made. The retail association was found to have employed private detectives to check on shipments by wholesalers to retail price cutters. (3400.)

Southern Vitrified Pipe Association, Cincinnati, and others.--An order was issued directing the respondent manufacturers, or any two or more of them, to cease and desist from fixing or establishing prices, terms, and conditions of sale by concerted action, agreement or understanding ; from carrying on, through the respondent association or other central agency, or through meetings, or otherwise, discussions

and exchanges of information concerning proposed or future prices ; from promising to adhere to filed prices, terms, and sale conditions pending the filing of changes with the association, and from adherence to such promises ; quoting and selling on a delivered basis only, to equalize costs to buyers regardless of variations in freight from different points of production and shipment ; fixing arbitrary weights to be used in calculating freight charges and equalizations so as to make delivered prices and discounts uniform; refusing to quote and sell to Government purchasers on an f. o. b. mill basis and exchanging prices proposed for quotation in bids in advance of submission and opening of sealed bids on Federal, State, and municipal projects; fixing and establishing of differentials in price to be charged on sales to dealers as compared with sales to building contractors ; agreeing with their respective dealer customers as to prices to be quoted on the resale of vitrified clay sewer pipe ; determining what concerns would be recognized as dealers entitled to purchase at dealers' prices ; restricting the quantity of vitrified clay sewer pipe to be produced by the respondent manufacturers, and collaborating with trade associations composed of vitrified clay sewer pipe manufacturers in other sections, but who sell in the respondents' territory, and from concertedly obtaining adherence to prices, terms, and sale conditions filed by the manufacturers with the respondent association or any other central agency, by various specified means. This order was based upon an answer admitting all material allegations of the complaint. (The complaint is referred to under Association of Manufacturers of Vitrified Clay Sewer Pipe, p.37.) (3868.)

Pittsburgh Plate Glass Co., Pittsburgh, and others; Brotherhood of Painters, Decorators, and Paper Hangers of America, Lafayette, Ind., and others.--Three major glass companies in Indianapolis and certain of their officers, together with the Brotherhood of Painters, Decorators, and Paper Hangers of America, Lafayette, Ind., and its Indianapolis district council and glaziers' local, and certain of their officers, were ordered to cease and desist from requiring, as a prerequisite for the employment of any union glaziers, that a glass distributor or glazing contractor have a stock of any specific quantity of flat glass products, furnish trucking or warehousing equipment to service the building or replacement trade, or employ continuously any specific number of men. (The complaint in this case is referred to under Plate Glass Manufacturers and Associates, p.37.) (3858.)

Michigan Bean Shippers' Association, Saginaw, Mich., and others.--The respondents were ordered to cease and desist from continuing to compute and publish a "close" or in any other way to fix a price to be paid for beans ; from fixing and maintaining differentials or spreads to be received by elevator men or jobbers in the course of their business;

from fixing and maintaining “picking” charges, and from adopting or maintaining any rule or rules of practice that might prevent the use of any machine, device, or method for cleaning, grading and processing beans, unless such machine, device, or method was injurious and detrimental to the welfare of the bean industry of Michigan, and from the establishment and use by cooperation of a uniform contract embodying terms and conditions of sale for buying and selling beans. (The complaint in this case is referred to under A Bean Shippers’ Association, and Others, p.38.) (3937.)

USING COERCIVE METHODS TO INFLUENCE CHOICE OF MEMBERSHIP AS BETWEEN TWO COOPERATIVE ASSOCIATIONS

Gold Medal Farms, Inc., New York, and others.--This corporation, one of New York State’s largest independent milk distributors, and its general manager and plant superintendent, were prohibited from deceiving, coercing, or intimidating milk producers from whom they purchase milk, with the intent or result of preventing them from Organizing or becoming affiliated with any milk producers’ cooperative association, or of causing such producers to become’ affiliated with any particular cooperative association. The respondents were further restrained from controlling, dominating, or interfering in any manner with the organization, management, or control of any milk producers’ cooperative association or agency authorized by law. (3380.)

MISREPRESENTING AUTOMOBILE FINANCE PLAN

General Motors Corporation, Detroit, and subsidiaries, and General Motors Acceptance Corporation, New York; and Ford Motor Co., Dear-born, Mich.--These two cases involve what is commonly known as the “6 percent plan” which was widely advertised by the respondents in promoting the retail sale of automobiles on a monthly installment basis. (For further details of the orders and subsequent court cases , see Cases in the Federal Courts, p.80.) (3001 and 3005.)

MISREPRESENTING ORIGIN OF A PRODUCT

United Corporation, trading as Virginia Products Co., and George M. Crump, Richmond, Va.--The respondent and its president were ordered to cease and desist from using the name “Virginia” to describe meats or meat-food products not obtained from livestock raised in Virginia. (For further details of the order and subsequent court case, see Cases in the Federal Courts, p.94.) (3093.)

COMMERCIAL BRIBERY

Lenoir Woodfinishing Co., Inc., Lenoir, N. C., and others--Lenoir Woodfinishing Company, Inc., and Arthur G Spencer, individually and trading as Lenoir Solvent Company, in connection with the sale

of their paint and varnish products, were ordered to cease giving or offering money or other things of value to officials or employees of their customers or prospective customers, without the customers' knowledge or consent, for the purpose of inducing the officials or employees to purchase or to recommend the purchase of the respondents' products, or as payments to such officials and employees for having induced or recommended such purchase by their employers. (The complaint in this case is referred to under Alleged Commercial Bribery, p.43.) (4048.)

MISLEADING ADVERTISEMENTS CONCERNING MEDICINAL PREPARATIONS

During the fiscal year the Commission issued a large number of orders to cease and desist from false and misleading advertisements concerning the therapeutic value of various medicinal preparations, some of which were of such nature as to call for injunctive action. (See p.95.)

SALES METHODS INVOLVING LOTTERY SCHEMES AND OTHER PLANS BASED UPON AN ELEMENT OF CHANCE, INCLUDING THE MANUFACTURE AND SALE OF THE DEVICES FOR CONDUCTING THEM

The Commission has continued to proceed against the sale of candy and other merchandise by lottery schemes and other selling plans in which there is an element of chance, such as in the so-called break-and-take packaging of candy, and the use of punchboards and pull cards. During the fiscal year many orders were issued against those practices. Numerous complaints recently have been issued against the manufacturers and sellers of devices for conducting such Schemes. One such case has been disposed of by order to cease and desist and the remainder are at issue and ready for trial.

ORDERS UNDER THE CLAYTON ACT

(As amended by the Robinson-Patman Act)

The Williams and Wilkins Co., Baltimore, was ordered to cease and desist, in connection with the sale and distribution of medical and scientific books, from discriminating in price by allowing varying discounts among competing purchasers for resale. (3844.)

Simmons Co., New York, was ordered to cease and desist, in connection with the sale of metal beds, bedsprings, studio couches, glides, mattresses, and miscellaneous allied products, from discriminating in price between customers who are members of central organizations, sometimes referred to as syndicates, and independent retail merchants, who do not belong to such organizations. Such discrimination was found to have been accomplished by granting

discounts based upon the aggregate purchases of the group and not upon the value of the shipments to the respective member. Also, the discounts were applied retroactively to all purchases during a year. (3840.)

American Oil Co., Baltimore, and General Finance, Inc., Washington, D C.--The respondent oil company, as supplier, and the respondent finance company, as purchaser for resale, were ordered to cease and desist, respectively, from granting, on the one hand, and knowingly receiving, on the other, a discrimination in price in the sale and purchase of gasoline. It was found that the oil company was selling its gasoline to the finance company (operator of a gasoline station in Washington which supplied a fleet of taxicabs controlled by it) under a commercial consumer contract at lower rates than the posted retail tank-wagon prices charged other retail gasoline dealers. The gasoline so purchased was in part resold to the public and in part supplied to the taxicab drivers. (3843.)

Jake Felt, Memphis, Tenn., Charles V. Herron, Evansville, Ind., and Mississippi Sales Co., Inc., Meridian, Miss.--In these cases the respondents were ordered to cease and desist, in connection with the purchase of food products in interstate commerce, from the practice of accepting from sellers brokerage fees or commissions or any allowance or discount in lieu thereof. A number of sellers of commodities joined in each complaint, were ordered to cease paying or granting such brokerage fees or commissions or allowances to the respondent buyers and their agents. (3765, 3916, and 3511.)

C. R. Anthony Co., Oklahoma City, Okla.--In this case the respondent maintained an office in New York under the name of the Anco Co., the employees of which office were paid on a salary basis. Such employees purchased for and in the name of the respondent the requirements of some 57 retail department stores operated by the respondent in Oklahoma, Kansas, Texas, and New Mexico. On such purchases the C. R. Anthony Co., under the name of the Anco Co., received brokerage fees or commissions. The Commission's order directed the respondent to cease and desist receiving any fees or commissions as brokerage, or any allowance in lieu thereof on such purchases. The respondent sellers who paid or granted such commissions were ordered to cease and desist from paying or granting, or causing or permitting to be paid or granted, to the respondent buyer, any fee or commission as brokerage or any allowance in lieu thereof upon purchases made by it. (3834.)

National Numbering Machine Co., Inc., New York, was ordered to cease and desist, in connection with the sale of typographic numbering machines, from discriminating in price among its customers competitively engaged in the resale of such machines. The respondent

was further ordered to cease and desist from discriminating by means of substantially similar price differences unless such differences could be justified as making only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such machines were to such purchasers sold or delivered. (3889.)

Nutrine Candy Co., Chicago, was ordered to cease and desist, in connection with the sale of bulk candy, from discriminating in price among its various customers. Such discriminations were effected through the use of four price schedules designated as "Eastern Syndicate", "National Syndicate", "Small Syndicate" and "Small Retail Accounts." Salesmen were permitted to quote prices to any customer from several or all price lists. This method in many instances resulted in the respondents selling to different purchasers, competitive one with another, candy of like grade, quality, and quantity at varying prices. (3756.)

Metz Brothers Baking Co., Sioux City, Iowa, was ordered to cease and desist, in connection with the sale of bread, from discriminating in price among its customers in Minnesota, South Dakota, and Iowa. The order required the respondent to cease selling bread from its plant at Sioux City, Iowa, or Sioux Falls, S. Dak., to purchasers in the trade areas designated as southwestern Minnesota and southeastern, northwestern, and central South Dakota at one price, while selling bread of like grade and quality to purchasers in the northwestern section of Iowa at a higher price. (3740.)

Curtice Brothers Co., Rochester, N. Y., was ordered to cease and desist, in connection with the sale of canned fruits, vegetables, and vegetable products, from discriminating in price by the use of three different price lists. The findings were that such lists varied substantially, the respondent having sold products to competing customers from different lists on "future orders" for goods of like grade and quality to be shipped when harvested and packed. (3381.)

Anheuser-Busch, Inc., St. Louis.--In this case the respondent admitted the material facts as alleged in the complaint. The Commission order required the respondent to cease and desist, in connection with the sale of baker's yeast, from discriminating in price among different purchasers by selling at different prices based upon the total quantity purchased or required monthly by the purchaser; and at different prices based upon the total quantity purchased (whether from the respondent or from any other source within any period of time; and at prices based upon the total quantity purchased (whether from the respondent or from any other source) during any given period of time in respect of the quantity delivered by the respondent to separate bakeries of an individual purchaser, unless the differ-

entials in price made only due allowance for the difference in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such yeast was to such purchasers sold or delivered during the period for which such differentials were allowed. The order further prohibited the selling of baker's yeast at so-called off-scale prices, that is, prices differing from any schedule of prices which made only due allowance for the difference in cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the yeast was to such purchasers sold or delivered during the time for which such differentials in price were allowed. (2987.)

Walter Kidde & Co., Inc., New York, and others.-Details of the order in this case, which prohibits, among other things, violation of section 3 of the Clayton Act, appear under the heading Combinations to Fix Prices and Restrain Trade, at p. 64. (3929.)

TYPES OF UNFAIR METHODS AND PRACTICES

TYPICAL METHODS AND PRACTICES CONDEMNED IN ORDERS TO CEASE AND

DESIST

The following list illustrates unfair methods of competition and unfair or deceptive acts and practices condemned by the Commission from time to time in its orders to cease and desist. This list is not limited to orders issued during the last fiscal year. It does not include specific practices outlawed by the Clayton Act and committed to the Commission's jurisdiction, namely, various forms of price and tying dealing arrangements, discrimination, exclusive , competitive stock acquisition, and certain kinds of competitive interlocking directorates.

1. The use of false or misleading advertising concerning, and the misbranding of, commodities, respecting the materials, or ingredients of which they are composed, their quality, purity, origin, Source, attributes, or properties, or nature of manufacture, and selling then under such names and circumstances as to deceive the public. An important part of these included misrepresentation of the therapeutic and corrective properties of medicinal preparations and devices,, and cosmetics, and the false representation, expressly or by failure to disclose their potential harmfulness, that such preparations may be safely used.

2. Representing products to have been made in the United States when the mechanism or movements, in whole or in important part, were of foreign origin.

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

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

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

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

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

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

9. Passing off goods for products of competitors through appropriation or simulation of such competitors' trade names, labels, dress of goods, or counter-display catalogs.

10. Selling rebuilt, second-hand, renovated, or old products, or articles made in whole or in part from used or second-hand materials, as new, by so representing them or by failing to reveal that they were not new or that second-hand materials were used.

11. Buying up supplies for the purpose of hampering competitors. and stifling or eliminating competition.

12. Using concealed subsidiaries, ostensibly independent, to obtain competitive business otherwise unavailable, and making use of false and misleading representations, schemes, and practices to obtain representatives and make contacts, such as pretended puzzle-prize contests purportedly offering opportunities to win handsome prizes, but in fact mere "come-on" schemes and devices in which the seller's true identity and interest are initially concealed.

13. Using merchandising schemes based on lot or chance.

14. Compelling resale price maintenance by cooperating with others. in the use of schemes and practices for compelling wholesalers and retailers to maintain resale prices fixed by a manufacturer or distributor for resale of his product.

15. Combinations or agreements of competitors to fix or enhance prices, maintain prices, bring about substantial uniformity in prices, or to divide territory or business, to cut off or interfere with competitors' sources of supply, or to close markets to competitors; or for-

use by trade associations of so-called standard cost systems, price lists, or guides, or exchange of trade information calculated to bring about these ends, or otherwise restrain or hinder free competition.

16. Intimidation or coercion of producer to cause him to organize or join, or to prevent him from organizing or joining, produces cooperative association.

17. Aiding, assisting, or abetting unfair practice, misrepresentation, and deception, and furnishing means or instrumentalities therefor, and combining and conspiring to offer or sell products by chance or by deceptive methods, through such practices as supplying dealers with lottery devices, or selling to dealers, and assisting them in conducting, contest schemes as a part of which pretended credit slips or certificates are issued to contestants, when in fact the price of the goods has been marked up to absorb the face value of the credit slip, and the supplying of emblems or devices to conceal marks of country of origin of goods, or otherwise to misbrand goods as to country of origin.

18. Various schemes to create the impression that the customer is being offered an opportunity to make purchases under unusually favorable conditions when such is not the case, such schemes including-

(a) Sales plans in which the seller's usual price is falsely represented as a special reduced price for a limited time or to a limited class, or false claim of special terms, equipment, or other privileges or advantages.

(b) The use of the "free goods" or service device to create the impression that something is actually being thrown in without charge, when it is fully covered by the amount exacted in the transaction as a whole, or by services to be rendered by the recipient.

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

(d) Offering of false "bargains" by pretended cutting of a fictitious "regular" price.

(e) Use of false representation that article offered has been rejected as nonstandard and is offered at an exceptionally favorable price, or that the number thereof that may be purchased is limited.

(f) Falsely representing that the goods are not being offered as sales in ordinary course, but are specially priced and offered as a part of a special advertising campaign to obtain customers or for some purpose other than the customary profit.

(g) Misrepresenting, or causing dealers to misrepresent, the interest rate or carrying charge on deferred payments.

19. Using containers ostensibly of the capacity customarily associated by the purchasing public with standard weights or quantities of the product therein contained, or using standard containers only partially filled to capacity, so as to make it appear to the purchaser that he is receiving the standard weight or quantity.

20. Misrepresenting in various ways the necessity or desirability or the advantages to the prospective customer of dealing with the seller, such as--

(a) Misrepresenting seller's alleged advantages of location or size, or the branches, domestic or foreign, or the dealer outlets he has.

(b) Making false claim of being the authorized distributor of some concern, or failing to disclose the termination of such a relationship, in soliciting customers of such concerns, or of being successor thereto or connected therewith, or of being the purchaser of competitor's business, or falsely representing that it has been discontinued, or falsely claiming the right to prospective customer's special consideration, through such false statements as that customer's president or chairman of its board, or the customer's friends, have expressed a desire for, or special interest in, consummation of seller's transaction with the customer.

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

(d) False claim by a dealer of being an importer, or a manufacturer, grower, or nurseryman, or of being a wholesaler, selling to the consumer at wholesale prices, or by a manufacturer of being also the manufacturer of the raw material entering into the product, or by an assembler of being a manufacturer.

(e) Falsely claiming to be a manufacturer's representative and outlet for surplus stock sold at a sacrifice.

(f) Falsely representing that the seller owns a laboratory in which product offered is analyzed and tested.

(g) Representing that ordinary private commercial seller and business is an association, or national association, or connected therewith, or sponsored thereby, or is otherwise connected with noncommercial or professional organizations or associations, or constitutes an institute, or, in effect that it is altruistic in purpose, giving work to the unemployed.

(h) Falsely claiming that business is bonded or misrepresenting its age or history, or the demand established for its products, or the selection afforded, or the quality or comparative value of its goods, or the personnel or staff or personages presently or theretofore associated with such business or the products thereof.

(I) Claiming falsely or misleadingly patent, trade-mark, or other special and exclusive rights.

21. Obtaining business through undertakings not carried out, and not intended to be carried out, and through deceptive, dishonest, and oppressive devices calculated to entrap and coerce the customer or prospective customer, such practices including--

(a) Misrepresenting that seller fills orders promptly, ships kind of merchandise described, assigns exclusive territorial rights within definite trade areas to purchasers or prospective purchasers.

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

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

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

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

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

(g) Obtaining agents or representatives to distribute the seller's products, through promising to refund the money paid by them should the product prove unsatisfactory, that the agent was granted right to exclusive or new territory, would be given assistance by seller, or would be given special credit or furnished supplies, or overstating the amount of his earnings or the opportunities which the employment offered.

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

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

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

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

(d) They were made by some well and favorably known process; or

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

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

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

(h) They have the usual characteristics or value of a product properly so designated, as through use of a common, generic name, such as "paint," to designate a product lacking the necessary ingredients of paint.

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

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

25. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

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

27. Employing various false and misleading representations and practices attributing to products a standing, merit, and value to the purchasing public, or a part thereof, which they do not possess, such practices including--

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

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

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

(d) Falsely representing products as legitimate, or prepared in accordance with Government or official standards or specifications.

(e) Falsely claiming Government or official, or other, acceptance, use, and endorsement of product, and misrepresenting success and standing thereof through use of false and misleading endorsements or false and misleading claims with respect thereto, or otherwise.

28. Failing and refusing to deal justly and fairly with customers in consummating transactions undertaken, through such practices as refusing to correct mistakes in filling orders, or to make promised adjustments or refunds, and retaining, without refund, goods returned for exchange or adjustment, and enforcing, notwithstanding

agents' alterations, printed terms of purchase contracts, and exacting payments in excess of customers' commitments.

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

CASES IN THE FEDERAL COURTS

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

Federal Trade Commission cases pending in the United States courts for final determination during or at the close of the fiscal year ended June 30, 1940, are reviewed in the pages immediately following.

During the year, results favorable to the Commission were obtained in 42 cases, of which 25 were before the United States circuit courts of appeals and 17 before United States district courts. The Commission's orders were set aside in two cases in the circuit courts of appeals (one of which, involving Bunte Brothers, Inc., Chicago candy manufacturer, at the close of the year, was pending before the Supreme Court of the United States on petition for certiorari), and there was one adverse decision in a district court on a Commission petition for temporary injunction under section 13 (a) of the Federal Trade Commission Act.

The Supreme Court denied petitions for writs of certiorari filed by respondents in 10 cases in efforts to reverse prior decisions by circuit courts of appeals favorable to the Commission. The respondents involved were the National Candy Co., St. Louis; Ostler Candy Co. and Glade Candy Co., both of Salt Lake City; Shupe-Williams Candy Co., Ogden, Utah; Webb-Crawford Co. and others, Athens, Ga.; March of Time Candies, Dietz Gum Co., and International Art Co., Chicago; and the Great Atlantic & Pacific Tea Co. and Justin Haynes & Co., Inc., New York. The Supreme Court denied the Commission's petition for writ of certiorari in the Goodyear Tire & Rubber Co. case.

Cases in the circuit courts of appeals in which the Commission's orders were affirmed (in five cases with modifications) were: Sweets Co. of America, Inc., Educators Association, Inc., Great Atlantic & Pacific Tea Co., Justin Haynes & Co., Inc., and Millinery Creators' Guild, Inc., and others, all of New York; Allen B. Wrisley Co. and others, Century Metalcraft Corporation, and International Art Co. and others, all of Chicago; Dr. W. B. Caldwell, Inc., Monticello, Ill.; the Ostler Candy Co. and Glade Candy Co., both of Salt Lake City; the Shupe-Williams Candy Co., Ogden, Utah; Capon Water Co., Philadelphia; Carter Carburetor Co., St. Louis; the Webb-Crawford

Co. and others, Athens, Ga.; El Moro Cigar Co., Greensboro, N. C.; H. N. Heusner & Son, Hanover, Pa., and the Avery Salt Co., Scranton, Pa.

Petitions for review of the Commission's orders involving Alle-Rhume Remedy Co., Jersey City, N. J.; American College and others, Morton Salt Co., and American Field Seed Co., all of Chicago; Sweet Candy Co., Salt Lake City; the National Silver Co., New York, and the Berry Seed Co., Clarinda, Iowa, were dismissed by the circuit courts of appeals on motions by petitioners (respondents before the Commission).

The Commission successfully opposed preliminary motions made in circuit courts of appeals by the California Lumbermen's Council and others, Fresno, Calif., and by the Sheffield Silver Co., Jersey City, N.J.

Eighteen suits for injunctive relief in the United States district courts involving alleged false advertisements under section 13 (the Wheeler-Lea amendment) of the Federal Trade Commission Act were concluded during the fiscal year. In 17, decrees of temporary injunction were obtained. In one suit injunction was refused. This number of currently concluded injunction suits marks an increase of 12 over the number of such suits concluded during the preceding fiscal year. (See Injunctive Proceedings Under the Federal Trade Commission Act, p. 95.)

Sixteen of the suits were instituted to prevent serious and irreparable injury to the health of the public in the purchase of food, drugs, and devices, and two of the suits were brought to prevent irreparable pecuniary loss to a large group of the purchasing public.

During the fiscal year the Commission, under authority of the Federal Trade Commission Act, certified to the Attorney General the facts concerning 15 alleged violations of its cease and desist orders and one case for criminal prosecution. (See Civil and Criminal Penalties under the Federal Trade Commission Act, p. 100.)

PETITIONS TO REVIEW CEASE AND DESIST ORDERS

Petitions to the United States Circuit Courts of Appeals to review cease and desist orders issued by the Commission under authority of section 5 of the Federal Trade Commission Act and sections 2 and 3 of the Clayton Act are summarized alphabetically below :

(Except where otherwise indicated, cases involve violations of the Federal Trade Commission Act. United States Circuit Courts of Appeals are designated First Circuit (Boston), etc.)

Adah Alberty, Los Angeles.--A petition to review and set aside the Commission's order in this case was filed in the Ninth Circuit (San Francisco). The order directed the petitioner to cease and

desist from certain false and misleading representations concerning the therapeutic value of baby foods and health preparations sold in interstate commerce. As of June 30, 1940, the case awaited printing of the transcript.

Alle-Rhume Remedy Co., Jersey City, N. J.--This company filed a petition in the Third Circuit (Philadelphia) to set aside the Commission's order, which directed it to cease and desist from representing that "Allenru," or any similar preparation, will rid joints or muscles of all uric acid deposits, is compounded from a safe or scientific formula, is free from harmful drugs, or is a remedy or cure for, or has any substantial therapeutic value in the treatment of rheumatism, sciatica, neuritis, lumbago, or neuralgia, or other ailments. On stipulation of counsel, the appeal was dismissed.

Allen B. Wrisley Co. and others, Chicago.--These respondents filed a petition in the Seventh Circuit (Chicago) to review and set aside the Commission's order against the misrepresentation of the olive-oil content of soaps manufactured and distributed by them, which the Commission found contained only from 5 to 15 percent olive oil or olive-oil foots. The court's opinion was handed down June 12, 1940 (113 F. (2d) 437.)

A final decree was entered by the Seventh Circuit in this case on July 18, 1940.

While the Commission's order was modified in some particulars, the net result of the decree is an affirmance of the order in all essential respects. The order as affirmed, and which will be enforced by the Court, prohibits the respondents from : (1) Representing in any manner that a soap which does not contain olive oil to the exclusion of all other oils is an olive oil soap; (2) using the brand names or labels "Olive-Oil," "Royal Olive Oil Pure," "Purito Olive Castile," "Olive-Skin Pure Toilet Soap," or "Del Gloria Castile Made With Pure Olive Oil," or other brand names or labels of similar import or meaning containing the word "Olive" or the letters "Olive" or any equivalent term, to describe, designate or in any way refer to soap the oil content of which is not wholly olive oil. It permits the respondents to use brand names containing the word "Olive" or derivatives thereof, or other word or words of similar import or meaning, to describe or designate soaps containing olive oil combined with other oil or oils, only on the condition that the respondents shall clearly, conspicuously and truthfully designate that such soaps are not made wholly of olive oil, and providing also that olive oil must be present in such soaps in an amount sufficient substantially to affect its detergent or other qualities.

American College, American University, and Denton N. Higbe, Chicago.--These two correspondence schools, and their president, Denton N. Higbe, filed a petition in the Seventh Circuit (Chicago)

to review and set aside the Commission's order prohibiting the use of the words "College" and "University" in their corporate names. The Commission found that neither institution was a college or university within the popular general conception of the words. The court, on motion of the Commission, dismissed the petition for review, for want of prosecution. Subsequently the petitioners filed with the Commission a report showing compliance with its order.

Automobile financing: Ford Motor Co., Dearborn, Mich.; General Motors Corporation, General Motors Sales Corporation, Detroit, and General Motors Acceptance Corporation, New York.--As a result of Commission cease and desist orders proscribing the user of the words "six per cent" or the symbol "6%" in connection with the installment payment plan of purchasing automobiles, petitions for review were filed by the Ford Motor Co. in the Sixth Circuit (Cincinnati) and by the General Motors Corporation and associated corporations with the Second Circuit (New York)

The Commission's findings were that the term "6%," when used in connection with monthly payments, was understood by the public to mean 6 percent simple interest per annum computed on the declining balance as reduced by the monthly payments; but that, as actually carried out, the purchaser paid 6 percent, 9 percent, or 12 percent, as the case might be, on the total amount originally owed, until the filial payment was made, resulting in a charge of approximately 11 ½ percent simple interest per annum on an original balance as reduced by monthly payments.

The General Motors case awaited decision and the Ford case printing of the transcript, at the close of the fiscal year.¹

California Lumbermen's Council and others, Fresno, Calif., including affiliated California lumber retailers' associations, having filed petition in the Ninth Circuit (San Francisco) to review the Commission's order against them prohibiting a combination to fix prices and restrain trade, the case, as of June 30, 1940, awaited decision of the Court on the merits.² (See Annual Report of the Commission, 1939, pp. 94-95. For prior decisions, see 103 F. (2d) 304, and 104 F. (2d) 855.)

Candy Lottery Cases--New York, Chicago, St. Louis, Salt Lake City, and Ogden, Utah.--Ten cases involving lottery methods in the sale of candy and candy products were litigated in the Federal courts during the fiscal year, as follows :

Petition for rehearing filed by Bunte Brothers, Inc., Chicago, was denied by the Seventh Circuit (Chicago). That Court had unanimously affirmed the Commission's order. (See Annual Report of the Commission, 1939, p.99. For prior decision, see 104 F. (2d) 996.)

¹ Commission's order in General Motors case affirmed Aug.12, 1940.

² Commission's order affirmed Oct. 1, 1940.

In another case involving Bunte Brothers, Inc., Chicago, a decision adverse to the Commission was handed down by the Seventh Circuit (Chicago) (110 F. (2d) 412). The Commission order had prohibited the use of lottery methods in intrastate commerce which injuriously affect interstate commerce. In the course of its opinion, the court, after condemning the practice on moral grounds, said:

Our conclusion (which is not free from doubt) is that the phase of petitioner's business wherein its practices are unfair is wholly intrastate. It is the phase of the petitioner's business which is conducted wholly in Illinois, by an Illinois corporation, which makes and sells its product in Illinois. It is not within the purview of section 5 of the Federal Trade Commission Act. If an extension of the Federal Trade Commission's jurisdiction be advisable so as to include practices affecting interstate commerce, it is for Congress, not the court to make the change.

A petition for writ of certiorari, on behalf of the Commission, was filed in the Supreme Court of the United States.³ Three grounds for issuance of the writ were advanced : (1) The public importance of the question involved; (2) the conflict between the decision of the Seventh Circuit and decisions of other circuits which have construed the Federal Trade Commission Act as applying to intrastate transactions which affect interstate commerce or which occur in the current of interstate commerce, and (3) the inconsistency of the decision with decisions construing other statutory provisions designed to protect interstate commerce from unfair and discriminatory practices.

Petitions for rehearing filed by the National Candy Co., St. Louis, and the March of Time Candies, Inc. and the Dietz Gum Co., both of Chicago, were denied by the Seventh Circuit (Chicago). (For prior decision unanimously affirming the Commission's orders in these cases, see Annual Report of the Commission, 1939, pp. 97-98; reported in 104 F. (2d) 999.) Petitions for writs of certiorari, on behalf of these companies, were filed with the Supreme Court and were denied (308 U.S. 610).

The cases involving the Ostler Candy Co. and Glade Candy Co., both of Salt Lake City, and the Shupe-Williams Candy Co. of Ogden, Utah, were decided unanimously in favor of the Commission (106 F. (2d) 962). Commenting upon the challenge to the constitutionality of section 5 of the Federal Trade Commission Act, as amended by the Wheeler-Lea Act, the Court said :

The change relates solely to the remedy of the Government for its enforcement; it does not transform the order into the equivalent of a legislative act or a judgment or decree of a court; and the provision for judicial review meets the requirements of due process.

³ Petition granted.

Petitions for rehearing were denied. Petitions for writs of certiorari were filed in the Supreme Court and denied (309 U.S. 675).

The case involving the Sweet Candy Co., Salt Lake City, was dismissed on motion of the petitioner by the Tenth Circuit (Denver) (112 F. (2d) 168). The proceeding had been held in abeyance pending final adjudication of the Ostler Candy Co., Glade Candy Co., and Shupe-Williams Candy Co. cases.

The Second Circuit (New York), (109 F. (2d) 296), modified, and affirmed as modified, the Commission's order directed against the Sweets Company of America, Inc., New York. The Court, preferring the decisions of the First and Ninth Circuits in *F. T. C. V. Miller Co.* (97 F. (2d) 563), and *Helen Ardelle, Inc., et al. V. F. T. C.* (101 F. (2d) 718), respectively, to those of the Seventh and Tenth Circuits in *National Candy Co. et al. V. F. T. C.*, (104 F. (2d) 999), and *Ostler Candy Co. et al. V. F. T. C.* (106 F. (2d) 962), respectively, modified the Commission's order, to preclude sales where a lottery system was known to be practiced or where the packing of the candy carried an unfair appeal to purchasers, and not to preclude a manufacturer from selling its candies when so packed that a lottery was neither reasonably anticipated, nor suggested, nor likely to occur.

A dissenting opinion by Circuit Judge Clark favored affirmance of the Commission's order without modification.

Capon Water Co., Philadelphia, and Capon Springs Mineral Water, Inc., Capon Springs, W. Va.--The Third Circuit (Philadelphia) unanimously affirmed the Commission's order in this case (107 F. (2d) 516) of false advertisement concerning the therapeutic value of a mineral water.

Carter Carburetor Corporation, St. Louis, one of the largest manufacturers of automobile carburetors, filed a petition in the Eighth Circuit (St. Louis) to review and set aside the Commission's order requiring it to cease and desist from making or renewing contracts with service stations or other retail dealers, on the condition that they should not use or deal in the products of its competitors; from fixing prices to be charged or discounts to be allowed such purchasers on the same condition; from notifying them that if they dealt in competing products they would be required to pay a higher price for Carter products, or their service-station contracts would be terminated, and from other practices.

The Commission filed its cross petition asking for affirmance and enforcement of its order, and the case was decided unanimously in its favor (112 F. (2d) 722). The decision is important as establishing that the company's practices were not only in violation of Section

3 of the Clayton Act, but also of section 5 of the Federal Trade Commission Act. In decreeing enforcement, the court said :

Here the public has an interest in the continued independence of the service stations and in fair competition in the carburetor industry, and it is the duty of the Court to protect such interest by enforcing the lawful order of the Commission.

Century Metalcraft Corporation, Chicago, filed a petition in the Seventh Circuit (Chicago) to review and set aside the Commission's order prohibiting certain misrepresentations concerning kitchen utensils distributed by it. (See Annual Report of the Commission, 1939, p.100.) The court, in a unanimous opinion, slightly modified two of the seven paragraphs of the Commission's order, and affirmed it as so modified (112 F. (2d) 443).

Dr. W. B. Caldwell, Inc., Monticello, Ill., manufacturer and distributor of "Dr. Caldwell's Syrup Pepsin," "Syrup Pepsin," and "Syrup of Pepsin," filed a petition in the Seventh Circuit (Chicago), to set aside the Commission's order prohibiting misleading representations concerning the therapeutic effect of "Syrup Pepsin" and use of the word "pepsin" to designate or refer to a preparation which did not contain sufficient quantity of pepsin as an active ingredient to possess substantial therapeutic value. As to the products' principal ingredients, senna and cascara sagrada, the respondent was ordered to cease using any term or name, in referring to or designating a preparation containing these two drugs as its active ingredients, which conceals or minimizes their presence. The case was decided unanimously in favor of the Commission (111 F. (2d) 889) -A petition for rehearing was denied.

Educators Association, Inc., and others, New York.--Petition for review of the Commission's order was docketed in the Second Circuit (New York).

Petitioners sell and distribute a school reference book designated "The Volume Library," employing as many as 1,500 agents and canvassers a year. The principal practice prohibited by the order is: Representing, through the use of the term "Educators Association," that petitioners constitute a group of educators or teachers formed into an association, or that the business operated by them is anything other than a private business enterprise for profit.

The court modified the Commission's order so as to provide that the petitioners might use their corporate and trade names "if coupled with other words which do away with their tendency to create a false impression by revealing the true character of the business conducted," and affirmed it as modified (108 F. (2d) 470).

El Moro Cigar Co., Greensboro, N. C.--Petition for review was filed in the Fourth Circuit (Richmond, Va.). The Commission's order directed the company to stop employing the word "Havana"

or other words or picturizations indicative of Cuban origin to designate cigars not made from tobacco grown in Cuba. It was found that the company's "Havana Counts" cigars were made entirely of domestic tobacco.

The Court unanimously affirmed the Commission's order and directed its enforcement, saying (107 F. (2d) 429):

A study of the voluminous testimony taken shows conclusively that the word "Havana" has acquired a special meaning or significance in the cigar trade when applied to a cigar. It has come to mean that a cigar labeled with a phrase in which the word is used, is made, at least in part, from tobacco grown in Cuba. This being true, it necessarily follows that the word cannot properly be used in describing a cigar made entirely of domestic tobacco.

(See *H. N. Heusner & Son*, page 87, for similar case.)

Fashion Originators Guild of America, Inc., and others, New York; filed petitions for review of the Commission's order in the Second (New York), Sixth (Cincinnati), and Seventh (Chicago) Circuits, the principal and determinative case having been docketed in the Second Circuit. The Commission order had required the Guild (usually referred to as F. O. G. A.), its officers and directors, and membership composed of 225 manufacturers of textiles and women's garments to cease and desist from certain boycotts and monopolistic practices. Other respondents included approximately 100 manufacturers, converters, dyers, and printers of silk and rayon fabrics; retailer organizations in Chicago, Minneapolis, and Baltimore, their respective officers, directors, and members, and approximately 12,000 cooperating retailers.

The Commission found that as a result of the commanding position of the F. O. G. A. members in the wholesale garment trade many retailers deemed it necessary to carry their lines to meet the public demand; that F. O. G. A. brought about agreements, sometimes through threats, that its members would sell only to cooperating retailers; that retailer organizations agreed their members would not purchase from manufacturers who failed to cooperate with F. O. G. A.; that the garment manufacturers agreed to buy only textiles registered with the F. O. G. A. official registration bureau, and that textile members agreed to sell only to cooperating garment manufacturers.

At the year's close, the case awaited decision of the Second Circuit.¹ (For further details see Annual Report of the Commission, 1939, pages 101 and 102.) (See *Millinery Creators' Guild, Inc., and others*, page 89 herein, for similar case.)

Geo. H. Lee Co., Omaha, Nebr., filed a petition in the Eighth Circuit (St. Louis) for review of the Commission's cease and desist

¹ Commission's order affirmed by circuit Court, July 22, 1940. Now pending in U. S. Supreme Court on certiorari.

order directed against what the Commission had found to be mis-leading claims as to the efficacy of "Gizzard Capsules," a remedy for worms in poultry. The company claimed that the Commission was estopped from issuing its order because of a prior decision by a United States District Court involving the same subject matter. At the year's close the case awaited the court's decision on the merits.

Gimbel Brothers, Inc., New York.--A petition for review of the Commission's order was docketed in the Second Circuit (New York). The order directed the corporation to cease and desist from using the word "wool" or "woolens" or any other word or term descriptive of wool, to describe, designate, or in any way refer to any fabric or product not composed wholly of wool, with the proviso that, in the case of fabrics or products composed in part of wool and in part of other fibers, such words may be used as descriptive of the wool content if there be used in immediate connection or conjunction therewith words truthfully describing and designating each constituent fiber or material thereof in the order of its predominance by weight, beginning with the largest single constituent. As of June 30, 1940, the case awaited printing of the transcript.

Goodyear Tire & Rubber Co., Akron, Ohio.--The Commission filed a petition in the Supreme Court for writ of certiorari, to review the decision of the Sixth Circuit (Cincinnati) (101 F. (2d) 620) setting aside its cease and desist order directed against price discrimination in violation of the Clayton Act. (See Annual Report of the Commission, 1939, pages 102-103. For prior decisions, see 92 F. (2d) 677; 304 U. S. 257; 101 F. (2d) 620.) The petition was denied (308 U. S. 557).

The Great Atlantic & Pacific Tea Co., New York.--The Third Circuit (Philadelphia) unanimously affirmed the Commission's order requiring this company to cease and desist from violation of the brokerage provision of section 2 of the Clayton Act (106 F. (2d) 667).

The court directed enforcement of the Commission's order, which prohibited The Great Atlantic & Pacific Tea Co. from accepting allowances and discounts in lieu of brokerage on its purchases of commodities in interstate commerce. The court's opinion is a clear-cut ruling on the most important questions which have arisen in connection with the interpretation and application of the brokerage provision of the act.

The court held that the "services-rendered" clause of the brokerage paragraph did not set up a condition upon which brokerage could be paid or allowed to a buyer on his own purchases; that paragraph absolutely prohibited the payment of such brokerage; that paragraph (c) was entirely independent of paragraph (a), the general price

² Commission's order reversed July 23, 1940.

discrimination paragraph of the act, and that the provisions of the latter could not be read into the former; and that paragraph (c), as construed and applied by the Commission, was not violative of the Constitution.

During the course of its opinion, the Court said :

The question presented for our consideration is simply whether or not the vendee may be compensated for services rendered by the vendee's agent acting as agent for the vendors. It is obvious that dual representation by agents opens a wide field for fraud and oppression. Conflicting interests are always engaged when an attempt is made by buyers and sellers to arrive at a market price for commodities. We entertain no doubt that it was the intention of Congress to prevent dual representation by agents purporting to deal on behalf of both buyer and seller.

* * * * *

The practice of paying brokerage, or sums in lieu of brokerage to buyers or their agents by sellers was found by Congress to be an unfair trade practice resulting in damage to commerce. Paragraph (c) prohibits such practice. We conclude that Congress has properly exercised its power to the end that the named abuse may be done away with.

The company filed a petition in the Supreme Court for writ of certiorari, which was denied (308 U. S. 625), as was a petition for rehearing (309 U. S. 694). (Other brokerage cases are *Quality Bakers of America*, p. 90, and the *Webb-Crawford Co.*, p. 94.)

Hershey Chocolate Corporation, Hershey, Pa.; Peter Cailler Kohler Swiss Chocolate Co., Inc., Fulton, N. Y.; Larneont, Corliss & Co., New York; Sanitary Automatic Candy Corporation, New York; Berlo Vending Co., Philadelphia; and Confection Cabinet Co., Newark, N. J.--These companies, which include two of the largest chocolate candy-bar manufacturers, a sales corporation, and the three largest vending-machine operators, filed petition in the Third Circuit (Philadelphia) to review and set aside the Commission's order directed against restraint of trade agreements in the sale of candy bars to the vending-machine trade. At the end of the year the case awaited briefing and argument. (For further details see Annual Report of the Commission, 1939, p.104.)

H. N. Heusner & Son, Hanover, Pa.--The Third Circuit (Philadelphia) unanimously affirmed the Commission's order in this case and directed its enforcement (106 F. (2d) 596).

The order required the company to cease and desist from "representing, through the use of the words 'Havana' or 'Habana,' that cigars not manufactured entirely from tobacco grown on the island of Cuba are Havana cigars." The Commission found that the petitioner's "Heusner's Havana Smokers" and "Martinez Havana Smokers" have not at any time contained Havana tobacco, but have been manufactured entirely from domestic tobacco grown in the United States. Commenting on a "Notice" appearing on the box in which

they were packed--"These cigars are made in the United States and only of United States tobacco"--the court said :

The difficulty of petitioner's position lies in the fact that the implication of the word "Havana" is totally false, The purchaser can be guided by either label or legend, but not by both.

* * * * *

We doubt if petitioner would accede to a true qualification--"Fake Havana Smokers."

(See El Moro Cigar Co., p.84, for similar case.)

International Art Co. and others, Chicago.--The Seventh Circuit (Chicago) unanimously decided this case in favor of the Commission (109 F. (2) 393). The order had been directed against false and misleading representations in connection with the interstate advertising and sale as "paintings" of tinted or colored enlargements of family and other photographs and of frames therefor. Petition for writ of certiorari filed by the respondent was denied by the Supreme Court.

Justin Haynes & Co., Inc., New York.--The Second Circuit (New York) unanimously affirmed the Commission's cease and desist order (105 F. (2d) 988) prohibiting certain misrepresentations concerning the therapeutic value of a medication for external use containing 1.5 percent of aspirin and designated "Aspirub." Petition for a writ of certiorari was denied (308 U. S. 616).

Kidder Oil Co., La Crosse, Wis.--This company filed a petition in the Seventh Circuit (Chicago) to review and set aside the Commission's order which was directed against the dissemination of misleading representations in the sale of a lubricant designated as "Koatsal." Among other things, the order directed the petitioner to cease representing that "Koatsal" penetrates and adheres to all metal surfaces it reaches, permeates the pores of the metal, soaks into the metal, providing a plating on the metal for moving parts to ride on, or that the lubricating qualities of this product are any greater than those of the oil which it contains. At the year's close the case awaited briefing and argument.

McKinley-Roosevelt College of Arts and Sciences, Chicago, filed a petition in the Seventh Circuit (Chicago) to review and set aside the Commission's order prohibiting the use of the words "college" and "university" in the petitioner's corporate or trade names and also the use of symbols indicating academic degrees after the names of faculty members when the degrees so indicated were not the result of study pursued at recognized colleges or universities. The Commission had found that petitioner was the successor of a number of correspondence schools operated under various corporate names by Walter Raleigh Taylor, as president, and his wife as secretary-treasurer; that the entire business was carried on in a Chicago apart-

ment; that it lacked all requirements with respect to equipment and educational facilities which would enable it to be classified as a college or university; and that it advertised courses leading to degrees in arts, sciences, philosophy, education, and a large number of other branches of learning. At the year's close the case awaited certification.

Mentho-Mulsion, Inc., and others, Atlanta--These respondents filed petition in the Fifth Circuit (New Orleans) to review and set aside the Commission's order directed against misrepresentations concerning the efficacy of cough and cold medicines sold by them. As of June 30, 1940, the case awaited printing of the transcript.

Millinery Creators' Guild, Inc., and others, New York--Unanimous decision for the Commission in this case was handed down by the Second Circuit (New York) (109 F. (2d) 175). The object of the petition for review had been to obtain a reversal of the Commission's cease and desist order directed against petitioners' plan to prevent so-called "style piracy" of designs in women's hats.

The Court, in affirming the order, made the following comment, among others:

We believe, therefore, that concerted action to eliminate style piracy extends beyond the permissible area of industrial self-regulation. The purpose of the milliners, and the necessary effect of their combination, is to maintain their price structure, and to eliminate a distasteful "evil" which the law nevertheless recognizes to be a socially desirable form of competition.

A petition for rehearing was denied.¹ (See Fashion Originators Guild of America, Inc., and others, p.85, for similar case.)

Monica M. Rock, Milwaukee--Petition to review the Commission's cease and desist; order was docketed in the Seventh Circuit (Chicago) Under the order, the petitioner, individually and as executrix of the estate of Dr. Arthur A. Rock, was directed to discontinue representations that her method was a scientific, efficacious, safe, and proper treatment for goiter, regardless of the variety, form, or stage of progression. At the end of the year the case awaited briefing and argument.

Moretrench Corporation, Rockaway, N. J.--This corporation, a manufacturer of well points, pumps, and equipment used in drawing water from wet soil during excavation work, petitioned the Second Circuit (New York) to set aside the Commission's order prohibiting the disparagement of competitive products through various means. At the year's close the case awaited briefing and argument.

National Silver Co., New York, filed a petition in the Second Circuit (New York) to set aside the Commission's order directing it to cease and desist from making misleading representations as to special

¹ Pending in U. S. Supreme court on certiorari.

or reduced prices or quality of its silver-plated ware, or from aiding, abetting, or assisting retailers in making such representations, and from representing itself as a manufacturer when such was not the case. Thereafter the petition for review was withdrawn and the proceeding dismissed.

Perfume Cases--New York, Wilmington, Del., and Union City, N. J.--Five cases involving false and misleading advertising in the sale of perfumes and kindred products reached the Federal courts during the fiscal year.

Four petitions to review and set aside the Commission's orders were filed in the Second Circuit (New York) by Establishments Rigaud, Inc., and E. Fougera & Co., New York; Chanel, Inc., New York; Parfums Corday, New York, and Yardley of London, Inc., Union City, N. J. A joint petition by Coty, Inc., Wilmington, Del., and the Coty Sales Corporation, New York, was filed in the Third Circuit (Philadelphia).

The Commission orders had directed the several petitioners to cease and desist from representing, through the use of any terms, symbols, or picturizations indicative of French or other foreign origin, or in any other manner, that their products, which are compounded in the United States, are made in France or any other foreign country. The orders included provisos that the countries of origin may be stated when immediately accompanied by explanations that the products in question are made or compounded in the United States; they also permitted the use of foreign terms if accompanied by equally conspicuous English translations in immediate conjunction therewith.

At the year's close these cases awaited printing of the record.¹

Perma-Maid Co., Cincinnati, filed a petition in the Sixth Circuit (Cincinnati) for review of the Commission's order directing that company, a manufacturer of steel cooking utensils, to cease and desist from making representations, through advertising matter and sales agents, calculated to lead customers to believe that the consumption of food prepared or kept in aluminum utensils would cause ulcers, cancerous growth, and various other ailments and diseases. At the year's close the case awaited argument.

Quality Bakers of America, and others, New York.--This trade association, composed of approximately 70 member wholesale baking concerns located in various sections of the United States, filed petition in the First Circuit (Boston) to review and set aside the Commission's order directed against a violation of the brokerage provision of section 2 of the Clayton Act.

The respondents, including Quality Bakers of America, Inc., a purchasing agent for the associated baking companies, were ordered to

¹ Yardley of London, Inc., appeal dismissed.

cease and desist from receiving or accepting brokerage fees or discounts in lieu thereof in connection with the purchase of commodities by any member baker and from transmitting directly or indirectly any such fees to members or stockholders of the association.

Subsequent to the end of the fiscal year 1939, the Commission, upon reconsideration, dismissed the complaint against Pillsbury Flour Mills Co., Minneapolis, and the Consolidated Flour Mills Company and Kansas Milling Company, both of Wichita, Kans., for the reason that it appeared that these companies had discontinued the practices prior to the issuance of the complaint.

The Commission filed a cross petition asking for the affirmance and enforcement of its order. At the year's close, the case awaited the court's decision.¹ (Other brokerage cases are *The Great Atlantic & Pacific Tea Co.*, p.86, and *the Webb Crawford Co.*, p.94.)

Raladam Co., Detroit, engaged in the sale of a desiccated thyroid preparation described as "Marmola," filed a petition in the Sixth Circuit (Cincinnati) to review and set aside the Commission's order directed against what the Commission found to be unwarranted and extravagant claims as to the value of Marmola as a weight-reducing agent. The Commission found that the acts and practices of the Raladam Co. were to the prejudice of the public and of the company's competitors, and constituted unfair methods of competition in interstate commerce. As of June 30, 1940, the case awaited argument.

Saks & Co., New York.--This company filed a petition in the Second Circuit (New York) to review and set aside the Commission's order directed against misrepresentations as to quality, age, style, and value of women's dresses, fur coats, and other wearing apparel; for example, representing as new, coats made in whole or in part of old furs which have been renovated, rebuilt, remanufactured or restyled; and using such unqualified terms as "Satin," "Taffeta," "Crepe de Chine," or "Crepe" to describe or designate fabrics or products not composed of silk. At the year's close, the case awaited certification.

Smoke Salt Cases-Chicago, and Scranton, Pa.--Cease and desist orders issued by the Commission prohibited the Avery Salt Co., Scranton, Pa., and the Morton Salt Co., Chicago, from using any words signifying smoke or implying the use of smoke to describe salt offered for sale, or sold, for curing, preserving, smoking, or flavoring meats, unless the salt so described has been directly subjected to the action and effect of the smoke from burning wood during the course of its combustion sufficiently to acquire from such source alone all of its smoke or smoke effect for use in curing, preserving, smoking, or flavoring such meats.

¹ Commission's order affirmed Sept. 6, 1940.

The Avery Salt Co. filed a petition in the Fourth Circuit (Richmond, Va.) and the Morton Salt Co. in the Seventh Circuit (Chicago) for review of the Commission orders. The Morton company's petition was later dismissed on its own motion. In the Avery company case, the Court entered a consent decree modifying the Commission's order in certain particulars, affirming it as modified, and directing enforcement.

Seed Cases--Chicago, and Clarinda, Iowa.--Petitions for review of the Commission's orders filed by the American Field Seed Co. and others, Chicago, in the Seventh Circuit (Chicago), and by the Berry Seed Co. and others, Clarinda, Iowa (109 F. 2(1) 1012), with the Eighth Circuit (St. Louis), were later withdrawn and the appellate proceedings dismissed. The two Commission orders, which are in full force and effect, prohibit misleading representations to the effect that the petitioners' agricultural seed was cleaned with their own equipment, analyzed and tested by them in their own laboratories, and tagged and labeled in accordance with the laws of the States into which it was shipped; that it possessed high germinating power, was free from weed seed and other foreign matter, and capable of producing luxuriant crops.

Sheffield Silver Co., Jersey City, N. J., a manufacturer of silver plated hollow-ware, filed in the Second Circuit (New York) a motion for an injunction to restrain the Commission from holding hearings upon its complaint (concerning the respondent's alleged use of the word "Sheffield" in its corporate name and otherwise), on the ground that the proceeding was *res judicata* by reason of a prior decision of the Court (98 F. (2d) 676). (See Annual Report of the Commission, 1939, pp. 10109.)

The motion was denied, it having been shown to the satisfaction of the Court that its jurisdiction under the Federal Trade Commission Act is limited to the review of *final* orders to cease and desist, and to the affirmance, modification, or setting aside of such orders, and that it has no power under the statute to interfere with "the taking of testimony and the finding of facts essential to the making of such an order as shall ultimately be passed upon by the Circuit Court of Appeals." It was also shown that there were fundamental differences between the two proceedings, the former case, charging unfair methods of competition, having been brought under the original 1914 statute, and the latter, based not upon injury to competitors, but upon misrepresentation and tendency to mislead and deceive the public, having been brought under the amended statute of 1938.

Standard Container Manufacturers' Association, Inc., and others, Jacksonville, Fla.--This trade association, with a membership of approximately 25 Georgia and Florida corporations, partnerships and individuals engaged in the manufacture and sale of wooden containers, such as crates, baskets, and boxes used in packaging fruits

and vegetables for transportation from the producers to the ultimate consumers, filed a petition in the Fifth Circuit (New Orleans) to review and set aside the Commission's order. This order had directed the respondents to cease and desist from entering into or carrying out any understanding, agreement, combination or conspiracy for the purpose or with the effect of restricting, restraining, monopolizing, or eliminating competition in the sale of such products in interstate commerce and from, among other things, agreeing as a part of such conspiracy to fix and maintain, or fixing and maintaining, uniform and minimum prices, terms and conditions of sale, or agreeing to cur tail, or curtailing, production of such containers. At the year's close the case awaited the certification and printing of transcript. (For similar case, see *The Stevenson Corporation*, below.)

The Stevenson Corporation, and Stevenson, Jordan & Harrison, New York.--These concerns, both engaged in business management and business engineering, filed petition in the Second Circuit (New York) to review and set aside the Commission's order directing them to cease and desist, in connection with the offering for sale, sale and distribution of wooden containers used in the packaging of fruit and vegetables in interstate commerce, from entering into, carrying out, or aiding or abetting the carrying out of agreements, understandings, combinations or conspiracies for the purpose or with the effect of restraining or eliminating competition in the purchase or sale of such products.

The order also had been directed against the American Veneer Package Association, Inc., Washington, D. C., and its officers; and the Eastern Package Association, Philadelphia; Southern Package Association, Inc., Charlotte, N. C.; Northeastern Veneer Package Association, Rochester, N. Y.; and Midwest Package Association, Indianapolis, their officers and members. The associations concerned, however, did not join in the petition for review.

At the year's close the case awaited certification. (For similar case see *Standard Container Manufacturers' Association* above. Details of the *American Veneer Package Association* case are presented under *Orders to Cease and Desist*, p.64.)

Chester L. Thomas, Denver, trading as Thomas Quilt Factories, filed a petition in the Tenth Circuit (Denver) to review and set aside the Commission's order prohibiting misrepresentation of the customary or regular sales price of quilts or other bed coverings. As of June 30, 1940, the case awaited printing of the transcript.

United Corporation, trading as Virginia Products Co., and George M. Crump, Richmond, Va., filed a petition in the Fourth' Circuit (Richmond, Va.) to review and set aside the Commission's order forbidding the use of the term "Virginia" to describe meats or meat-food products not obtained from livestock raised in Virginia. The

court set aside the Commission's order solely for the reason that at the time the order issued the petitioner had acquired the necessary interest in a packing business to make it a packer within the meaning of the Packers and Stockyards Act, and therefore not subject to the jurisdiction of the Commission. The court said that since the power of the Federal Trade Commission is purely regulatory and not punitive, it is clear that jurisdiction must exist at the time of the entry of its order (110 F. (2d) 473).

United States Steel Corporation, American Bridge Co., Carnegie Illinois Steel Corporation, the American Steel & Wire Co. of New Jersey, and Tennessee Coal, Iron & Railroad Co.--These corporations filed petition in the Third Circuit (Philadelphia) to review and set aside the Commission's cease and desist order which had been directed against so-called "Pittsburgh plus" prices for rolled-steel products, in violation of section 2, the price-discrimination section of the Clayton Act (before its amendment by the Robinson-Patman Act), and of section 5 of the Federal Trade Commission Act. A separate petition was filed simultaneously with the Fifth Circuit (New Orleans) by the Tennessee Coal, Iron & Railroad Co. By stipulation of the parties, it was provided that the judgment and decree of the Fifth Circuit may be made in conformity with such decision as may be rendered in the Third Circuit or in the Supreme Court. Further proceedings have been suspended until January 2, 1941.

The Webb-Crawford Co., and others, Athens, Ga.--This group filed petition in the Fifth Circuit (New Orleans) to set aside the Commission's order directed against a violation of the brokerage provision of section 2 of the Clayton Act. The Commission had found that through the medium of the respondent Daniel Brokerage Co., Athens, Ga., in which firm three of its officers and majority stockholders were partners, The Webb Crawford Co., a wholesale grocery house, placed orders for and purchased a substantial portion of its merchandise requirements from various selling companies, those named in the order having been Godchaux Sugars, Inc., J. Aron & Co., Inc., and Myles Salt Co., Ltd., all of New Orleans, Chas. F. Cates & Sons, Inc., Faison, N. C., and Morton Salt Co., Chicago. The order directed these five seller respondents, in connection with the sale of commodities to The Webb Crawford Co., to discontinue paying any fees or commissions as brokerage, or any allowance in lieu thereof, to The Webb-Crawford Co. and to the respondents Ed. D. Wier, E. L. Wier, and Carter W. Daniel (officers and majority stockholders of The Webb Crawford Co.) either as partners in Daniel Brokerage Co. or in their individual capacities. The order also directed The Webb Crawford Co. and the individual respondents to cease accepting and receiving such brokerage from sellers upon the purchases of the Webb Crawford Co.

The court affirmed without dissent the Commission's order (109 F. (2d) 268) and granted its crosspetition for enforcement. The court concluded its opinion with the following observation:

The statute is not unconstitutional as depriving these stockholders, without due process, of their right to engage in business activities merely because they are stockholders in a corporation. They may do all the brokerage business they can which has not been made unlawful. The particular part of their business here ordered to cease has been made unlawful. Congress has a power to regulate interstate commerce so full and complete that it may prohibit what is of harmful tendency therein, much like a State may in other fields by virtue of the police power. We have no doubt that the regulation before us escapes being arbitrary, and has a real relation to the health and purity of interstate commerce.

Petition for rehearing was denied as was petition for certiorari. (Other brokerage cases are *The Great Atlantic & Pacific Tea Co.*, p.86, and *Quality Bakers of America*, and others, p.90.)

Wholesale Radio Service Co., Inc., of New York (now known as Radio Wire Television, Inc., of New York), and others, New York, Newark, Boston, Chicago, and Atlanta-Against these respondent sellers of radio receiving sets, parts, and accessories, the Commission had issued a complaint alleging that they had misrepresented their prices as wholesale and themselves as wholesalers. At the close of the taking of evidence in support of the complaint the respondents moved for dismissal, which the Commission denied. The respondents then filed petition in the Second Circuit (New York) for review of this action of the Commission. The Commission filed a motion to dismiss the petition for review, which motion was scheduled for hearing in October 1940.²

INJUNCTIVE PROCEEDINGS UNDER THE FEDERAL TRADE COMMISSION ACT

Since enactment of the Wheeler-Lea amendment to the Federal Trade Commission Act, the Commission has obtained 23 temporary injunctions in the United States District Courts to restrain the dissemination of false advertisements of various products pending the determination of Commission proceedings against the advertisers. Of this number, 21 cases concerned drug products and devices which were of a dangerous nature and injurious to health when used or taken under the conditions prescribed, or under customary or usual conditions. These products included electrolysis machines for the removal of superfluous hair, abortifacient, emmenagogue, and aphrodisiacs, and so-called cures for obesity and dipsomania, containing as their principal and active ingredients, respectively, dinitro-phenol, various hydrochlorides, desiccated thyroid, ergot, black hellebore, oil of savin, aloes, cotton root bark, and pilocarpus, or combinations thereof. Two of the injunctions involved the false advertisement of cosmetic preparations.

2 Petition dismissed.

By invoking the injunctive procedure, the Commission is effectively attacking a serious menace to public health. The result has been to cause the advertisers to discontinue not only the dissemination of the offensive advertisements but, in many instances, also the sale of the injurious products.

Actions brought by the Commission in the United States district courts under section 13 of the Federal Trade Commission Act for injunctive relief in certain cases involving alleged false advertisement, and coincided during the fiscal year ended June 30, 1940, are listed below.

The decree issued in each case enjoined the defendants from the further dissemination of the advertisements to which objection was made, pending issuance and final disposition of the Commission's complaint. In the cases of certain medicinal preparations or devices the decrees prohibited the dissemination of advertisements representing the products as safe and competent treatments for the ailments specified or which failed to reveal that such preparations, if used under the conditions prescribed in the advertisements or under customary or usual conditions, might result in serious or irreparable injury to the health of users.

Nine of the eighteen injunction suits concluded during the year had to do with the advertisement of drugs represented as being safe, scientific, and competent treatments for the relief of delayed menstruation. These cases were:

(All cases listed in this section were filed in United states district courts)

Leland F. Benham, trading as The Zelle Co., Chicago.--The preparations advertised were known as "Zellets No.1" and "Zellets No.2." Upon application of the Commission the Northern District Court of Illinois granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary injunction, which was followed by the Commission's complaint and cease and desist order.

Earl Aronberg, trading as Positive Products Co., and as Rex Products Co., Chicago.--The preparations advertised were known as "Triple-X Compound," "Reliable Perio Compound," and also as "Perio Pills" and "Perio Relief Compound." Upon application of the Commission the Northern District Court of Illinois granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary injunction, which was followed by the Commission's complaint, pending at the close of the year.

Harry S. Benham, trading as America's Medicine, and as Nu-Mode Co., Chicago.--The preparations advertised were known as "America's Medicine XX Compound," "Nu-Mode XX Compound," and "Kotess Periodic Relief Compound," and as "America's Medicine XXX Compound," "Nu-Mode XXX Compound," and "Kotess Periodic Relief

Compound.” Upon application of the Commission the Northern District Court of Illinois granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary injunction, which was followed by the Commission’s complaint and order to cease and desist.

Edward L. Jenkins and Mildred Jenkins, trading as Antisepto Products Co., Antisepto Products, Educational Products Co., and Sanitol Products Co., Chicago.--The preparations advertised were known as “Guaranteed Antisepto Anti-Delay Compound Regular” and “Guaranteed Antisepto Anti-Delay Compound Super Strength.” Upon application of the Commission the Northern District Court of Illinois granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary injunction, which was followed by the Commission’s complaint and order to cease and desist.

Charles L. Klapp, trading as The Cardinal Co. and as The Cardinal Company of St. Louis, St. Louis.--The preparation advertised was known as “Fema-Lade.” Upon application of the Commission the Eastern District Court of Missouri granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary in-junction, which was followed by the Commission’s complaint and order to cease and desist.

Blanche Kaplan, trading as Progressive Medical Co., and as Ladies Aid Co., Chicago.--The preparations advertised were known as “Ladies Aid No.2, Ordinary Strength” and “Ladies Aid No.3, Extra Strength.” Upon application of the Commission the Northern District Court of Illinois, Eastern Division, granted a temporary injunction, with was followed by the Commission’s complaint and order to cease and desist.

Pittsburgh Cut Rate Dunig Co., Pittsburgh.--The preparation advertised was known as “Genuine Mayco English Crown Female Capsules for Delayed Periods,” also designated as “Genuine Mayco English Crown Female Capsules (Double Strength)” and as “Genuine Mayco English Crown Female Capsules (Triple Strength).” Upon application of the Commission the Western District Court of Pennsylvania granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary injunction, which was followed by the Commission’s complaint and order to cease and desist.

May’s Cut Rate Drug Co. of Charleston, Charleston, W. Va.--The preparation advertised was sold under the same name as that in the case of Pittsburgh Cut Rate Drug Co. above. Upon application of the Commission the Southern District Court of West Virginia granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary injunction, which was followed by the Commission’s complaint, pending at the close of the year.

May's Cut Rate Drug Co., Clarksburg, W. Va.--The preparation advertised was sold under the same name as that in the case of Pittsburgh Cut Rate Drug Co. above. Upon application of the Commission the Northern District Court of West Virginia granted a temporary injunction, which was followed by the Commission's complaint and order to cease and desist.

Four of the suits for injunctive relief involved advertisements of preparations composed principally of thyroid gland substance which were represented as being safe and scientific treatments for obesity. Application for injunction was denied in one case. These cases are:

The Chapman Health Products Company, a corporation, John W. Chapman and Nellie C. Chapman, individually and as officers of The Chapman Health Products Company, Cleveland.--The preparation advertised was known as "Faid" and as "Daintee." Upon application of the Commission the Northern District Court of Ohio granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary injunction, which was followed by the Commission's complaint and order to cease and desist.

Sekov Corporation, and Edwin H. Vokes and Hazel Ruth Vokes, trading as Sekov Reducing Studios, Los Angeles.--The preparation advertised was known as "Sekov Reducer" and as "Sekov." Upon application of the Commission the Southern District Court of California, Central Division, granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary injunction which was followed by the Commission's complaint and order to cease and desist.

I. Ralph Weinstock, trading as Thyrole Products Company, Philadelphia.--The preparation advertised was known as "O. B. C. Reducing Capsules" and as "O. B. C. Capsules." Upon application of the Commission the Eastern District Court of Pennsylvania granted a rule to show cause. Thereafter, it issued a temporary restraining order and a temporary injunction, which were followed by the Commission's complaint and order to cease and desist.

American Medicinal Products, Inc., and Ernest G. Rurup, individually and as an officer of American Medicinal Products, Inc., trading as Scientific Laboratories of America, and California Sun-shine Products, Inc., Los Angeles.--The preparation advertised was known as "Re-Duce-Oids." Upon application of the Commission the Southern District Court of California, Central Division, granted a temporary restraining order and rule to show cause, but temporary injunction was denied. The Commission thereafter issued its complaint, which was pending at the year's close.

One of the injunction suits involved advertisement of drug preparations advertised as "Man's Pep Tonic," also advertised as "Man's

Tonic” and sold as “U. S. Special Tablets,” and “Man’s Pep Tonic (Double Str. Capsule)” also advertised as “Man’s Tonic (Double Str. Capsule)” and sold as “Sextogen Capsules for Men or Women.” The matter was filed against *Edwin L. Leisenring, an individual, trading as U.S. Drug and Sales Co., U.S. Drug Laboratories, and U.S. Drug Company, and Gordon Leisenring, an individual*, both of Denver. The District Court of Colorado granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary injunction, which was followed by the Commission’s complaint and order to cease and desist.

The following two cases concerned electrical devices for the removal of excess hair.

Electrolysis Associates, Inc., and Louis Zinberg, trading as Beautiderm Co., New York.--The device advertised was known as “Beautiderm Midget.” Upon application of the Commission the Southern District Court of New York granted an order to show cause. Thereafter it issued a temporary injunction, which was followed by the Commission’s complaint, pending at the close of the year.

Omega Manufacturing Company, Inc., trading as Omega Electrolysis Institute, and Milton C. Brownshieid, New York.--The preparation advertised was known as “Omega home Use Portable Machine.” Upon application of the Commission the Southern District Court of New York granted a rule to show cause. Thereafter it issued a temporary injunction, which was followed by the Commission’s complaint and order to cease and desist.

Two of the suits for injunctive relief differed materially from previous injunction suits brought under the Wheeler-Lea amendment. in that they involved little or no question of injury to the health of the consuming public, but irreparable, pecuniary injury instead. These suits concerned advertisements relating to prize contests and the cosmetics sold through such contests. The decrees issued in each case enjoined the defendants, pending issuance and final disposition of the Commission’s complaint, from the further dissemination of advertisements which might cause injury to the public through false representations with respect to the awarding of the prizes. The cases are:

Tomsen-King & Co., Inc., George Thomsen, its president and Merrold Johnson, its office manager, Chicago.--The preparations advertised were known as “Margaret King” cosmetics. Upon application of the Commission the Northern District Court of Illinois granted a temporary injunction. The defendants forthwith filed notice of appeal. Motions for supersedeas filed by the defendants in the United States Circuit Court of Appeals for the Seventh Circuit were all denied by that Court (109 (F. 2d.) 51) . The Commission’s com-

plaint was issued naming each of these defendants and 44 other corporations or individuals as respondents, which complaint was pending at the year's close.

Winship Corporation, and F. W. Fitch Co., and Don W. Parmelee, Des Moines, Iowa.--The preparations advertised were known as "Eve Martin" cosmetics. Upon application of the Commission the Southern District Court of Iowa granted a temporary restraining order and rule to show cause. Thereafter it issued a temporary injunction against Winship Corporation and Don W. Parmelee and denied it as to F. W. Fitch Co. without prejudice to the Commission to file a new petition for injunction and complaint at any time it had reason to believe that the circumstances warranted restraining the F. W. Fitch Co. All of the defendants named in this injunction were included in the complaint issued by the Commission in the Thomsen-King case.

CIVIL AND CRIMINAL PENALTIES UNDER THE FEDERAL TRADE COMMISSION

ACT

Acting under the authority of section 16 of the Federal Trade Commission Act, the Commission, during the current fiscal year, certified the facts concerning 15 alleged violations of its cease and desist orders and 1 case for criminal prosecution to the Attorney General, an increase of 3 such certifications over those certified during the preceding fiscal year. Trial of most of these cases was pending at the close of the year. However, 6 cases were disposed of and civil penalties in the sum of \$12,000 were collected or in process of collection at the end of the year. The cases so disposed of were:

United States v. Kumate-Pruf Manufacturing Co., New York; United States District Court for the Middle District of North Carolina; agreed judgment of \$1,000 entered.

United States v. Deran Confectionery Co., Cambridge, Mass.; United States District Court for the District of Massachusetts; agreed judgment of \$1,000 entered.

United States v. Elmer Candy Co., New Orleans; United States District Court, Eastern District of Louisiana; judgment of \$1,000 entered.

United States v. Holst Publishing Co., and others, Boone, Iowa; United States District Court for the Southern District of Iowa, Central Division; judgment of \$2,000 entered.

United States v. John Petrie, trading as B-X Laboratories, and Purity Products Co., Chicago; United States District Court for the Northern District of Illinois; agreed judgment of \$2,500 entered.

United States v. K. & S. Sales Co., and others, Chicago; United States District Court for the Northern District of Illinois; agreed judgment for \$4,500 entered.

A criminal prosecution under the provisions of section 14 of the Federal Trade Commission Act was instituted in the case of *United States v. John Petrie*, in the United States District Court for the Northern District of Illinois. The prosecution was brought because of the defendant's false advertisements of a dangerous drug and resulted in a plea of guilty and a fine of \$1,000.

TABLES SUMMARIZING WORK OF THE LEGAL DIVISIONS AND COURT PROCEEDINGS, 1915-1940

TABLE 1.--*Preliminary inquiries*

	1915	1916	1917	1918	1919	1920	1921	1922	
Pending beginning of year	0	4	12	32	19	29	61	68	
Instituted during year	119	205	402	611	843	1,107	1,070	1,223	
Total for disposition	119	266	474	643	862	1,130	1,131	1,291	
Consolidated with other proceedings	0	0	0	0	0	0	0	0	
Closed after investigation	3	123	289	292	298	351	500	731	
Docketed as applications for complaints	112	134	153	332	535	724	503	413	
Total disposition during year	115	257	442	624	833	1,075	1,063	1,144	
Pending end of year	4	12	32	19	29	61	68	147	
	1923	1924	1925	1926	1927	1928	1929	1930	1931
Pending beginning of year	147	102	191	176	298	328	224	260	409
Instituted during year	1,234	1,568	1,612	1,483	1,265	1,331	1,469	1,505	1,380
Total for disposition	1,381	1,670	1,803	1,659	1,563	1,659	1,093	1,735	1,789
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0
Closed after investigation	897	1,157	1,270	1,075	942	1,153	1,049	1,060	1,150
Docketed as applications for complaints	382	322	357	286	293	282	384	296	332
Total disposition during year	1,279	1,479	627	1,301	1,235	1,435	1,433	1,356	1,482
Pending end of year	102	191	176	298	328	224	260	409	307
	1932	1933	1934	1935	1936	1937	1938	1939	1940
Pending beginning of year	307	423	478	760	185	111	152	116	130
Instituted during year	1,059	1,593	2,151	847	837	899	527	433	648
Total for disposition	1,966	2,016	2,629	1,607	1,022	1,010	679	549	778
Consolidated with other proceedings	0	0	0	0	0	0	0	4	15
Closed after investigation	1,319	1,274	1,597	935	624	583	453	379	519
Docketed as applications for complaints	224	264	272	487	287	275	110	36	49
Total disposition during year	1,543	1,511	869	1,422	911	858	563	419	583
Pending end of year	423	478	760	185	111	152	110	130	195

CUMULATIVE SUMMARY-TO JUNE 30,1940

Inquiries instituted	28,141
Consolidated with other proceedings	19
Closed after investigation	20,023
Docketed as applications for complaints	7,904
Total disposition	27,916

Pending June 30, 1910

195

TABLE 2.--Applications for complaints

	1915	1916	1917	1918	1919	1920	1921	1922	
Pending beginning of year	0	104	130	188	280	389	554	467	
Applications docketed	112	134	153	332	535	724	426	382	
Rescissions:									
To complaints	0	0	0	0	0	0	0	0	0
Settled by stipulation to cease and desist	0	0	0	0	0	0	0	0	0
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	0	0	0	0	0	0	0	5
Closed for other reasons 1	0	0	0	0	0	0	0	0	0
Total for disposition	112	238	283	520	815	1,113	980	854	
To complaints	0	3	16	80	125	220	150	104	
Settled by stipulation to cease and desist	0	0	0	0	0	0	0	0	0
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	8	105	79	160	301	339	357	292	
Closed for other reasons 1	0	0	0	0	0	0	0	0	0
Total disposition during year	8	108	95	240	426	559	513	396	
Pending end of year	104	130	188	280	389	554	467	458	
	1923	1924	1925	1926	1927	1928	1929	1930	1931
Pending beginning of year	458	572	565	488	420	457	530	843	753
Applications docketed	416	377	340	273	292	334	679	535	511
Rescissions:									
To complaints	0	0	0	0	0	0	0	0	2
Settled by stipulation to cease and desist	0	1	1	1	0	2	2	3	5
Settled by acceptance of T. P. C. rules	0	0	0	0	0	1	3	2	
Consolidated with other proceedings	0	0	0	0	0	0	0	0	
Dismissed for lack of merit	6	4	3	4	0	0	0	3	4
Closed for other reasons 1	0	0	0	0	0	0	0	0	0
Total for disposition	880	954	909	766	712	793	1,212	1,389	1,277
To complaints	121	143	118	57	45	58	100	171	110
Settled by stipulation to cease and desist	0	3	5	102	80	68	118	275	203
Settled by acceptance of T. P. C. rules	0	0	0	2	3	19	17	32	5
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	187	243	298	185	127	118	134	158	205
Closed for other reasons 1	0	0	0	0	0	0	0	0	0
Total disposition during year	308	389	421	346	255	263	369	636	523
Pending end of year	572	565	488	420	457	530	843	753	754
	1932	1933	1934	1935	1936	1937	1938	1939	1940
Pending beginning of year	754	440	476	469	634	685	964	1,190	1,269
Applications docketed	378	404	376	913	1,221	1,477	1,402	1,257	1,390
Rescissions:									
To complaints	0	3	0	0	0	0	3	0	0
Settled by stipulation to cease and desist	3	3	4	10	18	27	35	44	45
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	1	0	3	1	12	12	14	5	1
Closed for other reasons 1	0	0	0	1	3	1	9	5	10
Total for disposition	1,136	850	859	1,394	1,888	2,205	2,424	2,501	2,721
To complaints	90	52	98	259	382	290	310	371	329
Settled by stipulation to cease and desist	332	181	201	357	544	614	564	466	563
Settled by acceptance of T. P. C. rules	6	3	0	1	0	4	0	0	5
Consolidated with other proceedings	0	0	0	0	0	0	0	26	37
Dismissed for lack of merit	268	138	91	66	4	0	0	0	0
Closed for other reasons 1	0	0	0	77	273	337	356	369	366
Total disposition during year	690	374	390	760	1,203	1,241	1,234	1,232	1,300
Pending end of year	440	476	469	634	685	964	1,190	1,269	1,421

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

CUMULATIVE SUMMARY-TO JUNE 30, 1910

Applications docketed		15,379	
Rescissions:			
To Complaints		10	
Settled by stipulations to cease and desist	204		
Settled by acceptance of T. P. C. rules		6	
Consolidated with other proceedings		0	
Dismissed for lack of merit		78	
Closed for other reasons		29	
Total for disposition			15,706
To complaints		3,808	
Settled by stipulations to cease and desist	4,676		
Settled by acceptance of T. P. C. rules		97	
Consolidated with other proceedings		63	
Dismissed for lack of merit		3,863	
Closed for other reasons 1		1,778	
Total disposition			14,285
Pending June 30, 1910			1,421

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

TABLE 3.--Complaints

	1915	1918	1917	1918	1919	1920	1921	1922		
Pending beginning of year	0	0	5	10	86	133	280	312		
Complaints docketed.	0	5	9	154	135	308	177	111		
Orders to cease and desist	0	0	0	0	0	0	0	1	0	
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0	
Dismissed for lack of merit	0	0	0	0	0	0	0	1	0	
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	
Total for disposition	0	5	14	164	221	441	465	423		
Complaints rescinded	0	0	0	0	0	0	0	0	0	
Orders to cease and desist	0	0	3	71	75	111	116	91		
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0	
Dismissed for lack of merit	0	0	1	7	13	44	37	75		
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	
Total disposition during year	0	0	4	78	88	155	153	166		
Pending end of year	0	5	10	86	133	286	312	257		

	1923	1924	1925	1926	1927	1928	1929	1930	1931		
Pending beginning of year	257	232	264	220	152	147	136	198	275		
Complaints docketed	144	154	132	62	76	64	149	172	110		
Rescissions:											
Orders to cease and desist	0	5	0	0	1	1	0	0	0		
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	0	
Settled by acceptance on F.T.C. rules	0	0	0	0	0	0	0	0	0	0	
Dismissed for lack of merit	1	1	0	0	1	0	0	0	0	0	
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	0	
Total for disposition	402	392	396	282	230	212	285	370	885		
Complaints rescinded	0	0	0	0	0	0	0	0	3	2	
Orders to cease and desist	82	92	73	44	52	48	67	48	108		
Settled by stipulations to cease and desist	0	0	6	3	1	3	3	3	3	0	
Settled by acceptance of T. P.C. rules	0	0	0	5	5	1	0	1	1		
Dismissed for lack of merit	88	36	97	83	25	20	18	41	49		
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	0	
Total disposition during year	170	128	176	130	83	76	87	95	160		
Pending end of year	232	264	220	152	147	136	198	275	225		

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

TABLE 3.--*Complaints--Continued*

	1932	1933	1934	1935	1930	1937	1938	1939	1940
Pending beginning of year	225	208	144	115	218	419	358	392	442
Complaints docketed.	92	53	97	280	386	290	305	370	331
Rescissions:									
Orders to cease and desist	1	0	0	1	12	10	8	3	7
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	0	0	0	0	0	0	0	6
Closed for other reasons ¹	0	0	0	0	0	0	0	1	0
Total for disposition	318	261	241	390	616	725	671	766	786
Complaints rescinded	1	3	0	0	0	3	0	0	0
Orders to cease and desist	63	66	111	126	161	296	245	288	282
Settled by stipulations to cease and desist ¹	1	1	2	1	1	17	5	4	1
Settled by acceptance of T. F. C. rules	0	6	0	0	0	0	0	0	4
Dismissed for lack of merit	45	41	12	38	19	13	13	12	20
Closed for other reasons ¹	0	0	1	13	10	38	16	20	21
Total disposition during year	110	117	126	178	197	307	279	324	328
Pending end of year	208	144	115	218	419	358	392	442	458

CUMULATIVE SUMMARY--TO JUNE 30, 1940

Complaints	4,172
Rescissions:	
Orders to cease and desist	50
Settled by stipulations to cease and desist	0
Settled by acceptance of T. F. C. rules	0
Dismissed for lack of merit	10
Closed for other reasons ¹	1
Total for disposition	4,233
Complaints rescinded	12
Orders to cease and desist	2,719
Settled by stipulations to cease and desist	52
Settled by acceptance of T. F. C. rules	22
Dismissed for lack of merit	845
Closed for other reasons ¹	125
Total disposition	3,775
Pending June 30, 1940	458

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

TABLE 4.--*Court proceedings--Orders to cease and desist--petitions for review--lower courts*

	1919	1920	1921	1922	1923	1924	1925	1926
Pending beginning of year	0	2	8	13	9	4	14	9
Appealed	4	9	18	5	5	15	6	5
Total for disposition	4	11	26	18	14	19	20	14
Decisions for Commission	1	0	1	4	5	1	6	5
Decisions for others	1	3	11	5	4	4	3	1
Petitions withdrawn	0	0	1	0	1	0	2	0
Total disposition during year	2	3	13	9	10	5	11	6
Pending end of year	2	8	13	9	4	14	9	8

TABLE 4.--*Court proceedings--Orders to cease and desist-petitions for review lower courts--Continued*

	1927	1928	1929	1930	1931	1432	1933
Pending beginning of year	8	3	3	35	3	8	15
Appealed	4	4	34	1	10	22	3
Total for disposition	12	7	37	36	13	30	18
Decisions for Commission	4	3	1	4	3	1	2
Decisions for others	2	1	1	26	1	11	13
Petitions withdrawn	3	0	0	3	1	3	1
Total disposition during year	9	4	2	33	5	15	16
Pending end of year	3	3	35	3	8	15	2

	1934	1935	1936	1937	1938	1939	1940
Pending beginning of year	2	1	3	5	3	27	31
Appealed	1	5	6	2	29	25	22
Total for disposition	3	6	9	7	32	52	53
Decisions for Commission	2	3	4	3	3	15	17
Decisions for others	0	0	0	0	0	2	3
Petitions withdrawn	0	0	0	1	2	4	7
Total disposition during year	2	3	4	4	5	21	27
Pending end of year	1	3	5	3	27	31	26

CUMULATIVE SUMMARY--TO JUNE 30, 1940

Appealed	235
Decisions for Commission	88
Decisions for others	1 92
Petitions withdrawn	29
Total disposition	209
Pending June 30, 1940	26

1 This table lists a cumulative total of 92 decisions in favor of the respondents in Commission cases before the United States Circuit Courts of Appeals. However, the Grand Rapids furniture (veneer) group (with 25 different docket numbers) was in reality 1 case, with 25 different subdivisions. It was tried, briefed, and argued, as 1 case and was so decided by the court of appeals. The same held true of the curbpump group (with 12 different subdivisions), the Royal Milling Co. group (with 6 different subdivisions), and the White Pine cases (12 subdivisions). In reality, therefore, these 55 docket numbers mean but 4 cases; and, if cases and not docket numbers are counted, the total of decisions in favor of the respondents would be 41.

NOTE.--During the period 1919-38, inclusive, 58 petitions by the Commission for enforcement of order to cease and desist were passed upon by courts. Of these proceedings, 54 were decided in favor of the Commission, 4 in favor of adversaries. Petitions for enforcement were subsequently made unnecessary by amendment of the Federal Trade Commission Act making orders finally effective unless review is sought by respondents within 60 days after service of an order.

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

	1919	1920	1921	1922	1923	1924	1925	1926
Pending beginning of year	0	0	1	3	3	1	0	4
Appealed by Commission	0	2	2	4	5	0	5	2
Appealed by others	0	0	0	0	2	1	1	3
Total for disposition	0	2	3	7	10	2	6	9
Decisions for Commission	0	0	0	2	0	0	0	0
Decisions for others	0	1	0	0	5	1	0	0
Petitions withdrawn by Commission	0	0	0	0	1	0	0	0
Certiorari denied Commission	0	0	0	2	1	0	1	2
Certiorari denied others	0	0	0	0	2	1	1	1
Total disposition during year	0	1	0	4	9	2	2	3
Pending end of year	0	1	3	3	1	0	4	6

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

	1927	1928	1929	1930	1931	1932	1933
Pending beginning of year	6	1	0	1	0	0	0
Appealed by Commission	1	0	0	1	1	0	8
Appealed by others	1	0	2	0	0	1	0
Total for disposition	8	1	2	2	1	1	8
Decisions for Commission	3	0	0	0	0	0	6
Decisions for others	2	0	0	1	1	0	0
Petitions withdrawn by Commission	0	0	0	1	0	0	0
Certiorari denied Commission	1	0	0	0	0	0	1
Certiorari denied others	1	1	1	0	0	1	0
Total disposition during year	7	1	1	2	1	1	7
Pending end of year	1	0	1	0	0	0	1

	1934	1935	1936	1937	1938	1939	1940
Pending beginning or year	1	0	0	1	0	0	1
Appealed by Commission	12	0	0	0	0	1	1
Appealed by others	1	0	4	0	2	1	10
Total for disposition	14	0	4	1	2	2	12
Decision, for Commission	13	0	0	0	0	0	0
Decisions for others	1	0	0	0	0	0	0
Petitions withdrawn by Commission	0	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	0	0	0	1
Certiorari denied others	0	0	3	1	2	1	10
Total disposition during year	14	0	3	1	2	1	11
Pending end of year	0	0	1	0	0	1	1

CUMULATIVE SUMMARY--TO JUNE 30, 1940;

Appealed by Commission	45
Appealed by others	29
Total appealed	74
Decisions for	24
Decisions for others	12
Petitions withdrawn by Commission	2
Certiorari denied Commission	9
Certiorari denied others	20
Total disposition	73
Pending June 30, 1940	1

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

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

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

	1927	1928	1929	1930	1931	1932	1933
Pending beginning of year	4	5	3	2	1	1	2
Instituted by Commission	1	0	2	0	1	0	1
Instituted by others	1	2	1	2	0	2	0
Total for disposition	6	7	6	4	2	3	3
Decisions for Commission	1	1	4	1	1	1	2
Decisions for others	0	1	0	1	0	0	0
Petitions withdrawn by Commission	0	2	0	0	0	0	0
Petitions withdrawn by others	0	0	0	0	1	0	0
Total disposition during year	1	4	4	3	1	1	2
Pending end of year	5	3	2	1	1	2	1

	1934	1935	1936	1937	1938	1939	1940
Pending beginning	1	0	0	1	0	1	5
Instituted by Commission	0	0	4	2	5	11	14
Instituted by others	2	0	1	1	1	2	3
Total for disposition	3	0	5	4	6	14	22
Decisions for Commission	2	0	4	3	2	8	20
Decisions for others	0	0	0	0	3	1	1
Petitions withdrawn by Commission	0	0	0	0	0	0	0
Petitions withdrawn by others	1	0	0	1	0	0	0
Total disposition during year	3	0	4	4	5	9	21
Pending end of year	0	0	1	0	1	5	1

CUMULATIVE SUMMARY--TO JUNE 30, 1910

Instituted by Commission	53
Instituted by others	27
Total Instituted	80
Decisions for Commission	55
Decisions for others	16
Petitions withdrawn by Commission	4
Petitions withdrawn by others	4
Total disposition	79
Pending June 30, 1910	1

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

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

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

	1927	1928	1929	1930	1931	1932	1933
Pending beginning of year	1	0	0	0	0	0	0
Appealed by Commission	1	0	0	0	0	0	0
Appealed by others	0	0	0	1	0	0	0
Total for position	2	0	0	1	0	0	0
Decisions for Commission	1	0	0	0	0	0	0
Decisions for others	0	0	0	0	0	0	0
Certiorari denied Commission	1	0	0	0	0	0	0
Certiorari denied others	0	0	0	1	0	0	0
Total disposition during year	2	0	0	1	0	0	0
Pending end of year	0	0	0	0	0	0	0

	1934	1935	1938	1937	1938	1939	1940
Pending beginning of year	0	0	0	0	0	0	0
Appealed by Commission	0	0	0	0	1	0	0
Appealed by others	1	0	0	0	0	0	0
Total for disposition	1	0	0	0	1	0	0
Decisions for Commission	0	0	0	0	1	0	0
Decisions for others	0	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	0	0	0	0
Certiorari denied others	1	0	0	0	0	0	0
Total disposition during year	1	0	0	0	1	0	0
Pending end of year	0	0	0	0	0	0	0

CUMULATIVE SUMMARY--TO JUNE 30, 1940

Appealed by Commission	8
Appealed by others	2
	10
Decision for Commission	2
Decisions for others	5
Certiorari denied Commission	1
Certiorari denied others	2
Total disposition	10
Pending June 30, 1940	0

PART III. TRADE PRACTICE CONFERENCES

PURPOSES OF TRADE CONFERENCE PROCEDURE

TRADE PRACTICE CONFERENCE ACTIVITIES

TYPES OF PRACTICES COVERED

GROUP I AND GROUP II RULES DEFINED

TRADE PRACTICE RULES IN EFFECT

PART III. TRADE PRACTICE CONFERENCES

PURPOSES OF THE TRADE PRACTICE CONFERENCE PROCEDURE

The trade practice conference procedure has for its purpose the establishment, by the Commission, of trade practice rules for the protection of industry, trade, and the purchasing public against unfair competitive practices. Under this procedure conferences are conducted for industries and effective means are made available for industry groups or other interested or affected parties to participate voluntarily with the Commission in making provision for the elimination of trade abuses. Thus a cooperative action among competitors within the law and under Commission supervision may properly be taken to end trade abuses. Through such conference procedure the forces for good in an industry are more effectively organized and directed. Consumer representatives are likewise afforded means under the procedure for participating in the establishment and carrying out of rules in the interest of the public.

The different competitive practices or methods, which under the statutes and the various decisions of the courts or the Commission are considered to fall within the inhibitions of the law, are clarified and listed in the form of specific rules applicable to the particular conditions existing in the industry concerned. Such clarification and codification of legal requirements and the organization of cooperative endeavor under supervision of the Commission in the elimination of undesirable practices and the maintenance of fair competitive conditions is vastly important to industry, to the public, and to the Government. It leads to the wholesale elimination and abandonment of unfair and illegal methods of competition, thereby bringing to legitimate business and the purchasing and consuming public relief and protection from harmful exploitation and the waste and burdens of such methods. This voluntary cooperation in the elimination of harmful practices also results in substantial saving to the Government and to business in the expense which otherwise might necessarily be incurred in instituting a multiplicity of compulsory legal proceedings against individual offenders to require cessation of the illegal practices in question.

Rules appropriate for the Commission's approval or sanction may include not only provisions for the prevention of practices which are illegal *per se*, or are contrary to the general public interest, but also

provisions for fostering and promoting practices which are designed to aid fair competition and to elevate the standards of business ethics in harmony with public policy.

Rules of procedure.--The Division of Trade Practice Conferences is charged with the duty of conducting the various activities relative to the formulation and approval of trade practice rules, the holding of industry conferences in such matters, the administration and observance of promulgated rules, and all other staff duties incident to the trade practice conference procedure. The procedural steps and requirements applicable to trade practice conference proceedings, including the filing of applications and the holding of industry conferences and public hearings, are provided for in the Commission's Rules of Practice. (See Rule XXVII, p.183 et seq.)

TRADE PRACTICE CONFERENCE ACTIVITIES DURING THE YEAR

During the fiscal year the Commission's trade practice work expanded in usefulness and scope not only in respect of additional sets of rules promulgated, but also in advancing pending and newly instituted proceedings and administering the large body of existing rules.

Rules promulgated.--Trade practice rules for the following industries were promulgated during the fiscal year: (1) Mirror Industry; (2) Radio Receiving Set Industry; (3) Cotton Converting Industry; (4) Marking Devices Industry; (5) Public Seating Industry; (6) Curled Hair Industry; (7) Sardine Industry; (8) Umbrella Industry; (9) Tuna Industry; (10) Folding Paper Box Industry; (11) Uniform Industry; and (12) Ripe Olive Industry.

Some of these are industries which formerly operated under rules issued in years past. The majority, however, were brought under rules for the first time, thus augmenting, correspondingly, the number of industries for which trade practice rules are now in operation and being administered by the Commission.

In accordance with the applicable procedural requirements, and before approval and acceptance of the rules for the foregoing industries, drafts of the proposed provisions were made available upon public notice issued by the Commission whereby all interested or affected parties were afforded opportunity to present their views, including such pertinent information, suggestions or objections as they desired to offer, and to be heard in the premises.

Size of Industries concerned.--The annual sales volume of products handled by the industries for which rules were promulgated during the fiscal year is estimated to be well over a billion dollars. According to available statistics, the Radio Receiving Set Industry, one of the largest of the group, sold a total of 10,239,000 sets in the calendar

year 1939. The combined retail sales value of such sets, together with parts and accessories, amounted to approximately \$375,000,000.

Pending proceedings for establishment of industry rules.--Trade practice proceedings which had been instituted for the establishment of industry rules, and which were pending at the close of the fiscal year, covered many more industries than the number for which rules had reached the final stage and were promulgated during the year. These pending proceedings embrace industries which are large and national in scope. In some of the proceedings pending, the general industry conferences had already been assembled and held for the purpose of considering and formulating proposed rules. In some instances the proposed rules had been released by the Commission and public hearings thereon held. In other cases in which the proceedings were not so far advanced, the necessary preliminary study and consideration had been undertaken preparatory to further action in accordance with the applicable rules of procedure.

Besides the various industries for which the Commission had approved trade practice rules or for which proceedings had been instituted and were pending at the close of the year, many other groups have contacted the Commission regarding the holding of trade practice conferences for their industries. These industry contacts, and the number of proceedings already applied for, indicate a steadily widening appreciation on the part of industry and the public of the value of the trade practice conference procedure in maintaining fair competitive conditions in the public interest.

TYPES OF PRACTICES COVERED IN APPROVED RULES

The following are illustrative of tire great variety of subjects covered under trade practice conference rules now in effect: Misbranding; misrepresentation in various forms, including false or misleading advertising; deceptive packaging; defamation of competitors or disparagement of their products; impersonation or misrepresentation to obtain competitor's trade secrets; harassment of competitors by circulation, in bad faith, of threats of infringement suits; price discriminations to injure, prevent, or destroy competition; discriminations and harmful practices in matters of rebates, refunds, discounts, credits, brokerage, commissions, services, promotional allowances, etc.; commercial bribery; inducing breach of competitor's contract; false invoicing; imitation of competitor's trade-marks, trade names, brands, labels, etc.; substitution and "passing off"; deceptive use of so-called "free goods" deals; lottery schemes; use of consignment distribution to close competitors' trade outlets; use of deceptive types of containers simulating standard and generally recognized types; adulteration; use of deceptive depictions (photographs, en-

gravings, cuts, etc.); in describing industry products; selling below cost with the purpose and effect of suppressing competition, restraining trade or creating monopoly; and use of "loss leaders" as a deceptive or monopolistic practice.

Other subjects embraced in the rules are: Enticing away employees of a competitor; use of misleading guarantees, price quotations, price lists, terms of sale, etc.; full-line forcing as a monopolistic weapon; combinations or conspiracies to fix prices, suppress competition, or restrain trade; unfair bidding methods; misrepresentation as to possible earnings or opportunities afforded on completion of correspondence school courses; misrepresentations as to Government connection with, or endorsement of, any school, or respecting any training or services offered by such school; falsely representing offers as "special" or "limited"; deceptive sales of regular lines as "close-outs" to induce belief bargains are available; representing products as conforming to recognized industry standards when such is not the fact; misuse of such words or terms as "perfect," "perfect cut," "commercially perfect," "real," "genuine," "natural," etc., in describing precious stones or their imitations; misrepresenting kind, quality, thickness, or backing of mirrors; use of fictitious animal designations in description of furs; misrepresenting character, extent, or type of business engaged in; representing retail prices as wholesale; use of false and deceptive testimonials; misuse of terms "pullorum tested," "blood tested," etc., as applied to sale of baby chicks; false representations respecting tube capacity of radio sets and their range or receptivity; misuse of such terms as "all-wave," "world-wave," "world-wide wave," etc.; misuse of the words or terms "bristle," "pure bristle," etc., in the sale of toilet brushes; and deceptive use of "help wanted" or other employment columns in publications.

Various other rules provided for disclosure of the fiber content and proper marking of textile merchandise made of rayon or silk, or of two or more fibers containing either rayon or silk, to prevent deception of the purchasing public; disclosure as to remaining shrinkage in so-called preshrunk merchandise; disclosure of fact that apparently new products are not new, but are second-hand, rebuilt, or renovated; disclosure that products are artificial or imitations and not real or genuine; disclosure of country of origin of imported products; prevention of the marketing of sub-standard or imitation products as and for the standard or genuine, and the specification of minimum requirements for standard or genuine products; proper nomenclature for industry products; disclosure as to true composition of paint and varnish brushes; as to defective merchandise; as to use of an adulterant or substitute for linseed oil in respect to putty products; as to presence of metallic weighting in silk or silk products; as to

the minimum yardage of ribbons; as to the true functions of radio parts and accessories; as to the quality, quantity, and size of ripe olives as packed in cans and other opaque containers; and many other unfair methods of competition and unfair or deceptive acts or practices in commerce.

GROUP I AND GROUP II RULES DEFINED

Trade practice rules, as finally promulgated, are classified by the Commission as group I and group II rules, respectively.

Group I rules.--The unfair trade practices which are embraced in group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, as construed in the decisions of the Commission or the Courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in or directly affecting interstate commerce.

Group II rules embrace the wholly voluntary or recommended industry practices as distinguished from compulsory requirements. No such industry rule is received by the Commission unless the provision is in harmony with law and the public interest, and is constructively in support of the maintenance of fair competitive conditions in the industry.

TRADE PRACTICE RULES IN EFFECT AND THEIR ADMINISTRATION

Rules in effect.--Trade practice rules which are in effect for various industries number many hundreds. For example, the last 50 industries for which trade practice conference proceedings had been held have a total of 858 rules, of which 730 are in group I and 128 in group II. The types of trade practices hereinabove listed are indicative of the different kinds covered in the rules for these 50 industries.

Administration of rules.--This work covers the necessary compliance activities, interpretation of rules, and their application to specific situations arising from time to time in different industries, and the general administrative duties in respect to such activities. Such work concerns not only those rules promulgated during the current fiscal year, but also those promulgated in prior years and remaining in effect. A large volume of correspondence was conducted throughout the year in regard to existing rules, particularly as affecting com-

1 Rules, when promulgated for an industry, are issued in pamphlet form. A 1-volume compilation of the various sets of rules promulgated for different industries from Sept. 1, 1935, to Aug. 31, 1939, is available for purchase from the Superintendent of Documents, Washington, D. C. (287 pp.)

pliance with the provisions, and in general assisting industry members in the proper application and observance of rules in order to promote the use of fair practices and the protection of the public interest. Numerous informal conferences were had with members of industries and with other interested parties or groups. In a great majority of matters received during the fiscal year involving objectionable practices under the rules, correction or adjustment was brought about through the cooperation of the various parties concerned. Compliance with approved rules was general on the part of members of the industries, and this constructive and cooperative attitude has greatly lessened the need for resorting to the compulsory processes of the law in the prevention of unfair trade practices. The results demonstrated a primary objective of trade practice rules, namely, the wholesale elimination of unfair competitive practices without the expense of litigation. In cases where the compulsory procedure of the Commission appeared necessary to protect the public interest, action to that end was initiated.

Regarding the observance of trade practice conference rules, periodic surveys are conducted by the Commission, and those made during the fiscal year revealed marked improvement in competitive conditions in different industries operating under rules. It was apparent that the best interests of the public and of business were being served with substantial benefit as a consequence of the operation of fair trade practice rules.

PART IV. RADIO AND PERIODICAL ADVERTISING

SPECIAL PROCEDURE PROVIDES CONTINUOUS SURVEY OF
PUBLISHED AND BROADCAST MATTER

PART IV. RADIO AND PERIODICAL ADVERTISING

SPECIAL PROCEDURE PROVIDES CONTINUOUS SURVEY OF PUBLISHED AND BROADCAST MATTER

Advertising matter as published in newspapers, magazines, catalogs, and almanacs and as broadcast over the radio is surveyed and scrutinized for false and misleading representations by the Commission through its radio and periodical examining staff on a continuing current basis. This work includes duties devolving upon the Commission with the enactment of the Wheeler-Lea amendment to the Federal Trade Commission Act.

The survey of magazine and newspaper advertising; was inaugurated by the Commission in 1929, and the surveying of commercial advertising continuities broadcast by radio was started in 1934. As expanded in 1939, this survey includes mail-order catalogs and domestic newspapers published in foreign languages.

Apparent and probable misrepresentations detected through this survey are carefully investigated, and where it appears from the facts developed that the advertising is false or misleading and circumstances warrant, the advertisers are extended the privilege of disposing of the matters through an informal procedure, more fully explained at page 123, which permits their executing stipulations in which they agree to cease and desist from the use of the acts and practices involved. A large majority of the cases are adjusted in this manner. In those cases where this informal procedure is not applicable or does not result in the elimination of the misleading claims, and the facts so warrant, formal procedure is instituted.

In cases of advertising involving food, drugs, devices, and cosmetics, the Commission has directed the negotiation of stipulations with the advertising agencies which have disseminated those advertisements as well as with the advertisers in whose behalf the agencies acted.

In its examination of advertising, the Commission's only purpose is to prevent false and misleading advertisements. It does not undertake to dictate what an advertiser shall say, but rather indicates what he may not say under the law.

The Commission believes that its work in this field contributes substantially to the improvement that has been evident in recent years in the character of all advertising

Newspaper and magazine advertising.--In examining advertisements in current publications, it has been found advisable to call for some newspapers and magazines on a continuous basis, due to the persistently questionable character of the advertisements published. However, as to publications generally, of which there are some 20,000, it is physically impossible to survey continuously all advertisements of a doubtful nature; also, it has been found unnecessary to examine all the issues of publications of recognized high ethical standard whose publishers carefully censor all copy before acceptance.

Generally, copies of current magazines and newspapers are procured on a staggered monthly basis, at an average rate of three times yearly for each publication, the frequency of the calls for each publication depending upon its circulation and the character of its advertisements.

Through such systematic calls for magazines and newspapers during the fiscal year ended June 30, 1940, the Commission procured 1,631 editions of representative newspapers of established general circulation and 1,339 editions of magazines and farm journals of interstate distribution representing a combined circulation of 122,995,074. Among these periodicals were included representative foreign-language publications having a combined circulation of 1,417,587 copies.

The Commission examined 300,741 advertisements appearing in the aforementioned newspapers and magazines and noted 24,104 as containing representations that appeared to be false or misleading. The 24,104 questioned advertisements provided current specimens for check with existing advertising cases as to their compliance with orders of the Commission and stipulations accepted from advertisers, and also formed the bases of prospective cases not previously set aside for investigation.

Almanac advertising.--As an important supplement to its review of periodical advertising, the Commission examines almanacs of wide distribution which are used as advertising media for distributors of drugs, devices, and other commodities sold for the treatment of various ailments.

Mail-order advertising.--In January 1939, the Commission extended its examination of current published advertisements to include a continuous systematic survey of advertising matter appearing in mail-order catalogs and circulars. During the fiscal year ended June 30, 1940, the Commission procured mail-order catalogs and circulars containing an aggregate of 15,314 pages, being distributed periodically by mail-order companies. Of the 56 mail-order houses included in this survey, 5 represent combined annual net sales in excess of \$996,000,000 worth of merchandise.

In the subsequent examination of 15,208 pages of the mail-order advertising, 441 pages have been marked by the preliminary reviewing staff as containing possibly false, misleading, and deceptive material, and have been set aside for investigation. A wide variety of commodities (including food, drugs, devices, and cosmetics) is included in this questioned advertising.

Radio advertising.--The Commission, in its systematic review of advertising copy broadcast over the radio, issues calls to individual radio stations, generally at the rate of four times yearly for each station. However, the frequency of calls to such individual broadcasters is varied from time to time, dependent principally upon transmittal power, the service radius or area of specific stations, and the advertising record of certain types of stations, as disclosed in analyses of previous advertising reviews.

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

Producers of electrical transcription recordings submit monthly returns of typed copies of the commercial portions of all recordings produced by them for radio broadcast. This material is supplemented by periodic reports from individual stations listing the programs of recorded commercial transcription and other essential data.

During the fiscal year ended June 30, 1940, the Commission received 759,595 copies of commercial radio broadcast continuities, amounting to 1,518,237 pages of typewritten script. These comprised 1,072,537 pages of individual station script and 445,700 pages of network script.

The staff read and marked 684,911 commercial radio broadcast continuities, amounting to 1,398,561 pages of typewritten script. These comprised 436,700 pages of network script and 961,861 pages of individual station script. An average of 4,570 pages of radio script were read each working day. From this material 22,556 commercial broadcasts were marked for further study as containing representations that might be false or misleading. Time 22,556 questioned commercial continuities provided current specimens for check with existing advertising cases as to their compliance with orders of the Commission and stipulations accepted from advertisers, in addition to forming the bases for prospective cases which may not previously have been set aside for investigation.

Cooperation of radio and publishing industries.--In general, the Commission has received the helpful cooperation of Nation-wide and regional networks and transcription producers, in addition to that of some 717 active commercial radio stations, 468 newspaper

publishers, and 540 publishers of magazines and journals, and has observed an interested desire on the part of such broadcasters and publishers to aid in the elimination of false, misleading and deceptive advertising.

Source of radio and periodical cases.--Examination of current newspaper, magazine, radio, and direct mail-order house advertising, in the manner described, has provided the basis for 79 percent of the radio and periodical advertising cases handled by the Commission during the fiscal year ended June 30, 1940. Information received from other sources including information from other divisions of the Commission, and from other Government agencies, formed the basis of the remainder of this work.

Analysis of questioned advertising.--An analysis of the questioned advertising which was assembled by cases and given legal review discloses that it pertained to the following classification of 3,014 commodities in the proportions indicated:

CLASSIFICATION OF PRODUCTS

<i>Commodity</i>	<i>Percent</i>
Food, drugs, devices, and cosmetics:	
Food	11.2
Drugs	33.4
Cosmetics	12.8
Devices	2.3
	59.7
Other products:	
Specialty and novelty goods	11.2
Automobile, radio, refrigerator, and other equipment lines	4.9
Home study courses	2.8
Tobacco products	1.2
Gasoline and lubricants	1.6
Poultry and livestock supplies and equipment, including hatchery products, etc	2.0
Miscellaneous, including apparel, coal and oil fuels, house furnishings and kitchen supplies, specialty building materials, etc	16.6
	40.3
Total	100.0

In the item of drug preparations listed above, a substantial proportion of the related advertising contained positive misrepresentations or representations which encompassed possible injurious results to the public and for that reason were given preferred attention.

Number of cases handled.--During the fiscal year the Commission sent questionnaires to advertisers in 739 cases and to advertising agencies in 109 cases, and negotiated 190 stipulations, which were accepted and approved by the Commission.

A total of 532 cases were disposed of by the various methods of procedure. Of this number, 188 cases were considered settled upon receipt of reports showing compliance with previously negotiated stipulations. The remaining 344 cases were closed without prejudice to the right of the Commission to reopen if warranted by the facts: 333 of them for such reasons as no evidence of violation, lack of jurisdiction, and insufficient public interest; 2 because the Post Office Department had issued fraud orders against the advertisers, and 9 because the Post Office Department had accepted from the parties concerned affidavits of discontinuance of business.

In addition, the Commission, in 36 cases, ordered issuance of complaint: in 17 instances where advertisers failed to stipulate; in 1 case in which the advertiser was not given an opportunity to stipulate because of gross deception, and in 18 involving violation of the terms of existing stipulations previously accepted and approved. In 41 cases field investigations were ordered, including 13 wherein it appeared that application for injunction or criminal proceedings might be warranted. Also, 3 cases were referred to other governmental agencies as concerning matters more appropriately coming within their jurisdiction.

Seven hundred forty-three radio and periodical cases were pending on July 1, 1939, and 979 were pending on June 30, 1940.

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

Since the passage of the Wheeler-Lea amendment to the Federal Trade Commission Act, the Commission has had the services of a medical staff under the supervision of an experienced and highly qualified physician assigned to it by the United States Public Health Service, so that the therapeutic claims of advertisers can be competently and carefully examined. (See Medical Advisory Service, p.145.)

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

Procedure in advertising cases.--If it appears that a published or broadcast advertisement coming to the Commission's attention may be

misleading, a questionnaire is sent to the advertiser, and request is made for a sample of the product advertised, if this is practicable, and the quantitative formula, if the product is a compound. Copies of all advertisements published or commercial continuities broadcast during a specific period are also requested, together with copies of all booklets, folders, circulars, form letters, and other advertising literature used.

Upon receipt of these data, the claims, sample, and formula are referred to the Commission's Medical Advisory Division or to an appropriate technical agency of the Government for a scientific opinion. Upon receipt of the opinion, a list of such claims as then appear to be false or misleading is prepared and sent to the advertiser, along with pertinent portions of the opinion. The advertiser is extended the privilege of submitting such evidence as he may desire in support of his claims; he may answer by letter or, upon his request, may confer with the Commission's Radio and Periodical Division in person or through counsel.

If, after a consideration of all available evidence at hand including that furnished by the advertiser, the questioned claims appear to be true, the division reports the matter to the Commission with the recommendation that the case be closed.

If it appears from the weight of the evidence before it that the advertising is false or misleading, the division refers the matter to the Commission with recommendation either that complaint issue or the case be returned to the division for negotiation of a stipulation, provided it is one appropriate for stipulation procedure and the advertiser desires to dispose of it by such voluntary agreement to cease and desist from the use of the acts and practices involved.

If the Commission so authorizes, the division prepares a stipulation and forwards it to the advertiser for execution. Should he object to any of its provisions, he may discuss them by mail or in person. If and when he agrees upon the terms of the stipulation and signs and returns it, the matter is again reported to the Commission with recommendation that the stipulation be accepted and the case closed without prejudice to the right of the Commission to reopen the matter at any time the facts so warrant. If the Commission accepts and approves the stipulation, the advertiser is required to submit within 60 days from the date of acceptance a report in writing showing the manner and form in which he has complied and is complying with the provisions of his agreement.

Stipulation provides simplified methods.--The object of all Commission procedure is to prevent unfair methods of competition and unfair and deceptive acts and practices in commerce, and experience has shown that this can be accomplished not only by cease and desist orders, but by the stipulation method, which is effective and speedy as well as inexpensive for both Government and advertiser.

PART V. FOREIGN-TRADE WORK

THE EXPORT TRADE ACT

EXPORTS IN 1939 TOTAL \$237,060,000

44 EXPORT GROUPS REPRESENT 434 MEMBER COMPANIES

READJUSTMENT OF PACIFIC FOREST INDUSTRIES

REPORT ON OPERATION OF EXPORT TRADE ACT, 1918-40

TRUST LAWS AND UNFAIR COMPETITION ABROAD

PART V. FOREIGN-TRADE WORK

Foreign trade work of the Commission includes administration of the Export Trade Act (Webb-Pomerene law) and inquiries under section 6 (h) of the Federal Trade Commission Act.

THE EXPORT TRADE ACT

This law permits the formation of export combines or associations which are required to file with the Federal Trade Commission copies of their organization papers and current reports as to their operation. Under the terms of the act, such a group shall be engaged solely in export trade, and shall not restrain the trade of a domestic competitor, artificially or intentionally enhance or depress prices in this country, or substantially lessen competition or otherwise restrain trade within the United States.

EXPORTS IN 1939 TOTAL \$237,060,000

The total value of products exported by Webb law groups during 1939 shows an increase of 47 percent over exports in 1938:

	<i>1938</i>	<i>1939</i>
Metals and metal products	\$67,000,000	\$134,950,000
Products of mines and wells	20,920,491	18,750,000
Lumber and wood products	5,881,028	6,590,000
Food products	21,487,274	20,010,000
Miscellaneous manufactures	45,950,027	56,750,000
	161,244,820	237,060,000

During the first 8 months of the year, business was lessened by high duties abroad, foreign quota plans, and lack of foreign exchange; these restrictions were relieved in the case of commodities in great demand, such as metal and rubber products. After outbreak of the war in Europe, exports in some lines were increased due to purchases by foreign govern governments but in other lines, deemed nonessential-, sales were lessened; and shipment to some markets in Central Europe was stopped. The many problems met by the associations, and solved through cooperative action, are illustrated by the following excerpt from a recent association report:

The tremendous number of problems suddenly confronting exporters endeavoring to carry on their business during a world crisis, were taken care of with the minimum of lost motion, and a greater number of orders were booked,

handled, shipped, and paid for, than during any comparable period of the company's operation. A few of the newer complexities are worth examination:

1. *Shipping space.*--Due to consistent volume handled previously with certain steamship lines, we were in somewhat of a preferred position regarding reservation of space and were enabled to anticipate and book space while it was scarce.

2. *War risk insurance.*--We were enabled to obtain as favorable rates as available for time benefit of our foreign customers, and cover all such risks for combat zone travel automatically.

3. *Credit and collection.*--By watching the war development we were able to determine and govern credit terms, shortening them at a day's notice or abolishing them entirely for markets under war pressure by offering inducements for letters-of-credit business. Our only loss, a small one, was suffered in Poland on bills which became due shortly after the siege opened there.

There were other advantages, all attributable to our operation as an association, and problems arising daily in connection with permits, navicerts, letters of credit, etc., were handled with ease, economy, and dispatch, which we believe would not have been possible as a small independent exporter.

Little improvement was seen in trade with the Orient during 1939, but new opportunities were offered in South and Central America for products formerly shipped to those countries from Europe.

44 EXPORT GROUPS REPRESENT 434 MEMBER COMPANIES

There are now 44 export associations, representing 434 member companies operating in all parts of the United States, and shipping to the four corners of the globe. Their names and addresses are:

American Box Shook Export Association, Barr Building, Washington, D. C.

American Hardwood Exporters, Inc., Carondelet Building, New Orleans.

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

American Provisions Export Co., 80 East Jackson Boulevard, Chicago.

American Soda Pulp Export Association, 230 Park Avenue, New York.

American Spring Manufacturers Export Association, 30 Church Street, New York.

American Tire Manufacturers Export Association, 30 Church Street, New York.

California Alkali Export Association, 530 West 6th Street, Los Angeles.

California Dried Fruit Export Association, I Drumm Street, San Fran-

Carbon Black Export, Inc., 500 Fifth Avenue, New York.

Cement Export Co., Inc., The, 150 Broadway, New York.

Copper Exporters, Inc., 50 Broadway, New York.

Douglas Fir Export Co., Henry Building, Seattle.

Durex Abrasives Corporation, 63 Wall Street, New York.

Electrical Apparatus Export Association, 70 Pine Street, New York.

Electrical Export Corporation, 150 Broadway, New York.

Export Screw Association of the United States, 23 Acorn Street, Providence, R. I.

Florida Hard Rock Phosphate Export Association, Savannah Bank and Trust Building, Savannah, Ga.

cisco.
California Prune Export Association, 1
Drumm Street, San Francisco.
California Rice Exporters, 351 Califor-
nia Street, San Francisco.

General Milk Co., Inc., 19 Rector Street,
New York.
Goodyear Tire & Rubber Export Co.,
The, 1144 East Market Street, Akron,
Ohio.

- International Wood Naval Stores Export Corporation, Gulfport, Miss.
- Metal Lath Export Association, The, 55 West 42nd Street, New York.
- Northwest Dried Fruit Export Association Title and Trust Building, Portland, Oreg.
- Pacific Forest Industries, Tacoma Building, Tacoma, Washington.
- Pacific Fresh Fruit Export Association, 333 Pine Street, San Francisco.
- Pencil Industry Export Association, 703 East 13th Street, New York.
- Phosphate Export Association, 393 Seventh Avenue, New York.
- Piper Fittings & Valve Export Association, The, 1421 Chestnut Street, Philadelphia.
- Plate Glass Export Corporation, Grant Building, Pittsburgh.
- Potash Export Association, Inc., 110 East 42nd Street New York.
- Redwood Export Co., 405 Montgomery Street, San Francisco.
- Rice Export Association, Queen & Crescent Building, New Orleans.
- Rubber Export Association, The, 19 Goodyear Avenue, Akron, Ohio.
- Shook Exporters Association, Box 5188, Memphis, Tenn.
- Signal Export Association, 420 Lexington Avenue, New York.
- Steel Export Association of America, The, 75 West Street, New York.
- Sugar Export Corporation, 120 Wall Street, New York.
- Sulphur Export Corporation, 420. Lexington Avenue, New York.
- Textile Export Association of the United States, 40 Worth Street, New York.
- U. S. Alkali Export Association, Inc., 11 Broadway, New York.
- Walnut Export Sales Co., Inc., 12th Street and Kaw River, Kansas City, Kans.
- Walworth International Co., 60 East 42nd Street, New York.

RECOMMENDATIONS FOR READJUSTMENT OF THE BUSINESS OF PACIFIC FOREST INDUSTRIES

Complaint against the Pacific Forest Industries, of Tacoma, Wash., at Webb law association exporting plywood from the west coast, resulted in recommendations issued by the Commission on January 27, 1940, under provisions of the Export Trade Act:

1. That Pacific Forest Industries shall not, by its by laws, contracts with members or associate members, or otherwise, prohibit its members or associate mem members from selling plywood directly to American exporters.

2. Section XVI of the present bylaws of Pacific Forest Industries provides that "the several members agree to * * * turn over to the association, as and when received, all future orders for export; * * * The members agree not to accept any future export orders, but to transmit and turn the same over to the association." Contracts between Pacific Forest Industries tries amid associate member plywood mills provide that the associate member "will not sell or offer for sale directly or indirectly any plywood for export, except through said association." Said by laws and contracts, and any other existing bylaws, contracts, or agreements to the same effect, should be rescinded or amended so as to permit members and associate members of said association to accept and fill orders for plywood for export received by them, respectively, from American exporters without reference to or approval by the association.

3. That Pacific Forest Industries shall not impose any penalties, forfeitures, or charges upon sales of plywood by its members or associate members to American exporters, or fix or prescribe prices, terms, or conditions of sales to or by American exporters of plywood produced

by its members, or take any other action designed to prevent or restrict such sales.

4. That Pacific Forest Industries cease and desist from advertising in foreign countries that it is the sole export representative of the plywood mills in the United States Pacific Northwest, and from making any similar advertising claims to the effect that United States Douglas fir plywood can be purchased in foreign countries only through Pacific Forest Industries or its agents.

The term "American exporter" is defined, for the purpose of these recommendations, as a citizen of the United States, a partnership in which the partner or partners owning the principal beneficial interest is or are citizens of the United States, or a corporation domiciled in the United States the majority of the stock of which is owned by citizens of the United States, desiring to purchase plywood for his, their, or its own account for resale in export trade.

REPORT FOR T. N. E. C. ON OPERATION OF THE EXPORT TRADE ACT, 1918-1940

The Federal Trade Commission prepared a report on "Operation of the Export Trade Act (Webb-Pomerene law) 1918-1940," for information of the Temporary National Economic Committee, which was presented to the committee as a monograph and will be printed with the committee reports.

The report, including 54 pages of text and 185 pages of appendix, covered operation of the law through a period of 22 years. Exhibit 3 in the appendix is a comprehensive study of the 120 export associations, giving information as to their operation and listing the 2,074 member companies that have taken advantage of the law since its passage, with the years in which they held membership.

As an introduction and background, the report called attention to the Commission's inquiry and report on "Cooperation in American Export Trade," presented to Congress in 1916, which recommended passage of the Export Trade Act. At that time the importance of foreign commerce was emphasized, as were the need for an understanding of conditions which American exporters meet in competing for the trade of the world, the demand for cooperation among manufacturers and producers in export business, and the fact that in foreign countries combinations or cartels of producers and dealers were well established and American exporters must meet the competition of these groups and must also sell to buying combines.

Total exports by the Webb law groups for the years 1920 to 1938 were tabulated, and the varied functions, methods of operation, and advantages derived by cooperative effort were noted. The value of the law, however, cannot be measured in dollars and cents. The most successful years were not those in which the exports reached the highest figures; the real measure of success was achieved during the depression period, when the totals were smaller, but exporters, beset by trade restrictions and unsettled markets abroad, were still able to continue their organization and ship to foreign countries through their cooperative agreements.

Operation of tile associations has been vitally affected by war conditions. The act came into effect in 1918, during the closing chapter of the World War. It was used to some advantage in furnishing products for use of the allies, and also for the disposition of surplus war stocks after the armistice. During the reconstruction period there was great demand for American products abroad, and large orders were placed. The necessity for self-sufficiency in case of future wars, led to important changes in European production and trade; this was especially true in cereals, milk, and other food lines. Certain industries have been built up abroad during the past 20 years through subsidies and regulation and the Webb law associations have adjusted their markets to meet those conditions. The depression period as an aftermath of war, appeared first in foreign countries, and was met by governments with regulations looking toward a lowering of prices and restriction of imports in order to prevent violent fluctuations in exchange; these measures had serious effects upon American exports. Internal disturbances in the Latin-American countries and the Sino-Japanese conflict in the Orient necessitated further shifts in American exports. In the meantime new war clouds gathering in Europe increased the demand for some classes of goods and again there were shifts in exports across the Atlantic.

When the report was written, in February 1940, it was too early to estimate the effects of the European War. But attention was called to the fact that in reviewing the past years of operation, some prophecy might be made of the future, since export trade was in much the same position as when the law was passed in 1918. Before it lay a period of European conflict and a further period of reconstruction. Again the problems of shifting markets, uncertain credit and foreign trade restrictions must be met in the years to come. Transportation facilities will again be changed when the war conditions are at an end. Not only in Europe but in South America and in the Orient, there will be important changes and tremendous opportunities for tile development of trade.

There was therefore renewed interest in the Export Trade Act in 1939 and 1940. The association type of organization was uppermost in the minds of exporters because no one company, however well equipped, could solve the problems that confronted our industries and exporters.

TRUST LAWS AND UNFAIR COMPETITION IN FOREIGN COUNTRIES

Under section 6 (h) of the Federal Trade Commission Act, the Commission follows trust legislation and measures for control of trade and prevention of unfair competition abroad. The past year was marked by war-time control in countries engaged in the European

War begun in September 1939, and also in countries indirectly affected by war-trade conditions.

Argentina.--A law dated September 7, 1939, authorized the President to restrict or prohibit exportation of products of prime necessity, including articles of food, clothing, light, fuel, medicines, and construction materials. Maximum retail prices thereon may be fixed, and if necessary the goods may be expropriated. Maximum prices will also be fixed for manufacturers, middlemen, wholesalers, and importers, based on prices prevailing during the first two weeks in August 1939.

Australia.--Under the National Security Act effective September 9, 1939, various regulations have been issued for monetary control and regulation of capital issues, securities, prices, and the supply of goods. Prices on August 31, 1939, were taken as a base, no increase permitted without permission of the Minister of Trade and Customs who was authorized to fix wholesale and retail maximum prices to be charged by any trader. In October 1939, all goods and services were placed under control of a price commissioner. Supply of Goods Regulations issued October 31, 1939, empowered the Minister for Supply to declare any goods or commodities as essential for national use, and to call upon persons owning such goods to deliver them for defense purposes. The Government acquired the entire wheat crop, and a compulsory pool was established. A central wool committee was set up to handle sales of wool to the British Government which purchased the entire clip. Exportable surplus of dried fruits was also purchased by Britain. Regulations effective on September 25, 1939, prohibited any exports except under license from the Customs Department; and under regulations effective December 1, licenses are required on imports from nonsterling countries.

Belgium.--By royal decrees on August 25 and 28, 1939, the Minister of Economic Affairs was authorized to subject to license control the importation, exportation, and transit of various raw material, foodstuffs, war materials, machinery, vehicles, and pharmaceuticals. In September the Minister was directed to take a census of merchandise stocks, and steps were taken to prevent hoarding or price increases on articles of necessity. A war risk insurance association was created under decree on August 7, 1939, with State contribution.

Bolivia.--The 1938 constitution suspended in April 1939, was restored on October 6, 1939. A decree on April 4, 1940, extended Government control of prices and profits to prevent speculation.

Brazil.--Decree law No. 1594, September 13, 1939, modified the mineral and water code, and further regulated the nationalization of mines, mineral deposits, and waterfalls, or other sources of energy, as well as industries considered basic or essential to the economic and

military defense of the nation. Decree law No. 1607, September 16, 1939, established a Supply Committee to regulate stocks and prices of essential products, with authority to buy the goods and distribute them at cost, or to requisition merchandise declared by the Government as of prime necessity for the public welfare. Decree law No. 1716, October 28, 1939, provided for criminal action in case of price increases and speculation against the public economy. Decree law No. 1641, September 29, 1939, created a National Economic Defense Council to promote and control foreign trade, enter into agreements with foreign governments, and regulate land and maritime transportation.

Canada.--The War Measures Act of 1914 was invoked September 3, 1939, by Order in Council No. 2516, under which a Wartime Prices and Trade Board was established for control of production, manufacture, exportation and importation, trading, and prices of the necessities of life. The Board may require detailed reports as to stocks, costs of production and (1) distribution, prices, and length of time stored; it may license producers or distributors, fix prices or margins of profit, fix or limit quantities, or buy and sell products. Violation of the Board's orders is made an indictable offense, subject to fine and imprisonment under the Criminal Code. Under this act administrators have been appointed for key industries.

Under the Defense Purchases Act, June 3, 1939, a purchasing board was created to control awarding of contracts for defense purposes and to limit profits on such contracts. A law passed in September 1939, and the National Resources Mobilization Act of June 21, 1940, gave the Government wide powers to mobilize, conserve, and coordinate economic and industrial facilities for the effective prosecution of the war.

Agricultural boards have been set up to regulate production and adjust agriculture to wartime needs. Efforts have been made to furnish Britain with foodstuffs, to provide financial assistance to producers, to stabilize prices, and to plan for necessary adjustments when the war is ended.

Three cases are in the courts after investigation and report by the Combines Investigation Commission: Trial in Ontario of an alleged combine in the manufacture and sale of corrugated and solid fiber-board shipping containers; trial in Alberta of an alleged combine of tobacco manufacturers and wholesalers; and trial in British Columbia of an alleged combine in the marketing of fruits, vegetables, and other products of the soil. A bill to amend the Combines Investigation Act was introduced in September 1939, but was withdrawn when it was found that time changes could be effected under the War Measures Act.

Chile.--Decree 1649 published November 14, 1939, revived a law passed in 1932 authorizing the President to declare a state of over-

production in the country, as to any determined article. New factories may not then be opened without authority of the President, and he may establish qualities, containers, and price of sale in harmony with cost of production ; he may also prevent profiteering, speculation, and excess profits.

Cuba.--Decree No.1473, June 20, 1939, authorized supervision of retailers to prevent sale of merchandise below cost or at prices different from those fixed by the manufacturer, producer, or distributor, or those officially fixed by the Government. Decrees in September and December 1939 established maximum prices on certain foodstuffs to prevent price increase on articles of prime necessity.

Denmark.--A law of September 2, 1939, gave to tile Minister of Commerce, Industry, and Shipping authority to take any steps necessary to purchase goods, regulate prices, limit consumption, allot stocks, and prohibit exports if necessary. A law of May 3,1939, provided for war-risk insurance on Danish ships and cargoes, with Government capital.

Dominican Republic.--A law of September 12, 1939, authorized the President to regulate the importation, exportation, sale, and distribution of specified products of prime necessity, including foodstuffs, coal, and medicinals. A National Committee of Foodstuffs is authorized to fix maximum prices and prevent shortage or hoarding.

Estonia.--A regulation, September 9, 1939, provided that exports of goods may be effected only with permission of the Minister for Economic Affairs, and on conditions fixed by him. A Presidential decree effective September 12, empowered the Government to control the supply and distribution of raw materials and other commodities.

Finland.--A decree, September 16, 1939, prohibited all imports into Finland and storing of goods in bonded warehouses in Finland, except by permission of a licensing committee.

France.--Plans for economic mobilization in event of war began in 1938, and provisioning plans early in 1939. A law of March 19, 1939, extended on December 8, for the duration of hostilities, authorized decrees considered by the Council of Ministers to be necessary for defense of the country. The Law for General Organization of the Nation in Time of War, July 11,1938, was modified by various measures in 1939 and 1940. Prices in collective agreements were to be fixed on the basis of average prices during five years preceding mobilization. War profits were taxed and the Government empowered to take possession of any industrial or commercial establishment. The French Government entered into agreements with the British in November 1939 for pooling their purchases abroad and pegging their currencies at a specified rate.

A decree on September 9, 1939, prohibited increased prices, whole sale or retail, without Government authority. Price control has been divided, some products under the Ministry of Defense, others under the Ministers of Armament, Public Works, Commerce, and Agriculture. The Act for Provisioning of the Population in Time of War, April 21, 1939, provided for a provisioning service set up under the Ministry of Agriculture, and numerous decrees were issued after war began in September. Price fixing of foodstuffs was authorized by decree on September 1, the Minister of Agriculture to be assisted by a National Committee for Price Control, provincial committees, and an Interministerial Price Committee established on September 30. A number of decrees were issued on February 29, 1940, in an effort to stimulate production, restrict consumption, and further control prices and stocks ; residents were registered in preparation for ration cards. Under decrees of April 1, 1940, the provisioning services were taken over by the Ministry of Supplies.

Under decree of August 28, 1939, authority was given to prohibit exports except by license, in order to safeguard domestic supplies. A decree of September 1, 1939, superseded import quota restrictions in effect since 1932, and prohibited all imports except under permit by the Minister of Commerce. More than 90 syndicates were formed to control importation and distribution of important commodities. Warrisk insurance was provided by decree on May 6, 1939. (France surrendered to Germany in June, 1940, but Government reorganization had not been effected when this report was written.)

Germany.--The present war necessitated little change in the economic system of Germany, which has been under strict Government control since 1933. The Schacht New Plan of 1934 and the Four Year Plan established in 1936 placed the country on a military economy basis, with rigid control of production and distribution, exports and imports, stocks, prices, and profits. Various forms of food rationing have been effective since 1935 ; these were made complete by ration cards introduced in August 1939. An order of November 16 1939 provided for rationing of clothing and textile goods.

A decree issued by the Price Commissar in 1939 had for its purpose establishment of a system of economically justified prices. Cartelized and monopoly prices were declared to be unjustified. Prices, wages, and salaries are fixed, and employees are under assignment by the Labor Exchange Office ; a worker may not change his position without consent of the Exchange. Forcible rationalization or liquidation of uneconomic enterprises may be decreed ; if an industry is declared unprofitable it may be replaced by state control or ownership. A War Emergency Act was passed on September 3, 1939. The Ministerial Council for Defense and the General Council for War Econ-

omy coordinate all economic departments of the Government, with control of the special commissars for the several industries, and also Over the regional defense committees.

Great Britain.--The Emergency Powers (defense) Act passed on August 24, 1939, gave to the Government power to issue regulations and orders with force of law, for defense of the realm. Under regu regulations issued in August, the Minister of Agriculture and Fisheries was authorized to control cultivation of the hand, increase the production of essential commodities, and to control fisheries and forests. The Minister of Transport was given control of railways, roads, and ports. A Minister holding stocks under the Essential Commodities Reserve Act of 1938, was given authority to dispose of such stocks. The Ministry of Supply, created early in September 1939, established various control offices to regulate prices, supplies, and distribution of a number of commodities. The Wool Control took over all stocks of foreign, colonial, and home-grown wool in the United Kingdom and purchased the Australian and New Zealand clips. The Government also purchased metals and lumber from the colonies. The Ministry of Food assumed wide control over foodstuffs, fixing maximum wholesale and retail prices, absorbing functions of the agricultural marketing boards and the Food (defense plans) Department. The Ministry purchased the entire exportable sugar crop of the Dominion and colonies at a fixed price, as well as the West African cocoa crop, and all stocks of dried fruit and Empire tea.

The Prices of Goods Act was passed on October 31, 1939, to protect the public against unwarranted increase in retail prices of staple products. A wide range of commodities have been listed in orders by the Board of Trade. The permitted price must not exceed the basic price obtaining on August 21, 1939, plus an amount justified by the unavoidable increases in costs and expenses since that date. The act is administered by a Central Price Regulation Committee through local committees. It does not apply to foodstuffs that are under supervision of the Ministry of Food. This act differs from the Profiteering Act effective during the first World War since it deals with prices and not profits.

Provisions of the Coal Mines Act for investigation of complaints by consumers, have been suspended, and arrangements made for price control under the Prices of Goods Act during the war.

A Cotton Industry (reorganization) Act was passed on August 4, 1939, to provide for establishment of minimum prices by a Cotton Industry Board; but after declaration of war the date of effect was postponed, and a cotton board was appointed under the Ministry of Supply, reorganized under the Cotton Industry Act of March 14, 1940.

The Import, Export, and Customs Powers (defense) Act of September 1, 1939, provided control of foreign trade. Numerous orders have been issued prohibiting the Import or export of specified products. More than 70 export groups have been formed in connection with the Government's plans for increasing British exports. A War Risk Insurance Act was passed on August 4, 1939, retroactive to February 20, 1939, for insurance of ships, cargoes in ship or aircraft, and of goods within the Kingdom.

In view of the grave situation confronting the country in May 1940, an act was passed on May 22, under which the Government was given total powers, including authority to take complete control of all persons and property in Great Britain. An order of May 25, 1940, further defined power of the Minister of Supply to declare all actual or potential war production undertakings as "controlled." More than 1,500 companies have been declared controlled.

Greece.--Regulations effective in September 1939 placed all imports and exports under license control of the Government.

Hungary.--A decree of September 2, 1939, subjected certain commodities to control of the Ministry of Industry for regulation of distribution, storage, consumption, utilization, growing, and price of stocks. Subsequent decrees *added* to the list. Exports and imports of certain named goods have been subjected to license.

India.--In anticipation of war, a Department of Supply was created by the Central Government on August 26, 1939, to deal directly with all supplies required for prosecution of war.

Italy.--Under a decree published November 21, 1939, a plan was adopted for the rice industry, similar to that in effect for wheat. Producers will be required to deliver their crops to collection agencies called "Ammassi" ; they will be paid prices fixed by a national office which will supervise crops, conservation and sale of the products, and finance the Ammassi. Millers may obtain rice only from the Ammassi. Under a law dated October 12, 1939, all olive oil produced in Italy must be delivered to the Ammassi at fixed prices. A decree law on October 12, 1939, provided control over production and trade in soap. A number of decrees in 1939 listed goods that may be exported only under license.

Japan.--Imperial ordinances in December 1939 invoked Articles 10 and 13 of the National General Mobilization Law providing for expropriation of factories, workshops, land, and other facilities necessary for general mobilization enterprises. The Marine Transportation Ordinance effective February 1, 1940, provided official control over the entire marine transportation industry and business. Similar control has been established for overland transportation. The Cabinet announced on July 2, 1940, that a Government financed

importation and distribution company would be created to handle raw materials, and an export control company would purchase and control all exportable goods except textiles.

Latvia.--Decree of September 19, 1939, authorized the Ministry of Finance to insure all Latvian steamships, motorships, and freight shipped to and from Latvian ports.

Mexico.--Encouragement of new industrial enterprises is given in a decree published on February 17, 1940, which grants exemption to such companies from the payment of various taxes and customs duties, for a period of five years.

Netherlands.--As early as September 1938 steps were taken to empower the Government, through the Agricultural Crisis Act of 1933, to provide for food supplies in time of war emergency. The General Requisition Act, Distribution Act, Control of Prices and Hoarding Act, and the Sea Vessels Requisition Act were passed on June 24, 1939. Decrees on August 28, 1939, and subsequent dates subjected to monopoly control certain listed products, including agricultural and metal goods. The Soil Production Decree, 1939, gave the Government complete control over agricultural production. The War, Sea, and Air Navigation Insurance Act, September 30, 1938, has been extended, and the Minister of Economic Affairs authorized to insure against war risks.

Netherland Indies.--A Victuals Fund Commission set up in Java in May 1939 bought large quantities of rice in order to hold the price at levels set by the Department of Economic Affairs. Decree No. 455, published September 1, 1939, prohibited exportation of a list of goods.

New Zealand.--Board of Trade (price investigation) Regulations, 1939, published on June 2, provided that prices on an extensive list of goods and services may not be increased without permission of the Price Tribunal. Soon after declaration of war, the Government was given power to fix domestic prices, regulate supplies and factory production, and to control exportation of foodstuffs.

Nicaragua.--A legislative decree, September 9, 1939, authorized the Executive to control imports and exports of all merchandise, and sale of all imported and domestic goods. In order to check rising prices due to war in Europe, the Government has fixed maximum prices for most staples, and prohibited increase in rentals.

Palestine.--The Essential Commodities Reserves Ordinance, August 26, 1939, authorized the Controller of Supplies to control imports of any foodstuffs, raw material, or fuel declared to be an essential commodity, in order to provide for reserve stocks of such goods.

Peru.--Under regulations of September 1939 excessive war profiteering is prohibited, and commodity prices and stocks are under

Government control. The Superintendent of Social Welfare announced on September 21, 1939, that control would be applied only to articles indispensable for living and articles necessary for the social welfare, including articles of food and clothing, articles of usual consumption, and those serving to maintain the level of production of agriculture, industry, and milling, and building activities, in order to insure employment, salaries and wages of workmen.

Portugal.--A decree law of September 7, 1939, authorized the Government through the Ministry of Commerce and Industry, to exercise wide powers for the purpose of assuring the regulating and provisioning of the country ; to control trade and internal commercial relationships, and to restrict consumption when necessary.

Rumania.--Decrees of September 17, 1939, and February 17, 1940, provided for a Foreign Trade Office with authority to exercise control of all import and export transactions, foreign exchange, and prices, in the interest of national defense and economy.

Salvador.--A new expropriation law dated July 25, 1939, replaced the act of 1913, with added provisions under which expropriation of mines is to be carried out in accordance with Article 17 of the Mining Code which declared the industry to be a public utility. Expropriation of patents may also be decreed if the objects or processes protected thereby may be used to create an important source of national wealth or to further national defense.

South Africa.--The Companies Amendment Act of June 7, 1939, makes extensive modifications in the act of 1926, for the protection of the investor. A National Supplies Control Board, created in September 1939, is authorized to regulate imports and exports and to recommend establishment of maximum prices and other internal controls on specified products.

Spain.--Under a decree, September 8, 1939, and further regulations by the Ministry of Industry and Commerce, industrial plants may not be established, extended, or moved from one location to another without permission of the Ministry. A law dated October 24, 1939, authorized the Government to declare an industry of "national interest" if it is required for national defense or economic needs of the country, and to grant subsidies to promote the establishment or expansion of such an industry.

Sweden.--Several economic defense measures were passed on June 7, 1939, empowering the King to impose regulations in event of war or danger of war. On September 7, 1939, the Government invoked the Law on Maximum Prices providing for price fixing on commodities essential to the people or to production; the Civil Expropriation Law providing that the King may demand surrender of commodities essential to the public or to production or required for military

purposes; the Military Appropriation Law providing that in case of mobilization, tile military command may appropriate whatever goods, conveyances, quarters and land may be necessary; the Law on Municipal Duties in War Time for the purpose of coordinating local and national organizations; the Law on Commandeering of Hospitals; and several insurance measures including the War Risk Insurance Act passed on March 10, 1939. A royal decree of October 14, 1939, created a Ministry of Public Supplies. Other offices set up under the present crisis include a State Labor Market Commission, a Special Commission to Study the Domestic Price Level, and a Commission of Transportation.

Switzerland.--Legislation of April 1, 1938, served as a basis for war-time control, extended by a decree of December 30, 1938, under which the Department of Public Economy was authorized to take an inventory of stocks, methods of production and productive capacity of all industries. A decree of August 15, 1939, authorized the same Department to control the distribution of essential commodities by sales prohibitions or restrictions, and required all producers and business enterprises to maintain reserve stocks. A law effective on September 4, 1939, prohibited increase in wholesale and retail prices of commodities, the raising of rents, rates for gas and electricity, and other living costs, above levels obtaining on August 31, 1939, without permission of the Federal Price Control Bureau. Hoarding and profiteering are punishable. A decree of September 22, 1939, authorized the Department of Public Economy to regulate imports and exports for the purpose of provisioning the country and to create War Economy Syndicates or cooperatives to handle necessary products.

Turkey.--A decree of September 4, 1939, prohibited the exportation of many agricultural products and restricted that of others in order to prevent a shortage of foodstuffs. The National Defense Law, January 18, 1940, gave to the Council of Ministers broad powers in case of national emergency, including regulation and control of all mining and industrial enterprises, supervision of labor, control of consumption goods and raw materials by Government purchase and distribution, control of transportation and authority for Government purchase of transportation facilities, control of agriculture, and authority to give financial aid in the form of cash, raw materials or bank credits. The Government was authorized to issue decrees to meet emergency conditions. A decree of March 80, 1940, directed investigation of cost of certain industrial products; the Government may fix the wholesale price on these goods, and penalties are imposed for sale at prices higher than those established.

Uruguay.--A law of September 28, 1939, imposed a tax of 25 percent on war-time profits of pastoral producers, the proceeds to be used

to control prices of articles of prime necessity. Prices have been fixed on foodstuffs, fuels , and building materials. Penalties are imposed for hoarding, and authority is given for expropriation of necessary articles.

Venezuela.--A decree of September 9, 1939, placed under Government control, foodstuffs, clothing, housing, combustibles and motive power, raw materials, and certain manufactured products declared to be of prime necessity.

Yugoslavia.--Effective on September 19, 1939, practically all imports and exports were subjected to license control. A decree of November 11, 1939, provided for strict control of the mining and smelting industries under a Committee for Ores and Metals; the Government shall have priority over all other orders, and if necessary the enterprises shall cede their entire production to the Committee.

PART VI. MEDICAL ADVISORY SERVICE

PART VI. MEDICAL ADVISORY SERVICE

FURNISHES OPINIONS IN CASES CONCERNING ADVERTISEMENT OF FOOD, DRUGS, DEVICES AND COSMETICS

The Commission has a medical adviser for consultation in connection with cases involving the validity of claims made in the advertisement of food, drugs, devices, and cosmetics.

Shortly after the passage of the Wheeler-Lea amendment to the Federal Trade Commission Act in 1938, the Surgeon General of the United States Public Health Service assigned to the Commission an experienced medical officer to perform this type of service, which is available to all branches of the Commission.

Through its medical adviser the Commission maintains contact with other Government agencies concerned with food, drugs, devices, and cosmetics. These include the Food and Drug Administration, the National Bureau of Standards, and the United States Public Health Service.

PART VII. FISCAL AFFAIRS

ACT PROVIDING FUNDS FOR COMMISSION WORK

APPROPRIATIONS AND EXPENDITURES FOR FISCAL YEAR

APPROPRIATIONS AND EXPENDITURES, 1915-40

PART VII. FISCAL AFFAIRS

APPROPRIATION ACT PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation Act, 1940 (Pub., No.8, 76th Cong.) , approved March 16, 1939, provided funds for the fiscal year 1940 for the Federal Trade Commission as follows:

For five Commissioners, and for all other authorized expenditures of the Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including secretary to the Commission and other personal services, contract stenographic reporting services, supplies and equipment, lawbooks, books of reference, periodicals, garage rentals, traveling expenses, including not to exceed \$900 for expenses of attendance, when specifically authorized by the Commission, at meetings concerned with the work of the Federal Trade Commission, for newspapers and press clippings not to exceed \$600, foreign postage, and witness fees and mileage in accordance with section 9 of the Federal Trade Commission Act ; \$2,264,000: *Provided*, That not to exceed \$20,000 of this amount shall be available for transfer to the Bureau of Standards of the Department of Commerce for scientific investigations required by said Commission in connection with its enforcement of said Act: *Provided further*, That the Commission may procure supplies and services without regard to section 3709 of the Revised Statutes (41 U. S. C. 5) when the aggregate amount involved does not exceed \$50.

For all printing and binding for the Federal Trade Commission, \$60,000.

Total, Federal Trade Commission, \$2,324,000.

APPROPRIATIONS AND EXPENDITURES FOR FISCAL YEAR

Appropriations available to the Commission for the fiscal year ended June 30, 1940, under the Independent Offices Appropriation Act approved March 16, 1939, \$2,324,000 ; in addition to this amount the Commission had the sum of \$21,500 allotted by the President for work in connection with the Temporary National Economic Committee ; in all, \$2,345,500. This sum is made up of four separate items: (1)\$50,000 for salaries of the Commissioners, (2) \$2,214,000 for the general work of the Commission, (3) \$60,000 for printing and binding, and (4) \$21,500 for work of the Temporary National Economic Committee.

Appropriations, allotments, expenditures, liabilities, and balances

	Amount available	Amount expended	Liabili- ties	Expendi- tures and liabilities	Balances
Federal Trade Commission.- 1940-- salaries, Commissioners, and all other authorized expenses	\$2,264,000.00	\$2,122,933.64	\$70,455.53	\$2,193,389.07	\$70,610.93
Printing and binding, Federal Trade Commission, 1940	60,000.00	23,960.00	38,040.00	80,000.00	0
Temporary National Economic Committee, transferred to Federal Trade Commission, 1939, Jan. 3, 1941	21,500.00	21,500.00	0	21,500.00	0
Total, fiscal year 1940	2,345,500.00	2,168,393.54	106,495.53	2,274,889.07	70,610.93
Unexpended balances:					
Federal Trade Commission, 1939	132,806.31	44,613.65	1,141.53	45,755.18	87,051.13
Printing and binding, Federal Trade Commission, 1939	32,332.91	32,332.91	0	32,332.91	0
Temporary National Economic Committee, no year.	3,009.19	3,009.19	0	3,009.19	0
Federal Trade Commission, 1938	48,115.41	53.70	0	53.70	48,061.71
Printing and binding, Federal Trade Commission, 1938	4,613.68	4,613.68	0	4,613.68	0
Federal Trade Commission, 1937	2.76	23.05	0	23.05	25.81
Federal Trade Commission, 1936	1 2.63	1 2.63	0	2.63	10
Federal Trade Commission, 1935	1 2.10	1 2.10	0	1 2.10	10
Federal Trade Commission, 1932	25.00	0	0	0	25.00
OX 960 Federal Court of Trans- portation	33.83		0	0	0 33.83
Total	2,566,434.36	2,252,988.89	637.06	2,380,625.95	205,808.41

1 Credit

Detailed statement of costs for the fiscal year ending June 30, 1940

	Salary	Travel expense	Other	Total
Commissioners	\$49,999.20	\$784.98	\$50,784.16	
Attorneys to Commissioners	6,713.23		6,713.23	
Clerks to Commissioners.	16,984.75		18,984.75	
Messengers to Commissioners	6,071.09		6,071.09	
Total	79,768.27	784.98	80,553.23	
Administration:				
Office of the Secretary	34,866.49		34,866.49	
Accounts and Personnel Section	33,457.78		33,457.78	
Detail: Other Government agencies	23.99		23.99	
Docket Section	64,058.29		54,058.29	
Hospital	2,038.59		2,038.59	
Labor	2,515.05		2,515.05	
Legal Research and Compiling	15,886.34		15,888.34	
Library Section	18,482.61		18,482.61	
Mail and Files Section	19,020.85		19,020.85	
Messengers	17,694.41		17,694.41	
Public relations	14,939.72		14,939.72	
Publications Section	39,695.35		39,695.35	
Stenographic Section	119,061.99		119,061.99	
Supply and Service Section	20,476.77		20,476.77	
Communications			\$12,158.34	12,158.34
Contract service			1,240.55	1,240.55
Equipment			27,340.38	27,340.36
Miscellaneous			263.93	283.93
Repairs			3,282.86	3,262.88
Supplies			30,103.16	30,103.16
Transportation of things			1,128.04	1,128.04
Witness fees			3,123.00	3,123.00
Total	392,018.23		78,818.24	470,638.47
Legal:				
Application for complaints	273,875.45	39,866.23	7,282.21	321,023.89
Complaints	494,811.21	51,310.43	3,021.16	548,942.80
Detail--Department of Justice	52.61			52.61
Export trade	9,195.36	57.12		9,252.48
Preliminary inquiries	230,924.53	13,841.25	1,388.57	246,154.35
Robinson-Patman Act	179,217.86	6,557.93	17.22	185,793.01

Trade Practice Conferences	88,642.64	1,473.80		90,116.44
Total	1,278,519.66	113,106.76	11,709.18	1,401,335.58

Detailed statement of costs for the fiscal year ending June 30, 1940--Continued

		Salary	Travel expense	Other	Total
General investigations:					
Accounting methods and practices	\$46,528.34	\$3,778.94		\$50,307.28	
Industrial corporation financial reports	11,371.45			11,371.45	
Correlation of distribution reports	2,918.23			2,918.23	
Fresh fruits and vegetables			1 20.05		20.05
Milk investigation	54.16				54.16
Motor-vehicle investigation	1,298.80	33.99		1,332.79	
Resale price maintenance investigation (1939)		95,389.59	12,165.84		107,535.43
Temporary National Economic Committee	64,596.42	1,481.31		66,057.73	
Total	222,136.99	17,420.03		239,557.02	
Printing and binding				\$60,906.59	60,906.59
Summary:					
Commissioners	79,768.27	784.96		80,553.23	
Administration	392,018.23		78,618.24	470,636.47	
Legal	1,276,519.66	113,106.76	11,709.16	1,401,335.58	
General investigations	222,136.99	17,420.03		239, 557.02	
Printing and binding	60,006.59			60,906.59	
Total	1,970,443.15	131,311.75	151,233. 99	2,252,988.89	

1 Credit

RECAPITULATION OF COSTS BY DIVISIONS

Administrative	\$492,687.70	\$1,976.62	\$75,495.24	\$570,159.56
Economic	250,534.84	17,667.52		268,202.36
Chief Counsel	372,009.86	32,896.93	3,413.23	408,320.02
Chief Examiner	505,588.69	60,768.54	10,989.18	577,344.41
Radio and Periodical	142,618.79	16.80	429.75	143,065.14
Trial Examiner	112,092.83	16,169.27		128,262.10
Trade Practice Conference	74,891.07	1,473.58		76,364.65
Medical Advisory	4,563.80			4,563.60
Temporary National Economic Committee	15,457.77	342.69		15,800.46
Total	1,970,443.15	131,311.75	90,327.40	2,192,082.30

APPROPRIATIONS AND EXPENDITURES, 1915-40

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

Year	Nature of appropriations	Appropriations	Expenditures and liabilities	Balance
1915	Lump sum	\$184,016.23	\$90,442.05	\$93,574.18
	Printing and binding	12,386.76	9,504.10	2,882.60
1916	Lump sum	430,964.08	379,927.41	51,636.67
	Printing and binding	15,000.00	14,997.55	2.45
1917	Lump sum	542,025.92	448,890.66	93,135.26
	Printing and binding	25,000.00	23,610.54	1,389.48
1918	Lump sum	1,578,865.92	1,412,280.19	166,585.73
	Printing and binding	30,000.00	11,114.06	18,885.94
1919	Lump sum	1,693,622.18	1,491,637.39	201,984.97
	Printing and binding	14,934.21	14,934.21	0
1920	Lump sum	1,206, 587.42	1,007,593.30	198,994.12
	Printing and binding	28,348.97	28,348.97	0
1921	Lump sum	938,609.94	842,991.24	95,618.70
	Printing and binding	37,182.56	37,182.56	0
1922	Lump sum	952,505.45	878,120.24	74,385.21
	Printing and binding	22,801.73	22,801.73	0
1923	Lump sum	952,020.11	948,293.07	3,727.04
	Printing and binding	22,460.21	22,400.21	0
1924	Lump sum	990,000.00	900,020.93	29,979.07
	Printing and binding	20,000.00	19,419.25	580.75
1925	Lump sum	990,000.00	988,082.37	1,917.63
	Printing and binding	20,000.00	19,866.14	133.86
1926	Lump sum	990,000.00	976,957.02	13,042.98
	Printing and binding	18,000.00	18,000.00	0

Year	Nature of appropriations	Appropriations and liabilities	Expenditures	Balance
1927	Lump sum	980,000.00	943,881.99	36,118.01
	Printing and binding	17,000.00	17,000.00	0
1928	Lump sum	967,850.00	951,965.15	15,884.85
	Printing and binding	16,500.00	16,500.90	0
1929	Lump sum	1,135,414.83	1,131,521.47	3,893.36
	Printing and binding	27,777.69	27,777.69	0
1930	Lump sum	1,440,971.82	1,430,084.17	10,887.65
	Printing and binding	35,363.58	35,363.58	0
1931	Lump sum	1,932,857.81	1,808,463.35	124,454.46
	Printing and binding	39,858.73	39,858.73	0
1932	Lump sum	1,808,097.19	1,749,484.00	58,612.59
	Printing and binding	30,000.00	30,000.00	
1933	Lump sum	1,421,714.70	1,378,973.14	42,741.56
	Printing and binding	30,000.00	20,000.00	10,000.00
1934	Lump sum	1,273,763.49	1,273,006.38	157.11
	Printing and binding	40,250.00	40,250.00	0
1935	Lump sum	2,063,398.01	1,922,313.34	141,084.67
	Printing and binding	34,000.00	34,000.00	0
1936	Lump sum	1,998,665.58	1,788,729.76	209,935.82
	Printing and binding	36,800.00	32,996.05	3,803.95
1937	Lump sum	1,895,571.94	1,850,673.82	44,898.12
	Printing and binding	43,353.95	43,353.95	0
1938	Lump sum	1,950,000.00	1,895,519.47	54,480.35
	Printing and binding	46,000.00	46,000.00	0
1939	Lump sum	2,236,795.00	2,150,474.40	86,320.60
	Printing and binding	46,700.00	46,709.00	0
1940	Lump sum	2,285,500.00	2,214,889.07	70,610.93
	Printing and binding	60,000.00	60,000.00	0

APPENDIXES

FEDERAL TRADE COMMISSION ACT

CLAYTON ACT

ROBINSON-PATMAN ACT

EXPORT TRADE ACT

WOOL PRODUCTS LABELING ACT OF 1939

SHERMAN ACT

MILLER-TYDINGS ACT

RULES OF PRACTICE

STATEMENT OF POLICY

INVESTIGATIONS, 1915-1940

FEDERAL TRADE COMMISSION ACT

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

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission) , which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed : *Provided, however,* That upon the expiration of his term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. 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 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. 2

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

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

“Corporation” shall be deemed to include any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members, and has shares of capital or capital stock or certificates of interest, and any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, without shares of capital or capital stock or certificates of interest, except partnerships, which is organized to carry on business for its own profit or that of its members.

“Documentary evidence” includes all documents, papers, correspondence, books of account, and financial and corporate records.

“Acts to regulate commerce” means the Act entitled “An Act to regulate commerce,” approved February 14, 1887, and all Acts amendatory thereof and supplementary thereto and the Communications Act of 1934 and all Acts amendatory thereof and supplementary thereto.

“Antitrust Acts” means the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July 2, 1890; also sections 73 to 77, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved August 27, 1894; also the Act entitled “An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February 12, 1913; and also the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October 15, 1914.

Sec. 5. (a) Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers, subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

(b) 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 or unfair or deceptive act or practice in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said

complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person,

¹ By subsection (f), Section 1107 of the "Civil Aeronautics Act of 1938," approved June 23, 1938, Public No.706, 75th Congress, Ch. 601, 3d Sess., S. 3845, 52 Stat. 1028, Section 5 (a) of the Federal Trade Commission Act was amended by inserting before the words persons" (and following the words "to regulate commerce"), the following: "air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938."

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 or the act or practice 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 or such act or practice. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the transcript of the record in the proceeding has 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. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require: Provided, however, That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate circuit court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days² from the date of the service of such order, a written petition praying that the order of the Commission be set aside. 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 entire record in the proceeding, including all the evidence taken and the report and order of the Commission. Upon such filing of the petition and transcript the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors *pendente lite*. The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, 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

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

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

subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

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

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

(f) 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 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 residence or the principal office or place of business of such person, partnership, or corporation; or (c) by registering; and mailing a copy thereof addressed to such person, partnership, or corporation at his or its residence or 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.

(g) An order of the Commission to cease and desist shall become final--

(1) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the Commission may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b) ; or

(2) Upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed, or the petition for review dismissed by the circuit court of appeals, and no petition for certiorari has been duly filed; or

(3) Upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the circuit court of appeals; or

(4) Upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Commission be affirmed or the petition for review dismissed.

(h) If the Supreme Court directs that the order of the Commission be modified or set aside, the order of the Commission rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(I) If the order of the Commission is modified or set aside by the circuit court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered in accordance with the mandate of the circuit court of appeals shall become final on the expiration of thirty days from the time such order of the Commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(j) If the Supreme Court orders a rehearing ; or if the case is remanded by the circuit court of appeals to the Commission for a rehearing, and if (1) the time allowed for filing a petition for

certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission has been rendered.

(k) As used in this section the term "mandate," in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

(l) Any person, partnership, or corporation who violates an order of the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

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 subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

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

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

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

(e) Upon the application of the Attorney General to investigate and make recommendations 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, and 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 the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto

3 Public No.78, 73d Cong., approved June 16, 1933, making appropriations for the fiscal year ending June 16, 1934, for the "Executive Office and sundry independent executive bureaus, boards, commission," ect., made the appropriation for the Commission contingent upon the provision (48 Stat. 261; 15 U. S. C. A., sec. 46a) that "hereafter no new investigations shall be initiated by the Commission as to the result of a legislative resolution, except the same be a concurrent resolution of the two Houses of Congress."

as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

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

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

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

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

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

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

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

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him 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 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 tile 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.

SEC. 12. (a) It shall be unlawful for any person, partnership, or corporation to disseminate, or cause to be disseminated, any false advertisement--

(1) By United States mails, or in commerce by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics ; or

(2) By any means, for the purposes of inducing, or which is likely to induce directly or indirectly, the purchase in commerce of food, drugs, devices, or cosmetics.

(b) The dissemination or the causing to be disseminated of any false advertisement within the provisions of subsection (a) of this section shall be an unfair or deceptive act or practice in commerce within the meaning of section 5.

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

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

(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of section 5, would be to the interest of the public, the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or In the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing a temporary injunction or restraining order shall be granted without bond. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business.

(b) Whenever it appears to the satisfaction of the court in the case of a news-paper, magazine, periodical, or other publication, published at regular intervals--

(1) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and

(2) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement.

the court shall exclude such Issue from the operation of the restraining order or injunction.

Sec. 14. 4 (a) Any person, partnership, or corporation who violates any provision of section 12 (a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions pre-scribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than six months, or by both such fine and imprisonment; except that if the conviction is for a violation committed after a first conviction of such person, partnership, or corporation, for any violation of such section, punishment shall be by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment : *Provided*, That for the purposes of this section meats and meat food products duly inspected, marked, and labeled In accordance with rules and regulations issued under the Meat Inspection Act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

(b) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of advertising, except the manufacturer, packer, distributor, or seller of the commodity to which the false advertisement relates, shall be liable under this section by reason of the dissemination by him of any false advertisement, unless he has refused on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the United States, who caused him to disseminate such advertisement. No advertising agency shall be liable under this section by reason of the causing by it of the dissemination of any false advertisement, unless it has refused, on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, or seller, residing in the United States, who caused it to cause the dissemination of such advertisement.

SEC. 15. For the purposes of section 12, 13, and 14--

(a) The term "false advertisement" means an advertisement, other than labeling, which is misleading in a material respect ; and In determining whether any advertisement Is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement or, under such conditions as are customary or usual. No advertisement of a drug shall be deemed to be false if it is dis seminated only to members of the medical profession, contains no false representations of a material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

(b) The term "food" means (1) articles used for food or drink for man or other animals, (2)

chewing gum, and (3) articles used for components of any such article.

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

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

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

intended to affect the structure or any function of the body of man or other animals ; and (4) articles intended for use as a component of any article specified in clause (1), (2) , or (3); but does not Include devices or their components, parts, or accessories.

(d) The term “device” (except when used in subsection (a) of this section) means instruments, apparatus, and contrivances, including their parts and accessories, intended (1) for use In the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals ; or (2) to affect the structure or any function of the body of man or other animals.

(e) The term “cosmetic” means (1) articles to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof intended for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

Sec. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (1) of section 5, It shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection.

SEC. 17. If any provision of this Act, or the application thereof to any person, partnership, corporation, or circumstance, Is held invalid, the remainder of the Act and the application of such provision to any other person, partnership, corporation, or circumstance shall not be affected thereby.

SEC. 18. This Act may be cited as the “Federal Trade Commission Act.”

Original act approved September 26, 1914.

Amended act approved March 21, 1938.

SECTIONS OF THE CLAYTON ACT ADMINISTERED BY THE FEDERAL TRADE COMMISSION

(U.S.C., Title 15, Sec. 12)

AN ACT To supplement existing laws against unlawful restraints and monopolies, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States Of America in Congress assembled, That “antitrust laws,” as used herein, includes the Act entitled “An Act to protect trade and commerce against unlawful restrains and monopolies,” approved July second, eighteen hundred and ninety: sections seventy-three to seventy-seven, inclusive, of an Act entitled, “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled “An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February twelfth, nineteen hundred and thirteen; and also this Act.

“Commerce,” as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the Jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the Jurisdiction of the United States: *Provided,* That nothing In this Act contained shall apply to the Philippine Islands.

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

SEC. 2.1 (a) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in

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

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

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

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

(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionately equal terms to all other customers

competing in the distribution of such products or commodities.

(e) That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so pur-

chased upon terms not accorded to all purchasers on proportionally equal terms.

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

* * * * *

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

* * * * *

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

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

This section shall not apply to corporations purchasing such stock solely 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 change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

* * * * *

SEC. 11. That authority to enforce compliance with sections two, three, seven, and eight of this Act by the persons respectively subject thereto is hereby vested: in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged In wire or radio communication or radio transmission of energy; in the Civil Aeronautics Authority where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938 2; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

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

2 By subsection (g) of Section 1107 of the “Civil Aeronautics Act of 1938,” approved June 23, 1938. Public, No. 706, 75th Congress. Ch. 601. 3d Sess., S. 3845, 52 Stat. 1028, Section 11 of the Act of October 15, 1914, the Clayton Act. was amended by inserting after the word “energy’ (in the tenth line from the beginning of the paragraph, rending “communication or radio transmission of energy:”). the following: “in the Civil Aeronautics Authority where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938:” and by inserting after the word “commission” wherever it appears in that section a comma and the word “authority.”.

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

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

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

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

Complaints, orders, and other processes of the commission, authority, or board under this section may be served by anyone duly authorized by the commission, authority, or board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of

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

* * * * *

Original act approved October 15, 1941.

ROBINSON-PATMAN ANTI-DISCRIMINATION ACT

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

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes," approved October 15, 1914, as amended (U. S. C., title 15, Sec. 13), is amended to read as follows:

"SEC. 2. (a) That it shall be unlawful for any person engaged in commerce" (etc., as published on p. 176 as the text of sec. 2, namely, subparagraphs (a) to (f), inclusive, ending with the words "which is prohibited by this section").

SEC. 2. That nothing herein contained shall affect rights of action arising, or litigation pending, or orders of the Federal Trade Commission issued and in effect or pending on review, based on section 2 of said Act of October 15, 1914, prior to the effective date of this amendatory Act: *Provided,* That where, prior to the effective date of this amendatory Act, the Federal Trade Commission has issued an order requiring any person to cease and desist from a violation of section 2 of said Act of October 15, 1914, and such order is pending on review or is in effect, either as issued or as affirmed or modified by a court of competent Jurisdiction, and the Commission shall have reason to believe that such person has committed, used or carried on, since the effective date of this amendatory Act, or is committing, using, or carrying on, any act, practice or method in violation of any of the provisions of said section 2 as amended by this Act, it may reopen such original proceeding and may issue and serve upon such person its complaint, supplementary to the original complaint, stating its charges in that respect. Thereupon the same proceedings shall be had upon such supplementary complaint. as provided in section 11 of said Act of October 15, 1914. If upon such hearing the Commission shall be of the opinion that any act, practice, or method charged in said supplementary complaint has been committed, used, or carried on since the effective date of this amendatory Act, or is being committed, used or carried on, in violation of said section 2 as amended 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 serve upon such person its order modifying or amending its original order to include any additional violations of law so found. Thereafter the provisions of section 11 of said Act of October 15, 1914, as to review and enforcement of orders of the Commission shall in all things apply to such modified or amended order. If upon review as provided in said section 11 the court shall set aside such modified or amended order, the original order shall not be affected thereby, but it shall be and remain in force and effect as fully and to the same extent as if such supplementary proceedings had not been taken.

SEC. 3. It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance, or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than those

exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor In such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

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

SEC. 4. Nothing in this Act shall prevent a cooperative association from returning to its members, producers, or consumers the whole, or any part of, the net

ROBINSON-PATMAN ANTI-DISCRIMINATION ACT 181

earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association. 1

Approved, June 19, 1936.

EXPORT TRADE ACT

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

AN ACT To promote export trade, and for other purposes

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

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

¹ By Public. No.550, 75th Congress, Chapter 283. Third Session (H. R. 8148), approved May 26, 1938. it was further provided "That nothing in the Act approved June 19, 1936 (Public, Number 692. Seventy-fourth Congress, second session), known as the Robinson-Patman Anti-Discrimination Act. shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit."

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 com-mission 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 before 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.

WOOL PRODUCTS LABELING ACT OF 1939

(Public, No.850, 76th Gong., Ch. 871, 3d Sess., S. 162)

AN ACT To protect producers, manufacturers, distributors, and consumers from the unrevealed

presence of substitutes and mixtures in spun, woven, knitted, felted, or otherwise manufactured wool products, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wool Products Labeling Act of 1939."

DEFINITIONS

SEC. 2. As used in this Act--

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise, plural or singular, as the case demands.

(b) The term “wool” means the fiber from the fleece of the sheep or lamb or hair of the Angora or Cashmere goat (and may include the so-called specialty fibers from the hair of the camel, alpaca, llama, and vicuna) which has never been reclaimed from any woven or felted wool product.

(c) The term “reprocessed wool” means the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state.

(d) The term “reused wool” means the resulting fiber when wool or re-processed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in any way by the ultimate consumer, subsequently has been made into a fibrous state.

(e) The term “wool product” means any product, or any portion of a product, which contains, purports to contain, or in any way is represented as containing wool, reprocessed wool, or reused wool.

(f) The term “Commission” means the Federal Trade Commission.

(g) The term “Federal Trade Commission Act” means the Act of Congress entitled “An Act to create a Federal Trade Commission, to define Its powers and duties, and for other purposes,” approved September 26, 1914, as amended, and the Federal Trade Commission Act approved March 21, 1938.

(h) The term “commerce” means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(I) The term “Territory” includes the insular possessions of the United States and also any Territory of the United States.

SEC. 3. The introduction, or manufacture for introduction, into commerce, or the sale, transportation, or distribution, in commerce, of any wool product which is misbranded within the meaning of this Act or the rules and regulations hereunder, is unlawful and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act; and any person who shall manufacture or deliver for shipment or ship or sell or offer for sale in commerce, any such wool product which is misbranded within the meaning of this Act and the rules and regulations hereunder is guilty of an unfair method of competition, and an unfair and deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

This section shall not apply--

(a) To any common carrier or contract carrier in respect to a wool product shipped or delivered for shipment in commerce in the ordinary course of its business; or

(b) To any person manufacturing, delivering for shipment, shipping, selling, or offering for sale, for exportation from the United States to any foreign country a wool product branded in accordance with the specifications of the purchaser and in accordance with the laws of such country.

MISBRANDED WOOL PRODUCTS

SEC. 4. (a) A wool product shall be misbranded--

(1) If it is falsely or deceptively stamped, tagged, labeled, or otherwise identified.

(2) If a stamp, tag, label, or other means of identification, or substitute therefor under section 5, is not on or affixed to the wool product and does not show--

(A) the percentage Of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool if said percentage by Weight of such fiber Is 5 per centum or more; and (5) the aggregate of all other fibers: *Provided*, That deviation of the fiber contents of the wool product from percentages stated on the stamp, tag, label, or other means of identification, shall not be misbranding under this section if the person charged with misbranding proves such

deviation resulted from unavoidable variations in manufacture and despite the exercise of due care to make accurate the statements on such stamp, tag, label, or other means of identification.

(B) the maximum percentage of the total weight of the wool product, of any nonfibrous loading, filling, or adulterating matter.

(C) the name of the manufacturer of the wool product and/or the name of one or more persons subject to section 3 with respect to such wool product.

(3) In the case of a wool product containing a fiber other than wool, if the percentages by weight of the wool contents thereof are not shown in words and figures plainly legible.

(4) In the case of a wool product represented as wool, if the percentages by weight of the wool content thereof are not shown in words and figures plainly legible, or if the total fiber weight of such wool product is not 100 per centum wool exclusive of ornamentation not exceeding 5 per centum of such total fiber weight.

(b) In addition to information required in this section, the stamp, tag, label, or other means of identification, or substitute therefor under section 5, may contain other information not violating the provisions of this Act or the rules and regulations of the Commission.

(c) If any person subject to section 3 with respect to a wool product finds or has reasonable cause to believe its stamp, tag, label, or other means of identification, or substitute therefor under section 5, does not contain the information required by this Act, he may replace same with a substitute containing the information so required.

(d) This section shall not be construed as requiring designation on garments or articles of apparel of fiber content of any linings, paddings, stiffening, trimmings, or facings, except those concerning which express or implied representations of fiber content are customarily made, nor as requiring designation of fiber content of products which have an insignificant or inconsequential textile content: *Provided*, That if any such article or product purports to contain or in any manner is represented as containing wool, this section shall be applicable thereto and the information required shall be separately set forth and segregated.

The Commission, after giving due notice and opportunity to be heard to interested persons, may determine and publicly announce the classes of such articles concerning which express or implied representations of fiber content are customarily made, and those products which have an insignificant or inconsequential textile content.

AFFIXING OF STAMP, TAG, LABEL, OR OTHER IDENTIFICATION

SEC. 5. Any person manufacturing for introduction, or first introducing into commerce a wool product shall affix thereto the stamp, tag, label, or other means of identification required by this Act, and the same, or substitutes therefor containing identical information with respect to content of the wool product or any other products contained therein in an amount of 5 per centum or more by weight and other information required under section 4, shall be *and* remain affixed to such wool product, whether it remains in its original state or is contained in garments or other articles made in whole or in part therefrom, until sold to the consumer: *Provided*, That the name of the manufacturer of the wool product need not appear on the substitute stamp, tag, or label if the name of the person who affixes the substitute appears thereon.

Any person who shall cause or participate in the removal or mutilation of any stamp, tag, label, or other means of identification affixed to a wool product with intent to violate the provision of this Act, is guilty of an unfair method of competition, and an unfair and deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

ENFORCEMENT OF THE ACT

SEC. 6. (a) Except as otherwise specifically provided herein, this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

The Commission is authorized and directed to prevent any person from violating the provisions of this Act in the same manner, by the same means, and with

the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating the provisions of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

The Commission is authorized and directed to make rules and regulations for the manner and form of disclosing information required by this Act, and for segregation of such information for different portions of a wool product as may be necessary to avoid deception or confusion and to make such further rules and regulations under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement.

The Commission is also authorized to cause inspections, analyses, tests, and examinations to be made of any wool products subject to this Act; and to cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia: or with any department, agency, or political subdivision thereof; or with any person.

(b) Every manufacturer of wool products shall maintain proper records showing the fiber content as required by this Act of all wool products made by him, and shall preserve such records for at least three years.

The neglect or refusal to maintain and so preserve such records is unlawful, and any such manufacturer who neglects or refuses to maintain and so preserve such records shall forfeit to the United States the sum of \$100 for each day of such failure, which shall accrue to the United States and be recoverable in a civil action.

CONDEMNATION; AND INJUNCTION PROCEEDINGS

SEC. 7. (a) Any wool products shall be liable to be proceeded against in the district court of the United States for the district in which found, and to be seized for confiscation by process of libel for condemnation, if the Commission has reasonable cause to believe such wool products are being manufactured or held for shipment, or shipped, or held for sale or exchange after shipment, in commerce in violation of the provisions of this Act, and if after notice from the Commission the provisions of this Act with respect to said products are not shown to be complied with. Proceedings in such libel cases shall conform as nearly as may be to suits in rem in admiralty, and may be brought by the Commission.

If such wool products are condemned by the court, they shall be disposed of, in the discretion of the court, by destruction; by sale; by delivery to the owner or claimant thereof upon payment of legal costs and charges and upon execution of good and sufficient bond to the effect that such wool products will not be disposed of until properly stamped, tagged, labeled, or otherwise identified under the provisions of this Act; or by such charitable disposition as the court may deem proper. If such wool products are disposed of by sale, the proceeds, less legal costs and charges, shall be paid into the Treasury of the United States.

(b) Whenever the Commission has reason to believe that--

(1) Any person is violating, or is about to violate, sections 3, 5, 8, or 9 of this Act, and that

(2) It would be to the public interest to enjoin such violation until complaint is issued by the Commission under the Federal Trade Commission Act and such complaint dismissed by the Commission or set aside by the court on review, or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act.

the Commission may bring suit in the district court of the United States or in the United States

court of any Territory, for the district or Territory in which such person resides or transacts business, to enjoin such violation, and upon proper showing a temporary injunction or restraining order shall be granted without bond.

EXCLUSION OF MISBRANDED WOOL PRODUCTS

SEC. 8. All wool products imported into the United States, except those made more than twenty years prior to such importation, shall be stamped, tagged, labeled, or otherwise identified in accordance with the provisions of this Act,

and all invoices of such wool products required under the Act of June 17, 1930 (c. 497, title IV, 46 Stat. 719), shall set forth, in addition to the matter therein specified, the information with respect to said wool products required under the provisions of this Act, which information shall be in the invoices prior to their certification under said Act of June 17, 1930.

The falsification of, or failure to set forth, said information in said invoices, or the falsification or perjury of the consignee's declaration provided for in said Act of June 17, 1930, insofar as it relates to said information, shall be an unfair method of competition, and an unfair and deceptive act, or practice, in commerce under the Federal Trade Commission Act; and any person who falsifies, or fails to set forth, said information in said invoices, or who falsifies or perjures said consignee's declaration in so far as it relates to said information, may thenceforth be prohibited by the Commission from importing, or participating in the importation of, any wool products into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said wool products and any duty thereon, conditioned upon compliance with the provisions of this Act.

A verified statement from the manufacturer or producer of such wool products showing their fiber content as required under the provisions of this Act may be required under regulations prescribed by the Secretary of the Treasury.

GUARANTY

SEC. 9. (a) No person shall be guilty under section 3 if he establishes a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the wool product guaranteed was manufactured and/or from whom it was received, that said wool product is not misbranded under the provisions of this Act.

Said guaranty shall be either (1) a separate guaranty specifically designating the wool product guaranteed, in which case it may be on the Invoice or other paper relating to said wool product; or (2) a continuing guaranty filed with the Commission applicable to all wool products handled by a guarantor in such form as the Commission by rules and regulations may prescribe.

(b) Any person who furnishes a false guaranty, except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the wool product guaranteed was manufactured and/or from whom it was received, with reason to believe the wool product falsely guaranteed may be introduced, sold, transported, or distributed in commerce, is guilty of an unfair method of competition, and an unfair and deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

CRIMINAL PENALTY

SEC. 10. Any person who willfully violates sections 3, 5, 8, or 9 (b) of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$5,000, or be imprisoned not more than one year, or both, in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this Act.

Whenever the Commission has reason to believe any person is guilty of a misdemeanor under this section, it shall certify all pertinent facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

APPLICATION OF EXISTING LAWS

SEC. 11. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of the United States.

EFFECTIVE DATE

SEC. 12. This Act shall take effect nine months after the date of its passage.

SEPARABILITY CLAUSE

SEC. 13. If any provision of this Act, or the application thereof to any person, partnership, corporation, or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person, partnership, corporation, or circumstance shall not be affected thereby.

EXCEPTIONS

SEC. 14. None of the provisions of this Act shall be construed to apply to the manufacture, delivery for shipment, shipment, sale, or offering for sale any carpets, rugs, mats, or upholsteries, nor to any person manufacturing, delivering for shipment, shipping, selling, or offering for sale any carpets, rugs, mats, or upholsteries.

Approved, October 14, 1940.

SHERMAN ACT¹

(U. S. C., Title 15, Sec. 1)

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

SECTION 1. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal: *Provided*, That nothing herein contained shall render illegal, contracts or agreements prescribing minimum prices for the resale of a commodity which bears, or the label or container of which bears, the trade mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful as applied to intrastate transactions, under any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia in which such resale is to be made, or to which the commodity is to be transported for such) resale, and the making of such contracts or agreements shall not be an unfair method of competition under section 5, as amended and supplemented, of the act entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914: *Provided further*, That the preceding proviso shall not make lawful any contract or agreement, providing for the establishment or maintenance of minimum resale prices on any commodity herein involved, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be Illegal shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 2. Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and convicted thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such

combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 4. The several circuit courts ² of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute

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

² Act of Mar. 3.1911. c. 231. 36 Stat 1167. abolishes the courts referred to. and confers t heir Dowers upon the district courts.

proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order Or prohibition as shall be deemed Just in the premises.

SEC. 5. Whenever it shall appear to the court before which any proceeding under section four of this act may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court 18 held or not; and subpoenas to that end may be served in any district by the marshal thereof.

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

SEC. 7. Any person who shall he injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover three-fold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

SEC. 8. That 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.

Approved, July 2, 1890.

MILLER-TYDINGS ACT

(Approved August 17, 1937, as a rider to the District of Columbia revenue act)

SECTION 1 of the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890 [the Sherman Act], is amended to read [see Sherman Act, sec. 1, p.187]

RULES OF PRACTICE

RULE I. THE COMMISSION

Offices.--The principal office of the Commission is at Washington, D. C.

All communications to the Commission must be addressed to: Federal Trade Commission, Washington, D. C., unless otherwise specifically directed.

Branch offices are maintained at New York, Chicago, San Francisco, Seattle, and New Orleans.

Their addresses are: Federal Trade Commission, room 509, 45 Broadway, New York, N. Y.; Federal Trade Commission, 1118 New Post Office Building, 433 West Van Buren Street,

Chicago, Ill.; Federal Trade Commission, 548 Federal Office Building, San Francisco, Calif.; Federal Trade Commission, 801 Federal Building, Seattle, Wash.; Federal Trade Commission, 321 Federal Office Building, New Orleans, La.

Hours.--Offices are open on each business day, except Saturday, from 9 a. m. to 4: 30 Pm., and on Saturdays from 9 a. m. to 1 p.m.

Sessions.--*The* Commission may meet and exercise all its powers at any place, and 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.

Sessions of the Commission for hearings will be held as ordered by the Commission.

Sessions of the Commission for the purpose of making orders and for transaction of other business unless otherwise ordered will be held at the principal office of the Commission at Pennsylvania Avenue at Sixth Street, Washington, D. C., on each business day at 10 a. m.

Quorum.--A majority of the members of the Commission shall constitute a quorum for the transaction of business.

RULE II. THE SECRETARY

The Secretary is the executive officer of the Commission and shall have the legal custody of its seal, papers, records, and property; and all orders of the Commission shall be signed by the Secretary or such other person as may be authorized by the Commission.

RULE III. SERVICE

Complaints, orders, and other processes of the Commission, and briefs in support of the Complaint, will be served by the secretary of the Commission by registered mail, except when service by other method shall be specifically ordered by the Commission, by registering and mailing a copy thereof addressed to the person, partnership, or corporation to be served at his or its principal office or place of business. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

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

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

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

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

RULE IV. APPEARANCE

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

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

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

of Columbia, may practice before the Commission.

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

mission, but only after he has been afforded an opportunity to be heard in the matter.

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

RULE V. 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 proper.

RULE VI. DOCUMENTS

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

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

Copies.--Documents, other than correspondence, shall be filed *in triplicate*, except as otherwise specifically required by these rules.

Form.--Documents not printed shall be typewritten, on one side of paper only; letter size, eight (8) inches by ten and one-half (10 1/2) inches; left margin, one and one-half (1 1/2) inches; right margin, one (1) inch.

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

Documents shall be bound at *left side only*.

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

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

RULE VII. APPLICATIONS FOR COMPLAINT

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

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

RULE VIII. COMPLAINTS

Whenever the Commission shall have reason to believe that there is a violation of law over which the Commission has jurisdiction, and in case of violation of the Federal Trade Commission Act, if it shall appear to the Commission that a proceeding by it in respect thereof

would be to the interest of the public, the Commission shall issue and serve upon the proper parties a complaint stating its charges and containing a notice of a hearing upon a day and at the place therein fixed, at least thirty (30) days after the service of said complaint.

RULE IX. ANSWERS

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which

constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Four copies of answers shall be furnished. All answers shall be signed in ink, by the respondent or by his attorney at law. Corporations or associations shall file answers through a bona fide officer or by an attorney at law. Answers shall show the office and post-office address of the signer.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true.

Contemporaneously with the filing of such answer the respondent may give notice in writing that he desires to be heard on the question may give notice in writing that he desires to be heard on the question as to whether the admitted facts constitute the violation of law charged in the complaint. Pursuant to such notice, the respondent may file a brief, directed solely to that question, in accordance with the rule XXIII.

RULE X. MOTIONS

Motions before the Commission or the trial examiner shall state briefly the purpose thereof and all supporting affidavits, records, and other papers, except such as have been previously filed, shall be filed with such motions and clearly referred to therein.

Motions in any proceeding before a trial examiner which relate to the introduction or striking of evidence, to matters of procedure, or to any other matters coming within the scope of the trial examiner's authority shall be made to the trial examiner and shall be ruled on by him. All other motions in any proceeding, except as otherwise provided in these rules, shall be addressed to and shall be ruled on by the Commission, but in the case of motions to dismiss for alleged failure of proof based upon testimony taken before a trial examiner, the motion will be referred to the trial examiner for report and recommendation before a ruling is made by the Commission.

RULE XI. CONTINUANCE AND EXTENSION OF TIME

Except as otherwise expressly provided by law, the Commission, for cause shown, may extend any time limits prescribed for filing any papers, and may continue or adjourn any hearings. A hearing before a trial examiner shall begin at the time and place ordered by the Commission, but thereafter may be adjourned from time to time by the trial examiner or the Commission.

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

RULE XII. HEARINGS ON COMPLAINTS

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

Hearings shall be stenographically reported by the official reporter of the Commission and

a transcript thereof shall be made which shall be a part of the record of the proceeding. The record so made shall be the sole official record. Transcripts will be supplied to a respondent or respondents and to the public by the official reporter at rates not to exceed the maximum rates fixed by contract between the Commission and the reporter.

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

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

RULE XIII. HEARINGS ON INVESTIGATIONS

When a matter for investigation is referred to a single Commissioner, or examiner, for examination or report, such Commissioner, or examiner, if author-

ized by the Commission, may conduct or hold conferences or hearings thereon, and reasonable notice of the time and place of such hearings shall be given to parties in interest and posted.

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

RULE XIV. TRIAL EXAMINERS

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

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

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

The trial examiner is charged with the duty of conducting a fair and impartial hearing and of maintaining order in form and manner consistent with the dignity of the Commission. He will note on the record any disregard by counsel of his rulings on matters of order and procedure and where he deems it necessary shall make special written report thereof to the Commission. In the event that counsel supporting the complaint or counsel for any respondent shall be guilty of disrespectful, disorderly, or contumacious language or conduct In connection with any hearing, the trial examiner may suspend the proceeding and submit to the Commission his report thereon, together with his recommendations as to whether any rule should be issued to show cause why such counsel should not be suspended or disbarred pursuant to Rule VII or subjected to other appropriate action in respect thereto. A copy of such trial examiner's report shall be furnished to any counsel upon whose language or conduct such report is made, and the Commission will take disciplinary action only after an opportunity for hearing has been accorded such counsel.

RULE XV. SUBPOENAS

Subpoenas requiring the attendance of witnesses from any place in the United States, at any designated place of hearing, may be issued by the presiding trial examiner or a member of the Commission. Application therefor may be made either to the Secretary of to the presiding trial examiner.

Subpoenas for the production of the documentary evidence will be issued only upon application in writing to the Commission. The application must specify, as exactly as possible the documents desired, and show their competence, relevancy, and materiality. The application by a respondent shall be verified by oath or affirmation.

RULE XVI. WITNESSES

Witnesses at formal hearings shall be examined orally. Witnesses summoned in support of the complaint shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

Witnesses whose depositions are taken, and the persons taking such depositions, shall severally be entitled to the same fees as are paid for like services In the courts of the United States.

Witness fees and mileage, and fees for depositions, shall be paid by the party at whose instance witnesses appear.

RULE XVII. EVIDENCE

Documentary.--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 immaterial or irrelevant parts shall be excluded, and shall be segregated insofar as practicable.

Objections.--Objections to evidence before a trial examiner, a Commissioner, or the Commission, shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument or debate thereon except as ordered by the trial examiner, a Commissioner, or the Commission. Rulings on such objections shall be part of the transcript.

RULE XIX. DEPOSITIONS

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

Unless notice be waived, no deposition shall be taken except after at least five (5) days' notice to the parties within the United States, and fifteen (15) days' notice when deposition is to be taken elsewhere.

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

Depositions shall be typewritten, on one side of paper only; letter size, eight (8) inches by ten and one-half (10 ½) inches; left margin, one and one-half (1 ½) inches; right margin, one (1) inch.

Depositions shall be bound *at left side only*.

RULE XIX. ADMISSION OF FACTS AND OF GENUINENESS OF DOCUMENTS

At any time after answer has been filed counsel or parties in any controversy may serve upon the opposing side a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request or the admission of the truth of any relevant matters of fact set forth in such documents.

Copies of the documents shall be delivered with the request unless copies have already been furnished. Each of the matters on which an admission is so requested shall be deemed admitted unless, within a period designated within the request, not less than ten days after service thereof or within such further time as the Commission or the trial examiner may allow on motion and notice, the party so served serves upon the party making the request, a sworn statement either denying specifically the matters of which an admission is requested, or setting forth in detail the reasons why he can neither truthfully admit nor deny those matters. Service required hereunder may be made upon a respondent either by registering and mailing or by delivering a copy of the documents to be served to the respondent or his attorney, or by leaving a copy at the principal office or place of business of either. Service upon the attorney supporting the complaint may be either by registering and mailing or by delivering a copy of the documents to be served to such attorney.

RULE XX. TRIAL EXAMINER'S REPORT

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

A copy of such report shall forthwith be served upon each attorney for the Commission, upon each attorney for respondents, and upon each respondent not represented by counsel.

The trial examiners' reports is not a report or finding of the Commission. Such report is advisory only and is not binding upon the Commission.

RULE XXI. EXCEPTIONS

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

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

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

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

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

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

RULE XXII. STATEMENTS OF FACTS

When, in the opinion of the trial examiner engaged in taking evidence In any proceeding upon complaint issued by the Commission, the size of the transcript, or complication or importance of the issues involved warrants, he may, of his own motion, or at the request of counsel, at the close of taking of evidence, announce to attorneys for the Commission and for respondents that the trial examiner will receive within such time as he shall fix, a statement in writing from attorneys for the Commission and attorneys for respondents setting forth, in concise outline, the contentions of each as to the facts proved in the proceeding. The time so fixed shall not change the times limited in Rule XX for filing report by the trial examiner or Rule XXIII for the filing of briefs.

Copy of any such statements shall be furnished to opposing counsel by the party filing the statement, but such statements are not to be argued before the trial examiner, and are not a part of the record of the proceeding.

RULE XXIII. BRIEFS

Filing.--Any party to a proceeding may file a brief with the Secretary of the Commission, in support of his contentions, within the time limits fixed by these rules.

Briefs not filed on or before the time fixed in the rules will be received only by special permission of the Commission.

Appearance of additional counsel in a case will not constitute grounds for extending time for filing briefs.

Time.--Opening brief shall be filed by the attorney supporting the complaint within twenty (20) days after service upon him of a copy of the report of the trial examiner.

Brief on behalf of respondent shall be filed within twenty (20) days after service upon respondent or respondent's attorney of copy of brief in support of the complaint.

Where respondent shall have filed an answer admitting all material allegations of fact, the time so limited shall begin to run at the time of filing such answer.

Reply briefs in support of the complaint, if any, shall be filed within ten (10) days after filing

of brief on behalf of respondent.

Number.--Twenty (20) copies of each brief shall be filed.

Contents.--Briefs, except the reply brief in support of the complaint, shall contain, in the following order:

(a) A concise abstract or statement of the case.

(b) A brief of the argument, exhibiting a clear statements of the points of fact or law to be discussed, with references to the pages of the record and the authorities relied upon in support of each point.

(c) The exceptions, if any, to the report of the trial examiner.

Index.-- Briefs comprising more than ten (10) pages shall contain on their top fly leaves a subject index with page references. The subject index shall be supplemented by an alphabetical list of all cases referred to, with references to pages where references are cited.

Reply briefs.--Reply brief in support of the complaint shall be filed only with permission of the Commission, and shall be strictly in answer to brief on behalf of respondent.

No further reply brief on behalf of respondent shall be filed.

Form.--Briefs shall be printed, multigraphed, or otherwise neatly processed on good unglazed white paper in type not smaller than ten (10) point double leaded, citations and quotations single leaded; footnotes not less than eight (8) point leaded. Type page shall not be more than twenty-nine: (29) picas wide by approximately forty-eight (48) picas deep and trimmed page shall be seven (7) inches by ten (10) inches, with an inside margin of not less than one (1) inch.

RULE XXIV. ORAL ARGUMENTS

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

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

RULE XXV. REPORTS SHOWING COMPLIANCE WITH ORDERS AND WITH STIPULATIONS

In every case where an order to cease and desist is issued by the Commission for the purpose of preventing violations of law and in every instance where the Commission approves and accepts a stipulation in which a party agrees to cease and desist from the unlawful methods, acts, or practices involved, the respondents named in such orders and the parties so stipulating shall file with the Commission, within sixty days of the service of such order and within sixty days of the approval of such stipulation, a report, in writing, setting forth in detail the manner and form in which they have complied with said order or with said stipulation; provided, however, that if within the said sixty (60) day period respondent shall file petition for review in a circuit court of appeals, the time for filing report of compliance will begin to run *de novo* from the final judicial determination; and provided further, that where the order prevents the use of a false advertisement of a food, drug, device, or cosmetic, which may be injurious to health because of results from such use under the conditions prescribed in the advertisement, or under such conditions as are customary or usual, or if the use of such advertisement is with intent to defraud or mislead, an interim report stating whether and how respondents intend to comply shall be filed within ten days.

Within its sound discretion, the Commission require any respondent upon whom such order has been served may and any party entering into such stipulation, to file with the Commission, from time to time thereafter, further reports in writing, setting forth in detail the manner and form in which they are complying with said order or with said stipulation.

Reports of compliance shall be signed in ink by respondents or by the parties stipulating.

RULE XXVI. REOPENING PROCEEDINGS

In any case where an order to cease and desist or an order dismissing a proceeding has been issued by the Commission, the Commission may (a) in the case of an order to cease and desist, at anytime until the transcript of the record in the proceeding has been filed in a circuit court of appeals of the United States upon a petition for review or enforcement, or after the expiration of the statutory time for filing of a petition for review where no such petition has been filed, or (b) in the case of an order dismissing a proceeding at any time thereafter, give reasonable notice to all respondents and to all intervenors, if any, of a hearing as to whether the said proceeding should be reopened. If after said hearing the Commission shall have reason to believe that

conditions of fact or of law have so changed since the said order was made as to require, or that the public interest requires, the reopening of such proceeding, the Commission will issue an order for the reopening of the same.

RULE XXVII. TRADE PRACTICE CONFERENCE PROCEDURE

(a) *Purpose.*--The trade practice conference procedure has for its purpose the establishment, by the Commission, of trade practice rules in the interest of industry and the purchasing public. This procedure affords opportunity for

voluntary participation by industry groups or other interested parties in the formulation of rules to provide for elimination or prevention of unfair methods of competition, unfair or deceptive acts or practices and other illegal trade practices. They may also include provisions to foster and promote fair competitive conditions and to establish standards of ethical business practices in harmony with public policy. No provision or rule, however, may be approved by the Commission which sanctions a practice contrary to law or which may aid or abet a practice contrary to law.

(b) *When authorized.*--Trade practice conference proceedings may be authorized by the Commission upon its own motion or upon application therefor whenever such proceedings appear to the Commission to be in the interest of the public. In authorizing proceedings, the Commission may consider whether such proceedings appear to have possibilities (1) of constructively advancing the best interests of industry on sound competitive principles in consonance with public policy, or (2) of bringing about more adequate or equitable observance of laws under which the Commission has jurisdiction, or (3) of otherwise protecting or advancing the public interest.

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

- (1) A brief description of the industry, trade, or subject to be treated.
- (2) The kind and character of the products involved.
- (3) The size or extent and the divisions of the industry or trade groups concerned.
- (4) The estimated total annual volume of production or sales of the commodities involved.
- (5) List of membership of the industry or trade groups concerned in the matter.
- (6) A brief statement of the acts, practices, methods of competition or other trade practices desired to be considered, or drafts of suggested trade practice rules.
- (7) Evidence of authority to so act, where the application is signed by a person or organization acting in behalf of others.

(d) *Informal discussions with members of the Commission's staff.*--Any interested person or group may, upon request, be granted opportunity to confer in respect to any proposed trade practice conference with the Commission's trade practice conference division, either prior or subsequent to the filing of any such application. They may also submit any pertinent data or information which they desire to have considered. Such submission shall be made during such period of time as the Commission or its duly authorized official may designate.

(e) *Industry conferences.*--Reasonable public notice of the time and place of any such authorized conference shall be issued by the Commission. A member of the Commission or of its staff shall have charge of the conference and shall conduct the conference pursuant to direction of the Commission and in such manner as will facilitate the proceeding and afford appropriate consideration of matters properly coming before the conference. A transcript of the conference proceedings shall be made, which, together with all rules resolutions, modifications, amendments or other matters offered, shall be filed in the office of the Commission and submitted for its consideration.

(f) *Public hearing on proposed rules.*--Before final approval by the Commission of rules for an industry, and upon such reasonable public notice as to the Commission seems appropriate, further opportunity shall be afforded by the Commission to all interested persons, corporations or other organizations, including consumers, to submit in writing relevant suggestions or

objections and to appear and be heard at a designated time and place.

(g) *Promulgation of rules.*--When trade practice rules shall have been finally approved and received by the Commission, they shall be promulgated by official order of the Commission and published, pursuant to law, in the Federal Register. Said rules shall become operative thirty (30) days from date of promulgation or at such other time as may be specified by the Commission. Copies of the final rules shall be made available at the office of the Commission. Under the procedure of the Commission a copy of

the trade practice rules as promulgated by the Commission is sent to each member of the industry whose name and address is available, together with an acceptance form providing Opportunity to such member to signify his intention to observe the rules in the conduct of his business.

(h) *Violations.*--Complaints as to the use, by any person, corporation or other organization, of any act, practice or method inhibited by the rules may be made to the Commission by any person having information thereof. Such complaints, if warranted by the facts and the law, will receive the attention of the Commission in accordance with the law. In addition, the Commission may act upon its own motion in proceeding against the use of any act, practice or method contrary to law.

STATEMENT OF POLICY

STATUS OF APPLICANT OR COMPLAINANT

The so-called "applicant" or complaining party has never been regarded as a party in the strict sense. The Commission acts only in the public interest. It has always been and now is the rule not to publish or divulge the name of an applicant or complaining party, and such party has no legal status before the Commission except where allowed to intervene as provided by the statute.

POLICY AS TO PRIVATE CONTROVERSIES

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

SETTLEMENT OF CASES BY STIPULATION

Whenever the Commission Shall have reason to believe that any person has been or is using unfair methods of competition or unfair or deceptive acts or practices in commerce, and that the interest of the public will be served by so doing, it may withhold Service of complaint and extend to the person opportunity to execute a stipulation satisfactory to the Commission, in which the person, after admitting the material facts, promises and agrees to cease and desist from and not to resume such unfair methods of competition or unfair or deceptive acts or practices. All such stipulations shall be matters of public record, and shall be admissible as evidence of prior use of the unfair methods of competition or unfair or deceptive acts or practices involved in any subsequent proceeding against such person before the Commission. It is not the policy of the Commission to thus dispose of matters involving intent to defraud or mislead; false advertisement of food, drugs, devices, or cosmetics which are inherently dangerous or where injury is probable; suppression or restraint of competition through conspiracy or monopolistic practices; violations of the Clayton Act; violations of the Wool Products Labeling Act of 1939 or the rules promulgated thereunder; or where the Commission is of the opinion that such procedure will not be effective in preventing continued use of the unlawful method, act, or practice. The Commission reserves the right in all cases, for any reasons which it regards as sufficient, to withhold this privilege.

INVESTIGATIONS BY THE COMMISSION, 1915-40

Since its establishment in 1915, the Federal Trade Commission has conducted numerous general inquiries which are alphabetically listed and briefly described in the following pages under more than 115 different headings. They were made at the request of the President, the Congress, the Attorney General, establishments such as the War Production Board, the Office of Price Administration, or other Government agencies, or on motion of the Commission pursuant to the Federal Trade Commission Act.

Published reports of the Commission in connection with these inquiries are also listed, including the Senate and House document members for those of the reports that were ordered printed by Congress. Publications not designated by such document members were published as Commission reports. Although available in reference libraries, many of the publications mentioned are now out of print and are so designated herein. Those available may be attained from the Superintendent of Documents, Government Printing Office, Washington, D. C.

Accounting Methods and Practices.--The inquiry into the accounting practices of trade and industry in the United States was undertaken in accordance with a Commission resolution adopted August 9, 1939, and which outlined the following general objectives: Ascertaining how accounting practices may be made to serve better the needs of business management and of the public in its relation to business; providing legislative bodies the basis for guidance in the enactment and revision of legislation, and making more effective the administration of existing legislation.

Accounting Systems.--This inquiry was made on motion of the Commission, with a view to improving accounting practices, and led to the publication in 1916 of two reports entitled, "*Fundamentals of a Cost System for Manufacturers*" (31 pages) and "*A System of Accounts for Retail Merchants*" (19 pages, out of print).

Agricultural Implement and Machinery Industry.--Adoption of the resolution authorizing this inquiry [Pub. Res. No.130 (S. J. Res. No. 277), Seventy-fourth Congress, second session, approved June 24, 1936] was a result of widespread complaints in 1936 and prior years concerning the disparity between prices of farm products, which, in 1932, reached record lows, and the prices of many farm implements and machines and their repair parts, which had been maintained at a high level. The report showed that a concentration of control in the hands of a few large companies had resulted largely from acquisition of the capital stock or of the assets of competitors prior to enactment of the Clayton Act and thereafter in the purchase of assets of competitors rather than in the purchase of their capital stock. The Commission recommended amendment of section 7 of the Clayton Act as related on pages 19 and 29 of its annual report for 1938. The report, *Agricultural Implement and Machinery Industry*, was submitted to Congress June 6, 1938. In two parts and subsequently printed in one volume as House Document No.702, Seventy-fifth Congress, third session (1,176 pages). (See also Farm Implements and independent Harvester.)

Agricultural Income.--Public Resolution No.61, Seventy-fourth Congress, approved August 27, 1935, called for an Inquiry with respect to "principal farm products," such as wheat, cotton, tobacco, livestock, milk, and potatoes. This resolution was amended by Public Resolution No.112, Seventy-fourth Congress, approved June 20, 1936, extending the investigation to "table and juice grapes, fresh fruits and vegetables." The chief topics to be covered were: the decline

in agricultural income; the increases or decreases in the

income of principal corporations engaged in the manufacture and distribution of principal farm products; the proportion of total consumer cost of such products represented by proceeds to the farmers, manufacturers, and distributors; the financial position of the aforementioned principal corporations, including assets, investment, and rates of return; the salaries of officers of such corporations; the concentration of control of major farm products, the methods used for obtaining such control, and the extent to which unfair methods were employed in handling farm products, such methods including any combinations, monopolies, and price-fixing. The resolution also required an inquiry into the extent to which cooperative agencies had entered into the processing and marketing of such farm products.

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

Automobiles.--See Motor Vehicle Industry.

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

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

also Bakeries, Flour Milling and Food Investigation.)

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

Cement Industry.--In response to Senate Resolution No.448, Seventy-first Congress, third session, adopted February 16, 1931, the Commission investigated competitive conditions and distributing processes in the cement industry to determine the existence, if any, of unfair trade practices or violations of the antitrust laws, and submitted its report, *Cement Industry*, to the Senate, June 9, 1933. Printed as Senate Document No. 71, Seventy-third Congress, first session (160 pages), the report indicated that rigid application of the multiple basing-point price system, universally used in the industry, tended to lessen price competition and destroy the value of sealed bids ; that manufacturers in concert with dealer organizations had engaged in activities which strengthened the system's price effectiveness ; that dealers' associations had engaged in practices designed to restrict sales to those recognized as legitimate dealers by the associations, and that such practices also tended to control sales terms. The report reiterated certain findings and conclusions of the Commission's earlier report on the cement industry made as a part of the price bases inquiry (see Price Bases and Steel Investigations herein for further reference to basing-point systems.) The cement report was submitted to the Senate June 9, 1933, and printed as Senate Document No. 71, Seventy-third Congress, first session (160 pages).

Chain Stores.--This inquiry was made pursuant to Senate Resolution No.224, Seventieth Congress, first session, adopted May 12, 1928. The Commission was directed to ascertain the advantages and disadvantages of chain-store distribution as compared with other types of distribution and how far the increase in the former system depended upon quantity prices and whether or not such quantity prices were in violation of law and what legislation, if any, should be enacted regarding them. The resolution also called for a report upon the extent to which practices of the chain stores had tended to monopoly or concentration of control, and the existence of any unfair methods and agreements in restraint of trade. The factual data, submitted in 33 separate reports published as Senate documents under the general title *Chain Stores*, contained detailed statistical analyses of almost every phase of chain-store operation.

Subtitles of the chain-store reports, their dates of submittal, and the document numbers under which they were printed, are as follows:

Cooperative Grocery Chains, July 13, 1931, Senate Document No.12, Seventy-second Congress, first session (199 pages).

Wholesale Business of Retail Chains, December 22, 1931, Senate Document No. 29, Seventy-second Congress, (38 pages).

Sources of Chain-Store Merchandise. December 22, 1931, Senate Document No. 30, Seventy-second Congress, first session (76 pages).

Scope of the Chain-Store Inquiry, December 22, 1931, Senate Document No. 31, Seventy-second Congress, first session (33 pages).

Chain-Store Leaders and Loss Leaders, January 15, 1932, Senate Document No. 51, Seventy-second Congress, first session (57 pages).

Cooperative Drug and Hardware

Seventy-second Congress, second session (126 pages).

Short Weighing and Over Weighing in Chain and Independent Grocery Stores, December 15, 1932, Senate

Document No.153, Seventy-second first second session (42 pages).session

Sizes of Stores of Retail Chains, December 21, 1932, Senate Document No. 156, Seventy-second Congress,

session (50 pages).

Quality of Canned Vegetables and Fruits (Under Brands of Manufacturers, Chains, and Other Distributors), January 13, 1933, Senate Document No. 170, Seventy-second Congress, second session (53 pages).

Gross Profit and Average Sales Store of Retail Chains, February 2, 1933, Senate Document No. 178, Seventy-second Congress, second session

Chains, April 18, 1932, Senate Document No.82, Seventy-second Congress, 5, first session (28 pages).
Seventy

Growth and Development of Chain Stores, June 11, 1932, Senate Document No. 100, Seventy-second Congress, first session (81 pages) .

Chain-Store Private Brands, September 26, 1932, Senate Document No.142,

(75 pages).

Chain-Store Manufacturing, April

1933, Senate Document No.13,

third Congress, first session (129 pages).

Sales, Costs, and Profits of Retail Chains, April 22, 1933, Senate Document No. 40, Seventy-third Congress, first session (120 pages) .

¹ The Commission published *Chain Store System of Marketing and Distribution* (Progress Report), May 12.1930, printed as Senate Document No.146, Seventy-first Congress, second session (6 pages).

Prices and Margins of Chain and Independent Distributors, Washington, D. C.--Grocery, May 15, 1933, Senate Document No 62 Seventy-third Congress, first session (98 pages).

Prices and Margins of Chain and Independent Distributors Memphis--Grocery, June 8, 1933, Senate Document No. 69 Seventy third Congress, first session (44 pages).

Prices and Margins of Chain. and Independent Distributors, Detroit--Grocery, June 22, 1933, Senate Document No.81, Seventy-third Congress, second session (42 pages).

Prices and Marins of Chain and Independent Distributors, Cincinnati--Grocery, November 12, 1933, Senate Document No. 88, Seventy-third Congress, second session (50 pages).

Prices and Margins of Chain and Independent Distributors, Cincinnati Drug, December 30, 1933, Senate Document No. 95, Seventy-third Congress, (43 pages).

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

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

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

Chain-Store Wages, July 15, 1933, Senate Document No.82, Seventy-third Congress, second session (116 pages) .

Chains-Store Advertising, October 14, 1933, Senate Document No.84, Seventy-

third Congress, second session (89 pages).

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

Special Discounts and Allowances to Chain and Independent Distributors--

Tobacco Trade, October 26, 1933 Senate Document No. 80, Seventy third Congress, second session (118 pages).

Special Discounts and Allowances to Chain and Independent Distributors Grocery Trade, November 14 1933 Senate Document No.89, Seventy third Congress, second session (98 pages).

Special Discounts and Allowances to Chain and Independent Distributors

Drug Trade, November 24, 1933, Senate Document No 94 Seventy-third Congress, second session (98 pages).

Invested Capital and Rates of Return of Retail Chains, October 29, 1933, Senate Document No 87, Seventy-third second session Congress, second session (142 pages).

Service Features in Chain Stores, November 20, 1933, Senate Document No. 91, Seventy-third Congress, second session (67 pages).

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

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

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

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

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

printed as a Commission publication and as Senate Document No.50, Sixty-fifth Congress, first session (420 pages, out of print) ; and the summary, under the title *Anthracite and Bituminous Coal Situation*, dated June 19, 1917, was printed separately as House Document No. 193, Sixty-fifth Congress, first session (29 pages, out of print).

Coal, Anthracite.--This inquiry, made on motion of the Commission, dealt with premium prices of anthracite coal charged by certain mine operators and the premium prices and gross profits of wholesalers in the latter part of 1923 and early in 1924. The report discussed also the development of the

anthracite combination, and the results of the Government's efforts to dissolve it. The *Report of the Federal Trade Commission on Premium Prices of Anthracite* was submitted to Congress July 6, 1925, and printed (97 pages).

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

Coal, Bituminous.--An inquiry was made on motion of the Commission. The reports on investment and profit in soft-coal mining were prepared and submitted to Congress in the belief that the information would be of timely value in the consideration of pending legislation regarding the coal trade. The data covered the years 1916 to 1921, inclusive. Reports were submitted in two parts dated May 31, 1922, and July 6, 1922, respectively, and published by the Commission in one volume, entitled *Investment and Profit in Soft-Coal Mining. Part I. Summary and Conclusions and Part II. Explanatory and Statistical Material Supporting Part I* (222 pages), and by the Senate in two volumes as Senate Document No. 207, Sixty-seventh Congress, second session Part I, (10 pages), and Part II, (208 pages).

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

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

2, (revised costs--Second Quarter of 1920), December 6, 1920. (All out of print.)

Coal--Retail Situation.--An inquiry was made on motion of the Commission into the retail coal situation in Washington, D. C. A release was issued August 11, 1917, entitled *Washington, D. C., Retail Coal Situation* (5 pages, processed, out of print).

Commercial Bribery.--An inquiry made on motion of the Commission into the prevalence of bribery of employees of customers as a method of obtaining trade was described in a Special Report on Commercial Bribery, dated May 15, 1918, and printed as House Document No. 1107 Sixty-fifth Congress, second session (3 pages, out of print) . The report contained recommendations for legislation striking at this practice. On August 22, 1918, a

letter from the Commission to Senator Duncan U. Fletcher, of Florida, in the nature of a report, discussed this subject and was printed under the title *Commercial Bribery*, as Senate Document (unnumbered), Sixty-fifth Congress, second session (36 pages, out of print). On March 18, 1920, the Commission submitted to the Senate a report entitled *Commercial Bribery*, which was printed as Senate Document No.258, Sixty-sixth Congress, second session (7 pages, out of print).

Cooperation in American Export Trade.--See Foreign Trade--Cooperation in American Export Trade.

Cooperation in Foreign Countries.--This Investigation, initiated on motion of the Commission, involved inquiries made by the Commission regarding the cooperative movement in 15 European countries. The report, *Cooperation in Foreign Countries*, containing recommendations for further development of cooperation in the United States, was submitted to the Senate November 29, 1924, and printed as Senate Document No.171, Sixty-eighth Congress, second session (202 pages, out of print).

Cooperative Marketing.--This inquiry was made pursuant to Senate Resolution No. 34, Sixty-ninth Congress, special session, adopted March 17, 1925. It covered the development of the cooperative movement in the United States and illegal interferences with the formation operation of cooperatives. The report included a study of comparative costs, prices, and marketing practices as between cooperative marketing organizations and other types of marketers and distributors handling farm products. Entitled *Cooperative Marketing*, the report was submitted to the Senate April 30, 1928, and printed as Senate Document No.95, Seventieth Congress, first session (721 pages, out of print).

Copper.--This inquiry was a part of the wartime work done at the direction of President Wilson. One of the first products for which the Government established a definite maximum price during the World War was copper. The information upon which the price was fixed was primarily the cost findings of the Federal Trade Commission, and a summary of this cost information was printed in *Cost Reports of the Federal Trade Commission--Copper* (26 pages, issued June 30, 1919). (See also War-time Cost Finding.)

Corporation Reports.--A Commission resolution adopted December 12, 1939, authorized the periodic collection of annual or special reports of corporations engaged in interstate commerce except banks and common carriers, in accordance with the Commission's powers conferred by Section 6 of the Federal Trade Commission Act. The first reports appeared in summary form in October 1940 under the titles *Financial Statistics for Six Corporations Manufacturing Cigarettes and Other Tobacco Products*, *Aircraft Manufacturing Corporations--Financial Statistics for Nine Corporations*, *Bread and Bakery Products Manufacturing Corporations--Financial Statistics for Seven Corporations*, and *Lead and Zinc Producing and Manufacturing Corporations--Financial Statistics for Six Corporations*. Additional summaries for other industries were to follow.

Cost of Living.--At the outbreak of the World War, the rapid rise of prices led the Commission, at the direction of President Wilson, to call a conference on April 30, 1917, to which official delegates of the various States were invited. The proceedings, entitled *The High Cost of Living*, were subsequently printed (119 pages, out of print).

Cost of Living.--This inquiry was made upon the request of President Roosevelt as contained in a published letter dated November 16, 1937, and a confidential report was submitted to him a few months thereafter. A resolution of the Commission, concerning its undertaking of the investigations, was adopted November 20, 1937.

Cotton Merchandising.--This inquiry was made pursuant to Senate Resolution No. 252,

Sixty-eighth Congress, first session, adopted June 7, 1924. The report discussed abuses in handling consigned cotton and made recommendations designed to correct or alleviate existing conditions. The report, *Cotton Merchandising Practices*, was submitted to the Senate January 20, 1925, and printed, as Senate Document No.194, Sixty-eighth Congress, second session (38 pages).

Cottonseed Industry.--An inquiry was made pursuant to House Resolution No.439, Sixty-ninth Congress, second session, adopted March 2, 1927. Alleged fixing of the prices paid for cottonseed led to this investigation. The Commission found considerable evidence of cooperation among the State associations, but the evidence as a whole did not indicate that prices had been fixed in violation of the antitrust laws by those engaged in crushing or refining cottonseed. One

of the main causes of dissatisfaction to both the producer of cottonseed and those engaged in its purchase and manufacture was found to have been a lack of a uniform system of grading. The report, *Cottonseed Industry*, was submitted to the House March 5, 1928, and printed as House Document No.193, Seventieth Congress, first session (37 pages) .

Cottonseed Industry.--An inquiry was made pursuant to Senate Resolution No. 136, Seventy-first Congress, first session, adopted October 21, 1929, and Senate Resolution 147, Seventy-first Congress, first session, adopted November 2, 1929. These resolutions instructed the Commission to investigate practices of corporations operating cottonseed-oil mills to determine the existence of unlawful combinations seeking to lower and fix prices of cottonseed, and seeking to sell cottonseed meal at a fixed price under boycott threat. The Commission was also directed to determine whether such corporations were acquiring control of cotton gins for the purpose of destroying competitive markets as well as for depressing or controlling prices paid to seed producers. The final report (207 pages) was submitted to the Senate on May 19, 1933. Thus report and twelve volumes covering hearings during the course of the investigation were printed as Senate Document No. 209, Seventy-first Congress, second session, under the general title, *Investigation of Cottonseed Industry*. A preliminary report dated February 28, 1930, was printed as Senate Document No.91, Seventy-first Congress, second session (4 pages, out of print).

Cotton Trade.--An inquiry was made pursuant to Senate Resolution No. 262, Sixty-seventh Congress, second session, adopted March 29, 1922. A preliminary report, *Cotton Trade*, discussed especially the causes of the decline in cotton prices during the period 1920-22. The report was submitted to Congress February 26, 1923, and printed as Senate Document No.311, Sixty-seventh Congress, fourth session (28 pages, out of print).

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

Du Pont Investments.--This inquiry was made on motion of the Commission of July 29, 1927. The reported acquisitions of E. I. du Pont de Nemours & Co., or the stock of the United States Steel Corporation, together with previously reported holdings in General Motors Corporation, caused an inquiry into these relations with a view to ascertaining the facts and their probable economic consequences. The *Report of the Federal Trade Commission on Du Pont Investments* (43 pages), together with views of Commissioner William E. Humphrey on the resolution and on the report (3 pages), were issued February 1, 1929, in processed form.

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

Electric Power--This inquiry, made pursuant to Senate Resolution No.329, Sixty-eighth

Congress, second session, adopted February 9, 1925, resulted in two reports on the control of the electric-power industry. The first dealt with the organization, control, and ownership of commercial electric-power companies, and showed, incidentally, the dangerous degrees to which pyramiding had been practiced in superposing *a series* of holding companies over the underlying operating companies. The second report related to the supply of electrical equipment and competitive conditions existing in the industry. The dominating position of the General Electric Co. in the field of electrical equipment was shown. These reports were submitted to the Senate February 21, 1927,

and January 12, 1928. *Electric Power Industry--Control of Power Companies* was printed as Senate Document No. 213, Sixty-ninth Congress, second session (272 pages), and *Supply of Electrical Equipment and Competitive Conditions* as Senate Document No.46, Seventieth Congress, first session (282 pages). (See, also, Interstate Power Transmission, and Utility Corporations.)

Farm Implements.--The high prices of farm Implements and machinery led to this inquiry which was made pursuant to Senate Resolution No.223, Sixty-fifth Congress, second session, adopted May 13,1918. The report disclosed that there were numerous trade combinations to advance prices and that the consent decree for the dissolution of the International Harvester Co. was inadequate. The Commission recommended a revision of the decree and the Department of Justice proceeded against the company to that end. The report was submitted to the Senate May 4, 1920, and printed as a Commission publication under the title, *Report of the Federal Trade Commission on the Causes of High Prices of Farm Implements* (713 pages, out of print).

Farm Implements and Machinery Industry.--See Agricultural Implements and Machinery, and Independent Harvester Co.

Farm Products.--See Agricultural Income.

Feeds.--This inquiry was made pursuant to Senate Resolution No.140, Sixty sixth Congress, first session, adopted July 31, 1919. Its purpose was to discover whether there were any combinations or restraints of trade in that business; and, though it disclosed some association activities in restraint of trade, it found no Important violation of the antitrust laws. Certain minor abuses inn the trade were eliminated. The report was submitted to the Senate March 29, 1921, and printed by the Commission as *Report of the Federal Trade Commission on Commercial Feeds* (206 pages).

Fertilizer.--Ann inquiry was made pursuant to Senate Resolution No. 487, Sixty-second Congress, third session, adopted March 1, 1913. Begun by the Commissioner of Corporations, the investigation disclosed the extensive use of bogus independent fertilizer companies for purposes of competition, but through conferences with the principal manufacturers agreements were reached for the abolition of such unfair competition. The report, *Fertilizer Industry*, was submitted by the Federal Trade Commission to the Senate August 19, 1910, and printed as Senate Document No. 551, Sixty-fourth Congress, first session (269 pages, out of print) .

Fertilizer.--An inquiry made pursuant to Senate Resolution No.307, Sixty-seventh in Congress, second session, adopted June 17, 1922, developed that active competition generally prevailed in the fertilizer industry in this country, though in certain foreign countries combinations controlled some of the most important raw materials. The Commission recommended constructive legislation to improve agricultural credits and more extended cooperative action in tine purchase of fertilizer by farmers. The report, *Fertilizer Industry*, was submitted to the Senate March 3, 1923, and printed as Senate Document No.347, Sixty-seventh Congress, fourth session (87 pages, out of print) .

Flags.--This inquiry, made pursuant to Senate Resolution No.35, Sixty-fifth Congress, first session, adopted April 16, 1917, resulted from unprecedented increases in tine prices of American flags due to the war-time demand. The report, *Prices of American Flags*, was submitted to the Senate July 26, 1917, and printed as Senate Document No.82, Sixty-fifth Congress, first session (6 pages, out of print) .

Flour Milling.--An inquiry into the flour-milling industry was made pursuant to Senate Resolution No.212, Sixty-seventh Congress, second session, adopted January 18, 1922. A report on the inquiry was sent to the Senate in May 1924. It showed the costs of production of wheat flour and the profits of the flour-milling companies in recent years. It also discussed the

disadvantages of the miller and consumer arising from an excessive and confusing variety in the sizes of flour packages. The report, *Wheat Flour Milling Industry*, was submitted to the Senate May 16, 1924, and printed as Senate Document No. 130, Sixty-eighth Congress, first session (130 pages, out of print). (See also Bakeries, Bread and Food Investigation.)

Food Investigation.--This inquiry was made pursuant to an order of President Wilson dated February 7, 1917. The general food investigation, undertaken with a special appropriation of Congress, resulted in two major series of reports concerning meat packing and the grain trade, both described elsewhere in this list. In addition separate inquiries were made into flour-milling, canned vege-

tables and fruits, and canned salmon. (See Food Investigation paragraphs below.)

Food Investigation--Flour Milling.--This inquiry was begun pursuant to the order of President Wilson dated February 7, 1917, but was continued as a separate inquiry. The report, *Commercial Wheat Flour Milling*, was submitted to Congress September 15, 1920, and printed (118 pages, out of print). (See also Bakeries, Bread, and Flour Milling.)

Food Investigation--Flour Milling and Jobbing.--In connection with the food Inquiry ordered by President Wilson as of February 7, 1917, the Commission on April 4, 1918, submitted a report entitled *Food Investigation, Report of the Federal Trade Commission on Flour Milling and Jobbing* (27 pages, out of print). (See also Bakeries, Bread, and Flour Milling.)

Food Investigation--Food Canning.--As a part of the general food investigation ordered by President Wilson in 1917, the Commission made a study of canned foods, and published two reports, one submitted to the President, May 18, 1918, and entitled *Food Investigation, Report of the Federal Trade Commission on Canned Foods. General Report and Canned Vegetables and Fruits* (103 pages, out of print), and the other submitted December 27, 1918, entitled *Food Investigation, Report of the Federal Trade Commission on Canned Foods. Canned Salmon* (83 pages). Also, the Commission, in connection with its general wartime cost finding activity, obtained a large amount of cost data for use of the War and Navy Departments, including data on canned foods. A volume was published November 21, 1921, in accordance with section 6 (f) of the Federal Trade Commission Act, entitled *Report of the Federal Trade Commission on Canned Foods, 1918. Corn, Peas, String Beans, Tomatoes, and Salmon* (86 pages). (See also Wartime Cost Finding.)

Food Investigation--Grain Elevators.--In connection with the inquiry into the grain trade ordered by President Wilson in October 1920, as described under Grain-Wheat Prices, the Commission, in a letter dated June 13, 1921, submitted to the Senate, on its own motion, in accordance with section 6 of the Federal Trade Commission Act, its report, *Profits of Country and Terminal Grain Elevators, a Preliminary Report*. This was printed as Senate Document No. 40, Sixty-seventh Congress, first session (12 pages, out of print). See also Grain Exporters and Grain-Wheat Prices.)

Food Investigation--Grain Trade.--Made pursuant to the direction of President Wilson dated February 7, 1917, this investigation covered the grain trade generally from the country elevator to the central markets and included an extensive statistical analysis of the trading in cash, grain, and future contracts used as recorded in the books of commission men, brokers, and others. The Commission recommended that the quotations of the various grain exchanges should be made up and published on a more uniform basis and that railroads should be required to operate public elevators for the convenience of their shippers or that there should be governmental operation of storage elevators to permit small dealers to compete more nearly on an equality with the large elevator merchandisers. The *Report of the Federal Trade Commission on the Grain Trade* was printed in seven volumes which were submitted as follows: I. *Country Grain Marketing* (350 pages), September 15, 1920; II. *Terminal Grain Markets and Exchanges* (333 pages), September 15, 1920; III. *Terminal Grain Marketing* (332 pages), December 21, 1921; IV. *Middlemen's Profits and Margins* (215 pages, out of print), September 26, 1923; V. *Future Trading Operations in Grain* (347 pages, out of print), September 15, 1920; VI. *Prices of Grain and Grain Futures* (374 pages), September 10, 1924; VII. *Effects of Future Trading* (419 pages), June 25, 1926. (See also Grain Exporters and Grain-Wheat Prices.)

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

Evidence was obtained of a combination among meat packers and of various unfair methods of competition. It also was developed that they were rapidly extending their operations into various unrelated lines of food products such as fruits and dairy products. As a result of the inquiry, the Commission recommended divorcing the meat packers from the control of the stockyards, a recommendation subsequently adopted by Congress in enacting the Packers and Stockyards Act, and also recommended restricting their operations in the unrelated lines, which was included in the provisions of a consent decree enjoining them from engaging in such merchandising. (See Packer

Consent Decree.) Six reports were issued as a result of this inquiry, the sixth having been prepared by the Department of Agriculture which cooperated with the Commission in making a study of the costs of raising and marketing cattle for slaughter. The six reports submitted to the President were: *Food Investigation, Report of the Federal Trade Commission on the Meat-Packing Industry, Summary and Part I (Extent and Growth of Power of the Five Packers in Meat and Other Industries)*, June 24, 1919 (574 pages); *Part II, Evidence of Combination Among Packers*, November 25, 1918 (294 pages); *Part III, Methods of the Five Packers in Controlling the Meat-Packing Industry*, submitted June 28, 1919 (325 pages, out of print); *Part IV. The Five Large Packers in Produce and Grocery Foods*, submitted June 30, 1919 (390 pages); *Part V, Profits of the Packers*, submitted June 28, 1919 (110 pages); and *Part VI, Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Live Stock*, submitted June 30, 1919 (183 pages). The summary was also printed separately by the Commission and as House Document 1297, Sixty-fifth Congress, second session, with a letter of transmittal to the President, dated July 3, 1918. (See also Meat Packing Profit Limitations and Packer Consent Decree.)

Food Investigation--Wholesale Marketing.--Undertaken as a part of the food inquiry ordered by President Wilson as of February 7, 1917, this inquiry consisted of an examination of the methods of marketing, including especially the facilities necessary therefor and the private control or public regulation thereof. The report, *Food Investigation, Report of true Federal Trade Commission on the Wholesale Marketing of Food*, was submitted to the President June 30, 1919 and printed (268 pages, out of print).

Food Investigation--Private Car Lines.--This inquiry also was undertaken as a part of the food investigation ordered by President Wilson on February 7, 1917. It comprised chiefly an examination of livestock car lines and refrigerator car lines, both for meats and for fruits and vegetables, including a study of the effect on competition of the ownership of such facilities. Certain remedial measures were recommended. The report, *Food Investigation, Report of the Federal Trade Commission on Private Car Lines*, was submitted to the President June 27, 1919, and printed (271 pages).

Foreign Trade--Antidumping Legislation.--Early in 1933, when amendments to the antidumping laws were under consideration by Congress, this inquiry was begun on motion of the Commission, under authority of sections 5 and 6 (h) of the Federal Trade Commission Act. The several recognized types of dumping--(1) real or ordinary dumping, (2) bounty dumping, (3) freight dumping, (4) dumping of materials, (5) consignment dumping, (6) exchange dumping, and (7) social dumping, were studied, as well as certain general provisions which might be used to prevent the dumping of goods from foreign countries. International action in suppression of dumping was briefly mentioned, and the legislation of each country was studied separately. The report *Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries*, dated January 11, 1934, was printed as Senate Document No. 112, Seventy-third Congress, second session (100 pages). In June 1938 the Commission presented to Congress its *Supplemental Report on Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries*, which brought to date the material in the report mentioned above. A summary of the supplemental report (4 pages, processed), and later the complete report (111 pages, processed), dated June 27, 1938, were made available.

Foreign Trade--Cooperation in American Export Trade.--This inquiry was made on motion of the Commission. An extensive investigation was undertaken of competitive conditions affecting Americans in international trade. The report disclosed the marked advantages of various other nations in foreign trade by reason of their superior facilities and

more effective organizations. The Webb-Pomerene Act authorizing the association of manufacturers for export trade was enacted as a direct result of the recommendations embodied in the report. The report, submitted to Congress June 30, 1916, was printed under the general title *Cooperation in American Export Trade*, in two volumes: *Part I. Summary and Report* (387 pages), *Part II. Exhibits* (597 pages) (both out of print). . The summary was submitted May 2, 1916, and printed as Senate Document No. 426, Sixty-fourth Congress, first session (7 pages, out of print) -The concluding chapter was printed separately by the Commission in 1916 (14 pages, out of print).

Foreign Trade--Cotton Growing Corporation.--This inquiry was made pursuant to Senate Resolution No.317, Sixty-eighth Congress, second session, adopted January 27, 1925, and concerned the development, methods, and activities of the Empire Cotton Growing Corporation, a British company. The report discussed world cotton production and consumption and concluded that there was then little danger of serious competition to the American cotton grower and that it would be many years before there would be a possibility that the United States would lose its position as the largest producer of raw cotton. The report, entitled *Empire Cotton Growing Corporation* was submitted to the Senate February 28, 1925, and printed as Senate Document No. 226, Sixty-eighth Congress, second session (30 pages, out of print).

Fruits and Vegetables.--See Agricultural Income.

Gasoline.--See also Petroleum Reports.

Gasoline.--Pursuant to Senate Resolution No.109, Sixty-third Congress, first session, adopted June 18, 1913, and Senate Resolution No. 457, Sixty-third Congress, second session, adopted September 28, 1914, the Commission investigated gasoline prices for the year 1915 and submitted its **Report on the Price of Gasoline in 1915** (224 pages) on April 11, 1917 printed by the Commission and as House Document No.74, Sixty-fifth Congress, first session (224 pages) in which were discussed the high prices of petroleum products and how the various Standard Oil companies had continued to maintain a division of marketing territory among themselves. The Commission suggested several plans for restoring effective competition in the oil industry. The preliminary report, *Investigation of the Price of Gasoline*, was submitted April 10, 1916, and printed as Senate Document No. 403, Sixty-fourth Congress, first session (15 pages, out of print).

Gasoline.--Pursuant to the direction of President Coolidge as of February 7, 1924, the Commission made an investigation of the sharp advance in gasoline prices, reporting in the form of its *Letter of Submittal and Summary of Report on Gasoline Prices in 1924*, dated June 4, 1924 (processed, 24 pages). It was referred by the President to the Attorney General and reprinted in the Congressional Record of February 28, 1925, beginning on page 5158.

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

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

Grain Exporters.--The low prices of export wheat gave rise to this inquiry, which was made pursuant to Senate Resolution No.133, Sixty-seventh Congress, second session, adopted December 22, 1921. The study developed facts regarding extensive and harmful speculative manipulations of prices on the grain exchanges and conspiracies among country grain buyers to agree on maximum prices for grain purchased. Legislation for a stricter supervision of grain exchanges was recommended, together with certain changes in their rules. The Commission also

recommended governmental action looking to additional storage facilities for grain uncontrolled by grain dealers. Reports were submitted to the Senate May 16, 1922, and June 18, 1923, respectively, and printed. They were entitled *Report of the Federal Trade Commission on Methods and Operations of Grain Exporters, Vol. I, Interrelations and Profits* (123 pages), and *Vol. II, Speculation, Competition, and Prices* (264 pages) . (See Food Investigation: Grain Elevators and Grain Trade.)

Grain--Wheat Prices.--The extraordinary decline of wheat prices in the summer and autumn of 1920 led to a direction of President Wilson (as of October 12, 1920). to inquire into the reasons. These were found chiefly in

abnormal market conditions, including certain arbitrary methods pursued by the grain-purchasing departments of foreign governments. The resulting *Report of the Federal Trade Commission on Wheat Prices for the 1920 Crop* (91 pages), was submitted to the President December 13, 1920. (See Food Investigation: Grain Elevators and Grain Trade.)

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

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

Independent Harvester Co.--This inquiry was made pursuant to Senate Resolution No. 212, Sixty-fifth Congress, second session, adopted March 11, 1918, calling for an investigation of the organization and methods of operation of the company which had been formed several years before to compete with the "Harvester trust." The company passed into receivership and the report disclosed that mismanagement and insufficient capital brought about its failure. The summary was submitted as a report to the Senate, May 15, 1918, entitled *Federal Trade Commission Report to the Senate on the Independent Harvester Co.* (processed, 5 pages, out of print). (See also Agricultural Implements and Machinery, and Farm Implements.)

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

Leather and Shoes.--This inquiry was made on motion of the Commission, on account of general complaint regarding the high prices of shoes, and dealt chiefly with the costs and prices of leather and shoes. The *Report on Leather and Shoe Industries* (180 pages) was submitted to Congress August 21, 1919. Previously, as of January 23, 1918, the Commission had submitted to the House of Representatives a preliminary report, entitled *Hide and Leather. Situation*, which was printed as House Document No. 857, Sixty-fifth Congress, second session (5 pages, out of print).

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

Lumber--Costs.--The wartime examination of lumber costs authorized by President Wilson as of July 25, 1917, resulted in an accumulation of information which led the Commission to compile certain reports among which was the *Report of the Federal Trade Commission on War-Time Costs and Profits of Southern Pine Lumber Companies*, submitted to Congress May 1, 1922, and printed (94 pages). (See also War-Time Cost Finding.).

Lumber Trade Associations.--Pursuant to request of the Attorney General dated September 4, 1919, an extensive survey was made of lumber manufacturers' associations throughout the United States. The information obtained was presented in a series of published reports revealing the activities amid attitude of lumber manufacturers toward national legislation, amendments to the rev-

enue laws, elimination of competition of competitive woods, control of prices and production, restriction of reforestation, and other matters. In consequence of the Commission's findings and recommendations, the Department of Justice initiated proceedings against certain of these associations for violations of the antitrust laws. The report was printed entitled *Report of the Federal Trade Commission on Lumber Manufacturers' Trade Associations, Incorporating Reports of January 10, 1921* (Preliminary Survey of Lumber Manufacturers' National and Regional Trade Associations); *February 18, 1921* (Southern Pine Association of New Orleans, La.) ; *June 9, 1921* (Douglas Fir Lumber Manufacturers' and Loggers' Associations) ; and *February 15, 1922* (Western Pine Manufacturers' Association of Portland Oreg.) (150 pages, out of print). On May 7, 1923, a further report was submitted to Congress, entitled *Report of the Federal Trade Commission on Northern Hemlock and Hardwood Manufacturers' Association* (52 pages). Further information on these associations was developed in connection with the inquiry into open price associations. (See Open Price Associations.) On January 24, 1923, a report was submitted on three additional associations, entitled *Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory* (22 pages, out of print). The three associations were: Western Red Cedar Association, Lifetime Post Association, and Western Red Cedar Men's Information Bureau. This report was printed as Senate Document No. 293, Sixty-seventh Congress, fourth session, and as a Commission publication entitled *Western Red Cedar Association* (22 pages).

Lumber Trade Associations.--An investigation of the activities of five large lumber trade associations bringing down to date the study made at the request of the Attorney General in 1919-20 (see next paragraph above) , was conducted on motion of the Commission in conjunction with the inquiry into open-price associations. (See Open-Price Associations.) The report on the lumber trade associations comprises chapter VIII of *Open-Price Trade Associations*, submitted to the Senate February 13, 1929, and printed as Senate Document No. 226, Seventieth Congress, second session (516 pages).

Meat-Packing Profit Limitations.--This inquiry was made pursuant to Senate Resolution No. 177, Sixty-sixth Congress, first session, adopted September 3, 1919, and had to do with the system of wartime control established by the United States Food Administration. Certain changes were recommended by the Commission, including more complete control of the business and lower maximum profits. The report, *Maximum Profit Limitation on Meat-Packing Industry*, was submitted to the Senate August 24, 1919, and subsequently published as Senate Document No. 110, Sixty-sixth Congress, first session (179 pages. (See also Food Investigation: Meat Packing.)

Milk--Canned.--An Inquiry was made into the milk industry pursuant to Sen-ate Resolution No. 431, Sixty-fifth Congress, third session, adopted March 3 1919. The investigation of the fairness of milk prices to producers and of canned milk prices to consumes, and whether they were affected by fraudulent or discriminatory practices, resulted in a report showing marked concentration of control and of questionable practices by butter manufacturers in the buying and handling of cream, many of which practices have since been recognized as unfair by the trade itself. The *Report of the Federal Trade Commission on Milk and Milk Products, 1914-18*, was submitted to the Senate June 6, 1921, together with a summary. Both were printed (234 pages and 19 p ages, respectively) .

Milk and Dairy Products.--This inquiry into conditions with respect to the sale and distribution of milk and other dairy products was made pursuant to House Concurrent Resolution No. 32, Seventy-third Congress, second session, adopted June 15, 1934. The titles of seven reports issued are: *Report of the Federal Trade Commission on the Sale and*

Distribution of Milk and Milk Products, Connecticut and Philadelphia Milksheds, submitted April 5, 1935, and printed with testimony as House Document No. 152, seventy-fourth Congress, first session (901 pages), and without testimony as a Commission publication (105 pages); *Connecticut and Philadelphia Milksheds*, interim report submitted December 31, 1935, and printed as House Document No. 387, seventy-fourth Congress, second session (125 pages); *Chicago Sales Area*, submitted April 15, 1936, and printed as House Document No. 451, seventy-fourth Congress, second session (103 pages); ***Boston. Baltimore, Cincinnati, St. Louis***, submitted June 4, 1936, and printed as House Document No. 501, seventy fourth Congress, second session (243 pages); *Twin City Sales Area* submitted

June 13, 1936, and printed as House Document No. 506, Seventy-fourth Congress, second session (71 pages); *New York Milk Sales Area*, submitted September 30, 1936, and printed as House Document No.95, Seventy-fifth Congress, first session (138 pages, out of print); and *Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products*, submitted January 4, 1937, and printed as House Document No. 94, Seventy-fifth Congress, first session (39 pages).

Millinery Industry.--President Roosevelt requested that an investigation be made of distribution methods in the millinery industry. Among the factors assigned for investigation was the growth and development of syndicates or organizations operating a number of units for the retail distribution of millinery, the units consisting of leased millinery departments in department stores or specialty stores. The *Report to the President of the United States on Distribution Methods in the Millinery Industry* was issued November 21, 1939, and processed as a Commission publication (65 pages).

Motor--Vehicle Industry.--In response to Public Resolution No.87, Seventy-fifth Congress, third session, approved by the President on April 13, 1938, the Commission investigated "the policies employed by manufacturers in distributing: motor vehicles, accessories, and parts, and the policies of dealers in selling motor vehicles at retail, as these policies affect the public interest" ; the extent of concentration of control and of monopoly, and the extent, if any, to which fraudulent practices were employed, or the Federal antitrust laws violated. The report, *Motor Vehicle Industry*, was submitted to Congress June 5, 1939, and printed as House Document No.468, Seventy-sixth Congress, first session (1,077 pages). The summary chapter, *Motor Vehicle industry, Summary and Conclusions*, was processed for distribution (24 pages).

National Wealth and Income.--This inquiry was made pursuant to Senate-Resolution No. 451, Sixty-seventh Congress, fourth session, adopted February 28, 1923, calling for a comprehensive inquiry into national wealth and income, and specially indicating for investigation the problem of tax exemption and the increase in Federal and State taxes (for reference to which, see Taxation and Tax Exempt Income). In the report devoted to national wealth and income, the national wealth was estimated to have been \$353,000,000,000, in 1922 and the national income to have been \$70,000,000,000 in 1923. The nature of the wealth and income and their distribution among various classes were also given. The report, *National Wealth and Income*, was submitted to the Senate May 25, 1926, and printed as Senate Document No.126, Sixty-ninth Congress, first session (381 pages).

Open Price Associations.--This inquiry was made pursuant to Senate Resolution No.28, Sixty-ninth Congress, special session, adopted March 17, 1925, calling for an investigation to ascertain the number and names of so-called open price associations, their importance in the industry, and the nature of their activities, with particular regard to the extent to which uniform prices were maintained among members to wholesalers and retailers. The report, *Open Price Trade Associations*, was submitted to the Senate February 13, 1929., and printed as Senate Document No. 226, Seventieth Congress, second session (516 pages). (See also Lumber Trade Associations.)

Packer Consent Decree.--Pursuant to Senate Resolution No.278, Sixty-eighth Congress, second session, adopted December 8, 1924, a report was made reviewing the legal history of the consent decree and the efforts made to modify or vacate it. A summary was given of the divergent economic interests involved in the question of packer participation in unrelated lines. The report, entitled *Packer Consent Decree*, recommended the enforcement of the decree against the Big Five packing companies. It was submitted to the Senate-February 20, 1925, and printed as Senate Document No. 219, Sixty-eighth Congress, second session (44 pages, out of

print) (See also Food Investigation-Meat Packing and Meat-Packing Profit Limitations.)

Paper--Book.--This Inquiry, made pursuant to Senate Resolution No. 269, Sixty-fourth Congress, first session, adopted September 7, 1916, was begun that year, shortly following the newsprint inquiry. (See below.) It had a similar origin and it disclosed similar restraints of trade, resulting in proceedings by the Commission against the manufacturers involved therein to prevent enhancement of prices. The Commission also recommended legislative action to repress restraints of trade by certain associations. Reports were submitted to the Senate June 13, 1917, and August 21, 1917, entitled, respectively, *Book Paper Industry--A Preliminary Report*, Senate Document No. 45, Sixty-fifth

Congress, first session (11 pages out of print.) , and *Book Paper Industry--A Final Report*, printed as Senate Document No. 79, Sixty-fifth Congress, first session (125 pages).

Paper--Newsprint.--This inquiry, made pursuant to Senate Resolution No. 177, Sixty-fourth Congress, first session, adopted April 24, 1916, resulted from a sharp advance in prices of newsprint. The reports of the Commission showed that these high prices had been partly the result of certain newsprint association activities which were in restraint of trade. Through the aid of the Commission, distribution of a considerable quantity of paper to needy publishers was obtained at comparatively reasonable prices. The Department of Justice instituted proceedings in consequence of which the association was abolished and certain newsprint manufacturers indicted. A letter to the Senate from the Commission entitled *Newsprint Paper Industry*, submitted March 3, 1917, was printed as Senate Document No. 3, Sixty-fifth Congress, special session (12 pages out of print). The *Report of the Federal Trade Commission on the Newsprint Paper Industry*, was submitted to the Senate June 13, 1917, and printed as Senate Document No. 49, Sixty-fifth Congress, first session (162 pages). Following this inquiry the Commission established a system of monthly reporting of current figures dealing with production, stocks, sales, and the like, which was continued for several years. On July 10, 1917, an additional brief report was submitted to the Senate pursuant to Senate Resolution No. 95, Sixty-fifth Congress, first session, entitled *Newsprint Paper Investigation*, which was printed as Senate Document No. 61, Sixty-fifth Congress, first session (8 pages, out of print).

Paper--Newsprint.--An inquiry was made pursuant to Senate Resolution No. 337, Seventieth Congress, second session, adopted February 27, 1929. The question was whether there existed an alleged monopoly among manufacturers and distributors of newsprint paper in the supplying of paper to publishers of small daily and weekly newspapers. The report, *Newsprint Paper Industry*, was submitted to the Senate June 30, 1930, and printed as Senate Document No. 214, Seventy-first Congress, special session (116 pages).

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

Peanut Prices.--This inquiry was made pursuant to Senate Resolution No. 139, Seventy-first Congress, first session, adopted October 22, 1929. The Commission sought data concerning an alleged combination of peanut crushers and mills for price-fixing purposes in violation of the antitrust laws, as well as information with respect to an alleged arbitrary decrease in prices. The report, *Prices and Competition Among Peanut Mills*, was submitted to the Senate June 30, 1932, and printed as Senate Document No. 132, Seventy-second Congress, first session (78 pages).

Petroleum.--See also Gasoline Reports.

Petroleum Decree Investigation.--Pursuant to duty imposed upon and the power granted to it under section 6 (c) of the Federal Trade Commission Act, and at the request of the Attorney General made April 16, 1936, the Commission conducted an investigation to determine the manner in which a consent decree entered September 15, 1930, in the case of the United States against the Standard Oil Company of California, Inc., and others, had been or was being observed. The decree in question perpetually enjoined and restrained seven major oil companies, twelve independent oil companies, and one individual, operating primarily on the Pacific coast, from conspiring to monopolize and restrain interstate trade and commerce in the manufacture transportation, or sale of gasoline in violation of the Sherman Antitrust Act. The Commission

submitted its report to the Attorney General on April 2, 1937. (See Gasoline and three subsequent paragraphs.)

Petroleum--Foreign Ownership.--This inquiry was made pursuant to Senate Resolution No.311, Sixty-seventh Congress, second session, adopted June 29, 1922. The acquisition of extensive oil interests in this country by the Dutch-Shell concern, and alleged discrimination practiced against Americans in foreign countries, caused this inquiry which developed the situation in a manner to promote greater reciprocity on the part of foreign governments. The *Report*

273596---40-----14

of the Federal Trade Commission on Foreign Ownership in the Petroleum Industry was submitted to the Senate February 12, 1923, and printed (152 pages).

Petroleum Industry.--This inquiry was made pursuant to Senate Resolution No 31, Sixty-ninth Congress, first session, adopted June 3, 1926. A comprehensive study covered all branches of the industry from the ownership of oil lands and the production of crude petroleum to the conversion of petroleum into finished products and their distribution to the consumer. The report described not only the influences affecting the movements of gasoline and other products, but also discussed the organization and control of the various important concerns in the industry. No evidence was found of any understanding, agreement, or manipulation among the large oil companies to raise or depress prices of refined products. The report, *Petroleum Industry--Prices, Profits, and Competition*, was submitted to the Senate December 12, 1927, and printed as Senate Document No.61, Seventieth Congress, first session (360 pages.)

Petroleum, Pacific Coast.--The great increase in the prices of gasoline, fuel oil, and other petroleum products on the Pacific coast led to this Inquiry, made pursuant to Senate Resolution 188, Sixty-sixth Congress, first session, adopted July 31, 1919. It disclosed that several of the companies were fixing prices. Reports were submitted to the Senate, April 7 and November 26, 1921, respectively, each with a summary. They were printed under the titles *Pacific Coast Petroleum Industry: Part I, Production, Ownership and Profits* (276 pages) and *Part II, Prices and Competitive Conditions* (262 pages).

Petroleum--Panhandle. --This Inquiry into conditions in the Panhandle (Texas) oil fields was made on a motion of the Commission of October 6, 1926, and in response to requests of crude-petroleum producers. The reduction of prices late in 1926 as complained of was largely a result of difficulties of handling and expenses of marketing this oil because of peculiar physical properties, according to the *Report of the Federal Trade Commission on Panhandle Crude Petroleum*, submitted to the Senate February 3, 1928, and printed (19 pages)

Petroleum Pipe Lines.--This Inquiry, made pursuant to Senate Resolution No. 109, Sixty-third Congress, first session, adopted June 18, 1913, was begun by the former Bureau of Corporations. The *Report on Pipe-Line Transportation of Petroleum*, which was submitted to the Senate February 28, 1916, showed the dominating importance of the pipe lines of the great midcontinent oil fields. It also pointed out that the pipe-line companies, which were controlled by a few large oil companies, not only charged excessively high rates for transporting petroleum, but also evaded their duties as common carriers by insisting on unreasonably large shipments, to the detriment of the numerous small producers. The report was printed (467 pages, out of print), as was a volume entitled *Letter of Submittal and Summary and Conclusions*, submitted February 28, 1916 (27 pages).

Petroleum Prices--1920.--Pursuant to House Resolution No.501, Sixty-sixth Congress, second session, adopted April 5, 1920, a brief inquiry was made into the high prices of petroleum products. The report pointed out that the Standard companies practically made the prices in their several marketing territories and avoided competition among themselves. Various constructive proposals to conserve the oil supply were made by the Commission. The report, *Advance in the Prices of Petroleum Products*, was submitted to the House June 1, 1920, and printed as House Document No.801, Sixty-sixth Congress, second session (57 pages).

Petroleum--Wyoming.--This inquiry was made on motion of the Commission. Complaints of several important producing companies in the Salt Creek oil field led to the investigation. The *Report of the Federal Trade Commission on the Petroleum Industry of Wyoming*, submitted to Congress January 3, 1921, covered the production, pipe-line transportation, refining, and wholesale marketing of crude petroleum and petroleum products in the State of Wyoming (54

pages, out of print).

Petroleum--Wyoming and Montana.--This Inquiry, made on motion of the Commission, resulted in a special report directing the attention of Congress to conditions existing in the petroleum trade in Wyoming and Montana. Remedial legislation was recommended by the Commission. The report, *Petroleum Trade in Wyoming and Montana*, was submitted to Congress July 13, 1922, and printed as Senate Document No.233, Sixty-seventh Congress, second session (4 pages).

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

Price Bases.--This inquiry was made on motion of the Commission of July 27, 1927, for the purposes of studying methods in use to compute delivered prices on industrial products and of determining what actual and potential influences such methods might have on competitive markets and price levels. The study also included factors which determined the methods used. This survey extended to more than 3,500 reporting manufacturers representing practically every industrial segment. Inquiry into conditions in the cement industry revealed that the basing-point system contributed to imperfect price competition and tended to establish an unhealthy uniformity of delivered prices from the competitive standpoint together with a lack of price flexibility over variable periods of time. Cross-haul or cross-freighting was found to be one of the cement industry's economic evils and to be generally admitted as such by the industry itself. The first report, *Report of the Federal Trade Commission on Price Bases Inquiry, Basing-Point Formula and Cement Prices*, was submitted to Congress on March 26, 1932, and printed (218 pages). A report, *Study of Zone-Price Formula in Range Boiler Industry*, dated March 30, 1936, was processed for distribution by the Commission (5 pages). (See Steel Code Inquiry, Steel Code as Amended, and Cement Industry.)

Price Deflation.--To an inquiry of President Harding dated March 21, 1921, the Commission made immediate reply (undated) giving its views of the causes of the disproportional decline of agricultural prices compared with consumer's prices. This pamphlet was printed under the title *Letter of the Federal Trade Commission to the President of the United States* (8 pages, out of print).

Profiteering.--This report was made in response to Senate Resolution No. 255, Sixty-fifth Congress, second session, adopted June 10, 1918, on the then current conditions of profiteering as disclosed by various inquiries of the Commission, and submitted to the Senate on June 29, 1918. It was printed under the title of *Profiteering* as Senate Document No. 248, Sixty-fifth Congress, second session (20 pages, out of print).

Radio.--This inquiry was made pursuant to House Resolution No. 548, Sixty-seventh Congress, fourth session, adopted March 4, 1923. It was found that a large number of patents were owned by and cross-licensed among a number of large companies. At the conclusion of the investigation, the Commission instituted proceedings against these companies charging a monopoly of the radio field. The *Report of the Federal Trade Commission on the Radio Industry* was submitted to the House, December 1, 1923, and printed (347 pages).

Raisin Combination.--Allegations of a combination among raisin growers in California were referred to the Commission for examination by the Attorney General as of September 30, 1919, pursuant to the Federal Trade Commission Act. The Commission found that the enterprise was not only organized in restraint of trade but was being conducted in a manner that was threatening financial disaster to the growers. The Commission recommended changes to conform to the law. These were adopted by the raisin growers. The report in the form of a letter, entitled *California Associated Raisin Co.*, was made to the Attorney General June 8, 1920 (processed, 26 pages, out of print).

Resale Price Maintenance.--This report was made on motion of the Commission. The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which the purchasers could resell them, led to this inquiry. The Commission recommended to Congress the enactment of legislation permitting resale-price maintenance under certain conditions. The report, submitted to the House of Representatives, December 2, 1918, was in the form of a letter to Congress, printed as House Document No. 1480, Sixty-fifth Congress, third session (3 pages, out of print).

Resale Price Maintenance.--A report was made on motion of the Commission in the form of a letter addressed to Congress, June 30, 1919, and was printed as House Document No. 145,

Sixty-sixth Congress, first session (3 pages, out of print).

Resale Price Maintenance.--This inquiry was made on motion of the Commission of July 25, 1927. The study was conducted from the point of view of the economic advantage or disadvantages of resale-price maintenance to the manufacturer, distributor, and consumer, the effects on costs, profits, and prices, and the purpose and results of price cutting. Part I of the report, *Resale Price Maintenance*, was submitted to Congress January 30, 1929, and printed as House Document No.546, Seventieth Congress, second session (141 pages, out of print); Part II (final), was submitted on June 22, 1931, and printed (215 pages).

Resale Price Maintenance (1939).--This inquiry, authorized under a Commission resolution, of April 25, 1939, developed facts concerning the programs of

trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon the sales volumes of commodities in both the price maintained and non-price maintained categories. This study had not been completed at the close of the fiscal year of 1939-40.

Salaries inquiry.--This inquiry was made pursuant to Senate Resolution No. 75, Seventy-third Congress, first session, adopted May 29, 1933, which directed that an inquiry be made by the Commission concerning the salaries of executive officers and directors of corporations engaged in interstate commerce (other than public utilities corporations) having capital and assets of more than a million dollars, the securities of which were listed on the New York Stock Exchange or the New York Curb Exchange. The investigation was confined to the 5-year period 1928-32, and was necessarily limited to a comparatively small proportion of corporations coming within the Commission's jurisdiction. A statement explaining the report, but not containing the list of salaries, and entitled *Report of the Federal Trade Commission on Compensation of Officers and Directors of Certain Corporations*, was issued in processed form (15 pages). It was submitted to Congress, February 26, 1934, together with copies of the lists of officers and salaries (a public record).

Sisal Hemp.--This inquiry was made pursuant to Senate Resolution No. 170, Sixty-fourth Congress, first session, adopted April 17, 1916, calling on the Commission to assist the Senate Committee on Agriculture and Forestry by advising how certain quantities of hemp, promised by the Mexican Sisal Trust, might be fairly distributed among American manufacturers of binder twine. The Commission made an Inquiry and submitted a plan of distribution, which was followed. The report, entitled *Mexican Sisal Hemp*, was submitted to the Senate May 9, 1916, and printed as Senate Document No. 440, Sixty-fourth Congress, first session (8 pages, out of print).

Southern Livestock Prices.--This Inquiry was made pursuant to Senate Resolution No. 133, Sixty-sixth Congress, first session, adopted July 25, 1919. The low prices of southern livestock, which gave rise to the belief that discrimination was being practiced, were investigated, but the alleged discrimination did not appear to exist. The report, *Southern Livestock Prices*, was submitted to the Senate February 2, 1920, and printed as Senate Document No. 209, Sixty-sixth Congress, second session (11 pages, out of print).

Steel Code Inquiry.--This inquiry was made pursuant to Senate Resolution No. 166, Seventy-third Congress, second session, adopted February 2, 1934. The resolution directed the Commission to investigate and report upon certain practices of the steel industry with particular reference to price fixing, the increased prices of steel products, and "other such matters as would give a full presentation of the facts touching the industry since it went under the National Recovery Administration code." The inquiry centered largely upon alleged collusive activities of steel producers in fixing identical delivered prices and eliminating competition under the code, the effects of the multiple basing-point system incorporated in the code, composition of the delivered selling prices which the code imposed, the influence of various code restrictions on competition, and a general analysis of price increases attributable to the organized efforts of the industry. The Commission found that adherence to the code required violation by certain producers of a cease and desist order issued some years before by the Commission against the basing-point system in what is known as the Pittsburgh Plus case. The report, *Practices of the Steel Industry Under the Code*, was submitted to the Senate on March 19, 1934, and printed as Senate Document No. 159, Seventy-third Congress, second session (79 pages). Certain modifications of the steel code were approved by President Roosevelt on May 30, 1934.

Steel Code as Amended.--This inquiry was made pursuant to Executive Order of President Roosevelt dated May 30, 1934. This order directed the Commission and the National Recovery Administration to undertake a joint study of the effect of the multiple basing-point system under the amended steel code, particularly within the realm of the system's influence on prices to consumers, effects of the system in either permitting or encouraging price fixing, or "providing unfair competitive advantages for producers, or disadvantages for consumers not based on natural causes." The order called for "recommendations for revisions of the code." The *Report of the Federal Trade Commission to the President in Response to Executive Order of May 30, 1934, with Respect to the Basing Point System in the Steel Industry*, was submitted to the President on November 30, 1934, and printed (125 pages). It recommended code revi-

sions eliminating provisions giving sanction to the multiple basing-point system, provisions in aid of price fixing and those relating to regulation of production and new capacity. It found that the multiple basing-point system not only permitted and encouraged price fixing but that it was price fixing. It found also that the system did provide unfair competitive advantages for producers and disadvantages for consumers not based on natural causes.

As of March 15, 1935, there was published in processed form the *Summary of Report of the Federal Trade Commission to the President * * * In re: Iron and Steel Industry's Basing Point System* (9 pages, out of print). On the same day the National Recovery Administration published its *Summary of the Report of the National Industrial Recovery Board to the President on the Operation of the Basing Point System in the Iron and Steel Industry* (7 pages, processed, not obtainable from the Federal Trade Commission).

Steel Companies Proposed Merger.--Pursuant to Senate Resolution No.280, Sixty-seventh Congress, second session, adopted May 12, 1922, the Commission was requested to inquire into a proposed merger of steel companies, namely, of the Bethlehem Steel Corporation and the Lackawanna Steel Co., and of the Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co. Two reports regarding the purpose and probable effects of the proposed merger were submitted to the Senate June 5, 1922, and September 7, 1922, respectively, both entitled *Merger of Steel and Iron Companies*. They were printed as Senate Document No. 208, Sixty-seventh Congress, second session, Part I, and as Senate Document No.208, Sixty-seventh Congress, second session, Part II (9 pages and 2 pages, respectively, both out of print).

Steel Industry--Costs and Profits.--Inquiry into the costs and profits of the steel industry during the war was made pursuant to the order of President Wilson dated July 25, 1917, and after its conclusion certain data in regard thereto were compiled by the Commission in a report entitled *Report of the Federal Trade Commission on War-Time Profits and Costs of the Steel Industry*, which was submitted to Congress February 18, 1925, and printed (138 pages) , (See also War-time cost finding.)

Steel Sheet Piling--(Collusive Bidding).--In response to a direction of President Roosevelt dated November 20, 1935, to investigate the prices of steel sheet piling on certain Government contracts in New York, North Carolina, and Florida, the Commission, as of June 10, 1936, made a report demonstrating the existence of collusive bidding because of a continued adherence to the basing-point system and other provisions of the code. The report was entitled *Federal Trade Commission Report to the President on Steel Sheet Piling* (processed, 42 pages).

Stock Dividends.--This inquiry was made pursuant to Senate Resolution No. 304, Sixty-ninth Congress, second session, adopted December 22, 1926. The resolution called for a list of the names and capitalizations of those corporations which had issued stock dividends, together with the amount of such stock dividends, since the decision of the Supreme Court, March 8, 1920, holding that stock dividends were not taxable. The same information for an equal period prior to that decision was called for. The report, entitled *Stock Dividends*, contains a list of 10,245 such corporations and a brief discussion. The report points out that the declaration of stock dividends at the rate prevailing for a few years preceding the date of its publication did not appear to be the result of any controlling necessity and seemed to be of questionable advantage as a business policy. The report was submitted to the Senate on December 5, 1927, and printed as Senate Document No. 26, Seventieth Congress, first session (273 pages).

Sugar.--This inquiry was made pursuant to House Resolution No.150, Sixty-sixth Congress, first session, adopted October 1, 1919. The extraordinary advance in the price of sugar in 1919 led to the investigation. The price advance was found to have been due chiefly to speculation and hoarding in sugar. Certain recommendations were made for legislative action to correct

these abuses. The *Report of the Federal Trade Commission on Sugar Supply and Prices* was submitted to the House, November 15, 1920, and printed (205 pages).

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

Taxation and Tax--Exempt Income.--This inquiry was made pursuant to Senate Resolution No. 451, Sixty-seventh Congress, fourth session, adopted

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

Temporary National Economic Committee.--For titles of studies made by the Federal Trade Commission for the Temporary National Economic Committee, see p.6.

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

Textile Industry.--This inquiry was directed by an Executive order of President Roosevelt dated September 26, 1934, instructing the Commission to inquire into the industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. The order also established the Textile Labor Relations Board and directed the Department of Labor to report on actual hours of employment in the industry, employees' earnings, and general working conditions. Conditions prevailing in the 20 months preceding the 1934 textile strike were first studied. These were divided into three 6-month periods and a 2-month period--January-June 1933, before National Recovery Administration codes became effective; July-December 1933, covering their effective dates; January-June 1934, while codes were functioning; and July-August 1934, the 60-day period prior to the strike. Due to the desirability of an early report, essential information was obtained by means of a comprehensive schedule, subscribed to under oath and forwarded to approximately 2,600 textile manufacturing companies. Material for immediate comparable results was transmitted by 765 concerns having an aggregate investment of almost \$1,200,000,000. The following reports were printed, except where hereinafter designated as processed:

Report of the Federal Trade Commission on Textile Industries.--Part I. Investment and Profit, December 31, 1934 (26 pages); Part II. The Cotton and Textile Industry, March 8, 1935 (34 pages); Part III. The Woolen and Worsted Textile Industry, January 1935 (21 pages); Part IV. The Silk and Rayon Textile Industry, February 1935 (37 pages); Part V. Thread, Cordage, and Twine Industries, February 18, 1935 (14 pages), and Part VI. Tabulations Showing Financial and Operating Results for Textile Companies According to Rates of Return on Investment, Rates of Net Profit or Loss on Sales, and Amount of Investment (Six-Month Periods from January 1, 1933, to June 30, 1934, and for July-August 1934) (24 tables), June 20, 1935. (Processed, out of print.)

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

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

Textile Industries Last Half of 1935.--Part I. The Cotton Textile Industry, Including Thread, Cordage, and Twine, November 20, 1936 (66 pages, processed); Part II. The Woolen and Worsted Textile Industry, December 21, 1936 (42 pages, processed) , and Part III. The Silk and Rayon Textile Industry, January 6, 1937 (46 pages, processed).

Textile Industries in the First Half of 1936.--Part I. The Cotton Textile Industry, Including Thread, Cordage, and Twine, January 21, 1937 (74 pages processed); Part II. The Woolen and Worsted Textile Industry, January 29, 1937 (47 pages, processed), and Part III. The Silk and Bayon Textile Industry, February 11, 1937 (42 pages, processed).

Textiles--Woolen Rag Trade.--This report was published on motion of the Commission, and contains certain information gathered during the war, at the request of the War Industries Board, for its use in regulating the prices of woolen rags used for making clothing. The *Report on the Woolen Rag Trade* was submitted to Congress, June 80, 1919 and printed (90 pages).

Tobacco.--This inquiry was made pursuant to Senate Resolution No. 329, Sixty-eighth Congress, second session, adopted February 9, 1925. The report on the Investigation related to the activities of the American Tobacco Co. and the Imperial Tobacco Co. of Great Britain. The alleged illegal agreements, combinations or conspiracies between these companies did not appear to exist. The report, *The American Tobacco Co. and the Imperial Tobacco Co.*, was submitted December 23, 1925, to the President, who sent it to the Senate. It was printed as Senate Document No. 34, Sixty-ninth Congress, First session (129 pages, out of print).

Tobacco Marketing--Leaf.--This inquiry, made on motion of the Commission in 1929, was instituted upon complaint of representative groups of North Carolina tobacco farmers charging the existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices. In 1929 the price to growers was approximately 25 percent below cost of production. The inquiry was broadened to include the entire flue-cured belt, extending from southern Virginia through north central Florida. The Commission found no evidence of price agreements. It recommended curtailing production, improved marketing processes, a standardized system of grading, and greater cooperation between manufacturers and growers. It also recommended enactment of legislation similar to the Cotton Standardization Act, which would make mandatory existing classification under the Tobacco Stocks and Standards Act. The *Report on Marketing or Leaf Tobacco in the Flue-Cured Districts of the States or North Carolina and Georgia* was released May 23, 1931 (54 pages, processed).

Tobacco Prices.--This inquiry was made pursuant to House Resolution No. 533, Sixty-sixth Congress, second session, adopted June 3, 1920. The resolution asked for an investigation of the cause of the decline of loose-leaf tobacco prices following the harvesting of the 1919 crop. The report attributed the decline in prices of some grades of tobacco to a combination of 3 factors: (1) a lessening of foreign purchases due to unfavorable exchange rates and the contraction of domestic credits, resulting in unfavorable financial condition; (2) an increase in quantity of low grades for domestic absorption due to crop conditions and failing foreign markets, and (3) purchasing methods of large buyers. The Commission recommended that the decree of 1911 dissolving the old Tobacco Trust be modified to prohibit permanently the use of common purchasing agencies by certain of the tobacco companies and to prohibit their purchasing tobacco under any but their own names. A better system of grading tobacco was also recommended. The *Report or the Federal Trade Commission on the Tobacco Industry*, was submitted to the House, December 11, 1920, and printed (162 pages).

Tobacco Prices.--This inquiry was made pursuant to Senate Resolution No. 129, Sixty-seventh Congress, First session, adopted August 9, 1921. Among the subjects investigated were the low prices of leaf tobacco and the high prices of manufactured tobacco products. From evidence gathered it was alleged that several large companies were engaged in conspiracies with their customers, the jobbers, to enhance the selling prices of tobacco. Proceedings were instituted by the Commission. In its report, the Commission renewed the recommendations for prohibiting the use by certain of the tobacco companies of common purchasing agencies and

their purchasing of tobacco under any but their own names, as made In the report of December 11, 1920 (see next paragraph above). The report, *Prices of Tobacco Products*, was submitted to the Senate, January 17, 1922, and printed as a Commission document and as Senate Document No. 121, Sixty-seventh Congress, second session (109 pages, out of print).

Trade and Tariffs in South America.--This inquiry, directed by President Wilson as of July 22, 1915, was an outgrowth of the First Pan American Financial Conference which met In Washington, May 24-29, 1915. The immediate purpose

of the inquiry was to furnish the American branch of the International High Commission, appointed as a result of this financial conference, with information to assist in the deliberations of that commission. Customs administration and related matters, including tariff policy, were discussed in the *Report on Trade and Tariffs in Brazil, Uruguay, Argentina, Chile, Bolivia, and Peru* which was submitted to the President under date of June 30, 1916, and printed (246 paged out of print).

Utility Corporations.--This inquiry was made pursuant (1) to Senate Resolution No.83, Seventieth Congress, first session, adopted February 15, 1928, (2) Public Resolution No.46, also known as Senate Joint Resolution No.115, Seventy-third Congress, second session, adopted June 1, 1934, and (3) to section 6 of the Federal Trade Commission Act. Senate Resolution No.83 directed the Commission to Investigate the growth of the capital assets and liabilities of public utility corporations doing an interstate business in electrical energy or gas, and of their holding companies and other companies controlled by such holding companies, the method of issuing securities, the value received, the commissions paid, and so forth, the extent to which holding companies control financial, engineering, construction, or management corporations and their corporate interrelations with such companies and their operating utility companies, the services furnished and the fees received therefor, the earnings and expenses of all such companies, the value or detriment to the public of such holding companies, and what remedial legislation should be adopted; also the efforts of such companies, directly or indirectly, to influence public opinion with respect to municipal ownership of electric utilities, or to influence the elections of certain Federal officers or United States Senators. The second resolution directed the Commission to conclude the investigation and submit its final report in January 1930.

During the investigation monthly interim reports presented many hundreds of detailed reports by Commission accountants, attorneys, engineers, economists and statisticians, based on examination of corporation accounts and other records.

These data and the oral testimony of the experts and other witnesses are included in 84 printed volumes which, with 11 summary, final, index and appendix volumes, or a total of 95, were published as Senate Document No.92, Seventieth Congress, first session, under the general title, *Utility Corporations*. Several of the earlier published volumes are out of print.

The final and summary volumes, their subtitles (omitting certain routine designations), dates of submittal and numbers of pages, are as follows: No. 69-A, Compilation of Proposals and Views for and Against Federal Incorporation or Licensing of Corporations and Compilation of State Constitutional, Statutory, and Case Law Concerning Corporations, With Particular Attention to Public Utility Holding and Operating Companies, September 15, 1934 (618 pages); No. 71-A, Efforts by Associations and Agencies of Electric and Gas Utilities to Influence Public Opinion, December 12, 1934 (486] pages) ; No. 71-B, Index of Association Publicity and Propaganda and Index of Names in Parts 1 to 20, Inclusive, and Accompanying Exhibit Volumes, November 27, 1934 (545 pages) ; No. 72-A, Economic, Financial and Corporate Phases of Holding and Operating Companies of Electric and Gas Utilities, June 17, 1935 (882 pages) ; No. 73-A, Holding and Operating Companies of Electric and Gas Utilities--Survey of State Laws and Regulations, Present Extent of Federal Regulation and the Need of Federal Legislation, Conclusions and Recommendations and Legal Studies in Support Thereof, January 28, 1935 (218 pages) ; No. 77-A, Index of Testimony in Parts 21 to 45, Numerical List of Exhibits, Index of Exhibits, Index to Record on Company Publicity and Propaganda--Parts 21 to 45, inclusive, May 16, 1935 (840 pages) ; No. 81-A, Publicity and Propaganda Activities by Utilities Groups and Companies, With Index, November 14, 1935 (570 pages); and (final report) No. 84-A, Economic, Corporate Operating and Financial Phases of the Natural-Gas Producing

Pipe-Line, and Utility Industries, with Conclusions and Recommendations, December 31, 1935 (617 pages); No. 84-B, Legal Appendixes to Final Report (No. 84-A * * *, December 31, 1935 (118 pages); No. 84-C, Economic Appendixes to Final Report (No. 84-A) * * *, December 31, 1935 (126 pages), and No. 84-D, General Index to Parts 21 to 84-C, Inclusive, August 12, 1937 (1,360 pages).

A list of the companies investigated and the volume numbers of the reports concerning them is printed in the Commission's annual reports for 1935 and 1936, beginning at pages 21 and 36, respectively. During the investigation, the

Commission's accountants, engineers, and economists examined 29 holding companies having total assets of \$6,108,128,713 ; 70 subholding companies with total assets of \$5,685,463,201, and 278 operating companies with total assets of \$7,245,106,464.

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

INDEX

[Index does not include names or items in alphabetical lists, tables, or appendixes. For names of respondents In orders to cease and desist, see page 47; of export trade associations, see page 128; for summary of laws and decrees relating to trust laws and competitive conditions in 80 foreign countries or dominions, see page 131; for appropriation items, see page 149; and for investigations by the Commission, 1915-40 and various references thereunder, see page 187)

	Page
Accounting methods and practices, investigation	7, 18
Advertising, false and misleading:	
Civil and criminal proceedings	4, 28, 29, 100
Complaints alleging	3, 41
Covered by trade practice rules	113
Foods, drugs, devices, cosmetics	4,
5, 10, 28, 34, 35, 36, 37, 41, 46, 68, 71, 79, 95, 119, 122, 145	
Radio and periodical	3, 5, 36, 119
Aircraft Manufacturing Corporations	18
Alberty, Adah, Los Angeles	79
Alle-Rhyme Remedy Co., Jersey City, N. J.	79, 80
American Bridge Co	94
American College, and others, Chicago	79, 80
American Field Seed Co., and others, Chicago	78, 92
American Medicinal Products, Inc., Los Angeles	98
American Oil Co., Baltimore	69
American Steel & Wire Co. of New Jersey, The	94
American Veneer Package Association, Inc., and others, Washington, D. C	64, 93
America's Medicine, Chicago	96
Anheuser-Busch, Inc., St. Louis	70
Anthony Co., C. R., Oklahoma City, Okla	69
Antisepto Products Co., Chicago	97
Ardelle Inc., Helen, and others, v. F. T. C. (101 F. (2d) 718)	83
Aron & Co., Inc., J., New Orleans	94
Attorney General of the U.S.	4, 10, 100
Automotive Industry:	
Automobile financing	67, 81
Parts and accessories manufacturers	43, 44, 46, 83
Storage batteries	39, 46
Avery Salt Co., Scranton, Pa	79, 91
Ayres, William A., Commissioner	9
Bay Co., The, Bridgeport, Conn	64
Berlo Vending Co., Philadelphia	87
Berry Seed Co., and others, Clarinda, Iowa	79, 92
Bethlehem-Midvale-Lackawanna mergers	6
"Boy Scout," use of term to describe pocket knives	42

	Page
Brotherhood of Painters, Decorators, and Paper Hangers of America, Lafayette, Ind., and others	66
Bunte Bros., Inc., Chicago	4, 78, 81
Bureau of Animal Industry, Department of Agriculture	123
Bureau of Home Economics, Department of Agriculture	123
Bureau of Standards	123, 145, 149
Caldwell, Inc., Dr. W. B., Monticello, III	78, 84
California Lumbermen's Council and others, Fresno, Calif	79, 81
Capon Springs Mineral Water, Inc., Capon Springs, W. Va.	83
Capon Water Co., Philadelphia	78, 83
Cardinal Co., The, St. Louis	97
Carnegie-Illinois Steel Corp	94
Carter Carburetor Co., St. Louis	78, 83
Cates & Sons, Inc., Chas. F., Falson, N. C	94
Cement industry	6
Central Statistical Board	17
Century Metalcraft Corp., Chicago	78, 84
Chanel, Inc., New York	90
Chapman Health Products Co., The, Cleveland	98
Civil and criminal penalties (<i>see</i> Federal Trade Commission Act).	
Clayton Act (<i>see</i> Robinson-Patman Act)	
Brokerage provision	3, 86, 90, 94
Cease and desist orders	68
Complaints	43
Court cases	83, 86, 90, 94
Preliminary Investigations	29-35
Price discrimination	1, 3, 31, 44, 45, 68, 71, 86, 94
Procedure under	25
References to	3, 26, 28, 30, 36, 71
Section 2	1, 21, 31, 36, 37, 43, 45, 79, 86, 90, 94
Section 3	1, 33, 36, 37, 45, 79, 83
Section 7	1, 13, 80, 36, 46
Section 8	1
Section 11	1
Text of	163
Complaints	3, 26, 31, 36
Confection Cabinet Co., Newark, N. J	87
Consolidated Flour Mills Co., Wichita, Kans	91
Consumer protection	12
Corporation reports, Investigation	17
Cotton converting industry	12, 112
Coty, Inc., Wilmington, Del	90
Coty Sales Corporation, New York	90
Court cases	3, 28, 78
Curled hair Industry	12, 112
Curtice Brothers Co., Rochester, N. Y	70
Daniel Brokerage Co., Athens, Ga	94
Ewin L., Commissioner	6, 8, 9
Dietz Gum Co., Chicago	78, 82
Dixon Crucible Co., Joseph and others, Jersey City, N.J.	63
Eastern Package Association, Philadelphia	93
Educators Association, Inc., and others, New York	78, 84

	Page
Electrolysis Associates, Inc., New York	99
El Moro Cigar Co., Greensboro, N. C	79, 84
Etablissements Rigaud, Inc., New York	90
Export Trade Act (Webb-Pomerene Act)	1, 2, 5, 6, 10, 27, 127, 189
Fair Trade Acts and contracts	40, 41
Farm machinery manufacturers	6
Fashion Originators Guild of America, Inc., and others, New York	85
Federal Trade Commission:	
Accounts and personnel	11
Activities, selected list of references on	12
Administrative division	9, 11
Appropriations	2, 149
Assistant secretaries	11
Branch offices	11, 30
Chief counsel	9, 26, 29
Chief economist	10
Chief examiner	9, 10, 25, 26, 29, 30
Chief trial examiner	9, 10, 26
Commissioners	6, 8, 149
Decisions (printed volumes)	11, 12
Docket section	11
Economic advisor	6, 11
Economic division	9
Export trade work (foreign trade work)	5, 10, 127
Functions	1
Investigations	1, 2, 8, 7, 17, 187
Legal activities	1, 2, 25, 101
Legal research and compiling	11
Library	11
Mails and files	11
Medical. advisory division	5, 10, 124, 145
Monthly summary of work	12
Policy	12, 186
Publications	11, 187
Radio and periodical division	5, 9, 10, 26, 29, 30, 128, 124
Recommendations	12
Rules of practice	12, 27, 112, 176
Secretary	9, 149
Stenographic section	11
Supply and service	11
Trade practice conference division	9, 10, 112
Federal Trade Commission Act:	
Cease and desist orders	46
Civil and criminal penalties	4, 29, 100
Complaints	37
Court cases	78
Injunctive proceedings	4, 28, 68, 95
Jurisdiction	4, 81, 82, 92, 94
Preliminary investigations	29-35
Procedure under	25
References to	1, 4, 5, 8, 26, 28, 33, 84, 36, 37, 45, 79, 92, 95, 119, 145
Section 5	1,2, 4, 46, 79, 82, 84, 94

	Page
Federal Trade Commission Act--Continued.	
Section 6	2, 7, 12, 17, 127, 131
Section 12	46
Section 13	78, 96
Section 14	85, 101
Section 16	100
Text of	155
Types of practices	71
F. T. C. v. Miller Co. (97 F. (2d) 563)	83
Ferguson, Garland S., Commissioner	6, 8, 9
Folding paper box industry	12, 112
Food and Drug Administration	123, 145
Ford Motor Co., Dearborn, Mich	67, 81
Foreign-trade work (see Export Trade Act)	5, 127
Fougera & Co., E., New York	90
Freer, Robert E., Commissioner	9
General Finance, Inc., Washington, D. C	69
General Motors Acceptance Corporation, New York	67, 81
General Motors Corporation, Detroit	67, 81
Gimbel Brothers, Inc., New York	86
Glade Candy Co., Salt Lake City	4, 78, 82
Godchaux Sugars, Inc., New Orleans	94
Gold Medal Farms, Inc., New York, and others	67
Goodyear Tire & Rubber Co., Akron, Ohio	3, 78, 86
Great Atlantic & Pacific Tea Co., The, New York	8, 78, 86
Hershey Chocolate Corp., Hershey, Pa.	87
Heusner & Son, H. N., Hanover, Pa	79, 87
Independent Offices Appropriation Acts	2, 149
Injunctive proceedings (see Federal Trade Commission Act).	
International Art Co., and others, Chicago	78, 88
Iron and steel manufacturers	6
Johnson & Johnson, New Brunswick, N.J.	64
“Junior League,” alleged misleading use of name	42
Justin Haynes & Co., Inc., New York	78, 88
Kansas Milling Co., Wichita, Kans	91
Kendall Co., The, Walpole, Mass	64
Kidde & Co., Inc., Walter, New York, and others	65, 71
Kidder Oil Co., La Crosse, Wis.	88
Kohier; Peter Caifler Swiss Chocolate Co., Inc., Fulton, N.Y.	87
Kronhelm & Son, Inc., Milton S., Washington, D. C., and others	65
Laing, Harrar & Chamberlain, Inc., Philadelphia, and others	64
Lamont, Corliss & Co., New York	87
Lead and zinc producing and manufacturing corporations	18
Lee Co., Geo. H., Omaha, Nebr.	85
Isenoir Woodfurnishing Co., Inc., Lenoir, N. C., and others	67
Liquor industry	7
Lottery practices	4, 42, 68, 81
March, Charles H., Commissioner	8, 9
March of Time Candies, Inc., Chicago	78, 82
Marking devices industry	12, 112
May’s Cut Rate Drug Co., Clarksburg, W. Va	98
May’s Cut Rate Drug Co. of Charleston, W. Va	97
McKinley-Roosevelt College of Arts and Sciences, Chicago	88

	Page
Mentho-Mulsion, Inc., and others, Atlanta	89
Metz Brothers Baking Co., Sioux City, Iowa	70
Michigan Bean Shippers Association, Saginaw, Mich., and others	66
Midwest Package Association, Indianapolis	93
Milk Industry	7
Miller-Tydings Act	176
Millinery Creators' Guild, Inc., and others, New York	4, 78, 89
Millinery Industry	12
Mirror manufacturing industry	12, 112
Mississippi Sales Co., Inc., Meridian, Miss.	69
Moretrench Corp., Rockaway, N. J.	89
Morton Salt Co., Chicago	79, 91, 94
Myles Salt Co., Ltd., New Orleans	94
National Candy Co., St. Louis	78, 82
National Candy Co., and others v. F. T. C (104 F. (2d) 999)	83
National Numbering Machine Co., Inc., New York	69
National Silver Co., New York	70, 89
Natural gas pipe lines	6
Northeastern Veneer Package Association, Rochester, N. Y.	93
Nutrine Candy Co., Chicago	70
Olive industry	12, 112
Omega Manufacturing Co., Inc., New York	99
Orders to cease and desist	3, 11, 27, 46, 71
Ostler Candy Co., Salt Lake City	4, 78, 82
Ostler Candy Co., and others v. F. T. C. (106 F. (2d) 962)	83
Pacific Forest Industries, Tacoma, Wash	129
Packers and Stockyards Act	94
Parfums Corday, New York	90
Penn-Dixie merger	6
Perma-Maid Co., Toledo, Ohio	90
Pillsbury Flour Mills Co., Minneapolis	91
Pittsburgh Cut Rate Drug Co., Pittsburgh	97
Pittsburgh Plate Glass Co., Pittsburgh, and others	66
"Pittsburgh plus" prices	94
Positive Products Co., Chicago	96
Post Office Department	123
Poultry industry	7
Price fixing cases	3, 88, 37, 63, 83, 93
Progressive Medical Co., Chicago	97
Public:	
No.78, 73d Congress	2
No.8, 76th Congress	149
Public Resolution No.113, 75th Congress	6
Public seating industry	12, 112
Quality Bakers of America and others, New York	90
Radio Receiving Set Manufacturing Industry	12, 112
Radio Wire Television, Inc., New York	95
Raladam Co., Detroit	91
Rayon manufacturers	6
Resale price maintenance	8, 21, 65
Revised Statutes (41 U.S. C. 5), section 3709	149

	Page
Robinson-Patman Act (<i>see</i> Clayton Act):	
Brokerage provision	3, 86, 90, 94
Cease and desist orders	68
Complaints	36, 43, 45
Court Cases	86, 90, 94
Preliminary investigations	31
Price discriminations	1, 34, 31, 44, 45, 68, 94
Procedure under	25
References to	10, 19, 20, 21, 27, 31, 32, 94
Text of	168
Rock, Monica M., Milwaukee	89
Saks & Co., New York	91
Sanitary Automatic Candy Corp., New York	87
Sardine industry	12, 112
Securities and Exchange Commission	17
Sekov Corporation, Los Angeles	98
Sheffield Silver Co., Jersey City, N.J.	4, 79, 92
Sherman Act	1, 36, 175
Shupe-Williams Candy Co., Ogden, Utah	4, 78, 82
Simmons Co., New York	68
Southern Package Association, Inc., Charlotte, N. C	93
Southern Vitrified Pipe Association, Cincinnati, and others	65
Standard Container Manufacturers' Association, Inc., and others, Jacksonville, Fla	64, 92
Steel industry	6
Steel Office Furniture Institute, The, and others, Cleveland	64
Stevenson Corporation, The, New York	93
Stevenson, Jordan & Harrison, New York	64, 93
Stipulations	3, 5, 26, 29, 30, 35, 119, 120-124
Stock acquisitions, mergers and consolidations	12, 13, 30
Sulfur producers	6
Surgeon General of the U. S. Public Health Service	145
Sweet Candy Co., Salt Lake City	79, 83
Sweets Co. of America, Inc., New York	78, 83
Temporary National Economic Committee	6, 11, 13, 130, 149
Tennessee Coal, Iron & Railroad Co	94
Thomas Quilt Factories, Denver	93
Thomsen-King & Co., Inc., Chicago	99
Thyrole Products Co., Philadelphia	98
Tobacco processors	6
Tobacco products	18
Trade practice conferences, procedure and rules	5, 9, 10, 12, 111
Treasury Department	7
Trust laws and unfair competition abroad	131
Tuna industry	12, 112
Umbrella industry	12, 112
Uniform industry	12, 112
United Corporation, trading as Virginia Products Co., Richmond, Va	67, 93
United States Circuit Courts of Appeals	3, 4, 28, 78, 79
First Circuit, Boston	83, 90
Second Circuit, New York	81, 83, 84, 85, 86, 88, 89, 90, 91, 92, 93, 95
Third Circuit, Philadelphia	80, 83, 86, 87, 90, 94
Fourth Circuit, Richmond	84, 92, 93

United States Circuit Courts of Appeals--Continued.	Page
Fifth Circuit, New Orleans	89, 93, 94
Sixth Circuit, Cincinnati	81, 86, 90, 91
Seventh Circuit, Chicago	80, 81, 82, 84, 85, 88, 89, 92
Eighth Circuit, St. Louis	83, 85, 92
Ninth Circuit, San Francisco	79, 81, 83
Tenth Circuit, Denver	83, 93
United States Code (48 Stat. 291, 15 U. S. C. A., sec. 46a)	2
United States District Courts	3, 4, 28, 78, 79, 86, 95, 90
District Court of Colorado	99
District Court of Massachusetts	100
Eastern District Court of Louisiana	100
Eastern District Court of Missouri	97
Eastern District Court of Pennsylvania	98
Middle District Court of North Carolina	100
Northern District Court of Illinois	96, 97, 99, 100
Northern District Court of Ohio	98
Northern District Court of West Virginia	98
Southern District Court of California	98
Southern District Court of Iowa	100
Southern District Court of New York	99
Southern District Court of West Virginia	97
Western District Court of Pennsylvania	97
U. S. Drug & Sales Co., Denver	99
United States Public Health Service	123, 145
United States Steel Corporation	94
United States Supreme Court	3, 28, 30, 78, 82, 88, 86, 87, 94
U. S. v. Deran Confectionery Co., Cambridge, Mass.	100
U. S. v. Elmer Candy Co., New Orleans	100
U. S. v. Holst Publishing Co., and others, Boone, Iowa	100
U. S. v. K. & S. Sales Co., and others, Chicago	100
U. S. v. Kilmate-Pruf Manufacturing Co., New York	100
U. S. v. John Petrie, trading as B-X Laboratories and Purity Products Col, Chicago	100, 101
Webb-Crawford Co., and others, Athens, Ga	78, 94
Webb-Pomerene Act (<i>see</i> Export Trade Act).	
Wheeler-Lea Act	4, 28, 34, 36, 37, 46, 79, 82, 92, 95, 99, 119, 123, 145
Wholesale Radio Service Co., Inc., New York	95
Williams and Wilkins Co., The, Baltimore	68
Winship Corporation, Des Moines, Iowa	100
Wood encased lead pencil Industry	
Wool Products Labeling Act of 1939	170
Wrisley Co., Allen B., Chicago	78, 80
Yardley of London, Inc., Union City, N. J	90
Zelle Co., The, Chicago	96