

ANNUAL REPORT  
OF THE  
FEDERAL  
TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30  
1941

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON: 1941

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## FEDERAL TRADE COMMISSION

CHARLES H. MARCH, *Chairman* 1  
GARLAND S. FERGUSON  
EWIN L. DAVIS  
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-A p r. 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.

### EXECUTIVE OFFICES OF THE COMMISSION

Constitution Avenue at 6th Street, Washington, D. C.

### BRANCH OFFICES

45 Broadway, New York  
433 West Van Buren Street,

55 New Montgomery Street,  
San Francisco

Chicago

801 Federal Building, Seattle

321 Federal Office Building, New Orleans

<sup>1</sup> Chairmanship rotates annually. Commissioner Ayres will become Chairman in January 1943.

II

## LETTER OF SUBMITTAL

*To the Congress of the United States:*

I have the honor to submit herewith the Twenty-Seventh Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1941.

By direction of the Commission:

CHARLES H. MARCH, *Chairman.*

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## **INTRODUCTION**

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ANNUAL REPORT  
OF THE  
FEDERAL TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30, 1941

**INTRODUCTION**

**DUTIES OF THE COMMISSION**

The Federal Trade Commission herewith submits its report for the fiscal year July 1, 1940, to June 30, 1941, 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 agency of the Federal Government.

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

Legal activities<sup>1</sup> have to do with (1) prevention and correction of unfair methods of competition and unfair or deceptive acts or practices, in accordance with the Federal Trade Commission Act, in which it is declared that unfair methods of competition and unfair or deceptive acts or practices in commerce are unlawful; (2) administration of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, dealing with price and other discriminations, and sections 3, 7, and 8 of the Clayton Act dealing with tying and exclusive dealing contracts, acquisitions of capital stock, and interlocking directorates, respectively, and (3) administration of the Webb-Pomerene or Export Trade Act, for the promotion of foreign trade by permitting the organization of associations to engage exclusively in export trade and granting such associations exemption from the Sherman Antitrust Act under certain well-defined restrictions, including the

<sup>1</sup> Concerning special and limited fields excepted from the Commission's jurisdiction, see second paragraph of sec. 5 of the Federal Trade Commission Act, p. 168, and sec. 11 of the Clayton Act, p.178.



provision that such associations are not to be in restraint of trade within the United States. A new statute, The Wool Products Labeling Act, effective July 14, 1941, is also administered by the Commission.

The Commission's general investigations arise 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 \* \* \* to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. \* \* \*

\* \* \* \* \*

(d) Upon the direction of the President or either House of Congress<sup>2</sup> to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

### GENERAL LEGAL ACTIVITIES

Upon authority of the acts which it administers, the Commission, during the fiscal year ended June 30, 1941, continued to direct its efforts to the prevention and elimination of unlawful practices prohibited by those statutes.

*Cases before the Commission.*--The Commission, after preliminary investigation, during the fiscal year disposed of approximately 1,850 matters which were in a preliminary stage, either by docketing as applications for complaints, by progression to the status of formal complaint, by acceptance from the respondents of stipulations to cease and desist from the practices involved, by consolidation with other proceedings, or by closing the matters.

During the year, the commission accepted a total of 532 stipulations to cease and desist various practices, executed by parties against whom informal proceedings had been instituted. Of these, 234 pertained especially to misleading radio and periodical advertising matter.

<sup>2</sup> An investigation under section 6 (d), when requested by Congress, is now undertaken by the Commission as a result of a concurrent resolution of both Houses, in conformity with the Independent Offices Appropriation Act approved June 16, 1933.

The Commission issued 357 complaints against companies, associations, or individuals, alleging various forms of unfair competition or unfair, deceptive, or other unlawful acts or practices, as compared with 331 complaints docketed during the last preceding fiscal year. These included 11 cases of alleged combination to fix and maintain prices, 6 cases of alleged combination and conspiracy in restraint of trade, 219 complaints charging misleading representation in advertisements, labels and otherwise, and 57 complaints alleging violation of the Clayton Act. The Commission entered 348 orders to cease and desist from the use of unfair competition and other law violations which had been alleged in complaints and which were found to have been engaged in by the respondents, as compared with 282 such orders issued during the last preceding fiscal year.

*Cases before the Federal courts.*--In those Commission cases which were pending during the year in the Federal courts, results favorable to the Commission were obtained in 40 cases, while adverse decisions were rendered in only 2 matters. Two of the 40 proceedings resulting favorably to the Commission were before the Supreme Court of the United States, 26 were before the United States circuit courts of appeals (in 3 of which cases the Commission's orders were modified and affirmed as modified), and 12 were before United States district courts. The cases in the Supreme Court and the circuit courts of appeals pertained to the review of Commission orders to cease and desist while those in the district courts were injunctive proceedings. (See below.) Petitions by respondents for review of Commission orders in 7 cases were dismissed by the circuit courts of appeals. As to the two matters adversely decided, a Commission order was set aside in one case in a circuit court of appeals, and the Supreme Court in another case affirmed a decision of a circuit court of appeals reversing a Commission order.

Among the court cases were proceedings in which the circuit courts affirmed Commission orders prohibiting misleading advertisement of so-called 6 percent installment plans for the purchase of automobiles; unlawful cooperation by six California lumber associations to control lumber distribution; unauthorized use of a well known trade name by a chain organization selling radio sets; agreements in restraint of trade in the sale of candy bars to the vending machine trade by two of the largest chocolate candy bar manufacturers and the three largest vending machine operators, and price-fixing agreements among a group of southern manufacturers of fruit and vegetable containers. The circuit courts also sustained the Commission in its fifth proceeding to prevent the payment or receipt of brokerage fees or allowances in violation of the Robinson-

Patman Act and fined another respondent \$500 for violation of a court decree enforcing a Commission order based on the brokerage provision of that act. In two proceedings concerning so-called "style piracy" in women's apparel the Commission's orders were affirmed by the Supreme Court. In a case against a Chicago candy company the Supreme Court, by a 5-to-3 decision, set aside the Commission's order prohibiting the intrastate sale of lottery assortments of candy which injuriously affect interstate commerce.

*Injunctive proceedings.*--The injunction cases in the United States district courts, as above mentioned, were instituted to stop the 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, the Commission concluded 12 suits for injunctive relief from false advertising. All of the injunctions sought were granted. The products involved in these cases were either medicinal preparations or devices alleged to be dangerous to public health. (For details, see p.102.)

*Civil penalties.*--Under the authority of the Federal Trade Commission Act, the Commission certified the facts concerning 9 alleged violations of cease and desist orders to the Attorney General. The Government had collected, or was collecting, at the close of the fiscal year, \$12,290 in civil penalties from 10 defendants whose cases had been determined during the fiscal year. (For details, see p. 105.)

*Foreign trade work.*--Forty-five export trade associations 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 fiscal year. Exports by Webb law groups in 1940 totaled more than \$307,350,000 which was about \$70,000,000 more than in 1939, the increase having been due largely to a greater shipment of metal products. The associations report that experience during the last year emphasized the advantages to be gained by group action in export trade. As a central organization, the Webb law association was enabled to keep abreast of the situation resulting from swiftly moving events in Europe, and to carry on the increasingly complicated business of accepting orders, allocating them among its members, and giving valuable assistance in the effort to ship goods abroad.

*Radio and periodical advertising.*--The Commission examined about 377,800 newspaper, magazine, and other periodical advertisements and more than 871,900 commercial radio broadcast continuities, of which more than 25,000 advertisements and over 24,500 continuities were marked for further study as containing representations that might be false Or misleading. Questionnaires concerning pos-

sibly misleading representations in advertising were sent to advertisers in 374 cases and to advertising agencies in 19 cases. The Commission accepted from advertisers and other 234 stipulations to cease certain representations in radio and periodical advertising matter.

*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.

### **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 and rules provided for their elimination, to the end that the business of such industry may be conducted under free and fair competitive conditions and 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 and 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.

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.

### **WOOL PRODUCTS LABELING ACT**

The Federal Trade Commission is the administrative and enforcement agency of the Wool Products Labeling Act, an informative labeling statute which became effective July 14, 1941. As stated in its title, this act is designed "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." The Commission is authorized thereunder to issue rules and regulations for the admin-

istration and enforcement of the act. Such regulations have been promulgated thereby affording those subject to the requirements of the act full information as to the manner and form of compliance.

A primary objective of the act is the protection of the consumer and the safeguarding of fair practices in merchandising against the evils which flow from concealment of material content. The act undertakes to bring to the public, to business, and to all concerned, a substantial measure of the benefits of informative labeling.

The act and rules and regulations thereunder require that a wool product, unless exempt under the provisions of the act, shall be labeled clearly to show by percentages its fiber content, exclusive of ornamentation not exceeding 5 percent, when introduced, manufactured for introduction, or sold, transported, or distributed in commerce, as the term "commerce" is defined therein. If nonfibrous loading, filling, or adulterating matter is contained in the product, the percentage of such must also be disclosed.

A wool product is defined as 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." The percentage of "wool," "reprocessed wool," and "reused wool" must be specified and the percentage of each other fiber constituting 5 percent or more of the total fiber weight of the wool product must also be specifically stated. The aggregate of fibers present in a proportion of less than 5 percent is also to be stated.

In addition to the required content information, the label must show the name of the manufacturer of the wool product, or the name of the wholesaler, jobber, or other person subject to section 3 of the act with respect to such product, or the name of a dealer or reseller of the product together with the manufacturer's registered identification number as provided in Rule 4.

Violations, constituting "misbranding" under the act, are subject to correction by cease and desist order of the Commission, entered after hearing in required legal proceeding. Misdemeanor proceedings in respect of willful violations are provided for; also injunctive and libel actions in court where necessary to protect the public.

Manufacturers of wool products are required to maintain proper records showing the content as required by the act of all wool products made by them.

### **GENERAL INVESTIGATIONS**

Commission general investigations initiated or in progress during the fiscal year related to (1) corporation reports, (2) distribution cost accounting, (3) distribution methods and costs, (4) resale price maintenance, (5) furniture prices, costs and profits, and (6) mass food distributors.



*Corporation reports.*--A Commission order entered in May 1940 required approximately 900 corporations to file financial reports covering their 1939 operations and statements of their financial position as at the close of their 1938 and 1939 business years. During the fiscal year, reports on 76 industry groups were prepared covering the combined operations of 780 corporations having total sales aggregating \$24,932,624,668, which amount represented almost 64 percent of the total value of products as reported by the United States Bureau of the Census.

*Distribution cost accounting.*--The Commission investigated the functions of distribution cost accounting and submitted to Congress a report entitled *Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling*, which has been printed as House Document No.287, Seventy-seventh Congress, first session.

*Distribution methods and costs.*--This inquiry was undertaken to develop information respecting the methods and practices used and the costs incurred in distribution by manufacturers, wholesalers and retailers of numerous types of commodities, with special attention to trade usages, practices, charges, laws and barriers to trade that affect distribution costs. The study was in progress at the close of the fiscal year.

*Resale price maintenance.*--This inquiry developed facts concerning the effects of resale price maintenance on the interests of manufacturers, Wholesalers, retailers, and consumers of price maintained and competing non-price-maintained articles. A report on the investigation was in course of preparation at the close of the fiscal year.

*Furniture prices, costs and profits.*--Shortly prior to the close of the fiscal year, the Commission, at the request of the Administrator of the Office of Price Administration, directed an immediate investigation of recently increased furniture prices, in the interest of the national defense program.

*Mass food distributors* --An inquiry in progress at the close of the fiscal year had as its purpose a comparison of (1) the savings in costs of selling and delivering certain foods in large quantities, particularly when delivered to the buyer's warehouse, and (2) the concessions in price made to the buyer on such sales.

### COMMISSION INVESTIGATIONS, 1915-41

Approximately 115 general inquiries or studies have been conducted during the Commission's existence. Most of them have been made pursuant to Congressional resolutions, although many have been conducted pursuant to Presidential orders, a number at the request of other branches of the Government, and others 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.

### NATIONAL DEFENSE ACTIVITIES

During the first World War the Federal Trade Commission was the cost and fact finding agency of the Government. Approximately 370 investigations of wartime costs, prices, and profits were made, covering such basic commodities as coal, steel and iron, building materials, cotton textiles and others. (See p.221.)

During the present defense emergency, the Commission is being called upon to perform the same relative duties as in 1917-18. Prior to the close of the fiscal year the Commission was called on for accounting assistance for the Office of Production Management, and an accounting inquiry of the house furniture industry was begun for the Office of Price Administration.

Subsequent to the close of the fiscal year additional duties of the Commission in connection with the national defense program included an investigation of price increases in the bread and bakery industries ; the collection and auditing of quarterly and annual reports for a large number of corporations for the Office of Price Administration and other agencies; and an investigation in connection with priorities orders in the steel industry as requested by the Office of Production Management.

The Chairman of the Federal Trade Commission is a member of the Price Administration Committee of the Office of Price Administration, and is the Commission's representative in its continuing relationships with the Economic Defense Board, established by the President, July 30, 1941, under the chairmanship of Vice President Wallace for "developing and coordinating policies, plans, and programs designed to protect and strengthen the international economic relations of the United States in the interest of national defense." The Commission placed its staff of accountants, economists, and statisticians at the disposal of the Economic Defense Board to make studies and investigations required by the Board.

In response to a request received in September 1941 from the Bureau of Industrial Conservation of the Office of Production Management, the Chairman of the Commission is serving as a member of that agency which is carrying on an intensive "War Against Waste". The Chairman of the Commission is also a member of a committee for the development and utilization of the country's present and future petroleum resources and facilities of which committee the Petroleum Coordinator for National Defense is Chairman.

Late in the fiscal year, members of the Commission's staff were serving on the following committees of the Advisory Commission

## TEMPORARY NATIONAL ECONOMIC COMMITTEE 11

to the Council of National Defense: Inter-Departmental Conference Committee on National Food Resources; Sub-Committee of Inter-Departmental Conference Committee on Planning and Procedure; Fruit and Vegetables Committee ; Tobacco Committee; and Food Distribution Committee.

### **WORK FOR CONGRESSIONAL COMMITTEES**

The various committees of the House and Senate frequently refer bills to the Commission for comment and legal opinion. The Commission prepares such comment and opinion and endeavors to furnish the Congress as informative and accurate reports as possible. At the close of the fiscal year, three of the Commission's accountants were temporarily assisting the House Naval Affairs Committee.

### **TEMPORARY NATIONAL ECONOMIC COMMITTEE**

The program of the Temporary National Economic Committee continued into the fiscal year 1940-41, the work of the staff during the early months having been devoted to preparation for later hearings. In accordance with Committee policies, 43 research studies were prepared under the auspices of the various cooperating departments and agencies and submitted to a reading committee appointed by the Committee Chairman.

The Federal Trade Commission has contributed four of these monographs:

*No. 13--Relative Efficiency of Large, Medium- sized, and Small Business.*

*No. 34--Control of Unfair Competitive Practices through Trade Practice Conference Procedure of the Federal Trade Commission.*

*No. 36--Reports of the Federal Trade Commission. No. 42--The Basing Point Problem.*

In concluding the work of the Temporary National Economic Committee, public sessions for the consideration of recommendations were held during the period January 15, 1941, to March 11, 1941. On February 15, 1941, the Commission presented recommendations bearing on sections 7 and 11 of the Clayton Act whereby corporations about to bring under single control more than a given percentage of the national output of any commodity, formerly produced by more than one enterprise, would be required to register, at least 30 days in advance, with the Federal Trade Commission, a copy of their plans to establish such control, and to make available to the Department of Justice and the Commission any information rela-

tive to such plans. The Chief Counsel and Chief Examiner of the Commission explained the functions of the Commission dealing with unlawful restraints of trade. At this meeting the Assistant Attorney General recommended that, at the request of the Attorney General, the Federal Trade Commission or any member, as an aid to the court, be authorized to hear evidence and make findings of fact and conclusions of law in any pending antitrust proceeding.

On March 1, 1941, the Commission presented before the Temporary National Economic Committee the drafts of four bills: (1) amending section 7 of the Clayton Act so as to make acquisition of assets unlawful, as well as stock; (2) providing for the registration of corporations contemplating mergers; (3) relating to trade-barrier legislation which interferes with the flow of commerce between States; and (4) relating to appointment of the Commission by a court as master in chancery in proceedings brought under the antitrust laws by the Attorney General.

The Economic Adviser to the Commission, who was director of the Temporary National Economic Committee studies undertaken by the Commission, presented an analysis and appraisal of the present-day economy, stressing the need for the continuance of the doctrine of free and fair competition and closer regulation of monopolistic practices.

On March 31, 1941, the Temporary National Economic Committee concluded its assignment, after 2 years and 9 months of service.

### **THE 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, 1941, the Commission was composed of the following members: Charles H. March, Republican, of Minnesota, Chairman; Garland S. Ferguson, Democrat, of North Carolina; Ewin L. Davis, Democrat, of Tennessee; William A. Ayres, Democrat, of

Kansas, and Robert E. Freer, Republican, of Ohio. Commissioner Ayres will become Chairman in January 1942.

Each December the Commission designates one of its members to serve as Chairman during the ensuing calendar year. Commissioner March was chosen Chairman for the calendar year 1941, succeeding Commissioner Davis. 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 and signs the more important official papers and reports at the direction of the Commission.<sup>3</sup>

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 March has supervisory charge of the Chief Examiner's Division; Commissioner Ferguson, of the Chief Trial Examiner's Division and the Trade Practice Conference Division; Commissioner Davis of the Chief Counsel's Division; Commissioner Ayres, of the Administrative Division and the Medical Advisory Division, and Commissioner Freer of the Economic Division and the 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, 1941, numbered 694 officials and employees including attorneys, economists, accountants, and administrative personnel engaged in Washington, and in 5 branch offices. The Commissioners hear oral 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

<sup>3</sup> Duties of the chairman in connection with the national defense activities of the Commission are set forth on p.10.

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 foreign 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 general investigations at the direction of the President or Congress, or upon application of the Attorney General, or upon its own initiative, as provided in section 6 of the Federal Trade Commission Act, the Chief Examiner supervises such of these investigations as are primarily of a legal nature.

Members of the Chief Trial Examiner's Division preside at hearings for the reception of evidence in formal proceedings and in certain of the general investigations which are conducted by Executive direction, or pursuant to congressional resolutions, or 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.

This division is also charged with the general administration of the Wool Products Labeling Act and the rules and regulations thereunder. This act, approved by the President October 14, 1940, became effective July 14, 1941, and is 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" (See p.125).

The Radio and Periodical Division conducts preliminary office 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, in a majority of instances, are disposed of by stipulation.

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.

The Economic Division, under the Chief Economist, conducts those general inquiries of the Commission which are primarily of an economic nature, such as the inquiries into distribution cost accounting and furniture prices. 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 for the past 3 years has assisted the Commission in directing the studies assigned to it by the Temporary National Economic Committee. With the expiration of that work on April 4, 1941, he has resumed full advisory service in connection with economic problems of the Commission.

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: Budget and Finance, Personnel, Docket, Publications, Library, Mail 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, 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, price discriminations, exclusive-dealing contracts, and capital-stock acquisitions in violation of the statutes which the Commission administers, and of the measures taken by the Commission to prevent such violations of law.

The Commission publishes a monthly summary of 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, 1941, were:

*Annual Report of the Federal Trade Commission for the Fiscal year ended June 30, 1940.* House Document No.10, Seventy-seventh Congress, first session, January 3, 1941.

*Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling.* House Document No. 287, Seventy-seventh Congress, first session, June 23, 1941.

*World War Activities of the Federal Trade Commission, 1917-18.* July 15, 1940.

*The Federal Trade Commission--Its Duties and Procedure.* August 1940.

*Federal Trade Commission Rules, Policy and Acts* , February 4, 1941, and May 2, 1941.

*Federal Trade Commission Decisions, Volume 30, December 1, 1939-May 31, 1940; Volume 31, June 1, 1940--November 30, 1940.*

*Rules and Regulations under the Wool Products Labeling Act of 1939,* May 24, 1941.

Trade practice rules for the following industries: *Resistance Welder Manufacturing Industry,* August 16, 1940 ; *Subscription and*



*Mail Order Book Publishing Industry*, September 3, 1940; *Linen Industry*, February 1, 1941; *Hosiery Industry*, May 15, 1941.

Industrial corporation reports concerning the following industries were published:

- Aircraft Manufacturing Corporations*, October 15, 1940.
- Cigarette and Tobacco Products Manufacturing Corporations*, October 15, 1940.
- Bread and Bakery Products Manufacturing Corporations*, October 22, 1940.
- Lead and Zinc Producing and Manufacturing Corporations*, October 22, 1940.
- Food Specialty Manufacturing Corporations*, October 29, 1940.
- Agricultural Machinery and Tractor Manufacturing Corporations*, October 29, 1940.
- Automobile Parts and Accessories Manufacturing Corporations*, November 5, 1940.
- Corn Products Manufacturing Corporations*, November 5, 1940.
- Glass and Glassware Manufacturing Corporations*, November 12, 1940.
- Coke-Oven Products Manufacturing Corporations*, November 18, 1940.
- Biscuit and Cracker Manufacturing Corporations*, November 26, 1940.
- Steel Castings Manufacturing Corporations*, November 26, 1940.
- Heating and Cooking Apparatus (except electric) Manufacturing Corporations*, December 3, 1940.
- Rubber Products Manufacturing Corporations*, December 3, 1940.
- Beet Sugar Refining Corporations*, December 10, 1940.
- Domestic Laundry Equipment Manufacturing Corporations*, December 10, 1940.
- Motor Vehicle Manufacturing Corporations*, December 17, 1940.
- Railroad Equipment Manufacturing Corporations*, December 17, 1940.
- Clay Products (other than pottery) Manufacturing Corporations*, December 24, 1940.
- Rayon and Allied Products Manufacturing Corporations*, December 24, 1940.
- Cane Sugar Refining Corporations*, December 31, 1940.
- Machine Tool Manufacturing Corporations*, December 31, 1940.
- Copper Producing and Manufacturing Corporations*, January 14, 1941.
- Milk and Milk Products Corporations*, January 14, 1941.
- Men's, Youths' and Boys' Clothing Manufacturing Corporations*, January 21, 1941.

- Tin Can and Tinware Manufacturing Corporations*, January 21, 1941.  
*Beverage (nonalcoholic) Manufacturing Corporations*, January 28, 1941.  
*Paint and Varnish Manufacturing Corporations*, January 28, 1941.  
*Knit Goods Manufacturing Corporations*, February 4, 1941.  
*Saw, File, and Hand Tool Manufacturing Corporations*, February 4, 1941.  
*Leather Boot and Shoe Manufacturing Corporations*, February 11, 1941.  
*Engine, Turbine, Water Wheel, and Windmill Manufacturing Corporations*, February 11, 1941.  
*Petroleum Producing and Refining Corporations*, February 18, 1941.  
*Confectionery Manufacturing Corporations*, February 18, 1941.  
*Business Machines and Typewriter Manufacturing Corporations*, February 25, 1941.  
*Match Manufacturing Corporations*, February 25, 1941.  
*Electrical Machinery and Apparatus Manufacturing Corporations*, March 4, 1941.  
*Fruit and Vegetable Canning Corporations*, March 4, 1941.  
*Firearm and Ammunition Manufacturing Corporations*, March 11, 1941.  
*Paper and Pulp Manufacturing Corporations*, March 11, 1941.  
*Chemicals (industrial) Manufacturing Corporations*, March 18, 1941.  
*Cotton Textiles Manufacturing Corporations*, March 18, 1941.  
*Gypsum and Asbestos Products and Roof Coating (except Paint) Manufacturing Corporations*, March 25, 1941.  
*Refrigeration Equipment and Air-Conditioning Unit Manufacturing Corporations*, March 25, 1941.  
*Machine-Tool Accessory and Machinists' Precision Tool Manufacturing Corporations*, April 1, 1941.  
*Radio and Phonograph Manufacturing Corporations*, April 1, 1941.  
*Fertilizer Manufacturing Corporations*, April 8, 1941.  
*Wool Carpet and Rug Manufacturing Corporations*, April 8, 1941.  
*Machinery (not elsewhere classified) Manufacturing Corporations*, April 15, 1941.  
*Steel Works and Rolling Mill Products Manufacturing Corporations*, April 15, 1941.  
*Hardware Manufacturing Corporations*, April 22, 1941.  
*Woolen and Worsted Manufacturing Corporations*, April 22, 1941.  
*Cereal Preparations Manufacturing Corporations*, April 29, 1941.

- Gray-Iron and Malleable-Iron Castings Manufacturing Corporations*, April 29, 1941.
- Silverware and Plated Ware Manufacturing Corporations*, May 6, 1941.
- Soap, Cottonseed Products, and Cooking Fats Manufacturing Corporations*, May 6, 1941.
- Book and Magazine Publishing Corporations*, May 13, 1941.
- Malt Beverage Brewing Corporations*, May 16, 1941.
- Perfume and Cosmetic Manufacturing Corporations*, May 20, 1941.
- Pump, Pumping Equipment and Air Compressor Manufacturing Corporations*, May 20, 1941.
- Bolt, Nut, Rivet and Screw-Machine Products Manufacturing Corporations*, May 27, 1941.
- Plumbers' Supplies Manufacturing Corporations*, May 27, 1941.
- Distilled Liquors Manufacturing Corporations*, June 3, 1941.
- Furniture Manufacturing Corporations*, June 3, 1941.
- Lumber and Timber Products Corporations*, June 3, 1941.
- Cranes; Dredging, Excavating and Road-Building Machinery Manufacturing Corporations*, June 10, 1941.
- Tanned, Curried, and Finished Leather Manufacturing Corporations*, June 10, 1941.
- Cement Manufacturing Corporations*, June 10, 1941.
- Men's and Boys' Cotton, Leather and Miscellaneous Garment Manufacturing Corporations*, June 17, 1941.
- Textile Machinery and Sewing Machine Manufacturing Corporations*, June 17, 1941.
- Hat and Cap Manufacturing Corporations*, June 17, 1941.
- Shipbuilding Corporations*, June 17, 1941.
- Drugs and Medicines Manufacturing Corporations*, June 24, 1941.
- Flour Milling Corporations*, June 24, 1941.
- Silk Manufacturing Corporations*, June 24, 1941.
- Textile Dyeing and Finishing (except woollen and worsted) Corporations*, June 24, 1941.
- Industrial Corporation Reports for 1939, Summary by Industry Groups*, June 30, 1941.

## RECOMMENDATIONS

In its last preceding annual report the Commission reiterated its frequently made recommendations for an amendment of section 7 of the Clayton Act. The substance of such recommendations was that the acquisition of corporate assets should be declared unlawful under the same conditions that acquisition of corporate stock had been unlawful ever since 1914. Attention was called to the endorsement of that recommendation by the Temporary National Economic Com-

mittee in its preliminary report to the United States Senate, also, to the Committee's recognition that the concentration of economic power reflected in corporate consolidations and otherwise threatens fundamental alterations in our economic structure.

Since then the Temporary National Economic Committee has made its final report and recommendations. It concluded that the process of corporate merger and consolidation "has contributed in major part toward the elimination of competition" and that failure to prohibit acquisition of corporate assets affords "a convenient way of circumventing the obvious intention of the law." Accordingly, the Committee again and unanimously urged amendatory legislation of the character recommended by the Commission. For similar reasons the Commission once more recommends such legislation.

In its final report the Temporary National Economic Committee proposed that acquisition of assets of competing corporations over a certain size be forbidden without prior Governmental approval to insure that the purpose and probable result of such acquisition would be in the public interest. It further proposed that the burden of demonstrating such a purpose and result should be upon the proponents of the merger. The Commission is strongly in accord with the principle of thus limiting future expansion of the evil.

The Temporary National Economic Committee also stated:

So great a proportion of all national savings and all national wealth have fallen under the control of a few organized enterprises that the opportunity of those individuals who will constitute the next generation will be completely foreclosed unless, by common consent of leadership in business and government, we undertake to reverse the trends responsible for the present crises.

The Commission makes these recommendations as part of that "common consent of leadership in business and government" to which the Committee referred and as part of the undertaking "to reverse the trends responsible for the present crises."

## **PART I. GENERAL INVESTIGATIONS**

CORPORATION REPORTS

DISTRIBUTION COST ACCOUNTING

DISTRIBUTION METHODS AND COSTS

RESALE PRICE MAINTENANCE (1939)

FURNITURE PRICES, COSTS, AND PROFITS

MASS FOOD DISTRIBUTORS

## **PART I. GENERAL INVESTIGATIONS**

### **CORPORATION REPORTS**

This project, which was conducted in accordance with powers of the Federal Trade Commission as expressly provided in section 6 of its organic act, was initiated on May 27, 1940, when the Commission entered an order requiring about 900 individual corporations to file financial reports covering their 1939 operations and statements of their financial position as at the end of their 1938 and 1939 business years.

The plan for this project, which the Commission has for many years regarded as one of great benefit to the national economy, particularly in times of national emergency, was developed in cooperation with the Division of Statistical Standards of the Executive Office of the President, the Securities and Exchange Commission, and other Federal agencies.

More fully stated, the purpose of the 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 Commission believes that the published summaries 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.<sup>1</sup>

During the fiscal year, reports on 76 industry groups were prepared covering the combined operations of 780 corporations having total sales aggregating \$24,932,624,668, which amount represented nearly 64 percent of the total value of product as reported by the United States Bureau of the Census. These 780 corporations had an aggregate average investment in 1939 of \$28,138,000,000.

These reports showed the average rate of return for each of the industry groups and the range of returns for different companies included in each group, the total sales, the proportion sold in the domestic and export markets, and the proportion of each dollar of sales represented by the cost of materials, production wages and salaries, depreciation and obsolescence, finished goods purchased for resale, miscellaneous costs, the gross margin on sales, and the expenses of selling, advertising, taxes, research and development, and administrative and general office expense. There was also shown for each group the net profit from manufacturing and trading.

The 76 industry groups, the number of corporations included in each group, their total sales, and the percent of their sales to the United States Bureau of the Census value of product, are as follows:

<sup>1</sup> Summaries of Industrial corporation reports published during the fiscal year are listed on p.17.

Industry group	Number of corpora- tions in- cluded	Total sales	sales to	Percent of Census value of products
Agricultural machinery and tractor	9	\$529,356,946	6 94.0	
Aircraft	9	255,004,218	1 91.0	
Automobile parts and accessories	19	563,770,843	6 27.0	
Beet sugar	5	103,939,719	6 97.0	
Beverage (nonalcoholic)	6	131,197,584	6 47.0	
Biscuit and cracker	4	154,719,550	6 74.0	
Bolt, nut rivet and screw-machine products	7	69,260,279	41.5	
Book and magazine publishing	11	189,594,386	1 27.0	
Bread and bakery products	7	202,301,826	17.0	
Business machines and typewriter	10	230,822,193	(7)	
Cane sugar refining	7	274,762,877	71.5	
Cement	17	88,237,374	46.0	
Cereal preparations	8	160,759,718	99.0	
Chemicals (Industrial)	13	878,405,853	(7)	
Cigarette and tobacco products	6	2 1,047,390,892	6 82.0	
Clay products (other than pottery)	6	36,800,291	79.0	
Coke-oven products	4	114,565,346	1 33.5	
Confectionery	12	197,467,021	43.0	
Copper producing and manufacturing	6	409,247,345	65.0	
Corn products	5	109,996,726	92.0	
Cotton textiles	34	451,073,196	39.0	
Cranes; dredging, excavating and road-building machinery	12	77,135,231	55.0	
Distilled liquors	6	2 290,699,253	(7)	
Domestic laundry equipment	8	34,939,181	6 50.0	
Drugs and medicines	23	470,800,985	(7)	
Electrical machinery and apparatus	19	805,335,939	6 50.0	
Engine, turbine, water wheel, and windmill	7	44,986,187	6 23.0	
Fertilizer	6	76,250,353	41.1	
Firearm and ammunition	4	30,607,560	65.0	
Flour milling	9	4 315,099,410	5 48.5	
Food specialties	4	270,797,816	(7)	
Fruit and vegetable canning	10	266,403,196	45.0	
Furniture	15	78,200,007	12.5	
Glass and glassware	8	261,420,053	6 67.5	
Gray-iron and malleable-iron castings	4	48,734,907	19.0	
Gypsum and asbestos products and roof coating (except paint)	12	271,752,881	(7)	
Hardware	14	88,057,476	57.0	
Hat and cap	5	30,261,761	38.0	
Heating and cooking apparatus (except electric	8	152,478,026	6 35.0	
Knit goods	19	135,774,316	6 21.0	
Lead and zinc producing and manufacturing	6	190,985,924	6 52.0	
Leather boot and shoe	16	332,940,474	6 44.0	
Lumber and timber products	31	132,060,369	19.0	
Machine tools	8	79,045,896	36.0	
Machine-tool accessory y and machinists' precision tool	7	42,525,947	34.0	
Machinery (not elsewhere classified)	14	218,778,286	6 23.0	
Malt, beverage brewing	21	2 233,496,279	6 30.0	
Matches	7	42,545,990	(7)	
Men's and boys' cotton, leather, and miscellaneous garments	19	86,313,794	18.0	
Men's, youths' and boys' clothing	10	85,807,045	6 15.0	
Milk and milk products	12	806,887,761	1 70.0	
Motor vehicles	8	2,974,366,192	6 96.0	
Paint and varnish	9	155,515,913	36.0	
Paper and pulp	16	425,487,261	6 35.0	
Perfume and cosmetics	9	29,679,607	20.0	
Petroleum producing and refining	13	3,632,257,441	(7)	
Plumbers' supplies	8	156,861,914	(7)	
Pump, pumping equipment and air compressor	4	33,713,334	6 17.0	
Radio and phonograph	7	208,263,235	75.5	
Railroad equipment	11	160,711,439	6 39.0	
Rayon and allied products	7	144,748,524	59.0	
Refrigeration equipment and air-conditioning units	5	54,597,303	20.0	
Rubber products	6	757,165,918	6 86.0	
Saw, file, and hand tool	6	29,056,199	28.0	
Shipbuilding	5	126,076,616	38.5	
Silk	5	30,681,869	32.0	
Silverware and plated ware	8	41,920,328	67.0	
Soap, cottonseed products and cooking fats	10	458,167,504	70.0	
Steel castings	6	53,089,769	1 39.0	
Steel works and rolling mill products	10	2,254,238,365	83.0	
Tanned, curried, and finished leather	16	124,353,953	36.0	
Textile dyeing and finishing (except woolen and worsted)	19	100,960,709	34.0	
Textile machinery and sewing machines	12	145,207,455	(7)	
Tin can and tinware	4	302,657,213	81.0	
Wool carpet and rug	7	77,785,525	55.0	

Woolen and worsted	22	253,864,596	35.0
Total	780	24,932,624,668	63.7
1 Census comparison not used in FTC report.	5	Calendar year.	
2 Includes sales tax revenue stamps.	6	1937 Census of Manufactures.	
3 Excludes sales tax revenue stamps.	7	Over 100 percent.	
4 Fiscal year			



**DISTRIBUTION COST ACCOUNTING****(ACCOUNTING METHODS AND PRACTICES)**

On August 9, 1939, the Federal Trade Commission, pursuant to section 6 of its organic act, directed an inquiry into the accounting methods of business in order to ascertain how these may better serve the needs of business management and the public, to provide legislative bodies the basis for guidance in the enactment and revision of legislation, and to make more effective the administration of existing legislation. Because of the breadth of the general accounting field and the present timeliness of a study devoted specially to distribution cost accounting, the scope of the inquiry was restricted to the latter field.

The Commission's report on the inquiry entitled Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling, was sent to the Congress on June 23, 1941, and printed as House Document No.287, Seventy-seventh Congress, first session.

Distribution cost accounting is of comparatively recent date. It is still a developing field and is becoming increasingly important as the part played by the distributing functions in the Nation's total economy becomes more significant.

The report on case studies points out that both business and the Government are interested in sound methods of ascertaining distribution costs: Business, because of the aid such methods give in the proper conduct of its operations; Government, because of the responsibility it has of administering such laws as the State and Federal anti-discrimination acts.

Distribution cost accounting is concerned with the costs of such distribution functions as selling and sales promotion, warehousing, handling and delivery, credit and collection activities, and all other office, supervising and administrative activities necessary to the proper functioning of the distribution processes.

Distribution costs may be found for sales according to the various classifications of sales, that is, by commodities, sales territories, distribution channels, size of order, volume of sales, method of delivery, terms of sales, etc.; depending upon the cost information needed.

When distribution costs are separately incurred and recorded as regards two or more members of a sales classification, for example, two or more commodities, such costs need only be accumulated by a process of addition. When, however, such costs are jointly incurred, a sound method of allocation Or apportionment must be found before such costs, together with those separately incurred, can be accumulated to arrive at the total distribution costs for any one member of a sales classification.

A Sound method of allocating joint cost may be based upon an analysis of the service or function for which the cost is incurred; and it is with such an analysis of each of the principal functions of distribution enumerated above and the methods of allocation based thereon that the report on case studies is chiefly concerned.

The report concludes:

In respect to distribution cost accounting, greater uniformity within a single Industry than now exists would seem possible and desirable. For each Industry guiding principles could well be formulated, a standard classification of accounts be set up, considerable uniformity of procedures be worked out, and suggested forms be devised. These things undoubtedly should be done insofar as practicable.

Even for Industry as a whole there is room in a broad way for such standardization of forms, procedures, and accounting terminology in distribution cost accounting as would greatly facilitate the work of the professional accountant, would benefit each Individual industry and would aid the public, by comparisons that would then be possible, to a better understanding of the relative position of each industry as to the several items of distribution costs, such as selling, advertising, storage, and delivery.

It is therefore recommended that, both in the interest of business and in the interest of the Commission, particularly in its administration of the Robinson-Patman Act, further study be made in the field of distribution cost accounting. It would seem especially desirable that conferences be held with other Industry groups, such as that for which the Commission was host in the early summer of 1940 when some 25 representatives of the wholesale drug trade, the accounting profession, and government agencies met at the offices of the Commission in an all-day discussion of accounting methods and forms in which the subject of distribution cost accounting received special attention. \* \* \* The Commission stands ready to provide facilities for and to sponsor similar conferences of other trade or industry groups, together with all interested branches of the government, to the end that such groups respectively may find practicable methods of ascertaining their distribution costs and to the further end that uniformity may be established insofar as practicable.

### **DISTRIBUTION METHODS AND COSTS**

This inquiry, initiated by a resolution of the Commission adopted June 27, 1940, under authority of Section 6 of the Federal Trade Commission Act, was undertaken to develop information respecting the methods and practices used and the costs incurred in distribution by manufacturers, wholesalers, and retailers of numerous types of commodities. The resolution directed that special attention be given to trade usages, practices, charges, laws, and barriers to trade that affect distribution costs. The following are the commodities included in the study: Automobiles, petroleum products, especially gasoline and lubricating oils, automobile tires and tubes, farm machinery, electric household appliances, carpets and rugs, women's dresses, coats and hosiery, men's and boys' suits and overcoats, men's shirts and collars, men's work clothing, meats (fresh, cured, and

canned), fresh milk and dairy products, canned fruits and vegetables, flour and flour mixes, crackers and cookies, packaged cereals, coffee, sugar, structural steel, cement, lumber, and paints and varnishes, The study had not been completed at the close of the fiscal year, 1940-41.

### **RESALE PRICE MAINTENANCE**

On April 25, 1939, the Commission, by resolution under authority of Section 6 of the Federal Trade Commission Act, directed its Economic Division to make inquiry respecting the effects of resale price maintenance on the interests of manufacturers, wholesalers, retailers, and consumers of price maintained and competing non-price-maintained articles. A report on the investigation was in the course of preparation at the close of the fiscal year.

### **FURNITURE PRICES, COSTS, AND PROFITS**

Shortly before the close of the fiscal year 1940-41, the Commission, at the request of the Administrator of the Office of Price Administration, directed an immediate investigation of the legal and accounting aspects of a situation resulting from an increase in furniture prices in recent months. Pointing out that "The prevention of unwarranted price increases is \* \* \* vital to the defense program of the United States," the Administrator asked the Commission "to undertake a quick check of prices, costs, and profits in the furniture industry" so as to determine whether and to what extent the recent increases were justified. The investigation was in process of organization at the close of the fiscal year.

### **MASS FOOD DISTRIBUTORS**

A Commission resolution of April 29, 1941, authorized an inquiry the purpose of which is to present a comparison of (1) the Savings in costs of selling and delivering certain foods in large quantities, particularly when delivered to the buyer's warehouse, and (2) the concessions in price made to the buyer on such sales. The inquiry was in progress at the close of the fiscal year 1940-41.

## **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.<sup>1</sup>

No formality is required in making 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 sub-mission of such information as the party may care to submit in defense or in justification. It is the Commission's policy 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 and members of the general public to assist in determining whether the practice alleged constitutes an unfair method of competition or 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

<sup>1</sup> 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 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 136.

The Chief Examiner or the Director of the Radio and Periodical Division may recommend: (1) that the 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 the administration of which is committed to the Commission; (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 disposition by stipulation, the case is referred to the Chief Trial Examiner or the Director of 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 formal complaint. The complaint and the answer of the 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 the respondent, or respondents, 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 is 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 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 in his own behalf or by attorney. Hearings consume varying periods of time, depending upon the nature of the charge and the number and availability of the witnesses examined.

After the submission of evidence in support of the complaint, and then on behalf of the respondent, the trial examiner prepares a report of the evidence for the information of the Commission, copy of which is furnished 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 without prejudice.

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 the case 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.

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, or under the Clayton Act, but each act provides a different procedure for enforcement of cease and desist orders.

Under the Federal Trade Commission Act, 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 an appropriate 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 the Clayton Act an order to cease and desist does not be- 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.

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

The Federal Trade Commission Act contains 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 the 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 embraces the investigation of all 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.

During the fiscal year ended June 30, 1941, the Commission disposed of 485 preliminary inquiries which had been docketed and 1,364 applications for complaint, or a total of 1,849 informally docketed matters.

Investigation of cases in preliminary stages includes (1) the general preliminary legal investigating work of the Commission under the several acts as conducted by its legal investigating division, supervised by its Chief Examiner, and (2) the continuing survey of radio and periodical advertisements by its Radio and Periodical Division with the objective of correcting false and misleading representations, supervised by the Director of that division.

Cases developed by the two divisions, unless closed without action, progress upon order of the Commission to the status either of formal complaint or stipulation.<sup>2</sup> Cases designated for complaint pass to the Chief Counsel of the Commission for trial or other disposition. Those cases investigated by the legal investigating division which the Commission designates for stipulation are forwarded to the Chief Trial Examiner for negotiation of stipulation while cases investigated by the Radio and Periodical Division and ordered stipulated are returned by the Commission to that division for negotiation of stipulation under a special procedure more fully described at p.136.

The general legal investigational work conducted for the Commission under supervision of its Chief Examiner is delegated to a staff of attorneys specially trained as examiners who operate either from the Commission's executive offices in Washington or from any of its five branch offices in New York, Chicago, New Orleans, San Francisco and Seattle.

At the beginning of the fiscal year, July 1, 1940, there were pending for investigation in the legal investigating division 3 449 preliminary or undocketed cases. Four hundred forty-two additional applications of this character were received during the year, making

<sup>2</sup> See chart showing general legal procedure, facing p.31.

<sup>3</sup> Statistics hereinafter reported on pp.36, 37, and 39-41 concerning the general legal investigational work of the Commission during the fiscal year are the records of the legal investigating division and not the consolidated record of the Commission, and therefore do not coincide with the figures reported in the tabular summary of legal work for the entire Commission appearing on pp. 106-108.

a total of 891 on hand, of which 614 were investigated. As a result, 407 of the investigated matters were docketed and transmitted to the Commission for action and 207 closed without docketing because of lack of jurisdiction or other reasons. This left 277 preliminary cases of this type pending for investigation at the end of the fiscal year, June 30, 1941.

Six hundred fifty-eight applications for complaint, which had been docketed without preliminary investigation, were pending for regular investigation by the Chief Examiner's Division at the year's beginning. Subsequently, 626 additional cases of this type were received, making a total of 1,284 such cases docketed for investigation. Of these, 732 were investigated and transmitted to the Commission for action, leaving 552 cases of this character pending for investigation at the year's close.

During the year 670 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 247 such matters awaited completion of investigation.

Thus, during the year, the Commission's legal investigation staff completed 2,016 investigations. It also disposed of 22,569 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 Commission's Radio and Periodical Division; (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.

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

The Robinson-Patman Act, approved on June 19, 1936, is an amendment to section 2 of the Clayton Act, and restates in more inclusive form the basic principle of prohibiting price discriminations which injuriously affect competition. It also prohibits per se certain classes of discriminations which may involve price only indirectly, without regard to their competitive effects in specific cases, thus supplementing and strengthening the previous legislation.

Matters involving possible violations of this act are generally quite complicated. An effort is made, in the preliminary stages of an investigation, to determine not only whether the practice in question

involves prima facie violation of the act, but also whether the defenses available under the act are present in the particular matter. This frequently necessitates the checking of competitive prices and pricing policies and of undertaking cost studies in cooperation with the parties charged with violations. The Complications of this work continue to require special attention and more exhaustive investigations than are necessary for some of the other classes of Commission cases.

Members of the public, through the cooperative efforts of the Commission, have become more familiar with the act, its scope and objectives. Experience in the administration of the act has made it possible through the development of certain information by preliminary inquiry more readily to clear up misunderstandings among the public as to the scope of the act and its application to specific situations, as well as to make a more accurate selection for investigation of matters involving probable merit. There has been an increasing effort, in view of limited funds and personnel available, to confine investigations, insofar as feasible, to matters of substantial importance, and to eliminate the expenditure of time and money in the investigation of matters which preliminary inquiry discloses to be of little practical importance and in which further procedure would serve no public interest.

During the year ended June 30, 1941, the Commission, through its legal investigational division, instituted field investigations of alleged violations of this statute in 79 cases and completed such investigations in 145 cases. At the beginning of the year there had been 230 such matters on hand for investigation, and at the close of the year 164. As in previous years, the administration of the statute has touched widely varied fields of industry and commerce and involved many classes of commodities. Frequently, an investigation of one member of an industry requires similar investigations of other members of the same industry, in order to accomplish equitable and effective correction. The proceedings of the Commission and the decisions of the Courts on these proceedings have served as useful sign posts for members of industries in determining their pricing and distribution policies. It is apparent that these guides have been beneficial both in effecting the voluntary elimination of unlawful or doubtful practices before they became the subjects of investigation, and in discouraging the inception of such practices.

### **CLAYTON ACT, SECTION 3**

This section makes it unlawful to lease, sell or contract to sell commodities, or fix a price charged therefor, or discount from, or rebate upon, such price, on condition that the lessee or purchaser shall not

use or deal in the commodities of a competitor of the lessor or seller, where the effect may be substantially to lessen competition or tend to create a monopoly in any line of commerce. The investigations and proceedings under section 3 of the Clayton Act continue to be of substantial importance.

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

Under section 7 of the Clayton Act, it is declared unlawful for any corporation engaged in commerce to 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.

Authority to enforce compliance with Section 7 of the Clayton Act is vested in the Federal Trade Commission where applicable to all character of business other than that concerning common carriers subject to the jurisdiction of the Interstate Commerce Commission and Federal Communications Commission, air carriers subject to the jurisdiction of the Civil Aeronautics Authority, and banks and trust companies subject to the jurisdiction of the Federal Reserve Board.

During the fiscal year the Commission considered 10 preliminary matters of acquisition, merger or consolidation under section 7 of the Clayton Act, 5 of which had been pending at the beginning of the year. These matters involved corporations engaged in the manufacture and sale of quebracho extract (a material used in the tanning of leather); decorative lighting equipment; compressed gases; the compressing and storage of cotton; the production and sale of sheet music; the designing, sale and erection of coke ovens for the recovery of by-products of coke; and the factorage and refining of sugar. Seven of these matters were disposed of by the Commission during the year, four having been closed because investigation failed to indicate violation of law. One was docketed as an application for complaint and two were placed on the suspense calendar for future consideration. Three informal matters were pending at the close of the year.

No complaints charging violation of Section 7 of the Clayton Act were issued or disposed of during the year.

### **PRICE FIXING AND OTHER TRADE RESTRAINTS**

One of the fundamental purposes behind the passage of the Federal Trade Commission Act in 1914 was to establish an agency which would detect and eliminate illegal trade restraints in their incip-

iciency, before they developed into monopolies. The importance of this phase of the Commission's work is indicated by the fact that at the beginning of the fiscal year, July 1, 1940, its calendar included 118 cases of this type, either awaiting investigation or in the process of being investigated. During the year, 91 new cases were instituted, making a total of 209 restraint-of-trade cases on its calendar during the fiscal year. During the same period, 122 investigations of this type were completed by the legal investigation staff and the files were forwarded to the Commission for its consideration and disposition, leaving 87 cases pending on the Commission's active investigational calendar as of June 30, 1941.

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

The following general classifications of commodities involved are given to convey an idea of the widespread nature of the restraint-of-trade investigations: Aeronautical equipment and supplies; agricultural supplies; automotive equipment and supplies; beauty and barber supplies; beverages; bottle tops; clothing, cloth, notions, etc.; confectionery; construction materials and supplies; containers; dental equipment and appliances; drugs, chemicals, and pharmaceuticals; electrical equipment and appliances; fertilizers; flaxseed; food products; footwear and accessories; fuel; golf clubs and equipment; hospital and surgical supplies; household wares, furnishings, and equipment; ice; lumber and lumber products; machinery, tools, and equipment; metal and metal products; minerals and mineral fibers; office supplies and equipment; paint, varnish, etc.; paper and paper products; photographic supplies and optical goods; plans and blueprints; printing and engraving; publications; razors and accessories; restaurant equipment and supplies; rubber and rubber products; silverware; technical instruments and parts; textile fabrics; tobacco; vegetable fibers; Vegetable oil; vending machines; and vitrified products.

In addition to the original investigations undertaken during the year, there have been 31 matters completed which involved formal docketed cases. These were referred to the legal investigating division on recommendation of the Chief Counsel or directly by the Commission for supplemental work, and consisted of a variety of matters, many of which required complete investigation to determine whether or not cease and desist orders previously issued by the Commission were being violated. Investigations of this nature are as extensive as those made in the original development of a case and in some instances more difficult. At the close of the fiscal year there were 4 cases of this nature pending on the investigational calendar.

Of the 209 restraint-of-trade investigations which were active during the last fiscal year, 27 resulted from applications for complaint filed by governmental agencies (Federal, State, or municipal), and 35 were initiated by the Commission on its own motion. A few applications for complaint came from various miscellaneous sources, but the majority continued to come from individuals and concerns whose business was being jeopardized by the alleged unfair and illegal practices against which complaint was made. The group last mentioned was responsible for 139 of the applications for complaint filed with the Commission.

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

The Wheeler-Lea amendment to the Federal Trade Commission Act of March 21, 1938, greatly enlarged the preexisting need for medical and other scientific and expert opinion and evidence. This was met in part by the establishment within the Commission of a Medical Advisory Division (see p.141). Also in conducting field investigations the Chief Examiner's Division has covered a wide range of public and private sources of expert knowledge. Full use has been made by the Commission of the facilities offered by other departments of the Government and Federal agencies including the United States Public Health Service, the National Bureau of Standards, the Food and Drug Administration, and the Department of Agriculture's bureaus relating to agricultural chemistry, entomology, plant industry, animal industry, dairy industry, and home economics. In addition, assistance has been received from State, municipal, and commercial laboratories and clinics and various medical and other scientific bodies throughout the country and willing and valuable cooperation from individual members of the medical profession and other scientists. Samples and formulas of medicines and other commodities have been obtained and submitted to

these various agencies for analysis and expert opinion to assist in determining the accuracy or otherwise of claims made by advertisers. Special attention has been given to therapeutic representations made concerning, and pharmacological actions of, medicinal preparations, the use of which might be injurious to the user. Similarly consideration has been given to devices also likely to be injurious to health.

Since enactment of this amendatory legislation the legal investigational division has completed 1,412 field investigations of alleged violations of section 12 of the Federal Trade Commission Act, which relates to false advertising of food, drugs, devices, and cosmetics. Of these, 421 were completed during the fiscal year ended June 30, 1941. 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 law.

The legal investigational division had under investigation at the year's close a total of 192 applications for complaint respecting alleged false advertising of foods, drugs, devices, and cosmetics. Of this number, 22 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 contends that the facts are other than the investigation discloses, then the matter is not subject to stipulation and the proper 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. 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 Commission 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 532 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, 1941. These included 298 general cases and 234 cases pertaining specially to radio and periodical advertising matter (See p.136).

## **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, 1941, the Commission issued complaints charging violation of the acts it administers, as follows:

	Complaints
Federal Trade Commission Act	300
Clayton Act	57
Total	357



**I. COMPLAINTS UNDER THE FEDERAL TRADE COMMISSION ACT****A. SUPPRESSION OF PRICE COMPETITION AND OTHER ALLIED  
RESTRAINTS  
OF 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)

**1. COMBINATIONS TO FIX AND MAINTAIN PRICES**

Eleven complaints were issued charging combination and conspiracy in restraint of trade among members of certain industries to fix minimum prices and maximum discounts from list at which their products were to be sold. A brief description of the complaints follows:

*Plate glass distributors and contractors.*--This complaint charges a group of nine glazing distributors and contractors in the New Orleans area with fixing and maintaining prices at which glass is sold to the retail trade and consumers in that area. (For further details see order to cease and desist, p.75.) (4304.)

*Salt producers association.*--The complaint charges a salt producers association, 20 salt producers, and a business management and engineering corporation, with entering into a combination and conspiracy to suppress and eliminate price competition in the sale of salt, by fixing and maintaining uniform prices, terms and conditions of sale, establishing a national system of zones to aid in the fixing of such prices, and agreeing to curtail production of salt. It was alleged that, pursuant to agreement, they exchanged price lists, invoices, and other similar information in connection with such fixing of prices, discounts, terms and conditions of sale. (4320.)

*Association of manufacturers of office supplies.*--A trade association representing practically all manufacturers of pins, paper clips, and fasteners, and five representative manufacturers, were charged with entering into a combination and conspiracy to fix and maintain prices and prevent competition in the sale of such office supplies. (4351.)

*Association of wire rope manufacturers.*--A trade association, and 16 member companies controlling 95 percent of the country's production of wire rope, were charged with combination and conspiracy to eliminate price competition by fixing and maintaining uniform delivered prices, terms and conditions, in the sale of wire rope in the United States. The complaint alleges that the respondents maintain a zone system, whereby identical delivered prices are calculated to prevent competition; that the respondents, pursuant to agreement, require distributors of their products to resell them according to a fixed formula; that they agree as to the definition of what constitutes a recognized distributor and will not sell a distributor who is considered as not coming within the definition. (4443.)



*Statistical bureau and manufacturers of milk bottle caps.*--An organization known as a statistical bureau and 12 manufacturers representing more than 75 percent of the total business of the paper disc milk bottle cap industry, were charged with a Conspiracy to prevent price competition and to restrain trade, by arranging fixed minimum prices and maintaining uniform prices and discounts and other conditions of sale, to dairies and other consumers. It Was alleged that the respondents, in carrying out their conspiracy, exchanged copies of invoices Showing prices, discounts and terms of sale. (4448.)

*Associations of steel conduit manufacturers and distributors.*--Three trade associations and their officers and members were charged with entering into a combination and conspiracy to suppress price competition in the sale of rigid steel conduit by fixing and maintaining delivered prices based on a price basing point system whereby delivered price quotations of the various manufacturers and sellers have been uniform and identical at any given destination. (4452.)

*Manufacturer and wholesalers of beauty parlor and barber supplies.*--A New York manufacturer and three Washington, D.C., wholesalers and jobbers of beauty parlor and barber supplies were charged with entering into an agreement and conspiracy to restrain competition by fixing prices in Washington and nearby areas of Virginia and Maryland. (4470.)

*Shippers and jobbers of spinach.*--Four Walla Walla, Wash., shippers, four Chicago jobbers, and a Minneapolis broker operating through a Chicago branch, were charged with conspiracy to fix prices in connection with the sale of broadleaf spinach, a distinctive variety grown exclusively in the Walla Walla region and handled only by the respondent shippers. It was alleged that by agreement all of the respondent shippers send their pack of this type of spinach to the respondent jobbers exclusively through the respondent broker-age firm, and the respondent jobbers fix the prices to dealers in Chicago, resulting in a monopolization of such business and enhancing the retail price of the products in Chicago and the surrounding area. (4487.)

*Institute of tag manufacturers.*--A trade organization and 31 member companies engaged in the manufacture and sale of tags, pin tickets, and similar marking devices, representing a majority of the manufacturers of such products, were charged with entering into a combination and conspiracy to restrict and eliminate price competition of such products by fixing and maintaining uniform prices, terms and conditions of sale for their products. (4496.)

*Club of commercial printing companies.*--A trade organization and 14 member commercial printing companies in Charlotte, N. C., were charged with entering into and carrying out a combination and con-

spiracy to suppress competition by fixing and maintaining uniform prices and discounts in the interstate sale of printed products. (4517.)

*Law book publishers and distributors.*--Twenty-eight leading publishers and distributors of law books were charged with engaging in a combination to suppress and restrain competition by entering into agreements to fix and establish prices, terms, conditions, and discounts governing the sale and resale of law books and other legal publications. (4526.)

## **2. AGREEMENTS IN RESTRAINT OF TRADE, BOYCOTT AND REFUSAL TO SELL**

Six complaints were issued charging combination and conspiracy in restraint of trade, among members of certain industries. Methods used were boycott and interference with the sources of supply of competitors. -A brief description of the complaints follow:

*Producers and distributors of lecithin.*--Seven American and foreign producers and distributors of lecithin, a natural Organic substance used in the manufacture of food, candy, rubber, leather, and petroleum products, were charged with combination and conspiracy to suppress competition by the American group confining their business to the United States, its possessions, and Canada, and the foreign concerns engaging in business elsewhere. Other alleged practices included the assignment of patent rights, joint management; entering into exclusive dealing contracts, disparagement of the products of competitors and certain misrepresentations of their own products as well as those of competitors. (For further details see order to cease and desist, p.76.) (4173.)

*Associated fur coat and trimming manufacturers.*--A trade association and its members were charged with combining and conspiring to binder and suppress competition in the sale and distribution of fur coats and trimmings by establishing uniform discounts, refusing to sell or deliver their products on memorandum or consignment, and refusing to accept return of any products sold on memorandum or consignment, except in accordance with uniform arrangements. Compliance was alleged to have been enforced by means of fines, suspensions and expulsions from the association. (4308.)

*Candy and tobacco jobbers association.*--A trade association and its officers and members were charged with entering into a combination and agreement to restrain trade in the sale of candy, tobacco, and groceries in the Detroit area by agreeing among themselves as to who should enter or remain in such business, refusing to sell to those not so selected, and persuading and forcing jobbers, wholesalers and suppliers located in adjacent cities to refrain from making or soliciting sales in the Detroit area. (4321.)

*Association of cigarette vending machine distributors and operators.*--A trade association and five constituent associations composed of operators of automatic cigarette vending machines, their officers and directors, were charged with combining and conspiring to restrain competition by establishing in the members of such associations a monopoly in the operation of such machines. Among the methods alleged to have been used were: establishing the members of the respondent associations as a preferred class to whom only sales of the machines would be made; interfering with efforts of their competitors to purchase or otherwise obtain machines; and compelling manufacturers and distributors, by boycott and otherwise, to refrain from furnishing machines to their competitors. (4388.)

*Manufacturers and distributors of food service equipment.*--Various members of the food service equipment industry, comprising representatives of 75 or 80 of the country's leading dealers and manufacturers, were charged with entering into combinations and agreements to restrict competition in this industry by requiring all manufacturers of certain food service equipment to sell their products through association members and not directly to ultimate consumers, including hotels, restaurants, chain stores, and similar users. (4433.)

*Coal mine operators and distributors.*--A coal mining company of Pennsylvania and three coal dealers in Providence, R. I., were charged with entering into an agreement to control the sale of a certain type of coal in the Providence area by confining sales exclusively to the three dealers, the dealers designating one or more other anthracite coal dealers to whom the mining company should not sell. (4468.)

## **B. FALSE ADVERTISING AND MISREPRESENTATION**

A total of 219 complaints issued during the fiscal year ended June 30, 1941, charged false and misleading representations in advertisements and labels, and otherwise. They may be classified broadly as follows:

Ninety-six complaints alleged false and misleading representations as to the therapeutic value of various medicinal and food preparations and devices; 22 alleged misrepresentations as to the potency, performance, or results to be obtained by the use of various products; 22 charged misrepresentation as to composition, quality, ingredients, construction, or condition, including alleged misrepresentation of old products for new; 14 alleged that products were represented 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, furs, and steel blades. Eighteen complaints alleged passing off of domestic products as imported or of imported products as

domestic or of domestic products as manufactured in a locality nationally famous for the particular product. Nine of these involved the use of names simulating the names of oriental rugs to designate rugs made in this country by machinery. Eleven complaints charged misrepresentation of correspondence schools or home-study courses.

Nine 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. Nine complaints alleged use of fictitious price markings, or value, including in some instances also alleged misrepresentation as to the character of the product. Other complaints alleged misrepresentation of methods of doing business, value of coupons, and conditions under which coupons were redeemed; disparagement of competitor's product; the misrepresentation that the advertised product had been tested and approved by nationally known laboratories; intimidation by the false representation that a competitor's product was an infringement of copyright; misrepresentation of terms and conditions of purchase; of merchandise as gratuitous; of financial returns to agents; of profits to purchasers or representatives, equipment used, value of product and services to be rendered; misrepresentation through use of the term "free samples" and misrepresentation that the regular and usual selling price was a specially reduced price for a limited time; misrepresentation of the quantity of product by the use of oversize containers; misrepresentation through use of the name "University Press" that a business was owned by a university and operated a printing establishment; misrepresentation of character of business by the use of misleading trade names; of certain products as being exclusive, limited or restricted; misrepresentation by the appropriation and use of trade names of competitors, or nationally known manufacturers; and false representation of price, of guarantees and of ownership and operation of laboratories.

### C. MISCELLANEOUS COMPLAINTS

*Lotteries or gift enterprises.*--Sixty-six complaints charged either that manufacturers of, or dealers in, food products, wearing apparel, novelty merchandise, and various other articles of merchandise so packed or assembled their products that sales thereof were to be made by means of a game of chance or lottery, or that they supplied dealers with lottery devices for use in the sale of such merchandise to the public. Most of the complaints charged the sale of either candy or novelty merchandise.

*Alleged misleading use of names of nationally known organizations.*--Another complaint was against a publishing corporation, its subsidiary and its officers, alleging, among other things, that the

respondents, through their salesmen, represented that they were connected with, and that their books were published and sold by, a nationally known scientific institution and a nationally known patriotic organization; that the entire profits derived from the sale of the books accrued to the scientific institution and patriotic organization; that their sale was limited to a Small number of selected individuals in each community; and that the patriotic organization maintained a lobby in Washington, D. C., for the purpose of combating anti-American and subversive organizations. The complaint further alleged that in truth the books were not published and sold by the scientific institution and patriotic organization, and these organizations did not receive all the profits from their sale but only a royalty; that their sale was not limited to a few selected individuals in each community; and that the patriotic organization did not maintain a lobby for the purpose of combating un-American activities. It was also charged that the use of certain words in the corporate name of the subsidiary respondent in itself constituted false and misleading representations in that it simulated the name of a nationally known scientific institution. (4465.)

*Alleged unfair practices involving sale of water-colored photographic enlargements and miniatures as "paintings" and "oil paintings."*--A complaint was issued against 70 respondents charging, among other things, that they, pursuant to various understandings, agreements, combinations, and conspiracies, visited prospective customers in various parts of the country to sell the respondents' products, making various representations, among which were that they were engaged as advertising agents of an association of artists and that their products were "paintings," "hand-painted portraits" or "polychrome portraits" worth \$30 or a like amount. The complaint alleged that the respondents were not and never had been an art association but conducted a business enterprise; that the pictures sold by them were not portraits or paintings but cheap, quickly made photographic enlargements; and that the respondents' primary object was the sale of picture frames at exorbitant prices. (4522.)

*Alleged endorsement of product by fictitious disinterested agency.*--A complaint issued against a manufacturer and distributor of mattresses charged, among other things, that the respondent entered into an arrangement with an advertising or mailing agency by which the latter mailed to prospective purchasers advertising matter endorsing and recommending the respondent's mattresses, such advertising matter having been prepared and subscribed as if coming from good housekeeping and other women's clubs, which were in fact non-existent. (4483.)

## **II. COMPLAINTS UNDER THE CLAYTON ACT**

### **A. VIOLATION OF SECTION 2 (a) OF CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT**

Eleven complaints were issued which charged the sale of various commodities of like grade and quality to some buyers at different prices from those charged other buyers. The complaints alleged that the effect of such discriminations in price may be substantially to lessen competition or tend to create a monopoly in commerce, or to injure, destroy, or prevent competition with persons who either grant or knowingly receive the benefit of such discrimination, or with customers of either of them. Two of such complaints involve salt, one hardware, one yeast, four oil products, one rubber stamps, one automobile parts, and one textiles.

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

A total of forty-three complaints issued during the year charged violations of section 2 (c), commonly referred to as the brokerage section. Fourteen of these complaints were directed to sellers of merchandise alleged to be granting brokerage to buyers or intermediaries acting in fact for such buyers. Ten of the complaints were directed at the practices of field brokers accepting brokerage, on their own purchases or passing on brokerage to buyers, and in some instances, against both practices. Eight complaints were directed at the practices of resident commission buyers in New York City alleged to be engaged in the purchasing of furs and other goods and accepting brokerage from the sellers while acting in fact for the buyers.

Five complaints issued under this section charged wholesalers with receiving brokerage on their own purchases. Five complaints alleged the existence of dummy brokerage setups, and one complaint was directed at the practice of a merchandise broker accepting brokerage on his purchases. Most of these complaints have been disposed of and are referred to under the section relating to orders to cease and desist (pp.80, 81).

### **C. VIOLATION OF SECTION 2 (d) OF CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT**

One complaint charged a manufacturer of nurses' uniforms with the granting of advertising allowances to certain customers while not granting such allowances to other competing customers on proportionately equal terms. (4335.)

## **ORDERS TO CEASE AND DESIST**

### **UNFAIR TRADE PRACTICES PROHIBITED IN 346 CASES**

The Commission issued 348 orders to cease and desist from the use of unfair methods of competition and other violations of law during





the fiscal year ended June 30, 1941, as compared with 282 issued during the last preceding fiscal year. Two of the 348 orders were rescinded, additional pleadings were filed, and subsequently another order to cease and desist was entered in each of the 2 cases, making a total of 348 orders issued in 346 cases. One company was respondent in 2 separate proceedings, and orders were issued in each case, although the name appears only once in the following list:

### LIST OF RESPONDENTS

<i>Respondent</i>	<i>Location</i>
Acme Premium Supply Corporation Lottery: miscellaneous merchandise.	St. Louis.
Actino Laboratories, Inc., and others Passing off used competing equipment as new equipment: orthoptic instruments.	Chicago.
Air Conditioning Textiles, Inc Misrepresenting results effected: soap.	New York.
Air Conditioning Training Corporation, and others Misrepresenting instruction offered, cost of tuition, availability of positions, prospective earnings of students, and association with members of the Air Conditioning and Refrigeration Industry: correspondence school (air conditioning and refrigeration).	Youngstown, Ohio.
Algren Manufacturing Co., Inc Misrepresenting gold content: wrist watch buckles.	New York.
Allen Candy Co., W. C., Inc Lottery: candy.	Portland, Oreg.
Allred Brothers Candy Co Lottery: candy.	Charlotte, N. C.
Altman Neckwear Corporation Passing off merchandise not made by American Indians, as Indian handicraft; misrepresenting silk content and failing to disclose rayon content: neckties.	New York,
American Brokerage Co., Inc Price discrimination: food products.	Roanoke, Va.
American Cord & Webbing Co Misrepresenting silk and linen content and failing to disclose rayon content; falsely representing that all of the respondent's merchandise is dyed with "vat dyes" and that the color is impervious to the effects of sunlight: tape for Venetian blinds.	New York.
American Crayon Co Price discrimination: educational supplies.	Sandusky, Ohio.
American Drug & Chemical Co Misrepresenting therapeutic value: medicinal preparations.	Minneapolis
American Hair & Felt Co., and others Misrepresenting hair content; unduly disparaging competing products: rug underlays.	Chicago.



<i>Respondent</i>	<i>Location</i>
American Lead Pencil Co., and others Combining in restraint of trade: typewriter erasers.	Hoboken, N.J.
American Lecithin Co., Inc., and others  Combining in restraint of trade; falsely claiming merchandise has been endorsed by an agency of the Federal Government; unduly disparaging competing products: lecithin.	Elmhurst, Long Island, N.Y.
American Maize-Products Co Price discrimination: corn products.	New York.
American Medicinal Products, Inc., and others Misrepresenting results effected and failing to disclose harmful potentialities: flesh-reducing compounds.	Los Angeles.
American Plicrench Corporation Misrepresenting financial returns to agents: tools.	Chicago.
Anheuser-Busch, Inc Price discrimination: corn products.	St. Louis.
Apex Lamp Works Misrepresenting results and economies effected: lamp reflectors.	Brooklyn, N. Y.
Arlington Sales Co Lottery: miscellaneous merchandise.	Kansas City, Mo.
Arnold Shoe Co., M. N Using the word "alligator" to designate leather other than that made from alligator hide, and to describe certain leather finishes without a statement to the effect that the word refers to the "finish" only: shoes.	South Weymouth, Mass.
Art-Web Manufacturing Co., Inc., and others Passing off domestic merchandise as imported merchandise: wearing apparel.	Brooklyn, N. Y.
Associated News Photographic Service, Inc., and others Private photographers claiming to be press photographers: photographic prints.	New York.
Associates Sales Agency Lottery: miscellaneous merchandise.	Birmingham, Ala.
Atlantic Commission Co Price discrimination: fruits and vegetables.	New York.
Atlas Health Appliance Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: diathermy devices.	Los Angeles.
Augusta Knitting Corporation Misrepresenting silk and wool content: knitted wear.	Utica, N. Y.
Automatic Radio Manufacturing Co., Inc., and others Appropriating a favorably known name to designate the respondents' merchandise: radios and radio parts.	Boston.

<i>Respondent</i>	<i>Location</i>
Badger-Brodhead Cheese Co., and others Combining in restraint of trade: dairy products.	Monroe, Wis.
Bauer & Black Misrepresenting therapeutic value: devices and medicinal preparations for treatment of the feet.	Boston.
Basic Foods, Inc., and others Misrepresenting therapeutic value; using the word "doctor" or an abbreviation thereof in referring to a person who is not a doctor of medicine or to a product that was neither formulated nor approved by a doctor of medicine: medicinal and health food products.	Somerset, Pa.
Becker Cloak Co., Inc Passing off textile fabrics as peltries of fur bearing animals or as fur fabrics made from the wool of lambs of the Karakul breed; passing off domestic merchandise as imported merchandise as imported merchandise: wearing apparel.	New York.
Beeman's Laboratory, Inc., and others Misrepresenting therapeutics value and failing to disclose harmful potentialities: medicinal preparations.	Atlanta.
Belfast Packing Co Belfast, Maine. Price discrimination: canned sardines.	
Bell & Co., Inc Misrepresenting therapeutic value: medicinal preparations.	Orangeburg, N. Y.
Bellamy, Ethel, Inc Misrepresenting results effected: cosmetics.	Nutley, N.J.
Bemporad & Co., R. F., Inc., and others Using words and scenes suggestive of China and the Orient to designate merchandise not made therein and not possessing the true characteristics of Oriental merchandise; using the word "reproductions" to designate rugs that are not true counterparts of the type of rug simulated; passing off hooked rugs made elsewhere than in America, as American-made rugs: rugs.	New York.
Benton Announcements, Inc Passing off process printing as engraving: printed stationery.	Buffalo.
Bernard & Co., J. E., Inc Passing off reconditioned merchandise as new merchandise: spark plugs.	New York.
Bierhaus & Sons, E Lottery: candy.	Vincennes, Ind.
Binney and Smith Co Price discrimination: educational supplies.	New York.
Blanchard, Jane, Dr Misrepresenting therapeutic value and failing to disclose harmful potentialities; falsely representing that the respondent is a doctor of medicine: medicinal preparations.	Pittsburgh.



<i>Respondent</i>	<i>Location</i>
Blue Ribbon Candy Co., Inc., and others Lottery: candy.	Harlingen, Tex.
Booth Fisheries Corporation Price discrimination: canned sardines.	Chicago.
Bounds & Co., George A Price discrimination: canned vegetables.	Salisbury, Md.
Bowe & Hartman Misrepresenting therapeutic value: medicinal preparations	Toledo.
Brewster, Jefferson R., and others Misrepresenting therapeutic value and falsely claiming a laboratory is maintained: medicinal preparations.	Nashville.
Briarwood Corporation Lottery: cigarettes and smoking pipes.	Cleveland.
Brown, Wallace, Inc Mailing unordered, invoiced merchandise upon receipt of request for certain advertised free samples: greeting cards.	New York.
Burry Biscuit Corporation, and others Slack filling of containers: bakery products.	Elizabeth, N. J.
Burtley Co Misrepresenting results effected: an ointment designed to facilitate weight reducing.	New York.
Butler & Co., A. S Passing off reconditioned merchandise as new merchandise: fruit jars.	Chicago.
Camp, J. H., and others Misrepresenting therapeutic value: medicinal preparations.	Ravenswood, W. Va.
Canadian Fur Trappers Corporation, and others Passing off an American retail organization as a Canadian fur-trapping organization; passing off inferior skins as "Seal," "Beaver," "Broadtail," etc.: furs.	New York.
Candymasters, Inc Lottery: candy.	Minneapolis.
Capital Drug Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Roanoke, Va.
Capitol Building Supply Co., and others Combining in restraint of trade: building materials.	Milwaukee.
Carlton Mills Co., Inc Passing off textile fabrics as peltries of fur bearing animals or as fur fabrics made from the wool of lambs of the Karakul breed; failing to disclose rayon content: fabrics.	Philadelphia.
Carter Sales Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: a treatment for alcoholism.	Los Angeles.





<i>Respondent</i>	<i>Location</i>
Case & Sons Cutlery Co., W. R. Using words suggestive of The Boy Scouts of America to designate merchandise that is not standard equipment of the members of that organization: pocket knives.	Bradford, Pa.
Certane Co., and others Misrepresenting therapeutic value: hygienic preparations and appliances.	Los Angeles.
Cherry Co., A. T., and others Marking up: soap.	Dayton, Ohio.
Cherry Specialty Co. Lottery: candy.	Chicago.
Cheshill Manufacturing Co. Distributor claiming to be manufacturer and falsely claiming certain patents are held or pending: chain locks.	New York.
Chicago Thermo-Magnetic Cushion Co., and others Misrepresenting therapeutic value: electrified cushions.	Chicago.
Chilton Greetings Co. Mailing unordered, invoiced merchandise upon receipt of request for certain advertised free samples: greeting cards.	Boston.
Clark, Wallace G., and others Misrepresenting results effected: dentifrices.	Dallas.
Claro Laboratories, Inc., and others Misrepresenting results effected and failing to disclose harmful potentialities: depilatories.	South Bend, Ind.
Clayton Candy Co. Lottery: candy.	Phenix City, Ala.
Clito Co. Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	San Antonio.
Coal Carburetor Co., and others Misrepresenting results effected; falsely representing products have been endorsed by an agency of the Federal Government or by public health authorities: coal-saving devices.	New Brunswick, N. J.
Cohen's Cut Rate Drug Store, and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Charleston, W. Va.
Cohn, Julian S. Distributor claiming to be manufacturer: handkerchiefs.	New York.
Colonial Drug Co., and others Misrepresenting therapeutic value: medicinal preparations.	Tulsa, Okla.
Colonial Knife Co., Inc. Using words and picturizations suggestive of The Boy Scouts of America to designate merchandise that is not standard equipment of the members of that organization: pocket knives.	Providence, R. I.

<i>Respondent</i>	<i>Location</i>
Consolidated Book Publishers, Inc Passing off a commercial enterprise as an educational foundation; passing off a revised, reprinted edition of a 1932 English dictionary as a modern American edition printed from new plates; misrepresenting cost, size, and binding of the respondent's encyclopedia; falsely claiming that the publications have been sponsored by educational or beneficent institutions: encyclopedias and dictionaries.	Chicago.
Consolidated Sign Letter Co., Inc Misrepresenting gold content; passing off merchandise composed of lead and tinfoil, as silver; metal signs.	Do.
Consumers Bureau of Standards Passing off a commercial enterprise as an impartial, nonprofit organization adequately equipped for making scientific tests; inducing manufacturers and distributors to purchase or lend financial aid to the respondent's publications by threatening or implying that they or their products will be unfavorably listed therein: publications containing reports appraising or classifying merchandise and services.	New York.
Corn Underwear, Ralph, Inc Misrepresenting silk content and failing to disclose rayon content; distributor claiming to be manufacturer: wearing apparel.	Do.
Crazy Water Co., and others Misrepresenting therapeutic value: mineral water.	Mineral Wells, Tex.
Crook-Wallace Co Lottery: candy.	Vincennes, Ind.
Cumberland Candy Co., and others Lottery: candy.	Fayetteville, N. C.
Cup & Container Institute, Inc., and others Combining in restraint of trade: paper dishes.	New York.
Curtis Industries, Helene Distributor claiming to be manufacturer; misrepresenting results effected; representing a device that registers temperature, as a thermostatic device: permanent waving appliances.	Chicago.
D. D. D. Corporation Misrepresenting therapeutic value: medicinal preparations.	Batavia, Ill.
Deniston Co Misrepresenting efficacy and superiority over competing products: roofing nails.	Chicago.
Diamond Candy Co Lottery: candy.	Charlotte, N. C.
Diamond Cap Co Passing off reconditioned merchandise as new merchandise: caps.	Philadelphia.

<i>Respondent</i>	<i>Location</i>
Dixie Candy Co., Inc Lottery: candy.	Charlotte, N. C.
Douglas Candy Co Lottery: candy.	St. Joseph, Mo.
Drucquer & Sons Passing off a domestic organization and domestic merchandise as a foreign organization and foreign-made merchandise: tobacco products.	Berkeley, Calif.
Eastern Premium House, Inc Lottery: miscellaneous merchandise.	New York.
Eaula Candy Co Lottery: candy and novelty merchandise.	Columbia, S. C.
Edwin Cigar Co., Inc., and others Misrepresenting quality and prices; distributor claiming to be manufacturer; designating as Havana cigars without using the words "Blended with Havana" in immediate conjunction there with, cigars composed of Cuban tobacco in substantial part only; using words suggestive of England to designate a domestic organization and passing off domestic merchandise as imported merchandise: tobacco products, books, and miscellaneous merchandise.	New York.
Electrical Laboratories, Co., Inc Misrepresenting results effected: radio apparatus.	Do.
Electrolysis Associates, Inc., and others Misrepresenting results effected and failing to disclose harmful potentialities: a device for the electrolytic removal of superfluous hair by self-application.	Do.
Elite Specialties, Inc., and others Misrepresenting financial returns to purchasers; falsely representing that the respondents furnish purchasers exclusive locations and sales territory and refund money or resell merchandise in case of dissatisfaction: nuts and nut display warmers.	Indianapolis.
Ely & Walker Dry Goods Co Misrepresenting wool and camel's hair content and failing to disclose rayon content: wearing apparel.	St. Louis.
Empire Monument Co Passing off cast stone as natural marble or granite; misrepresenting durability: monuments.	Atlanta.
Empire State Candy Co Lottery: candy.	Athens, Ga.
Empire Style Designers League, Inc., and others Combining in restraint of trade: designs and patterns for fur coats.	New York.
Erie Laboratories, Inc., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Cleveland.

<i>Respondent</i>	<i>Location</i>
Ethel's Candy & Sales Co., Inc Lottery: candy.	Atlanta.
Eucozone Laboratories, Inc., and others Misrepresenting therapeutic value: antiseptic oil.	Detroit.
Evans Novelty Co., and others Lottery: miscellaneous merchandise.	Chicago.
Fairfacts Co Distributor claiming to be manufacturer: porcelain bathroom accessories.	Trenton, N. J.
Farmers Vaccine & Supply Co Misrepresenting results effected: cattle vaccine.	Kansas City, Mo.
Fink & Co., Inc Misrepresenting therapeutic value and results effected: medicinal preparations and cosmetics.	New York.
Firestone Tire & Rubber Co Misrepresenting percentages of savings in connection with special sales; quoting enhanced prices as regular prices: automobile tires and tubes.	Akron, Ohio.
Frank & Co., S. M., Inc., and others Lottery: miscellaneous merchandise.	New York.
Fredmorr, Inc., and others Lottery: miscellaneous merchandise.	Do.
Fresh Grown Preserve Corporation, and others Passing off a product containing less than 45 pounds of fruit to 55 pounds of sugar, as a preserve: imitation preserves.	Lyndhurst, N. J.
Frey Co., Parker T., and others Price discrimination: food products.	Philadelphia.
Friedman & Sons, S., and others Misrepresenting cashmere content: knitting yarns.	New York.
Fulton Co., John J Misrepresenting therapeutic value: medicinal preparations.	San Francisco.
G-H-R Electric Dilator Co., and others Misrepresenting therapeutic value: electric dilators and electric hygienic devices.	Grand Rapids.
Gemson, Harry Misrepresenting camel's hair content: fabrics.	New York.
General Grocer Co Price discrimination: food products.	St. Louis.
General Merchandise Co Lottery: miscellaneous merchandise.	Milwaukee.
General Motors Corporation, and others Misrepresenting prices by featuring the cost of a low-priced car or one without standard equipment in conjunction with the description or picturization of a fully equipped and/or a higher priced car; quoting as a retail price one that does not include all incidental charges except transportation and failing to direct attention to additional tax charges in connection therewith: automobiles.	Detroit.



<i>Respondent</i>	<i>Location</i>
George, Nick A., and others Misrepresenting therapeutic value medicinal preparations.	Casper, Wyo.
Gland Estemeter Corporation, and others Misrepresenting efficacy: diagnostic machines.	Chicago.
Gluck & Co., Joseph, Inc Using words and picturizations suggestive of the Orient to designate merchandise not made therein and not possessing the true characteristics of Oriental merchandise: rugs.	New York.
Gly-Cas Medicine Co., and others Misrepresenting therapeutic value: medicinal preparations.	Muncie, Ind.
Gold Star Novelty House Lottery: miscellaneous merchandise.	New York.
Goodrich Co., B. F Misrepresenting percentages of savings in connection with special sales; quoting enhanced prices as regular prices: automobile tires and tubes.	Akron, Ohio.
Goodyear Tire & Rubber Co Misrepresenting percentages of savings in connection with special sales; quoting enhanced prices as regular prices: automobile tires and tubes.	Do.
Gordon Foods, Inc Lottery: nuts.	Atlanta.
Gordon-Gordon, Ltd., and others Misrepresenting results effected; using the word "food" to designate merchandise that has no nourishing qualities; representing that face powder containing orris root will irritate the skin of users not allergic to orris root: cosmetics.	Chicago.
Grand Rapids Exchange, Inc., and others Dealer claiming to be manufacturer; representing that Grand Rapids merchandise is handled exclusively: furniture.	Brooklyn, N. Y.
Group Sales Corporation Passing off surplus stock, samples, and seconds as new merchandise from nationally known manufacturers: silk and rayon fabrics.	New York.
H & D Sales Co., and others Lottery: miscellaneous merchandise.	Knoxville.
H. & L Candy Co Lottery: Candy.	Marshville, N. C.
Hagn Co., Joseph Lottery: miscellaneous merchandise.	Chicago.
Hall & Ruckel, Inc	Brooklyn, N. Y.

Misrepresenting results effected and failing to disclose harmful potentialities: depilatories.

<i>Respondent</i>	<i>Location</i>
Hall, E. W Misrepresenting therapeutic value: medicinal preparations.	St. Louis.
Hamilton Ross Factories, Inc Distributor claiming to be manufacturer; misrepresenting silver content: cutlery, china, glass, and silver plated ware.	Chicago.
Hardwood Charcoal Co., and others Combining in restraint of trade: hardwood charcoal.	Memphis.
Harrison Candies, Helen, Inc Lottery: candy.	Chicago.
Hartig Drug Co., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Dubuque, Iowa.
Health Ray Manufacturing Co., Inc Misrepresenting therapeutic value and failing to disclose harmful potentialities: health lamps.	Deep River, Conn.
Hearst Magazines, Inc Using or authorizing the use of emblems of approval or merit on merchandise which has not been tested by the respondent to determine whether advertised claims are justified; representing that all merchandise advertised in the respondent's publications is guaranteed by the respondent, without specifying the limitations of the guaranty: emblems and guaranties implying investigation and approval of commodities and services.	New York.
Hills Brothers Co., and others Combining in restraint of trade: dates.	Do.
Hoffman, L Passing off imitation or split leather products tooled in artificial gold, as leather and top grain leather tooled in genuine gold leaf; using picturizations of superior, competing merchandise as representative of the respondent's merchandise: desk pads.	Do.
Holmes Packing Corporation Price discrimination: canned sardines.	Eastport, Maine.
Holtz, Jacob, and others Lottery: miscellaneous merchandise.	New York.
Hoosier Candy Sales Co Lottery: Candy.	Indianapolis.
Home Diathermy Co., Inc Misrepresenting therapeutic value: diathermy devices.	New York.
House of Crane Lottery: tobacco products, candy, and miscellaneous merchandise.	Indianapolis.



<i>Respondent</i>	<i>Location</i>
House of Royalsun Misrepresenting silk and wool content and failing to disclose rayon content; misrepresenting staff and equipment: fabrics and knitting yarns.	New York.
Howard Sales Co., and others Misrepresenting gold content; quoting enhanced prices as regular prices; representing that products are repaired free, when charges are made in excess of those for handling, postage, and insurance: pencils and fountain pens.	Newark, N. J.
Hubinger Co Price discrimination: corn products.	Keokuk, Iowa.
Husco Manufacturing Co., and others Lottery: miscellaneous merchandise.	Atlanta.
Hy-Phen Corporation Misrepresenting therapeutic value: medicinal preparations.	Matoaka, W. Va.
Hy-Test Cement Co Violating established rules by disclosing the identity of the respondent's product in connection with a research investigation conducted by the U.S. Bureau of Standards, and using a report of an agency of the Federal Government or an employee thereof, for publicity purposes: masonry cement.	Philadelphia.
Ideal Candy Novelties Co., Inc., and others Lottery: candy and miscellaneous merchandise.	Brooklyn, N. Y.
Imperial Knife Co., Inc Providence, RI. Using words and picturizations suggestive of The Boy Scouts of America to designate merchandise that is not standard equipment of the members of that organization: pocket knives.	
Industrial Plants Corporation Misrepresenting nickel content: pliers and wrenches.	New York.
Interstate Bakeries Corporation, and others Combining in restraint of trade: bakery products.	Kansas City, Mo.
Interwoven Stocking Co Passing of domestic merchandise as imported merchandise: hosiery.	New Brunswick, N. J.
Jacobs Candy Co., Inc Lottery: candy.	New Orleans.
Johnston Co., Robert A Lottery: candy.	Milwaukee.
Jones & Co., Howard E., and others Price discrimination: food products.	Baltimore.
Jonesport Packing Co Price discrimination: canned sardines.	West Jonesport, Maine.
Jordan Stevens Co Lottery: coffee.	Minneapolis.

<i>Respondent</i>	<i>Location</i>
Junior League Lingerie, Inc Using the words "Junior League" in trade name of a commercial enterprise not sponsored by the "Association of Junior Leagues of America, Inc.": wearing apparel.	New York.
Kant-Slip Manufacturing Co Misrepresenting results effected: belt dressing.	Chicago.
Kastor & Bros., Adolph, Inc Using words and picturizations suggestive of The Boy Scouts of America to designate merchandise that is not standard equipment of the members of that organization: pocket and sheath knives.	New York.
Kongo Chemical Co., Inc Misrepresenting results effected and failing to disclose harmful potentialities: preparations for straightening the hair.	Do.
Kuhn Remedy Co Misrepresenting therapeutic value and failing to disclose harmful potentialities; using the word "Remedy" in trade name and to designate preparations that do not constitute cures: medicinal preparations.	Chicago.
Lambert Pharmacal Co - St. Louis. Price discrimination: antiseptic mouth washes.	
Lay & Co., H. W., Inc Lottery: nuts.	Atlanta.
Lessing Hat Co., Inc., and others Passing off reconditioned merchandise as new merchandise: hats.	New York.
Loughran, Tommy Misrepresenting results effected: correspondence school (physical culture).	Philadelphia.
Lo-Well Pencil Co., and others Misrepresenting quality and prices of merchandise and value of premiums offered to induce its purchase: pencils and miscellaneous merchandise offered as premiums.	New York.
Luxor, Ltd Discriminating in the services furnished customers: cosmetics.	Chicago.
M & M Bag & Suit Case Co Passing off buffalo leather as walrus leather: luggage.	Jersey City, N. J.
Maf Hat Works, Inc., and others Newark, N. J. Representing that products made in whole or in part from used merchandise are new or are composed of new materials: hats.	
Macher Watch & Jewelry Co., and others New York. Retail dealer claiming to be wholesale dealer; Passing off nonprecious stones as precious stones: jewelry, silverware, and electrical appliances.	

<i>Respondent</i>	<i>Location</i>
Machiasport Canning Co Price discrimination: canned sardines.	Machiasport, Maine.
Mahler Co., D. J., Inc East Misrepresenting results effected and failing to disclose harmful potentialities: devices for the electrolytic removal of superfluous hair by self-application.	Providence, R. I.
Manchester Silver Co., and others Quoting enhanced prices as regular prices; distributing to dealers price lists quoting enhanced prices, for use in promoting "special sales": silverware.	Providence, R. I.
Maple Lawn Poultry Farm, and others Passing off chicks from eggs produced by flocks that have not been culled or blood-tested, as products of healthy, blood-tested, culled flocks supervised by the respondents: baby chicks.	McAlisterville, Pa.
Marlborough Sales Co., Inc., and others Marking up; simulating trade dress of competing products; slack filling of containers; falsely representing that merchandise is manufactured under the supervision of someone possessing special knowledge of dental hygiene and pharmacology: dentifrices and cosmetics.	New York.
May's Cut Rate Drug Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Clarksburg, W. Va.
May's Cut Rate Drug Co. of Charleston Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Charleston, W. Va.
McAfee Candy Co., and others Lottery: candy.	Macon, Ga.
Meadors Manufacturing Co Lottery: candy and nuts.	Greenville, S. C.
Mendoza Fur Dyeing Works, Inc Passing off domestic designs and merchandise as imported designs and merchandise; passing off an award for the imitation of certain furs, as an award indicating superiority in a competitive display of fur garments: dyed and processed furs and patterns for fur garments.	New York.
Merrick National Co., and others Lottery: candy.	Minneapolis.
Meyers Co., M. J. & H. J., Inc Simulating trade name and trade dress of competing merchandise; passing off merchandise made elsewhere than in England, as English merchandise: tablesauce.	New York.

<i>Respondent</i>	<i>Location</i>
Michigan Merchandising Co Misrepresenting financial returns and services required of agents; exacting payment for merchandise furnished agents, under the guise of holding a sum of money as a temporary bond; misrepresenting manufacturer and guaranties on merchandise: electric water heaters.	Pontiac, Mich.
Middle West Supply Co., and others Using the words "premium," "prize," or "free" to designate merchandise that is given in return for services or money; quoting enhanced prices as regular prices: flower seeds and cosmetics.	St. Charles, Ill.
Miller Drug Co Misrepresenting results effected and failing to disclose harmful potentialities: flesh reducing compounds.	Rochester, N. Y.
Minetree Brokerage Co Price discrimination: food products.	Poplar Bluff, Mo.
Modern Hat Works Representing that products made in whole or in part from used merchandise are new or are composed of new materials: hats.	Jersey City, N. J.
Monarch China Co Distributor claiming to be manufacturer; quoting regular prices as reduced prices; displaying as samples, merchandise superior to that furnished: earthenware.	Atlanta.
Morris & Co., Philip, Ltd., Inc Passing off domestic merchandise as imported merchandise; falsely representing factories or warehouses are operated in foreign cities: cigarettes.	New York.
Muller & Co., E. B., and others Price discrimination; selling below cost where suppression of competition or creation of a monopoly may result; representing color that is produced by artificial coloring agents is achieved by the method of roasting; unduly disparaging competing products: chicory.	Port Huron, Mich.
National Converters Institute, and others Combining in restraint of trade: cellulose products.	Chicago.
National Distributors, and others A private enterprise claiming to be functioning under the direction of the Federal Government and to be selling merchandise the use of which is compulsory: income tax accounting systems.	Mt. Rainier, Md.
National Institute, Inc., and others Misrepresenting availability of positions, prospective earnings of students, and association with Diesel engine manufacturers: correspondence school (Diesel engines).	Muncie, Ind.

<i>Respondent</i>	<i>Location</i>
National Premium Co., and others Lottery: miscellaneous merchandise.	Chicago.
National Proprietaries, Inc Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Do.
National Standard Parts Association, and others Combining in restraint of trade: automobile accessories.	Detroit.
Neo-Vim Co., and others Misrepresenting therapeutic value and results effected: medicinal preparations and dentifrices.	Columbus, Ohio.
New Method File Grinders, Inc., and others Passing off reconditioned merchandise as new undamaged merchandise or as new merchandise that has been damaged: files.	Chicago.
New York Premium Novelty Co Lottery: miscellaneous merchandise.	New York.
North Lubec Manufacturing & Canning Co Price discrimination: canned sardines.	North. Lubec, Maine.
Novelty Premium Co Lottery: miscellaneous merchandise.	Philadelphia
Nu-Way Manufacturing Co Representing that an article has been approved. by Underwriters Laboratories, when no such approval has been given or only a part of the product has been so approved; misrepresenting prices and financial returns to agents; representing as free, merchandise that is given in return for money or service: electric water heaters.	Des Moines.
Omega Electrolysis Institute, and others Misrepresenting results effected and failing to disclose harmful potentialities: devices for the electrolytic removal of superfluous hair by self-application.	New York.
Park, Philip R., Inc Misrepresenting therapeutic value: medicinal preparations.	San Pedro, Calif.
Parr Sales Co Price discrimination: food products.	Vidalia, Ga.
Pascal Co., Inc Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Seattle.
Patent Specialties Co Misrepresenting construction and efficacy; using the word "free" to designate merchandise regularly included in a combination offer: electric welding devices and welding supplies.	New York.
Peacock Canning Co., R. J Price discrimination: canned sardines.	Lubec, Maine.
Pelican State Candy Co., and others Lottery: candy.	New Orleans.

<i>Respondent</i>	<i>Location</i>
Pemick & Ford, Ltd., Inc Price discrimination: corn products.	New York.
Petalskin Toiletries, Inc Misrepresenting composition and results effected: cosmetics.	Do.
Peterson Core Oil & Mfg. Co., and others Misrepresenting plant and facilities and falsely representing that branch offices are maintained in various cities: core oil.	Chicago.
Pharmacal Co., J. R. Misrepresenting therapeutic value; representing that products have been approved by leading health authorities: medicinal preparations.	Chester, Pa.
Phillips Card Co Mailing unordered, invoiced merchandise upon receipt of request for certain advertised free samples: greeting cards.	Newton, Mass.
Phillips Chemical Co., Charles H Misrepresenting ingredients and results effected: cosmetics.	New York.
Piccadilly Hosiery Mills, and others Distributor claiming to be manufacturer: hosiery.	Philadelphia.
Pierre Chemical Co., Dr Misrepresenting therapeutic value: medicinal preparations.	Chicago.
Pine Hill Lime & Stone Co., and others Combining in restraint of trade; collusive bidding; establishing and maintaining a basing point system: chemical, building, and agricultural lime.	Pine Hill, Ky.
Pioneer Specialty Co., and others Lottery; distributor claiming to be manufacturer: candy.	Brooklyn, N. Y.
Pittsburgh Cut Rate Drug Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	McKeesport, Pa.
Pittsburgh Plate Glass Co., and others Combining in restraint of trade: glass.	Memphis.
Plat-Num Perl Laboratories Misrepresenting results effected: cosmetics.	New York.
Plomb Tool Co Lottery: tools.	Los Angeles.
Popper & Klein, and others Passing off imported merchandise as domestic merchandise: microscope cover glasses.	New York.
Premium Candy Co Lottery: candy.	Fayetteville, N. C.
Primfit Textile Co Distributor claiming to be manufacturer; falsely claiming that certain of the respondent's merchandise is the original garterless sock: men's hosiery.	Cincinnati.



<i>Respondent</i>	<i>Location</i>
Primrose House, Inc., and others Misrepresenting results effected: cosmetics.	New York.
Progressive Medical Co., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations and weight reducing compounds.	Chicago.
Pronto File Corporation Quoting regular prices as reduced prices: steel filing cabinets.	New York.
Prostex Co Misrepresenting therapeutic value: medicinal preparations.	Miami, Okla.
Purex Corporation, Ltd Misrepresenting results effected and quantity necessary for an adequate solution: disinfectants and germicides.	Southgate, Calif.
Queen City Candy Co., Inc Lottery: candy.	Charlotte, N. C.
R. E. Engineers Misrepresenting results effected: devices alleged to augment radio tubes.	Cincinnati.
Rabhor Corporation Misrepresenting silk content and failing to disclose rayon content: wearing apparel.	New York.
Ramsdell Packing Co Price discrimination: canned sardines.	Rockland, Maine.
Raphael, Sol, Inc Using words and picturizations suggestive of China and the Orient to designate merchandise not made therein and not possessing the characteristics of Oriental merchandise: rugs.	New York.
Reaburn & Co., C. G Price discrimination: food products.	Roanoke, Va.
Reed's Cut-Rate Store, and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Clarksburg, W. Va.
Reliable Sales Service Co Distributing lottery devices: sales promotion cards.	Philadelphia.
Reliance Jacket Co Minneapolis. Lottery: wearing apparel and miscellaneous merchandise.	Chicago.
Reva Co Misrepresenting results effected and failing to disclose harmful potentialities: hair dyes.	Chicago.
Revigator Corporation, and others Misrepresenting results effected: preparations and devices for treating the hair.	Cleveland.
Rex Merchandise Corporation of America, and others Marking up: cosmetics.	New York.
Roberts & Co., Thomas Philadelphia. Price discrimination: food products.	



<i>Respondent</i>	<i>Location</i>
Robinson & Co., W. E., Inc Price discrimination: food products.	Bel Air, Md.
Robinson Clay Product Co. of New York, and others Combining in restraint of trade: building materials and vitrified sewer pipe.	New York.
Royal River Packing Corporation Price discrimination: canned sardines.	Yarmouth, Maine.
Ru-Ex Co Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	St. Paul.
Ruff & Son, H. M Price discrimination: food products.	York, Pa.
Ruth Gowns, Inc Failing to disclose rayon content: wearing apparel.	New York.
S & K Sales, Inc Lottery: miscellaneous merchandise.	St. Louis.
Sales Promoting Co Lottery: miscellaneous merchandise.	New York.
San Pedro Fish Exchange, and others Combining in restraint of trade: sea food.	San Pedro, Calif.
Sanders Manufacturing Co Lottery: miscellaneous merchandise.	Nashville.
Scholl Manufacturing Co., Inc Misrepresenting therapeutic value: devices for treating the feet.	Chicago.
Schrade Cutlery Co Using words and picturizations suggestive of The Boy Scouts of America to designate merchandise that is not standard equipment of the members of that organization: pocket knives.	Walden, N. Y.
Schutter Candy Co Lottery: candy.	Chicago.
Scientific Manufacturing Co., Inc., and others Unduly disparaging aluminum ware: pamphlets treating of the allegedly harmful effects of food cooked in aluminum ware.	Scranton, Pa.
Seaboard Packing Co Price discrimination: canned sardines.	Lubec, Maine.
Seaboard Paint & Varnish Co Passing off reconditioned merchandise as new merchandise; quoting enhanced prices as regular prices: paint.	Brooklyn, N. Y.
Sears, Roebuck & Co Misrepresenting percentages of savings in connection with special sales; quoting enhanced prices as regular prices: automobile tires and tubes.	Chicago.

Sekov Corporation, and others

Hollywood, Calif.

Misrepresenting therapeutic value and failing to disclose  
harmful potentialities: flesh reducing compounds.

<i>Respondent</i>	<i>Location</i>
Shapiro Felt Rug Co., and others Representing that products made in whole or in part from used merchandise are new or are composed of new materials: novelty hats and caps.	Newark, N. J.
Shaving Powder Co Representing the use of a depilatory as a new method of shaving; misrepresenting results effected and failing to disclose harmful potentialities: depilatories.	Savannah.
Shepherd, Imogene, Ltd Misrepresenting results effected; representing that the "Vitamin E" content and a fictitious so-called "Vitamin F" content are introduced into the system by absorption from the skin: cosmetics.	Chicago.
Sherry's Cut Rate Drug Co., Inc Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Bluefield, W. Va.
Siegel & Alenikoff, and others Passing off textile fabrics as peltries of fur-bearing animals or as fur fabrics made from the wool of lambs of the Karakul breed; passing off domestic merchandise as imported merchandise: wearing apparel.	New York.
Siegel-Kahn Co., Inc., and others Distributor claiming to be manufacturer; misrepresenting wool content and failing to disclose rayon content; using the term "Doctor" or "Dr." to designate merchandise not designed or approved by a doctor of medicine: wearing apparel.	Do.
Simmon's Cut Rate Drug Store Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Canandaigua, N. Y.
Silver & Co., William Price discrimination: food products.	Aberdeen, Md.
Silver Service Corporation, and others Misleading representations: Sales promotion plan involving so-called puzzle contests, and silverware for use in conjunction therewith.	Chicago.
Singer Fur Co., Frank L Failing to pay trappers and dealers on delivery, the enhanced prices quoted: raw furs.	Peekskill, N. Y.
Sisk & Son, Albert W Price discrimination: food products.	Preston, Md.
Smoke Conditioner Co Misrepresenting results effected: cigarette holders.	New York.
Sohn & Co., Inc., and others Passing off reconditioned merchandise as new merchandise: mattresses.	Chicago.



<i>Respondent</i>	<i>Location</i>
Sohn Bros Passing off reconditioned merchandise as new merchandise: mattresses.	Do.
Somersville Manufacturing Co., and others Misrepresenting camel's hair content: fabrics.	Somersville, Conn.
Sorbol Co., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Mechanicsburg, Ohio.
Southern Sales Co Lottery: candy.	Dunn, N. C.
Spors Co Misrepresenting therapeutic value of medicinal preparations; misrepresenting efficacy of an electric water heater and a preparation alleged to make hosiery and lingerie "run-proof"; mis-representing the quality of fountain pens and the percentage of profit in their resale: medicinal preparations and miscellaneous merchandise.	Le Center, Minn.
Stallman & Son, C. H., Inc. Lottery: candy and miscellaneous merchandise.	York, Pa.
Stephenson Laboratories Trust, and others Misrepresenting sufficiency of course and financial returns to students and falsely claiming a laboratory is maintained: correspondence school (a system of foot correction and the designing and manufacturing of arch supports).	Boston.
Stinson Canning Co., and others Price discrimination: canned sardines.	Prospect Harbor, Maine.
Stromberg Ignition Co Misrepresenting results effected: appropriating name of favorably known firm to designate the respondent's merchandise; falsely representing that devices have been approved by a recognized association of automobile engineers: gasoline saving devices.	Detroit.
Sun Cut Rate Store Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Huntington, W. Va.
Sunset Packing Co Price discrimination: canned sardines.	West Pembroke, Maine.
Tarlton Candy Co., J. T Lottery: candy.	Marshville, N. C.
Taylor Co., J. M., Inc., and others Lottery: miscellaneous merchandise.	New York.
Thomas Brothers Lottery: candy and salted nuts.	Portland, Oreg.
Thompson Co., Robert J Lottery: wearing apparel.	Philadelphia.



<i>Respondent</i>	<i>Location</i>
Thomsen-King & Co., Inc., and others Lottery; distributing merchandise by means of a puzzle contest wherein the receipt of prizes is conditioned on the sale of merchandise rather than the solution of the puzzle: cosmetics and miscellaneous merchandise.	Chicago.
Thorp & Co., J. H., Inc Passing off merchandise that does not retain its original color when washed or exposed to sunlight as sunfast, tubfast, or fadeless: fabrics.	New York.
Thyrole Products Co Misrepresenting results effected and failing to disclose harmful potentialities: flesh reducing compounds.	Philadelphia.
Tracey Co., John J Passing off domestic merchandise as imported merchandise: soap.	Chicago.
Trading Sales Co Lottery: miscellaneous merchandise.	New York.
Trinidad Creamery Co Lottery: butter.	Trinidad, Colo.
Trippe Manufacturing Co., and others Misrepresenting efficacy; falsely representing that merchandise has been purchased or used officially by an agency of the Federal Government: auxiliary automobile lights.	Chicago.
Trudeau Candies, Inc Lottery: candy.	St. Paul.
U.S. Air Seal, Inc Misrepresenting results effected: automobile accessory compound designed to prevent blow-outs in tires.	Niles, Ohio.
U. S. Drug & Sales Co., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: a treatment for alcoholism.	Denver.
Union Fountain Pen Co., and others Misrepresenting gold content and passing off regular merchandise as custom-built merchandise; marking up; representing all repairs will be made without cost when a charge is made for such service: fountain pens.	New York.
Union Sardine Co Price discrimination: canned sardines.	Lubec, Maine.
Union Starch & Refining Co., and others Price discrimination: corn products.	Columbus, Ind.
United Factories, Inc Misrepresenting efficacy and guaranties; using the word "free" to designate merchandise that is given in return for services or money: oil burners.	Kansas City, Mo.

<i>Respondent</i>	<i>Location</i>
United Sales Co., and others Passing off tinted enlargements of photographs as paintings; misrepresenting prices and conditions of sale; representing that the respondents' business is operating under the sanction of the United States Supreme Court: picture frames and tinted enlargements of photographs.	Los Angeles.
United Soap Co Marking up; passing off domestic merchandise as imported merchandise and merchandise having no medicinal properties as medicated merchandise; using a variety of trade names to designate merchandise made by the same formula: soap.	Seattle.
United States Marble & Granite Co Misrepresenting quality and durability; falsely representing that the respondent has posted a "Gold Bond Guarantee" and that purchasers are protected thereby: marble and granite monuments.	Oneco, Fla.
Universal Industries, Inc., and others Misrepresenting the cost of merchandise to retail merchants, the financial returns, and the value of the premiums; using the word "free" to designate merchandise that is given in return for services or money: sales promotion plans and silverware and cameras distributed as premiums in connection therewith.	Chicago.
University Press Distributor claiming to be printer; using the term "University Press" to designate a commercial enterprise not connected with any institution of learning: school books.	Des Moines.
Unruh Brokerage Co., C. F. Price discrimination: food products.	Kinsale, Va.
Utica Cutlery Co Using words and picturizations suggestive of The Boy Scouts of America to designate merchandise that is not standard equipment of the members of that organization: pocket knives.	Utica, N. Y.
Vendol Co Misrepresenting therapeutic value: medicinal preparations.	Baltimore.
Vera, Madame, and others Misrepresenting results effected; quoting regular prices as reduced prices: a treatment for the hair.	Bridgeport, Conn.
Victoria Chemical Co., and others Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Newark, N. J.



<i>Respondent</i>	<i>Location</i>
Vitaphore Appliances, Inc Misrepresenting therapeutic value: electric heating and massaging devices.	Sound Bend, Ind.
Von Schrader Manufacturing Co Misrepresenting results effected and financial returns to purchasers: electric carpet-washing machines.	Racine, Wis.
Vonnegut Hardware Co Price discrimination: automatic fire exit devices.	Indianapolis.
Vulcan Lamp Works, Inc Passing off imported merchandise as domestic merchandise: electric light bulbs.	Harrison, N. J.
Wain's Laboratory, Inc Misrepresenting therapeutic value and failing to disclose harmful potentialities: medicinal preparations.	Hollywood, Calif.
Walton Training Bureau Misrepresenting prospective earnings of students, frequency of examinations, and availability of positions, and misrepresenting the respondent's relations with the United States Civil Service Commission: correspondence school (coaching for civil service examinations).	Passaic, N. J.
Wan, Fong Misrepresenting therapeutic value: medicinal herbs.	Oakland, Calif.
Weaver Real Estate Appraisal Training Service Misrepresenting prices, availability of positions, prospective earnings of students, and adequacy of course in qualifying students as government appraisers: correspondence school (real estate appraisal).	Kansas City, Mo.
Weissman, Fred P., Inc Misrepresenting camel's-hair content: wearing apparel.	New York.
Wellworth Sales Co Lottery: miscellaneous merchandise.	Do.
Western Auto Supply Co Misrepresenting percentages of savings in connection with special sales; quoting enhanced prices as regular prices: automobile tires and tubes.	Kansas City, Mo.
Western Novelty Co Passing off nonprecious stones, made elsewhere than in Alaska, as Alaskan diamonds: jewelry.	Portland, Oreg.
White King Soap Co Misrepresenting results effected: soap.	Los Angeles.
Wholesale Liquor Distributors' Association of Northern California Inc. And others Combining in restraint of trade: spirituous beverages.	San Francisco.

<i>Respondent</i>	<i>Location</i>
Winter & Co., J. C., Inc Passing off machine-made merchandise as hand-made merchandise; quoting regular prices as reduced prices: cigars.	Red Lion, Pa.
Witol, Inc., and others Misrepresenting results effected; quoting regular prices as reduced prices in effect for a limited time only: cosmetics.	New York.
Wood & Hyde Co Passing off merchandise made from sheepskin, as kidskin merchandise: gloves.	Gloversville, N. Y.
Worthmore Sales Promotion Service, Inc Misrepresenting financial returns to agents: cigarette package holders.	Chicago.
York Cone Co Lottery: candy.	York, Pa.
Zeen Chemical Co Misrepresenting results effected; representing that its product is nonexplosive without specifying that this its conditioned on its being kept away from fire: dry cleaning fluid.	Cleveland.
Zone Co., and others Misrepresenting therapeutic value: medicinal preparations.	Chicago.

Illustrative of the orders to cease and desist issued during the fiscal year ended June 30, 1941, are the cases briefly described as follows:

## I. ORDERS UNDER THE FEDERAL TRADE COMMISSION ACT

### COMBINATIONS TO FIX PRICES AND RESTRAIN TRADE

*National Standard Parts Association, Detroit, and four other similar trade associations.*--An order was issued restraining the above named trade association of manufacturers and jobbers of automobile parts and accessories from attempting, pursuant to agreement with its members, to eliminate price competition and maintain retail prices suggested by its membership; and restraining all the respondent associations from preventing, through agreement with their respective members, the establishment of new and additional competitors by causing their members to boycott manufacturers who continue to sell to dealers not designated by their respective associations. (2942.)

*Pine Hill Lime & Stone Co., Pine Hill, Ky., and others.*--A number of firms producing the major part of lime produced in the southeastern United States, were ordered to cease and desist from fixing and maintaining, by agreement, uniform

delivered prices on such products. Commission findings were that the respondents' system

operated by their use of basing points, all delivered price quotations having been calculated as though shipments had been made by rail from a single point or points having a common freight rate to destination. Various practices used for the purpose and with the effect of fixing and maintaining uniform delivered prices on the respondents' products were included in the prohibitions of the order. (3591.)

*Capitol Building Supply Co., Milwaukee, and others.*--Certain dealers in building supplies located in Milwaukee, were ordered to cease and desist from establishing and maintaining, by agreement, the prices, terms, and conditions for the sale of building supplies; from interfering with their competitors' efforts to purchase and obtain supplies; and from boycotting or threatening to boycott manufacturers and sellers of such supplies, who sold or shipped to competitors of the respondents. (3631.)

*Hardwood Charcoal Co., Memphis, and others.*--Two exclusive selling agents for companies producing hardwood charcoal by the distillation method, and certain independent producers, were ordered to cease and desist from fixing and maintaining, by agreement, identical or uniform resale prices; and the agents were ordered also to cease and desist from agreeing; to allocate the territory in which each was to sell exclusively; to limit reciprocally the quantities they were to sell; to refuse to solicit the customers of each other; and to limit the number of distributors or dealers to whom each would sell. Two respondent producers were ordered to cease and desist from agreeing with each other to fill orders for one another in bags or receptacles upon which the trade-mark, trade name, or other trade identification of the seller appeared without a statement thereon that the contents thereof were packed for the seller. (3670.)

*National Converters Institute, and others, Chicago.*--A trade association composed of corporations representing approximately 90 percent of the output and sale of transparent cellulose sheets and rolls, and such constituent members, were ordered to cease and desist from fixing or maintaining, by agreement, prices at which such products were sold, and from using the trade association as a means for carrying out such a purpose. (3897.)

*Robinson Clay Product Co., of New York, New York City, and others.*--A number of concerns engaged in the purchase and sale of builders' supply materials, including vitrified pipe, in Rochester, N. Y., and the adjacent sales area, were ordered to cease and desist from entering into agreements to fix and maintain uniform or minimum delivered prices, terms, discounts and conditions of sale; from inducing or coercing members of the industry to conform to the uniform or minimum delivered prices, and from holding meetings

among themselves or with any organization or association created by them, or some of them, to devise means of exerting influence to fix, establish or maintain prices. (4034).

*Cup and Container Institute, Inc., New York, and others.*--Certain corporate respondents controlling more than 60 percent of the output of paper drinking cups and paper food containers, were ordered to cease and desist from fixing and maintaining, by agreement, uniform or minimum prices on such products. They and the Cup and Container Institute, Inc., a trade association for the manufacturers of such products, were further ordered to cease and desist from employing the institute as a means or method for carrying out any agreement to fix and maintain such prices. (4036.)

*Badger-Brodhead Cheese Co., Monroe, Wis., and others.*--Three dealers in foreign types of cheese, together with the companies of which they are subsidiaries, were ordered to cease and desist from fixing and maintaining, by agreement, the prices offered to be paid for Swiss and Limburger cheese. (4071.)

*Empire Style Designers League, Inc., New York, and others.*--A membership corporation composed of firms engaged in the creation of styles and the designing and making of patterns for women's fur coats and the trading or copying of such patterns, together with such firms, were ordered to cease and desist from arranging for, and fixing or adhering by agreement to, the uniform prices at which such patterns were to be sold, and from publishing or causing the publication of the fixed prices. (4136.)

*American Lead Pencil Co., Hoboken, N.J., and others.*--Six corporations constituting substantially all the manufacturers of rubber typewriter erasers were ordered to cease and desist from fixing and maintaining, by agreement, uniform prices, terms or conditions at which such products were to be sold. (4170.)

*Pittsburgh Plate Glass Co., Memphis, and others.*--Certain glass distributors and glazing contractors, who represent a substantial proportion of such businesses in the New Orleans trade area, were ordered to cease and desist from entering into or carrying out agreements for establishing or maintaining the prices at which glass is sold and glazing contracts made, and from apportioning, or attempting to apportion, the glazing contracting business within that trade area. (4304.)

#### **COMBINATION IN RESTRAINT OF TRADE, BOYCOTT, REFUSAL TO SELL**

*Interstate Bakeries Corporation, Kansas City, Mo., and others.*--Several baking companies and a local union to which drivers of bakery trucks belong, together with the officers thereof, were ordered to cease and desist from entering into or carrying out any agreement

which has for its purpose or effect the prevention of any bakery, dealer, or route man from purchasing bakery products in the trade area in and around Sioux City, Iowa. (3900.)

*Wholesale Liquor Distributors' Association of Northern, California, Inc., and others, San Francisco.*--A wholesale liquor distributors' association, together with its officers, directors, and membership, composed of distillers and distributors, were ordered to cease and desist from entering into any agreement which has for its purpose or effect the prevention or hindering of any wholesaler, jobber, or dealer in such products from obtaining them from the sellers thereof; and from maintaining specified standard or minimum resale prices, discounts or mark-ups. (4093.)

*Hills Brothers Co., New York, and others.*--Three importers handling dates grown in the Kingdom of Iraq (dates from Iraq comprised approximately 83 percent of those sold and consumed in the United States in a recent 5-year period), were ordered to cease and desist from entering into or carrying out an agreement to restrain or hinder competition in trade and commerce between and among the States of the United States and, between and among the United States and foreign countries, to limit the number of parties engaged in the importation of such dates into the United States, or to restrict date importations into this country. (4105.)

*American Lecithin Co., Inc., Elmhurst, Long Island, N. Y., and others.*--The Commission ordered several American companies, which either produced or sold lecithin (a natural organic substance used in the manufacture of food, candy, rubber, leather, and petroleum products) and two European producers of this substance, among all of whom competition in the United States had previously existed, to cease and desist from carrying out an agreement whereby the domestic producers were to refrain from competing with the American Lecithin Co., a new corporation. to which all of the American companies and the European producers had assigned their respective patents and in which each received stock and had a share in the management, and whereby the European producers promised not to export this product to the United States and the American producers not to export to Europe. (4173.)

#### **MISREPRESENTATION BY THE USE OF FICTITIOUS TRADE NAME**

*Associated News Photographic Service, Inc., and others, New York,* were required to cease and desist using the word "News" or any similar word in the corporate name of the Associated News Photographic Service, Inc., to designate or describe a business which is principally that of selling photographs to persons whose pictures they take, and from representing or implying to any prospective

customer that the respondents are news or press photographers or that any photograph solicited is for press or publicity purposes, unless such photograph is actually for immediate news or press use. (3561.)

**MISREPRESENTING NATURE OF BUSINESS AND TERMS AND CONDITIONS  
UNDER WHICH SALES ARE MADE**

*Thomsen-King & Co., Inc., Chicago, and Winship Corporation, Des Moines, and 37 other respondents* --The order directs the respondents, acting individually or in concert, in connection with a contest in which the purchase or sale of cosmetics or other articles is essential to participation in any awards, to cease disseminating advertisements which represent, directly or by implication, that the contest is confined to solution of a picture puzzle involving only skill without expenditure of money or work; to cease representing that they are giving away substantial sums of money Or merchandise as prizes to a certain limited number of persons as an introductory or advertising offer, through a contest, when the conduct of such so-called contest in fact constitutes their usual course of business, and to cease representing that offers made to individual contestants are exclusive to the persons addressed or that such persons have been granted an exclusive advantage in a contest, and that the giving of a certain order for goods and the payment of a specified amount therefor will assure the contestant addressed of obtaining a money prize or other award, when such are not the facts. (3998.)

**MISREPRESENTING RUGS AS ORIENTALS AND CHINESE  
ORIENTALS**

*Sol. Raphael, Inc., Joseph Gluck & Co., Inc., and R. F. Bemporad & Co., Inc., all of New York* (in three separate proceedings) were found to be dealers in rugs, among others rugs resembling Oriental rugs and appearance. The orders to cease and desist prohibited the use of names indicative of Chinese origin to describe rugs not in fact made in China and not possessing all the essential characteristics and structure of Chinese Oriental rugs; and the use of names indicative of the Orient as descriptive of rugs not in fact made in the Orient and not possessing all the essential characteristics and structure of Oriental rugs. (4205, 4221, 4238.)

**MISLEADING PRACTICES IN THE ISSUANCE OF GUARANTIES AND SEALS  
OF  
APPROVAL AND PUBLICATION OF EXAGGERATED CLAIMS FOR  
PRODUCTS  
AND SERVICES ADVERTISED.**

*Hearst Magazines, Inc., New York.* --The respondent, engaged for a number of years in the publication, sale, and distribution of the magazine "Good Housekeeping," had

been charged (see Annual



Report, 1940, p 43) with the use of misleading practices and misrepresentation in the issuance by it of guaranties and seals or emblems of approval, published in its own and other publications, and in the publication of exaggerated claims concerning products advertised in "Good Housekeeping." Order to cease and desist has been issued prohibiting the respondent from representing that the claims made for products, services or other commercial offerings described in its advertising are true when any representation or claim contained in such advertisements is not in fact true; from using or authorizing or allowing others to use its seals, emblems, or other insignia which represent that any food, drug, cosmetic, or therapeutic device has been tested, or tested and approved, unless such product has in fact been adequately and thoroughly tested in such manner as to assure, at the time such product is sold to the consuming public, the quality, nature, and properties of such product in relation to the intended usage thereof and the fulfillment of the claims made therefor in connection with the use of such seal, insignia, or representation; from using or authorizing or allowing others to use its seals, emblems, or other insignia which represent that any mechanical device, or article of household equipment, or any product other than a food, drug, cosmetic, or therapeutic device, has been tested, or tested and approved, unless and until such product has been adequately and thoroughly tested in such manner as reasonably to assure, at the time of its sale to the consuming public, its quality, nature and properties in relation to the intended usage and fulfillment of material claims; from representing, directly or by implication, or authorizing or allowing others to represent, that any product, service, or other commercial offering advertised by it or for which the respondent has authorized the use of any seal, emblem, or other insignia, is guaranteed by the respondent, unless such guaranty is without limitation, or if limited, unless all limitations upon such guaranty are clearly, conspicuously and explicitly stated in immediate conjunction with all such representations of guaranty. It is further provided that the provisions of the order to cease and desist are not to be construed to prohibit the use of the word "recommended" on any seal, emblem, or other insignia when the product with respect to which such seal, emblem or other insignia is used has in fact been adequately and thoroughly tested by the respondent in such a manner as reasonably to assure the quality, nature, and properties of such product in relation to its intended usage and the fulfillment of the material claims made in connection therewith, and when the form of such seal, emblem, or other insignia is readily distinguishable by the consuming public from any seal, emblem, or other insignia bearing any guaranty. (3872.)

**MISREPRESENTING KNIVES TO BE BOY SCOUT KNIVES**

*Adolph Kastor & Bros., Inc., New York, Imperial Knife Co., Inc., Providence, R. I., Colonial Knife Co., Inc., Providence, R. I., Utica Cutlery Co., Utica, N. Y., Schrade Cutlery Co., Walden, N. Y., and W. R. Case & Sons Cutlery Co., Bradford, Pa.*--These respondents are manufacturers and distributors of knives, among others, knives resembling in general appearance the knife designed and adopted as official equipment by the Boy Scouts of America. Adolph Kastor & Bros., Inc., were ordered to cease and desist from using the word "Scout" or "Boy Scout," or "Scouting," or Boy Scout emblems, or scenes of outdoor life in which appear boys in Boy Scout uniforms, in marking such knives or their containers or in advertising them. The other respondents named were found only to be using the word "Scout" and were ordered to cease the use of that word, or a word of similar import, in marking or designating such knives, or otherwise representing that their knives were sponsored, endorsed or approved by the Boy Scouts of America organization. (3466, 4115, 4116, 4117, 4118, 4119.)

**SALE OF RECONDITIONED SPARK PLUGS WITHOUT MARKING THEM RECONDITIONED**

*J. E. Bernard & Co., Inc., New York*, was ordered to cease and desist from selling or offering for sale to others for resale to the public, used and reconditioned spark plugs unless the words "Used" or "Second-Hand" or "Reconditioned," or some other Word or words of similar meaning, were permanently stamped thereon in such manner as to be clearly legible after installation, the cartoons or containers in which they were offered for sale or sold to be similarly marked. (3534.)

**REPRESENTING MATTRESSES MADE OF USED MATERIALS AS NEW**

*Sohn & Co., Inc., and others, Chicago*, manufacturer and distributor of mattresses, and Benjamin Sohn, Morris Sohn and Isadore Sohn, officers and directors in control of its business activities, and Arthur Sohn and Carl Sohn, trading as Sohn Bros., were ordered to cease and desist from representing that mattresses which were composed, in whole or in part, of old, used, discarded or second-hand materials were new mattresses or made of new materials, and from failing to affix to such mattresses in a permanent and secure and conspicuous manner, a tag or label revealing that they are, in whole or part, made of such used materials. (4072, 4073.)

**MISLEADING ADVERTISEMENTS CONCERNING MEDICINAL PREPARATIONS**

During the fiscal year the Commission issued a substantial number of orders to cease and desist from false and misleading advertise-

ments concerning the therapeutic value of various medicinal preparations and devices. Some of these cases were of such nature that injunctive action was taken to stop the advertising practices involved, pending issuance of the Commission's complaint (see p.102).

### **SALES METHODS INVOLVING LOTTERY SCHEMES, INCLUDING THE MANUFACTURE AND SALE OF THE DEVICES FOR CONDUCTING THEM**

The Commission continued to proceed against various persons, firms and corporations for the use of lottery schemes and devices in connection with the sale and distribution of their merchandise. Many orders to cease and desist prohibiting such practice were issued. The principal devices so used were push and pull cards and punch boards.

## **II. ORDERS UNDER THE CLAYTON ACT**

(Section 2, as amended by the Robinson-Patman Act)

*Atlantic Commission Co., New York*, in purchasing commodities in interstate commerce, was ordered to cease and desist from making purchases for its own account at a, so-called net price or any other price which reflects in whole or in part brokerage currently being paid by sellers to their brokers; from accepting from sellers any so-called quantity discounts and payments representing or reflecting brokerage currently being paid by sellers to their brokers; and from accepting from sellers in any manner or form whatever anything of value as a commission, brokerage or other compensation, or any allowance or discount in lieu thereof upon purchases of commodities made for the respondent's own account. (3344.)

*Luxor, Ltd., Chicago*, in connection with the sale of toilet articles and cosmetics, was ordered to cease and desist from furnishing any such commodities packaged in containers of a certain size and style unless all purchasers competing in the resale of such commodities are accorded the facility of packaging in containers of like size and style, on proportionally equal terms. (3736.)

*Lambert Pharmacal Co., St. Louis*, in connection with the sale of "Listerine" and allied products, was ordered to cease and desist from granting compensation to customers for services or facilities' furnished by or through such customers in connection with the handling, sale, or offering for sale, of the respondent's products, unless such payments are made available on proportionally equal terms to all buyers from the respondent who are competitively engaged one with another. (3749).

*Anheuser-Busch, Inc., St. Louis, Penick & Ford, Ltd., Inc., New York, Hubinger Co., Keokuk, Iowa, Union Starch & Refining Co. and Union Sales Corporation, Columbus, Ind., and American Maize Products Co., New York*; in connection with the sale of corn sirup,

were ordered to cease and desist from discriminating in price, which discriminations (except in the case of the American Maize-Products Co.) resulted principally from the practice of charging freight from Chicago to the customer's location, regardless of the fact that the shipments originated in cities other than Chicago. The order to the American Maize-Products Co., whose plant is in Chicago, was directed at discriminations which arose from charging different prices based upon the sizes of the containers in which the sirup was purchased, and at the practice of selling to some purchasers at the former and lower price after the announcement of an increase in price of such sirup, while selling such sirup to other and competing purchasers at the new and higher price. The order in the Hubinger case included both practices. Prohibition of discriminations arising by reason of size of containers was included in the Union order. (3798, 3802, 3801, 3804, and 3805.)

*American Crayon Co., Sandusky, Ohio, and Binney & Smith Co., New York,* in connection with the sale of crayons and educational supplies, were ordered to cease and desist from the practice of granting compensation to some customers, which compensation was not made available on proportionally equal terms to all buyers who were competitors of such customers, and also from the practice of discriminating in price by reason of differences in classification of customers competitively engaged one with another. (4142 and 4143.)

*Maine sardine packers.*--Thirteen firms, in connection with the sale of sardines, were ordered to cease and desist from violating the brokerage section of the act. (4355, 4356, 4357, 4358, 4359, 4360, 4361, 4362, 4410, 4411, 4412, 4413, and 4414.)

*Field brokers and others.*--Eleven firms located in the "Tri-State" area of Maryland, Virginia, and Delaware, engaged principally in the canning of tomatoes and other vegetables, were ordered to cease and desist from violations of the brokerage section of the act. (4215, 4275, 4282, 4283, 4284, 4290, 4292, 4294, 4298, 4303, and 4340.)

*Individuals operating the Parr Sales Co., Vidalia, Ga., and the Minetree Brokerage Co., Poplar Bluff, Mo.,* were ordered to cease and desist from obtaining brokerages, or allowances in lieu thereof, on purchases made by them through these controlled intermediary or dummy brokerage houses. (4233 and 4285.)

*E. B. Muller & Co., Port Huron, Mich., and Heinz. Franck Sons, Inc., Flushing, N.Y.,* owned and controlled by David McMorrان and Charlotte H. McMorrان, manufacturing distributors of granulated chicory, were found by the Commission to have had a practical monopoly in the distribution of chicory prior to 1930, at which time R. E. Schanzer, Inc., established a competitive plant. Findings were that the respondents had begun a definite and active campaign to

harass, injure, and if possible, eliminate, this new competitor in the field, by various methods.

The Commission ordered the respondents to cease and desist from certain disparagements of the products of their competitors, false representations regarding artificial coloring of chicory, and from selling or offering to sell granulated chicory at a price less than the cost thereof to the respondents with the purpose or intent, and where the effect may be, to injure, suppress, or stifle competition or tend to create a monopoly in the production or sale of such products, in violation of the Federal Trade Commission Act.

The Commission further ordered the respondents, in connection with the sale of granulated chicory in commerce, to cease and desist from discriminating in the price of products of like grade and quality, as among purchasers from either or both of them, where the differences in price are not justified by differences in the cost of manufacture, sale, or delivery resulting from differing methods or quantities in which such products are sold or delivered: (a) by selling any material quantity of such products to purchasers in one or more general trade areas at prices different from those to purchasers in any other general trade area; and (b) by selling such products to some purchasers in any general trade area at prices materially different from those charged other purchasers in the same general trade area, all in violation of the Clayton Act as amended by the Robinson-Patman Act. (3224.)

## **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 discrimination, exclusive and tying dealing arrangements, 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 them 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, etc.

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, or on a pretended contest of skill.

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, enhance, or depress 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 or distributor to cause him to organize, join, or contribute to, or to prevent him from organizing, joining, or contributing to, producers’ cooperative association, or other association, advertising agency, or publisher.

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, equipments, 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 “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 the customer's friends or his employer have expressed a desire for, or special interest in, consummation of seller's transaction with the customer.

(c) Alleged connection of a concern, organization, association or institute with, or endorsement of it or its product or services by, the Government or nationally known organizations, or representation that the use of such product or services is required by the Government.

(d) False claim by a vendor of being an importer, or a technician, or a diagnostician, 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.

(j) Misrepresentation by the publisher of the advertisers' products as compared with competing products, services or other commercial offering, by the issuance of seals of approval or other insignia of pretended tests, inquiries, investigations or guaranties, or by the publication of exaggerated claims.

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 of 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; falsely assuring the purchaser or prospective purchaser that certain special or exclusively personal favors or advantages are being granted him.

(c) Concealing from prospective purchaser unusual features involved in purchaser's commitment, the result of which will be to require of purchaser further expenditure in order to 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 there-for 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.

(h) Advertising a price for a product as illustrated or described and not including in such price all charges for equipment or accessories illustrated or described or necessary for use of the product or customarily included as standard equipment, and failing to include all charges not specified as extra.

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 are of national reputation; 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 demon-

strations 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.

30. Inducing the shipment and sale of commodities through buyer's issuance of fictitious price lists and other printed matter falsely representing rising market conditions and demand, and leading seller to ship under the belief that he would receive prices higher than the buyer intended to or did pay.

## **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 during or at the close of the fiscal year ended June 30, 1941, are reviewed in the pages immediately following.

During the year, results favorable to the Commission were obtained in 40 cases, of which two were before the Supreme Court of the United States, 26 were before the United States circuit courts of appeals, and 12 were before United States district courts. A commission order was set aside in one case in the circuit court of appeals, and the Supreme Court in another case affirmed a decision of a circuit court of appeals reversing a Commission order.

Cases in the Supreme Court in which the Commission's orders were affirmed involved the Millinery Creators' Guild and others, and the Fashion Originators Guild of America, Inc., and others, both of New York. In both instances the Court unanimously sustained decisions by the Circuit Court of Appeals for the Second Circuit.

Cases in the circuit courts of appeals in which the Commission's orders were affirmed (in three cases with modifications) were: Fashion Originators Guild of America, Inc., and others, Parfums Corday, Inc., Quality Bakers of America and others, and Gimbel Brothers, Inc., all of New York; Modern Hat Works, Jersey City, N.J.; Pep Boys-Manny, Moe and Jack, Inc., Philadelphia; Hershey Chocolate Corporation, Hershey, Pa.; Mentho-Mulsion, Inc., and others, Atlanta; Standard Container Manufacturers' Association, Inc., and others, Jacksonville, Fla.; General Motors Corporation and General Motors Sales Corporation, Detroit; Ford Motor Co., Dearborn, Mich.; Monica M. Rock, Milwaukee; Kidder Oil Co., La Crosse, Wis.; Perma-Maid Co., Cincinnati; Chester L. Thomas, trading as Thomas Quilt Factories, Denver; George G. Neff, Miami, Okla.; California Lumbermen's Council and others, Fresno, Calif.; and Adah Alberty, Los Angeles, Calif.

Petitions for review of Commission orders involving Chanel, Inc., Peter Sanders and others, trading as the Perfect Recondition Spark Plug Co., and Saks & Co., all of New York; Yardley of London, Inc., Union City, N.J.; McKinley-Roosevelt College of Arts and Sciences, Chicago; Albert T. Cherry, trading as A. T. Cherry Co. and as Atco Soap Co., Dayton, Ohio; and the Liquor Trades Stabilization Bureau, Inc., San Francisco, were dismissed by the circuit courts of appeals. A case concerning the Biddle Purchasing Co., New York, was disposed of by a consent decree adjudging the company in contempt for violating a former decree of the circuit court of appeals and imposing a fine of \$500.

The Commission successfully opposed a motion made in a circuit court of appeals to strike a modified order issued by it in conformity with the court's decree in a case involving the California Rice Industry.

(For proceedings in injunction and for collection of civil penalties, see pp.102, 105.)

**PETITIONS TO REVIEW CEASE AND DESIST ORDERS**

Petitions in the United States circuit courts of appeals to review cease and desist orders issued under authority of sections 5 of the Federal Trade Commission Act and section 2 of the Clayton Act are summarized 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.*--The Ninth Circuit (San Francisco) affirmed the Commission's order against misrepresentations concerning the therapeutic value of health foods and other preparations.

Concerning the petitioner's complaint that the Commission rejected the testimony of experts adhering to the homeopathic school of medicine, and thus made an arbitrary choice between schools of healing which are equally recognized under the law, the court said (118 F. 2d 669, 670):

"Actually, the Commission admitted the testimony of experts who were, and experts who were not, adherents of the homeopathic school of medicine. The Commission's findings are supported in part by the testimony of experts adhering to the homeopathic school, in part by the testimony of other experts. Conflicts in the testimony were for the Commission, not this Court, to resolve.

\* \* \* We cannot say that, in resolving such conflicts, the Commission acted arbitrarily.

Petition for rehearing was denied.<sup>4</sup>

*Albert Lane, Berkeley, Calif.*, petitioned the Ninth Circuit (San Francisco) for a review of a Commission order against false claims by a consumers' research organization. Among other misrepresentations, the petitioner claimed affiliation with the United States Government, the Mellon Institute of Industrial Research, and the Massachusetts Institute of Technology. At the end of the fiscal year the case awaited certification and printing of the record.

*Associated News Photographic Service, Inc. and others, New York.*--Petition was filed with the Second Circuit (New York) for review of an order forbidding the use of the word "News" in the corporate name to designate a business principally that of selling photographic prints. The Commission found that the petitioners are professional photographers, do not operate as the photographic department or agency of any newspaper or news agency, and that through the use of the word "News" they conveyed the impression that they had such newspaper connection. At the year's close, the case awaited certification and printing of the transcript.

*Automobile financing: Ford Motor Co., Dearborn, Mich.; General Motors Sales Corporation, Detroit, and General Motors Acceptance Corporation, New York.*--During the year two decisions

4 A petition for writ of certiorari was denied October 13, 1941.

were handed down affirming orders directed against misleading advertising of the so-called 6 percent installment plan for purchasing automobiles. The Commission found that the term "6 percent", when used in connection with monthly payments, was understood by the public to mean 6 percent simple interest per annum computed on declining balances, but actually the plan resulted in approximately 11 1/2 percent interest.

In the General Motors case, the Second Circuit (New York) affirmed the Commission's order (114 F. 2d 33).

The Court said in part:

It may be that there was no intention to mislead and that only the careless or the incompetent could be misled. But if the Commission, having discretion to deal with these matters, thinks it best to insist upon a form of advertising clear enough so that, in the words of the prophet Isaiah, "wayfaring men, though fools, shall not err therein," it is not for the courts to revise their Judgment.

Certiorari was denied (312 U.S. 682).

In upholding the Commission's order in the Ford case (120 F. 2d 175), the Sixth Circuit (Cincinnati) observed:

The average individual does not make, and often is incapable of making, minute calculations to determine the cost of property purchased on the deferred payment plan. Mechanization, industrialization, and urbanization have transformed the structure of our society and raised to the proportions of a major social problem, the protection of the installment purchaser against his own ignorance and the pressure of his need.

The company's petition for rehearing was denied.

*Benton Announcements, Inc., Buffalo, N. Y.*--A petition for review in this case was filed with the Second Circuit (New York). The case involves the misrepresentation of stationery products as being "engraved," when in fact they were found not to be in this category. At the close of the year the case awaited printing of the record.

*Biddle Purchasing Co., New York.*--Alleging violation of the 1938 decree of the Second Circuit (New York) affirming the Commission's order directed against the receipt of brokerage or allowances, as such, contrary to section 2 (e) of the Clayton Act (Robinson-Patman Act), the Commission filed with that Court its petition in aid of the enforcement of the decree. Thereafter the company filed an amended answer and submitted the matter to the Court for final determination, it having agreed not to contest the allegations of the petition for enforcement. The Court adjudged the company to have violated the decree and imposed a fine of \$500. (Another brokerage case in the courts during the fiscal year was that of Quality Bakers of America, and others, p.99.)

*California Lumbermen's Council and others (Fresno, Calif., etc.)* --The Ninth Circuit (San Francisco) affirmed the Commis-



sion's order in this case (15 F. 2d 178). The order was against six associations of retail lumber dealers in California, found to have cooperated in the primary objective of controlling and confining distribution exclusively through the members of their dealer associations, and preventing direct sales by manufacturers and wholesalers to nonmembers, including State and other political subdivisions. Petitions for rehearing and for certiorari (312 U. S. 709) were denied.

*California Rice Industry, an association, its officers and members, San Francisco*, filed with the Ninth Circuit (San Francisco) a petition initiating proceedings to have the Commission's modified cease and desist order (issued in compliance with the Court's decree) "made correct." The petition was dismissed without prejudice. The Commission order prohibited an unlawful agreement to fix and maintain prices of rice and rice products, and other policies and practices in restraint of competition.

*Albert T. Cherry, trading as A. T. Cherry Co. and as Atco Soap Co., Dayton, Ohio.*--Petition for review of the Commission's order was filed with the Sixth Circuit (Cincinnati), but dismissed upon motion of the petitioner (121 F. (2d) 451). The case involved the misbranding and fictitious pricing of soap.

*D. D. D. Corporation, Batavia, Ill.*--The corporation, engaged in the manufacture and distribution of a medicinal preparation known as "D. D. D. Prescription," petitioned the Seventh Circuit (Chicago) for review of the Commission's order, which was that the petitioner cease representing that its preparation was a cure or remedy for eczema, blotches, pimples, athlete's foot, rashes, hives, insect bites, and ivy and oak poisoning. The Commission found that the properties of the product were limited to those of an antipruritic, antiseptic and astringent, with possible mild germicidal properties. At the close of the fiscal year, the case awaited certification and printing of the record.

*Educators Association, Inc., and others, New York.*--The Commission reported to the Second Circuit (New York) the failure of negotiations between the Commission and the association as suggested by the Court, to modify the corporate and trade names involved so as to do away with their tendency to create a false impression that the association was an organization of educators instead of a private business enterprise for profit. (See Annual Report for 1940, p.84). Thereupon the Court modified the order in specific terms (118 F. 2d 562).

*Fashion Originators Guild of America, Inc., and others, New York.*--The Supreme Court affirmed (312 U.S. 457) the Second Circuit (New York) (114 F. 2d 80; for further details, see Annual Reports for 1939, pp.101-102, and 1940, p.85), upholding the Commis-

sion's cease and desist order, which involved the legality of a combination designed to prevent so-called "style piracy" in women's dresses. In its opinion, the Court said:

If the purpose and practice of the combination of garment manufacturers and their affiliates runs counter to the public policy declared in the Sherman and Clayton Acts, the Federal Trade Commission has the power to suppress it as an unfair method of competition. \* \* \* And, as previously pointed out, it was the object of the Federal Trade Commission Act to reach not merely in their fruition but also in their incipiency combinations which could lead to these and other trade restraints and practices deemed undesirable.

As the result of this decision, consent decrees were entered by the Sixth and Seventh Circuits (Detroit and Chicago), affirming the Commission's orders against The J. L. Hudson Co., Detroit, and Mandel Brothers, Inc., and Marshall Field & Co., Chicago. (See Millinery Creators' Guild, Inc., and others, p.97 for similar case.)

*Fresh Grown Preserve Corporation and others, Lyndhurst, N. J., etc.*, petitioned the Second Circuit (New York) for a review of an order against the alleged misrepresentation of certain products as "preserves." The Commission found that such products did not contain the 45 percent of fruit and 55 percent of sugar necessary to entitle them to this designation. As of June 30, 1941, the case awaited printing of the transcript.

*Gimbel Brothers, Inc., New York.*--The Second Circuit (New York) handed down a decision modifying and affirming the Commission's order in this case (116 F. 2d 578). The proceeding arose out of the petitioner's purchase and subsequent sale as "woolens" of a job-lot of fabrics, a large part of which were mixtures of wool and other materials. The Commission found that this misrepresentation had a tendency to deceive the public and unfairly to divert interstate trade from the petitioner's competitors. The Court did not sustain the Commission's provisos requiring, in the case of fabrics composed only partly of wool, the use of words describing each constituent fiber in the order of its predominance by weight, and when any particular fiber named was not present in a substantial amount by weight, a statement of its percentage. The Court described these provisos as "burdensome." It held, however, among other things:

We think it plain that soliciting the purchase of goods by advertisement is a method of competition; If the advertisement contains false representations, it is an unfair method of competition. \* \* \* Whether or not the advertiser knows the representations to be false, the deception of purchasers and the diversion of trade from competitors is the same. The purpose of the statute is protection of the public, not punishment of a wrongdoer. \* \* \* Hence a deliberate effort to deceive is not necessary to make out a case of "using unfair methods of competition" within the prohibitions of the statute.

*Hershey Chocolate Corporation, Hershey, Pa.; Peter Cailler Kohler Swiss Chocolate Co., Inc., Fulton, N.Y.; Lamont, Corliss & Co., New York; Sanitary Automatic Candy Corporation, New York; Berlo Vending Co., Philadelphia; and Confection Cabinet Co., Newark, N. J.*--These companies include two of the largest chocolate candy-bar manufacturers, a sales, corporation, and the three largest vending-machine operators. They petitioned the Third Circuit (Philadelphia) to review an order against restraint-of-trade agreements in the sale of candy bars to the vending-machine trade. The Court unanimously affirmed the order (121 F. (2d) 968) and, with respect to the petitioners' contentions of lack of public interest and discontinuance of the practices proscribed, the Court said:

There can be no question about public interest where there is a clear tendency to monopoly.  
 \* \* \* \* \*

The Commission would have no power at all If it lost jurisdiction every time a competitor baited an unfair practice just as the Commission was about to act. The practice may have been discontinued but without the Commission's order It could be Immediately resumed.

(For further details, see Annual Reports for 1939, p.104, and 1940, p.87).

*Adolph Kastor & Bros. Inc., New York*, petitioned the Second Circuit (New York) to review an order involving false claims that the petitioner's knives had the approval of the Boy Scouts of America. On June 30, 1941, the case awaited printing of the transcript.

*Kidder Oil Co., La Crosse, Wis.*--This case concerns misleading representations in the sale of a colloidal-graphite lubricant designated as "Koatsal," the use of which was claimed to make it possible to run an automobile "an amazing distance without oil in the crankcase, without damage to any part," etc. The Seventh Circuit (Chicago) modified the Commission's order so as to make it applicable "only as to the representations concerning 'Koatsal' when the same is used as a lubricant in a motor operated under 'full-film' conditions" (117 Fed. 2d 892). The company's petition for rehearing was denied. (For further details, see Annual Report for 1940, p.88.)

*George H. Lee Co., Omaha.*--The Eighth Circuit (St. Louis) vacated the Commission's order in this proceeding (113 F. 2d 583), under the doctrine of *res judicata*, holding that the Commission was estopped because of a prior decision by a district court involving the same subject matter, the efficacy of "Gizzard Capsules," a remedy for worms in poultry. The Commission's petition for rehearing was denied.

*Liquor Trades Stabilization Bureau, Inc., San Francisco.*--Petition for review was filed in the Ninth Circuit (San Francisco). The

Commission's order was directed against a combination in restraint of trade in spirituous liquors. Among the specific practices forbidden were price-fixing, resale-price maintenance, coercion, boycott, espionage, refusal to sell, cutting off of competitors' supplies, and threats. The proceeding later was dismissed (121 F. (2d) 455).

*Lottery cases, Chicago, New York, Milwaukee, Minneapolis, St. Joseph, Mo., Macon, Ga., Birmingham, Ala.*--Nine cases involving lottery methods in the sale of candy and other articles of merchandise were determined or were pending in the Federal courts during the fiscal year, as follows:

In *Bunte Brothers, Inc., Chicago*, the Supreme Court, by a 5 to 3 decision (312 U. S. 349), affirmed the Seventh Circuit (Chicago) setting aside the Commission's order prohibiting the intrastate sale of lottery assortments of candy which injuriously affect interstate commerce. The Court held that:

To read "unfair methods of competition in [interstate] commerce" as though it meant "unfair methods of competition in any way affecting interstate commerce", requires, in view of all the relevant considerations, much clearer manifestation of intention than Congress has furnished.

(For further details, see the Commission's Annual Report for 1940, p.82.)

Eight petitions for review of orders proscribing various lottery practices in the sale of candy and other merchandise, were docketed during the fiscal year. In the Seventh Circuit (Chicago) were the petitions of *Benjamin Jaffe, trading as National Premium Co. and King Sales Co., Chicago*; *David Kritzik, doing business as General Merchandise Co., Milwaukee*, the commodities involved being candy and novelty merchandise; and *Mitchell A. Bazelon and Jacob L. Bazelon, trading as Evans Novelty Co. and Premium Sales Co., Chicago*. Both cases, at the year's close, awaited certification and printing of the transcript. In the Fifth Circuit (New Orleans) were the petitions of *Robert C. Bundy, trading under his name and as Jackson Sales Co., Birmingham, Ala.*, and *Joe B. Hill and C. O. McAfee, trading as McAfee Candy Co. and Liberty Candy Co., Macon, Ga.* At the year's close, both cases awaited printing of the record. In the Second Circuit (New York) was the petition of *Alexander Weiler and Lilly Greenspan Weiler, trading as New York Premium Novelty Co., New York*, and in the Eighth Circuit (St. Louis), that of *Candymasters, Inc., Minneapolis*, and *Douglas Candy Co., St. Joseph, Mo.*

*Caroline R. Macher and Robert J. Macher, trading as Macher Watch and Jewelry Co. and Wholesale Watch and Jewelry Co., New York*, petitioned the Second Circuit (New York) for review of an order directed against false claims as to their status as wholesalers

of jewelry. At the year's close, the case awaited certification and printing of the transcript.

*McKinley-Roosevelt College of Arts and Sciences, Chicago.*--The Seventh Circuit (Chicago), on motion of the Commission, dismissed the petition for review filed by this concern in June 1940, for the reason that it had taken no action to perfect its appeal. The Commission's order prohibited the use of the words "College" and "University" in the petitioner's corporate or trade names, and 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 entire business was found to have been carried on in a Chicago apartment, and lacked all requirements with respect to equipment and educational facilities which would entitle it to be classified as a college or university.

*Mentho-Mulsion, Inc. and others, Atlanta.*--The Fifth Circuit (New Orleans), on joint motion of the parties, entered a decree affirming and commanding obedience to the Commission's order prohibiting misrepresentations concerning the efficacy of cough and cold medicines, sold by the petitioner.

*Millinery Creators' Guild, Inc., and others, New York.*--The Supreme Court (312 U. S. 469) unanimously affirmed the Second Circuit (New York) (109 F. 2d 175; for further details see Annual Reports for 1939, p.105, and 1940, p.89), upholding the Commission's cease and desist order concerning the legality of a combination designed to prevent so-called "style piracy" in women's hats. The affirmance was on the authority of the decision in the case of Fashion Originators Guild of America. (See p.93.)

*Modern Hat Works, Jersey City, N. J.*--A petition for review was filed with the Third Circuit (Philadelphia). On joint motion of the parties, the case was disposed of by a consent decree. The petitioner was engaged in the manufacture of men's and boys' hats from felts obtained from old, worn, and previously used hat bodies. The order prohibited representations that hats, composed in whole or in part of used or second-hand materials, are new or composed of new materials, by failure to permanently and legibly stamp on the sweat bands a statement that the hats are composed of secondhand or used materials.

*Moretrench Corporation, Rockaway, N. J.*--The petition for re-view was filed in the Second Circuit (New York) in 1939, to review a commission order prohibiting the disparagement of competitive products such as well points, pumps, and equipment used in drawing water from wet soil during excavation work. Brief for the petitioner was filed and at the year's close the case awaited the Commission's brief.

*George G. Neff, Miami, Okla., doing business as Prostex Co.*, filed petition for review with the Fourth Circuit (Richmond) . The order directed the petitioner, in connection with the sale of "Glantex," a medicinal preparatory, to cease representing that it would "cure, or serve as a safe, competent treatment for, prostatitis, cystitis, urethritis, sugar diabetes, dropsy, illio-colitis, gastritis, malaria, inflammation of the bladder, acute indigestion, ptomaine poisoning, rheumatism, backaches, leg aches, or worn-out or run-down feeling." In affirming the order (117 F. 2d 495), the Court said:

The actual question now presented is whether the testimony of the six experts who testified for the Commission can be considered substantial evidence in view of their lack of actual experience in the use of the petitioner's preparation, as compared with the conflicting statements of doctors who had administered Glantex to their patients. We think that the evidence is sufficient to support the Commission's finding. All of the experts were well qualified to speak upon the subject; and their opinions, though based only upon their general medical and pharmacological knowledge, constituted substantial evidence tending to show that the representations of the petitioner were not justified.

*Pep Boys--Manny, Moe, and Jack, Inc., Philadelphia*, engaged in the sale of radio receiving sets, tubes, and other radio parts, petitioned the Third Circuit (Philadelphia) for review of an order prohibiting the unfair use of the name "Remington" in connection with the advertising and sale of radio receiving sets. The Court affirmed the order and directed the entry of a decree of enforcement (122 F. 2d 158). The Court said, in part:

The record shows there are about 50 different radio manufacturers making radio sets, tubes, and parts; that it is a competitive industry. Therefore, when the petitioner took an extensively advertised and well-known name and placed it upon its radio receiving sets, it did so because the name had, in its opinion, certain intangible qualities which would promote sales, and we must conclude that it was selected because of contemplated advantage by lessening or otherwise injuring the business of present or potential rivals.

*Perfume cases--New York, Wilmington, Del., and Union City, N. J.*--Eight cases involving false and misleading advertising in the sale of perfumes and kindred products were determined or pending in the Federal courts during the fiscal year. The Commission ordered the several petitioners to cease representing, through the use of terms, symbols, or picturizations indicative of French or other foreign origin, that their products, compounded in the United States from imported ingredients, were made in France or other foreign country. The orders provided that the countries of origin might be stated when immediately accompanied by explanation that the products were compounded in the United States. The cases were: Second Circuit (New York) , *Establishments Rigaud, Inc. (and E. Fougere & Co.) New York; Chanel, Inc., New York; Parfums*

*Corday, Inc., New York*; and *Yardley of London, Inc., Union City, N. J.*; Third Circuit (Philadelphia) , *Coty, Inc., Wilmington, Del.*, and *Coty Sales Corporation, New York*, in a joint petition. In the case of *Yardley of London, Inc.*, in the Second Circuit, the petition was withdrawn upon stipulation of the parties, after a report showing compliance with the order had been filed with the Commission. The petition of *Chanel, Inc.*, was likewise dismissed without prejudice by stipulation of the parties after a report had been filed showing compliance. In the proceeding of *Parfums Corday, Inc.*, the Court affirmed the Commission's order (120 F. 2d 808) on authority of *Fioret Sales Co., Inc., V. F. T. C.* (100 F. 2d 358). (For further details, see Annual Report for 1939, p.102).

*Perma-Maid Co., Cincinnati.*--The Sixth Circuit (Cincinnati) handed down a decision affirming and enforcing the Commission's order (121 F. 2d 282). The order directed the company, a manufacturer of steel cooking utensils, to cease making representations 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. With reference to the company's insistence that it was endeavoring, by instructions and otherwise, to restrain its agents from making such representations, the Court said:

The order in no wise injures petitioner and will be an effective aid to it in its efforts to put a stop to the unfair practices.

(For another case concerning similar practice, see *Scientific Manufacturing Co.*, p.100.)

*Quality Bakers of America, and others, New York.*--The order in this case was sustained by the First Circuit (Boston) (114 Fed. 2d 393). It is the fifth proceeding in which orders of the Commission to prevent the payment or receipt of brokerage fees or allowances, in violation of Section 2 (c) of the Clayton Act (Robinson-Patman Act) , have been affirmed. There have been no reversals.

In passing upon the questions of law involved, the Court held that Section 2 (c) prohibits allowances of brokerage by the buyer direct to the seller or by the seller direct to the buyer, and prohibits payment of brokerage by either buyer or seller to an agent or intermediary acting for or in behalf of or subject to the direct or indirect control of the other. (Another brokerage case is that of the *Biddle Purchasing Co.*, p.92.)

*The Rabhor Co., Inc., New York*, petitioned the Second Circuit (New York) to review a Commission order directed against misleading advertising as to the nature and quality of men's suiting fabrics. As of June 30, 1941, the case awaited certification and printing of the transcript.

*Raladam Co., Detroit.*--The Commission's order, reviewed by the Sixth Circuit (Cincinnati), is directed against unwarranted claims with respect to a desiccated thyroid preparation known as "Marmola," advertised extensively as a weight-reducing agent. At the year's close the case awaited decision of the Court.

*Monica M. Rock, Milwaukee.*--The Seventh Circuit (Chicago) affirmed an order (117 F. 2d 680) under the terms of which the petitioner, individually and as executrix of the estate of Dr. Arthur A. Rock, is directed to discontinue representations that her method of treatment is a scientific, efficacious, safe, and proper treatment for goiter, regardless of the variety, form or stage of progression.

*Saks & Co., New York.*--On stipulation of the parties, the petition for review was dismissed by the Second Circuit (New York). The Commission subsequently modified its order in certain particulars.

The Commission order as modified is directed against misrepresentations as to the quality, age, style, and value of women's wearing apparel; for example, representing as new, coats made in whole or in part of old furs; and using such terms as "Satin" or "Crepe" to describe fabrics not composed wholly of silk. The order provides, however, that when such terms are used to designate the type of weave or finish, they must be qualified by words showing the materials from which such products are made.

*Peter Sanders and others, New York.*--Peter Sanders and Harry Sanders, doing business as the Perfect Recondition Spark Plug Co., and Samuel Sanders, doing business as The Ace Auto Supply Co., New York, petitioned the Second Circuit (New York) to review an order directing them to cease and desist from selling used and reconditioned spark plugs unless the word "Used" or "Secondhand" or "Reconditioned" is permanently stamped or fixed on each plug in a color in contrast to the surface to which applied and so as to be clearly legible to the purchaser after installation, and the boxes, cartons, or other containers in which such spark plugs are sold or offered for sale are similarly marked. Thereafter, the petition was withdrawn and the proceeding dismissed.

*Scientific Manufacturing Co., Scranton, Pa.*--This corporation and Howard J. Force, is president and owner, petitioned the Third Circuit (Philadelphia) for review of the Commission's order to cease and desist. The findings were to the effect that the petitioners published pamphlets devoted to an exposition of the claimed dangers in the use of aluminum utensils for the preparation and storage of food, i e., the causing of cancer, Bright's disease, diabetes, liver trouble, indigestion, constipation, ulcers, carbuncles, nervousness, and death from poisoning. At the close of the fiscal year, the case awaited certification and printing of the transcript. (For another case concerning similar practice, see Perma-Maid Co., p.99.)



*Standard Container Manufacturers' Association, Inc., and others, Jacksonville, Fla.*--The Fifth Circuit (New Orleans) affirmed the Commission's order after a slight modification in the interest of clarity.

This trade association and its members, Georgia and Florida concerns, engaged in the manufacture and sale of wooden containers used in packaging fruits and vegetables, were ordered to cease entering into agreements to fix and maintain uniform prices, terms and conditions of sale, to curtail production, etc. In its opinion (119 F. 2d 262), the Court said:

In the beginning it must be stated that petitioner's contention that action under agreement to raise prices is not in itself an unfair practice, that it must also appear that prices are unreasonably affected by the action, will not stand up under the authorities. It is settled law that it is not for those, who, by concert, artificially raise prices, to determine what point is within and what beyond the bounds of reason. The law prohibits price-fixing agreements, and all kinds of agreements to regulate the effect of free and fair competition.

(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 engineering, petitioned the Second Circuit (New York) for review of a Commission order directing them to cease and desist from entering into, carrying out, or aiding or abetting in the carrying out, of agreements or combinations for the purpose or with the effect of restraining or eliminating competition in the purchase or sale of wooden containers used in the packaging of fruit and vegetables. Except for the filing of certified transcript with the Second Circuit (New York), this case remained in statu quo during the fiscal year. It awaits printing of the transcript. (For similar case, see *Standard Container Manufacturers' Association, Inc., and others*, above.)

*Chester L. Thomas, Denver, trading as Thomas Quilt Factories.*--The Tenth Circuit (Denver), upon petition for review, unanimously affirmed the order in this case and directed the enforcement thereof (116 F. 2d 347). The order was based upon findings to the effect that the petitioner, in the sale of feather quilts, misrepresented the usual, normal retail price of his products. During the course of its opinion, the Court said:

That many purchasers were misled and deceived into believing that the quilts were being offered at one-half the regular price, and were thereby induced to purchase, cannot be doubted. The representation that an article is offered at one-half the regular price is a potent factor in effecting sales. Undoubtedly, it resulted in drawing customers to Thomas and away from sellers of down quilts, with whom he was admittedly in competition. No doubt, a substantial portion of the public was misled by the circulars and other advertising matter and it follows that the public had an interest in stopping the practice as wrongful.

*United States Steel Corporation, American Bridge Co., Carnegie-Illinois Steel Corporation, American Steel & Wire Co. of New Jersey, and Tennessee Coal, Iron & Railroad Co.* --These corporations, in 1938, petitioned the Third Circuit (Philadelphia) to review an order directed against "Pittsburgh plus" prices for rolled-steel products, in violation of section 2 (the price-discrimination section) of the Clayton Act, and of section 5 of the Federal Trade Commission Act. A separate petition was filed with the Fifth Circuit (New Orleans) by the Tennessee Coal, Iron & Railroad Co. By stipulation of the parties, the judgment and decree of the Fifth Circuit may be made in conformity with the decision of the Third Circuit or of the Supreme Court. Further proceedings were suspended until October 5, 1942. (For further details, see Annual Reports for 1938, pp. 90-91; 1939, p.109; and 1940, p.94.)

#### **INJUNCTIVE PROCEEDINGS UNDER THE FEDERAL TRADE COMMISSION ACT**

Since enactment of the Wheeler-Lea amendment to the Federal Trade Commission Act, March 21, 1938, the Commission has obtained 35 preliminary injunctions in the United States District Courts restraining the dissemination of false advertisements of various products pending the determination of the Commission proceedings against the advertisers.

Thirty-three of these 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 abortifacient, emmenagogue, aphrodisiacs, electrolysis machines for the removal of superfluous hair, short-wave diathermic devices and so-called cures for obesity and dipsomania.

By invoking the injunctive procedure provided in section 13 of the amended Act, 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 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 this section and concluded during the fiscal year ended June 30, 1941, are listed below.

The decrees prohibit, pending issuance and final disposition of the Commission's complaint, the dissemination of advertisements representing the products as safe and competent treatments for illnesses specified and of advertisements which fail to reveal that such preparations, if used under the conditions prescribed in the advertisements or under customary or usual conditions, might result in serious injury to the health of the user.

Seven of the twelve suits had to do with the advertisement of drugs represented as being safe, scientific, and competent treatments for the relief of delayed menstruation. These cases are:

*Howard Deckelbaum, trading as Sun Cut Rate Store, Huntington, W. Va.*--Preparations advertised were known as "Harmless Prescription Capsules," "Special Prescription Capsules" and "Prescription Female Capsules-Double Strength" and "Triple Strength." The United States District Court for the Southern District of West Virginia granted a temporary restraining order and rule to show cause. Thereafter it issued a preliminary injunction which was followed by the Commission's complaint and order to cease and desist.

*Lenard Gotlieb, trading as Reed's Cut Rate Store and Fountain Cut Rate Store, Clarksburg, W. Va.*--Preparations advertised were known as "Prescription Female Capsules," "Lady Lydia Capsules," "Prescription Female Capsules-Double Strength" and "Triple Strength," "Lady Lydia Capsules-Double Strength" and "Triple Strength." The United States District Court for the Northern District of West Virginia granted a temporary restraining order and rule to show cause. Thereafter it issued its preliminary injunction, which was followed by the Commission's complaint and order to cease and desist.

*Rene P. Balditt, trading as Clito Co., San Antonio, Tex.*--Preparation advertised was known as "Clito Emmenagogue Capsules." The United States District Court for the Western District of Texas issued its temporary restraining order and rule to show cause. Thereafter it issued a preliminary injunction, which was followed by the Commission's complaint and order to cease and desist.

*Max Caplan, trading as Capital Drug Co., Roanoke, Va., and Sherry's Cut Rate Drug Co., Inc., Blue field, W. Va.*--In each case the preparation advertised was known as "Mrs. Bee Femo Caps." The United States District Court for the Western District of Virginia and the United States District Court for the Southern District of West Virginia, respectively, issued temporary restraining orders and rules to show cause. Thereafter preliminary injunctions were issued, followed by the Commission's complaint and order to cease and desist in each case.

*Erie Laboratories, Inc., trading as Mack Pharmacal Co., and Allied Pharmacal Co., trading as Erie Laboratories, Inc., Cleveland.*--Preparations advertised are known as "Mrs. Bee Femo Caps," "Femo Caps," and "Bee Caps." The United States District Court for the Northern District of Ohio issued a temporary restraining order and rule to show cause. Thereafter it issued a preliminary injunction, followed by the Commission's complaint and order to cease and desist.

*Charles Shrader, trading as Queen Chemical Co., Mt. Lebanon, Pa.*--The preparation advertised was known as "Queen Brand Capsules." The United States District Court for the Western District of Pennsylvania issued a temporary restraining order and rule to show cause. Thereafter it issued a preliminary injunction. The Commission's complaint had not issued at the close of the year.

*D. J. Mahler, Inc., East Providence, R. I.*--The advertisement was of an electrical device for the removal of superfluous hair, which was known as "Mahler Electrolysis Apparatus" and "Mahler Method." The United States District Court for the District of Rhode Island granted a temporary restraining order and issued a rule to show cause. Thereafter it issued its preliminary injunction, which was followed by the Commission's complaint and order to cease and desist.

*Julius Miller and Jessie Miller, trading as Miller Drug Co., Rochester, N. Y.*--The preparation advertised, containing as its principal ingredient desiccated thyroid extract and represented as being a safe and scientific treatment for obesity, was known as "Belite Reducers" and "Miller's Reducing Prescription." The United States District Court for the Western District of New York issued a temporary restraining order and a rule to show cause. Thereafter it issued a preliminary injunction, which was followed by the Commission's complaint and order to cease and desist.

Three of the suits involved the advertisement of short-wave diathermy machines which were recommended to the lay public for self-application as a cure or treatment of self-diagnosed diseases and ailments, as follows:

*United Diathermy, Inc., New York.*--The device or method advertised was known as "United Short-Wave Diathermy." The United States District Court for the Southern District of New York issued a temporary restraining order and rule to show cause. Thereafter the Court issued a preliminary injunction which was followed by the Commission's complaint, pending at the close of the year.

*Noland B. Stadley, trading as Sterling Appliance Company, Los Angeles.*--The device or method advertised was known as the "Sterling Short-Wave Diathermy." The United States District Court for the Southern District of California granted a temporary restraining order and rule to show cause. Thereafter it issued a preliminary injunction. The Commission's complaint had not issued at the close of the year.

*George S. Mogilner and James Walker, trading as Merit Health Appliance Co., Los Angeles.*--The device or method advertised was known as "Merit Short-Wave Diathermy." The United States Dis-

trict Court for the Southern District of California granted a temporary restraining order and rule to show cause. Thereafter it issued a preliminary injunction. The Commission's complaint had not issued at the close of the year.

#### **CIVIL 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 9 alleged violations of its cease and desist orders to the Attorney General. Trial of most of these cases was pending at the close of the year. However, 10 cases which had been certified to the Attorney General during the preceding year were disposed of and civil penalties in the sum of \$12,290 were collected or were in the process of collection at the end of the year. The cases disposed of during the current year were:

*United States against George E. McKewen, and others, trading as Herbal Medicine Co., and Natex Co., Baltimore.*--United States District Court for the District of Maryland; judgment entered for \$100.

*United States against J. H. Casey, Portland, Oreg.*--United States District Court for the District of Oregon; judgment entered for \$40.

*United States against Plantation Chocolate Co., Inc., Philadelphia.*--United States District Court for the Eastern District of Pennsylvania; judgment entered for \$600.

*United States against The Perfect Manufacturing Co., Inc., trading as Kar-Nu Co., Cincinnati.*--United States District Court for the Southern District of Ohio; judgment entered for \$1,000.

*United States against The Chesapeake Distilling & Distributing Co., Baltimore.*--United States District Court for the District of Maryland; judgment entered for \$100.

*United States against Mutual Printing Co., Chicago.*--United States District Court for the Northern District of Illinois; judgment entered for \$1,500.

*United States against Montebello Distillers, Inc., Baltimore.*--United States District Court for the District of Maryland; judgment entered for \$100.

*United States against Mells Manufacturing Co., Brooklyn, N.Y.*--United States District Court for the Eastern District of New York; judgment entered for \$600.

*United States against Joseph A. Piuma, Los Angeles.*--United States District Court for the Southern District of California; judgment entered for \$3,250.

In addition to the above, settlement was made in one case by payment of a penalty of \$5,000 prior to the institution of suit.

**TABLES SUMMARIZING WORK OF THE LEGAL DIVISIONS AND  
COURT PROCEEDINGS, 1915-41**

TABLE I.--*Preliminary inquiries*

	1915	1916	1917	1918	1919	1920	1921	1922	1923
Pending beginning of year	0	4	12	32	19	29	61	68	147
Instituted during year	119	265	462	611	843	1,107	1,070	1,223	1,234
Total for disposition	119	269	474	643	862	1,136	1,131	1,291	1,381
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0
Closed after investigation	3	123	289	292	298	351	500	731	897
Docketed as applications for complaint	112	134	153	332	535	724	563	413	382
Total disposition during year	115	257	442	624	833	1,075	1,063	1,144	1,279
Pending end of year	4	12	32	19	29	61	68	147	102
	1924	1925	1926	1927	1928	1929	1930	1931	1932
Pending beginning of year	102	191	176	298	328	224	260	409	307
Instituted during year	1,568	1,612	1,483	1,265	1,331	1,469	1,505	1,380	1,659
Total for disposition	1,670	1,803	1,659	1,563	1,659	1,693	1,765	1,789	1,966
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0
Closed after investigation	1,157	1,270	1,075	942	1,153	1,049	1,060	1,150	1,319
Docketed as applications for complaint	322	357	286	293	282	384	296	332	224
Total disposition during year	1,479	1,627	1,361	1,235	1,435	1,433	1,356	1,482	1,543
Pending end of year	191	176	298	328	224	260	409	307	423
	1933	1934	1935	1936	1937	1938	1939	1940	1941
Pending beginning of year	423	478	760	185	111	152	116	130	195
Instituted during year	1,593	2,151	847	837	899	527	433	648	411
Total for disposition	2,016	2,629	1,607	1,022	1,010	679	549	778	800
Consolidated with other proceedings	0	0	0	0	0	0	4	15	7
Closed after investigation	1,274	1,597	935	624	583	453	379	519	400
Docketed as applications for complaint	264	272	487	287	275	110	36	49	78
Total disposition during year	1,538	1,869	1,422	911	858	563	419	583	485
Pending end of year	478	760	185	111	152	116	130	195	121

CUMULATIVE SUMMARY-TO JUNE 30, 1941

Inquiries instituted	28,552
Consolidated with other proceedings	26
Closed after investigation	20,423
Docketed as applications for complaint	7,982
Total disposition	28,431
Pending June 30, 1941	121

TABULAR SUMMARY OF LEGAL WORK

TABLE 2.--Applications for complaints

	1915	1916	1917	1918	1919	1920	1921	1922	1923	
Pending beginning of year	0	104	130	188	280	389	554	467	458	
Applications docketed	112	134	153	332	535	724	426	382	416	
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 TPC 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	5	8	
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	880	
To complaints	0	3	16	80	125	220	156	104	121	
Settled by stipulation to cease and desist	0	0	0	0	0	0	0	0	0	
Settled by acceptance of TPC 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	187	
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	308	
Pending end of year	104	130	188	280	389	554	467	458	572	
		1924	1925	1926	1927	1928	1929	1930	1931	1932
Pending beginning of year	572	565	488	420	457	530	843	753	754	
Applications docketed	377	340	273	292	334	679	535	511	878	
Rescissions:										
To complaints	0	0	0	0	0	0	2	2	0	
Settled by stipulation to cease and desist	1	1	1	0	2	2	3	5	3	
Settled by acceptance of TPC rules	0	0	0	0	0	1	3	2	0	
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0	
Dismissed for lack of merit	4	3	4	0	0	0	3	4	1	
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	
Total for disposition	954	909	766	712	793	1,212	1,389	1,277	1,138	
To complaints	143	118	57	45	58	100	171	110	90	
Settled by stipulation to cease and desist	3	5	102	80	68	118	275	203	332	
Settled by acceptance of TPC rules	0	0	2	3	19	17	32	5	8	
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0	
Dismissed for lack of merit	243	298	185	127	118	134	158	205	268	
Closed for other reasons	1	0	0	0	0	0	0	0	0	
Total disposition during year	389	421	346	255	263	369	636	523	696	
Pending end of year	565	488	420	457	530	843	753	754	440	
		1933	1934	1935	1936	1937	1938	1939	1940	1941
Pending beginning of year	440	476	469	634	685	964	1,190	1,269	1,421	
Applications docketed	404	376	913	1,221	1,477	1,402	1,257	1,396	1,339	
Rescissions:										
To complaints	3	0	0	0	3	0	0	0	0	
Settled by stipulation to cease and desist	3	4	10	18	27	35	44	45	14	
Settled by acceptance of TPC 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	3	1	12	12	14	5	1	3	
Closed for other reasons 1	0	0	1	3	1	9	5	10	8	
Total for disposition	850	859	1,394	1,888	2,205	2,424	2,501	2,721	2,785	
To complaints	52	98	259	382	290	310	371	329	332	
Settled by stipulation to cease and desist	181	201	357	544	614	564	466	563	498	
Settled by acceptance of TPC rules	3	0	1	0	0	4	0	5	0	
Consolidated with other proceedings	0	0	0	0	0	0	26	37	21	
Dismissed for lack of merit	138	91	66	4	0	0	0	0	0	
Closed for other reasons 1	0	0	77	273	337	356	369	360	513	
Total disposition during year	374	390	760	1,203	1,241	1,234	1,232	1,300	1,364	
Pending end of year	476	469	634	685	964	1,190	1,269	1,421	1,421	

## CUMULATIVE SUMMARY-TO JUNE 30, 1941

Applications docketed	16,718
Rescissions:	
To complaints	10
Settled by stipulations to cease and desist	218
Settled by acceptance of TPC rules	6
Consolidated with other proceedings	0
Dismissed for lack of merit	81
Closed for other reasons <sup>1</sup>	37
Total for disposition	17,070
To complaints	4,140
Settled by stipulations to cease and desist	5,174
Settled by acceptance of TPC rules	97
Consolidated with other proceedings	84
Dismissed for lack of merit	3,863
Closed for other reasons <sup>1</sup>	2,291
Total disposition	15,649
Pending June 30, 1941	1,421

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

TABLE 3.--Complaints

	1915	1916	1917	1918	1919	1920	1921	1922	1923	
Pending beginning of year	0	0	5	10	86	133	286	312	257	
Complaint docketed	0	5	9	154	135	308	177	111	144	
Orders to cease and desist	0	0	0	0	0	0	0	1	0	0
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of TPC rules	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	0	0	0	0	0	1	0	1	
Closed for other reasons <sup>1</sup>	0	0	0	0	0	0	0	0	0	0
Total for disposition	0	5	14	164	221	441	465	423	402	
Complaints rescinded	0	0	0	0	0	0	0	0	0	0
Orders to cease and desist	0	0	3	71	75	111	116	91	82	
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of TPC rules	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	0	1	7	13	44	37	75	88	
Closed for other reasons <sup>1</sup>	0	0	0	0	0	0	0	0	0	0
Total disposition during year	0	0	4	78	88	155	153	166	170	
Pending end of year	0	5	10	86	133	286	312	257	232	
	1924	1925	1926	1927	1928	1929	1930	1931	1932	
Pending beginning of year	232	264	220	152	147	136	198	275	225	
Complaint docketed	154	132	62	76	64	149	172	110	92	
Orders to cease and desist	5	0	0	1	1	0	0	0	1	
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of TPC rules	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	1	0	0	1	0	0	0	0	0	0
Closed for other reasons <sup>1</sup>	0	0	0	0	0	0	0	0	0	0
Total for disposition	392	396	282	230	212	285	370	385	318	
Complaints rescinded	0	0	0	0	0	0	0	3	2	1
Orders to cease and desist	92	73	44	52	48	67	48	108	63	
Settled by stipulations to cease and desist	0	6	3	1	3	3	3	3	0	1
Settled by acceptance of TPC rules	0	0	0	5	5	1	0	1	0	0
Dismissed for lack of merit	36	97	83	25	20	16	41	49	45	



Closed for other reasons 1	0	0	0	0	0	0	0	0	0
Total disposition during year	128	176	130	83	76	87	95	160	110
Pending end of year	264	220	152	147	136	198	275	225	208

TABLE 3.--*Complaints*--Continued

	1933	1934	1935	1936	1937	1938	1939	1940	1941
Pending beginning of year	208	144	115	218	419	358	392	442	458
Complaints docketed	53	97	280	386	296	305	370	331	357
Rescissions:									
Orders to cease and desist	0	0	1	12	10	8	3	7	2
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0
Settled by acceptance of TPC rules	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	0	0	0	0	0	0	6	0
Closed for other reasons 1	0	0	0	0	0	0	1	0	0
Total for disposition	261	241	396	616	725	671	766	786	817
Complaints rescinded	3	0	0	0	3	0	0	0	0
Orders to cease and desist	66	111	126	161	296	245	288	282	348
Settled by stipulations to cease and desist	1	2	1	1	17	5	4	1	2
Settled by acceptance of TPC rules	6	0	0	0	0	0	0	4	1
Dismissed for lack of merit	41	12	38	19	13	13	12	20	32
Closed for other reasons 1	0	1	13	16	38	16	20	21	24
Total disposition during year	117	126	178	197	367	279	324	328	407
Pending end of year	144	115	218	419	358	392	442	458	410

CUMULATIVE SUMMARY--TO JUNE 30, 1941

Complaints	4,529
Rescissions:	
Orders to cease and desist	52
Settled by stipulations to cease and desist	0
Settled by acceptance of TPC rules	0
Dismissed for lack of merit	10
Closed for other reasons 1	1
Total for disposition	4,592
Complaints rescinded	12
Orders to cease and desist	3,067
Settled by stipulations to cease and desist	54
Settled by acceptance of TPC rules	23
Dismissed for lack of merit	877
Closed for other reasons 1	149
Total disposition	4,182
Pending June 30, 1941	410

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	1932	1933	1934
Pending beginning of year	8	3	3	35	3	8	15	2
Appealed	4	4	34	1	10	22	3	1
Total for disposition	12	7	37	36	13	30	18	3
Decisions for Commission	4	3	1	4	3	1	2	2
Decisions for others	2	1	1	26	1	11	13	0
Petitions withdrawn	3	0	0	3	1	3	1	0
Total disposition during year	9	4	2	33	5	15	10	2
Pending end of year	3	3	35	3	8	15	2	1

  

	1935	1936	1937	1938	1939	1940	1941
Pending beginning of year	1	3	5	3	27	31	27
Appealed	5	6	2	29	25	22	23
Total for disposition	6	9	7	32	52	53	50
Decisions for Commission	3	4	3	3	15	17	19
Decisions for others	0	0	0	0	2	2	1
Petitions withdrawn	0	0	1	2	4	7	7
Total disposition during year	3	4	4	5	21	26	27
Pending end of year	3	5	3	27	31	27	23

## CUMULATIVE SUMMARY--TO JUNE 30, 1941

Appealed	258
Decisions for Commission	107
Decisions for others	192
Petitions withdrawn	36
Total disposition	235
Pending June 30, 1941	23

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 curb pump (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 orders 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--order to cease and desist-petitions for review--  
Supreme Court of the United States--Continued*

	1927	1928	1929	1930	1931	1932	1933	1934
Pending beginning of year	6	1	0	1	0	0	0	1
Appealed by Commission	1	0	0	1	1	0	8	12
Appealed by others	1	0	2	0	0	1	0	1
Total for disposition	8	1	2	2	1	1	8	14
Decisions for Commission	3	0	0	0	0	0	6	13
Decisions for others	2	0	0	1	1	0	0	1
Petitions withdrawn by Commission	0	0	0	1	0	0	0	0
Certiorari denied Commission	1	0	0	0	0	0	1	0
Certiorari denied others	1	1	1	0	0	1	0	0
Total disposition during year	7	1	1	2	1	1	7	14
Pending end of year	1	0	1	0	0	0	1	0

  

	1935	1936	1937	1938	1939	1940	1941
Pending beginning of year	0	0	1	0	0	1	1
Appealed by Commission	0	0	0	0	1	1	0
Appealed by others	0	4	0	2	1	10	5
Total for disposition	0	4	1	2	2	12	6
Decisions for Commission	0	0	0	0	0	0	2
Decisions for others	0	0	0	0	0	0	1
Petitions withdrawn by Commission	0	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	0	0	1	0
Certiorari denied others	0	3	1	2	1	10	2
Total disposition during year	0	3	1	2	1	11	5
Pending end of year	0	1	0	0	1	1	1

CUMULATIVE SUMMARY--TO JUNE 30, 1941

Appealed by Commission	45
Appealed by others	34
Total appealed	79
Decisions for Commission	26
Decisions for others	13
Petitions withdrawn by Commission	2
Certiorari denied Commission	9
Certiorari denied others	28
Total disposition	78
Pending June 30, 1941	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
Decisions for Commission	1	0	1	3	0	0	0	0
Decisions for others	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 6 4 4 4 4

TABLE 6.--*Court proceedings--mandamus, injunction, etc.--lower courts--Con.*

	1927	1928	1929	1930	1931	1932	1933	1934
Pending beginning of year	4	5	3	2	1	1	2	1
instituted by Commission	1	0	2	0	1	0	1	0
instituted by others	1	2	1	2	0	2	0	2
Total for disposition	6	7	6	4	2	3	3	3
Decisions for Commission	1	1	4	1	1	1	2	2
Decisions for others	0	1	0	1	0	0	0	0
Petitions withdrawn by Commission	0	2	0	0	0	0	0	0
Petitions withdrawn by others	0	0	0	1	0	0	0	1
Total disposition during year	1	4	4	3	1	1	2	3
Pending end of year	5	3	2	1	1	2	1	0

  

	1935	1936	1937	1938	1939	1940	1941
Pending beginning of year	0	0	1	0	1	5	2
Instituted by Commission	0	4	2	5	11	14	14
instituted by others	0	1	1	1	2	4	1
Total for disposition	0	5	4	6	14	23	17
Decisions for Commission	0	4	3	2	8	20	16
Decisions for others	0	0	0	3	1	1	0
Petitions withdrawn by Commission	0	0	0	0	0	0	0
Petitions withdrawn by others	0	0	1	0	0	0	1
Total disposition during year	0	4	4	5	9	21	17
Pending end of year	0	1	0	1	5	2	0

## CUMULATIVE SUMMARY--TO JUNE 30, 1941

Instituted by Commission	67
Instituted by others	29
Total instituted	96
Decisions for Commission	71
Decisions for others	16
Petitions withdrawn by Commission	4
Petitions withdrawn by others	5
Total disposition	96
Pending June 30, 1941	0

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.-Supreme Court or the United States--Continued*

	1927	1928	1929	1930	1931	1932	1933	1934
Pending beginning of year	1	0	0	0	0	0	0	0
Appealed by Commission	1	0	0	0	0	0	0	0
Appealed by others	0	0	0	1	0	0	0	1
Total for disposition	2	0	0	1	0	0	0	1
Decisions for Commission	1	0	0	0	0	0	0	0
Decisions for others	0	0	0	0	0	0	0	0
Certiorari denied Commission	1	0	0	0	0	0	0	0
Certiorari denied others	0	0	0	1	0	0	0	1
Total disposition during year	2	0	0	1	0	0	0	1
Pending end of year	0	0	0	0	0	0	0	0

  

	1935	1936	1937	1938	1939	1940	1941
Pending beginning of year	0	0	0	0	0	0	0
Appealed by Commission	0	0	0	1	0	0	0
Appealed by others	0	0	0	0	0	0	0
Total for disposition	0	0	0	1	0	0	0
Decisions for Commission	0	0	0	1	0	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	0	0	0	0	0	0	0
Total disposition during year	0	0	0	1	0	0	0
Pending end of year	0	0	0	0	0	0	0

CUMULATIVE SUMMARY--TO JUNE 30, 1941

Appealed by Commission	8
Appealed by others	2
Total appealed	10
Decisions for Commission	2
Decisions for others	5
Certiorari denied Commission	1
Certiorari denied others	2
Total disposition	10
Pending June 30, 1941	0

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

PURPOSES OF TRADE PRACTICE CONFERENCE PROCEDURE

TRADE PRACTICE CONFERENCE ACTIVITIES DURING THE YEAR

INDUSTRY RULES IN EFFECT AND THEIR ADMINISTRATION

TYPES OF PRACTICES COVERED IN APPROVED RULES

GROUP I AND GROUP II RULES DEFINED

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

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

The trade practice conference procedure has for its purpose the establishment, by the Commission, of trade practice rules 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 cooperative action among business competitors within the law and with the aid of Commission supervision may properly be taken to end unfair trade practices. 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. Such 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.

*Trade Practice Conference Division.*--This division 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. Such division is also charged with the general administration of the Wool Products Labeling Act and the Rules and Regulations which have been promulgated thereunder. (See p.125.)

*Procedure for establishing industry rules.*--The procedural steps and requirements applicable to industry proceedings for the establishment of trade practice rules, including the filing of application, the holding of industry conferences and public hearings, and the promulgation of industry rules, are covered in the Commission's Rules of Practice. (See Rule XXVII, p.196, et seq.)

In respect of such industry proceedings for trade practice rules, preliminary meetings are held by the members of the Commission's staff with trade committees, industry members, or other parties of interest, affording such guidance and help as will contribute to a full understanding of the proceeding and its objects; also providing a cooperative working out of constructive solutions for the several competitive problems to be treated. These meetings are followed in course of the proceeding by industry-wide conferences, hearings, and final promulgation of rules.

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

The trade practice conference work divides into two general categories, (1) the activities for establishing and promulgating new rules for different industries, and (2) the administration of existing rules promulgated during the current and previous years. In the first division are proceedings currently concluded as well as those pending in various stages of advancement.

*New rules promulgated during the fiscal year.*--Aside from the various pending cases, trade practice conference proceedings completed during the fiscal year resulted in the establishment of representative sets of rules for the following industries: (1) Resistance Welder Manufacturing Industry; (2) Tuna Industry; (3) Subscription and Mail-Order Book Publishing Industry; (4) Linen Industry; (5) Hosiery Industry; and (6) Beauty and Barber Equipment and Supplies Industry. (With respect to the rules for the last-named industry, final action by the Commission was taken during the fiscal year but the rules were not formally issued until after

the close of the year.) The industries above listed represent approximately a billion dollars in annual sales volume with thousands of manufacturing and marketing units. Their rules collectively constitute a noteworthy set of commercial guides in the interest of fair competition in business and consumer protection. The linen and hosiery rules in particular signify notable advances in collaboration of industry and the Government for the benefit of the public and wholesome business practices.

*Pending industry trade practice proceedings for establishment of rules.*--In addition to industries for which rules have been promulgated, trade practice proceedings were under way for other industries and at the close of the fiscal year were pending in different stages of development. Among these active proceedings are included 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, are indicative of the growing 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.

### **INDUSTRY 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 865 rules, of which 755 are in group I and 110 in group II. The types of trade practices hereinafter listed are illustrative of the different kinds covered in the rules for these 50 industries. <sup>1</sup>

<sup>1</sup> Rules when promulgated for an industry are issued in pamphlet form and are available upon request made to the Commission. A 1-volume compilation of the various sets of rules promulgated for different industries from September 1, 1935, to August 31, 1939, may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D. C. (287 pp.).

*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 through-out the year in regard to existing rules, particularly as affecting compliance with the provisions, and in general for assistance to 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 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. There was widespread compliance with approved rules on the part of members of industry 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.

#### **TYPES OF PRACTICES COVERED IN APPROVED RULES**

The following are illustrative of the great variety of subjects covered under trade practice 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; use of deceptive depictions (photographs, engravings, cuts, etc.) in describing industry products; selling below cost with the purpose and effect of suppressing competition, restraining trade, or creating a 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; 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 words or terms "bristle," "pure bristle," etc., in sale of toilet brushes; deceptive use of "help wanted" or other employment columns in publications; interfering with competitors' right of purchase or sale; representing domestic products as imported, or imported products as domestic; use of misleading or deceptive representations in procuring sales representatives; of deceptive titles or names in selling books under the subscription plan; misusing terms relating to types of construction or weave of textiles; misuse of terms "Extra Fancy," "Extra Select," "Extra Quality," "De Luxe," "Choice," etc., to describe tuna fish products; of the words or terms "lisle cotton," "cotton lisle," "crepe," etc., to describe hosiery products; deceptive use of terms "hand spun," "hand woven,"

“hand loomed,” “hand printed,” “hand embroidered,” and similar representations, in describing linen products; and various other forms of misrepresentation, including false or misleading advertising and deceptive labeling respecting the quantity, quality, grade, size, material, content, composition, origin, use, manufacture, preparation, or distribution of any industry product; aiding or abetting another in the use of an unfair trade practice.

Various other rules provide for disclosure of fiber content and proper marking of textile merchandise made of rayon, silk, or linen, or of two or more fibers containing either rayon, silk, or linen; 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 marketing of substandard 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 imperfect or defective merchandise; as to use of adulterant or substitute for linseed oil in respect to putty products; as to presence of metallic weighting in silk or silk products; as to minimum yardage of ribbons; as to true functions of radio parts and accessories; as to 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 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.



**PART IV. WOOL PRODUCTS LABELING ACT**

COMMISSION BEGINS ADMINISTRATION OF NEW LAW  
DESIGNED TO PROTECT THE  
CONSUMING PUBLIC

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## **PART IV. WOOL PRODUCTS LABELING ACT**

### **COMMISSION BEGINS ADMINISTRATION OF NEW LAW DESIGNED TO PROTECT THE CONSUMING PUBLIC**

Passage of the "Wool Products Labeling Act of 1939" early in the fiscal year marked a new development in the field of consumer protection and promotion of fair competitive practice.

Approved by the President on October 14, 1940, to become effective 9 months later, the act provides for the labeling of wool products to disclose their true composition in the interest of protecting the consuming public, industry and trade against the evils resulting from the concealment of this information.

The act designates the Federal Trade Commission as the administrative and enforcement agency. The Commission's Division of Trade Practice Conferences has been assigned the various duties incident to the general administration of the statute and the rules and regulations thereunder.

Following the passage of the act the work of assisting industry in making necessary preparations to meet the requirements of the law were undertaken.

*Wool Act rules and regulations.*--The Wool Products Labeling Act authorized and directed the Commission to make such rules and regulations under and in pursuance of the terms of the act as might be necessary and proper for its administration and enforcement. In carrying out this statutory direction, the Commission adopted a procedure whereby industry members and other parties in interest were afforded opportunity to contribute their views and suggestions in arriving at rules which would be of the maximum assistance to industry amid trade and be in consonance with the law, and also afford full protection of the public interest.

Accordingly, the Commission, on the basis of its preliminary studies, prepared a draft of suggested rules which it released to all interested or affected parties affording them a period for study and inviting them to submit their suggestions and to be heard. Such hearing was held on April 2, 1941, and pursuant to the public notice relating thereto many industry groups and persons concerned submitted suggestions and views, all of which were carefully studied and considered by the Commission in arriving at the final draft of rules and regulations. After such full consideration these were publicly announced on May 24, 1941. They were made available in advance of the effective date of the act in order that members of industry and trade might

have the benefit of their provisions in preparing for compliance with the act when it became effective. Such rules and regulations were accordingly made effective on July 15, 1941. The rules and regulations are comprehensive and provide for those parties subject to the act full instructions and guidance as to how they may proceed in various situations and assure themselves that they are within the requirements of the law. Besides extensive circulation of the rules and regulations through private prints of industry organizations and other groups, the Commission, up to September 1, 1941, had supplied 26,000 copies of the official rules and regulations to members of industry and trade having a need therefor.

*Manufacturers' registered identification numbers.*--Rule 4 of the rules and regulations provides for the assignment by the Commission of manufacturers' registered identification numbers to manufacturers of wool products residing in the United States, upon application of the manufacturer therefor, such number to be used by the manufacturer in lieu of his name on the label affixed to the wool product, subject to the conditions established by the Commission. This rule was formulated in order to assist industry and trade by making available the means whereby the name of the retailer or other distributor not subject to section 3 of the act might be used on the label if accompanied by the manufacturer's registered identification number, without the necessity of placing thereon the manufacturer's name.

Pursuant to applications filed under this rule, more than 3,700 manufacturers' registered identification numbers have been issued to domestic manufacturers of wool products.<sup>1</sup>

*Continuing guaranties.*--Provision is made in section 9 whereby a dealer or other person subject to the act may avoid guilt thereunder by establishing 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, or from whom it was received, that such wool product was not misbranded under the provisions of the act. This section further provides that such guaranty may be either (1) a separate guaranty specifically designating the wool product guaranteed, or (2) a continuing guaranty filed with the Commission applicable to all products handled by a guarantor in such form as the Commission might prescribe. The form prescribed by the Commission is set forth in Rule 33 of the rules and regulations. Many hundreds of such guaranties have been filed. A public record of continuing guaranties on file with the Commission is maintained, such record being open for inspection by interested parties.

<sup>1</sup> Figure given is as of August 30, 1941.

*Enforcement.*--The Commission has announced that in general its usual procedure will be employed in the enforcement of this statute. Such procedure, long established and repeatedly sanctioned by the courts, is primarily preventive rather than punitive. Under the terms of the act and the procedure of the Commission there is assured fair and impartial treatment, with full opportunity for hearing and court review. The Commission's announced policy is to effect compliance through voluntary cooperation wherever this is possible and consistent with the public interest.

While the act did not go into effect until shortly after the close of the fiscal year, extensive preparation for placing it in operation had been made during the year with every indication that effective compliance steps were being taken throughout the country by manufacturers, distributors, and dealers subject to the act.

During the 9 months period between the enactment and effective date of the statute, a large volume of correspondence was handled in advising and assisting those subject to its provisions. This involved many questions of the application of the act and the rules and regulations to specific problems and questions presented by members of industry or otherwise arising in the action necessary on the part of manufacturers and merchants to properly mark their wool products and to bring their business practices into harmony with the requirements of the law.

*The Wool Act, a protection to business and the public.*--The act as stated in its title is 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. Provision is made for disclosure of fiber content, of loading and adulterating materials and of name through which the responsible manufacturer or distributor may be ascertained. When woolen or purported woolen fabric, clothing and other articles coming within the scope of the act are introduced into or sold in "commerce," the stamp, tag, label, or mark of identification affixed to the product shall disclose the percentages of "wool," "reprocessed wool," "reused wool," and of other fibers of which the article is made. Such label or mark, or a proper substitute therefor, is to remain on the merchandise until it reaches the ultimate purchaser.

Protection of the consumer, and safeguarding of fair practices in merchandise, are primary objectives. The law is directed against the evils of nondisclosure of content, of misinformation and mis-branding, of irresponsible labeling, with the purpose of eliminating the economic waste, the harmful exploitation, and the unfair competitive effects of such evils. A long-felt need in this regard is supplied by this statute to scrupulous business and to the purchasing public.

In substantial measure the act brings to the public, to business, and to all concerned, the benefits of informative labeling, or what is commonly referred to as "Truth in Fabrics." Woolen clothing, and woolen products generally, to which the act applies, are essentials affecting the entire population. That honesty and fair dealing in the distribution of these commodities should obtain is necessarily a matter of large importance to the general welfare.

**PART V. RADIO AND PERIODICAL ADVERTISING**

SPECIAL PROCEDURE PROVIDES CONTINUOUS SURVEY OF PUBLISHED  
AND BROADCAST MATTER

## **PART V. RADIO AND PERIODICAL ADVERTISING**

### **SPECIAL PROCEDURE PROVIDES CONTINUOUS SURVEY OF PUBLISHED AND BROADCAST MATTER**

The Commission maintains its Radio and Periodical Division to provide a direct and expeditious handling of certain cases involving false and misleading advertising, violative of the provisions of the Federal Trade Commission Act.

Advertisers, publishers, broadcasting stations, and advertising agencies are accorded the privilege of dealing directly with the Director of the Division, with a view to reaching an agreement in such cases as are appropriate for negotiating a stipulation, thereby disposing of the issues involved and obviating the necessity of formal trial.

By this procedure the advertisers are afforded an opportunity informally to present for consideration such evidence relating to the advertising claims questioned by the Commission as they may care to submit, with a view to determining whether or not a revision of their advertising is required, and to stipulate the discontinuance of any representations which, after a consideration of all the evidence, are determined to be false or misleading. The results obtained through this procedure are effective in promptly eliminating false and misleading statements; and the expense of litigation is saved by both the advertisers and the Government.

The survey of advertising was inaugurated by the Commission in 1929 and was limited to advertising appearing in magazines and newspapers. It was expanded in 1934 to include commercial continuities broadcast by radio and in 1939 to include mail order catalogs, almanacs and foreign language newspapers. Questioned advertisements noted in these surveys provide current specimens which are checked with existing advertising cases as to their compliance with orders of the Commission and stipulations accepted from advertisers, and also form the bases of prospective cases not previously investigated.

Apparent and probable misrepresentations detected through this survey are carefully investigated. In those cases where, upon consideration of the evidence developed by investigation, the advertising is determined by the Commission to be false or misleading and circumstances so warrant, the advertisers are extended the privilege of

disposing of the matters through an informal procedure, more fully explained on page 41, which permits their executing stipulations by 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. (See p.32.)

In November 1940, the Commission authorized the negotiation of stipulations in certain cases involving the advertising of drugs and cosmetics wherein the advertisement is considered false because it fails to disclose possible harmful effects from the use of the product under the conditions prescribed in the advertisement or under such conditions as are customary or usual. This authorization applies only to products that are potentially dangerous and not to those products which are inherently dangerous or where injury is probable.

Stipulations are also negotiated with advertising agencies who have prepared and disseminated false and misleading advertisements for food, drugs, devices or cosmetics, as well as with the advertisers on whose behalf the agencies acted.

In this phase of the Commission activity, its only objective is to prevent false and misleading advertisements. It does not undertake to dictate what an advertiser shall say, but merely 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.

*News paper 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 21,500, 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 during the fiscal year ended June 30, 1941, the Commission procured 1,831 editions of representative newspapers of established general circulation and 1,824 editions of



magazines and farm and trade journals of interstate distribution representing a combined reported circulation of 148,425,809.

Among these periodicals were included 296 issues of farm journals having a combined circulation of 17,778,421; 154 issues of trade journals and specialty publications with a combined circulation of 2,589,123; and foreign language publications having a circulation of 1,179,836.

In the aforementioned newspapers, magazines, farm and trade journals 377,764 advertisements were examined of which 25,022 were noted as containing representations that appeared to be false or misleading.

*Almanac advertising.*--As supplemental 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. This survey during the fiscal year covered the examination of 1,414 advertisements, resulting in 289 being set aside as warranting further investigation.

*Mail-order advertising.*--During the fiscal year the Commission procured catalogs and circulars containing an aggregate of 20,238 pages, being distributed periodically and seasonably by mail-order companies. Of the 54 mail-order houses included in the survey, 5 had combined annual sales in excess of \$1,303,737,420. In the examination of these 20,238 pages of advertising, 467 advertisements were marked as containing possibly false and misleading representations. 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 radio advertising, issues calls to individual radio stations, generally at the rate of 4 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 stations.

Producers of electrical transcription recordings submit monthly 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 transcriptions and other data.

During the fiscal year ended June 30, 1941, the Commission received 857,890 copies of commercial radio broadcast continuities, amounting to 1,737,181 pages of typewritten script. These comprised 1,197,199 pages of individual station script, 529,820 pages of network script, and 10,162 pages of commercial recorded script.

The staff examined 871,909 commercial radio broadcast continuities, amounting to 1,749,557 pages of typewritten script. These comprised 519,640 pages of network script, 1,219,950 pages of individual station script, and 9,967. pages of script representing the built-in commercial portions of transcription recording productions destined for radio broadcast, through distribution of multiple pressings of such recordings to individual stations. An average of 5,755 pages of radio script were read each working day. From this material 24,535 commercial broadcasts were marked for further study as containing representations that might be false or misleading.

*Cooperation of radio and publishing industries.*--In general, the Commission has received the helpful cooperation of the 3 Nationwide network chains, 13 active regional networks, and transcription producers engaged in preparing commercial radio recordings, in addition to that of some 781 active commercial radio stations, 491 newspaper publishers, and 533 publishers of magazines, farm journals, and trade publications, and has observed an interested desire on the part of such broadcasters and publishers to aid in the elimination of false and misleading 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 75.4 percent of the cases arising from radio broadcasts and published advertisements, initiated through the Radio and Periodical Division during the fiscal year ended June 30, 1941. 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 the division's work.

In directing its attention to the principal sources and areas of questionable advertising campaigns, the Commission has been guided by special analyses made from time to time, which disclose the origin of questioned newspaper and radio advertising proportionately as to population centers.

*Analysis of questioned advertising.*--An analysis of the questioned advertisements which were assembled by cases and given legal review, discloses that they pertained to 2,839 commodities in the proportions indicated below:

**CLASSIFICATION OF PRODUCTS**

<i>Commodity</i>	<i>Percent</i>	
Food, drugs, devices, and cosmetics:		
Food (human)	12.7	
Food (animal)	3.6	
Drugs	33.0	
Cosmetics	13.5	
Devices	2.5	
		65.3
Other products:		
Specialty and novelty goods	10.2	
Automobile, radio, refrigerator, and other equipment	3.7	
Home study courses	1.9	
Tobacco products	1.2	
Gasoline and lubricants	.9	
Poultry and livestock supplies and equipment, including hatchery products, etc.	1.1	
Miscellaneous, including apparel, coal and oil fuels, house furnishings and kitchen supplies, specialty building materials, etc.	15.7	
		34.7
Total		100.0

In the item of drug preparations listed above, a substantial proportion of the related advertising contained possible misrepresentations or representations which encompassed possibly 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 374 cases and to advertising agencies in 19 cases, and accepted 234 stipulations pertaining to radio and periodical advertising. Of these, 19 stipulations (8 relating to drugs and 11 to hair dyes) contained agreements to publish appropriate warnings in advertisements as to the potential harm that might result from the use of the products in question.

A total of 605 cases were disposed of by the various methods of procedure. Of this number 222 cases were considered settled upon receipt of reports showing compliance with previously negotiated stipulations. The remaining 383 were closed without prejudice to the right of the Commission to reopen if warranted by the facts: 221 of them for lack of jurisdiction or lack of evidence sufficient to establish a violation of law, 143 because of discontinued business and practices, or insufficient public interest, 12 because of fraud orders issued by the Post Office Department against the advertisers, and 7 because the Post Office Department had accepted from the parties concerned affidavits of discontinuance of business.

In addition, the Commission in 23 cases ordered issuance of complaint: in 11 instances where advertisers failed to stipulate; in 5 cases in which the advertiser was not given the opportunity to stipulate because of gross deception, and in 7 involving violation of the terms of existing stipulations previously accepted and approved. In 27 cases field investigations were ordered, including 5 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.

Nine hundred seventy-nine radio and periodical cases were pending on July 1, 1940, and 779 were pending on June 30, 1941.

*Commission has access to scientific services.*--In addition to receiving scientific advice from its Medical Advisory Division the Commission receives effective cooperation from other agencies of the Government. It has access to the laboratories, libraries, and other facilities of Federal Government agencies, including the National Bureau of Standards, United States Public Health Service, the Food and Drug Administration, and the 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.

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.

*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 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 sent to the advertiser, along with pertinent portions of the opinion. The advertiser is extended the privilege of submitting evidence 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 prepared 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.

**PART VI. MEDICAL ADVISORY SERVICE**

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

## **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. In November 1940, the services of the medical adviser were required by the Public Health Service and he was recalled for duty in that bureau. It became necessary for the Commission to provide the entire personnel for the Medical Advisory Service, and it appointed a medical adviser as a member of the Commission's staff.

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. FOREIGN-TRADE WORK**

THE EXPORT TRADE ACT

EXPORTS IN 1940 TOTAL \$307,354,000

45 ASSOCIATIONS OPERATE UNDER THE ACT

TRUST LAWS AND UNFAIR COMPETITION ABROAD



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

The Commission is charged with administration of the Export Trade Act (Webb-Pomerene law) and inquiries under section 6 (h) of the Federal Trade Commission Act, the latter of which directs investigation of trade conditions in and with foreign countries where associations, combinations or practices of merchants and traders may affect the foreign trade of this country.

### **THE EXPORT TRADE ACT**

The Export Trade Act, in operation since 1918, provides for export associations or cooperative groups engaged solely in export trade, and requires such organizations to file with the Commission copies of their organization papers and agreements, annual reports, and such other information as the Commission shall require concerning their operation.

The associations report that experience during the past year emphasized the advantages to be gained by group action in export trade. Events moved so swiftly in Europe that by the time orders had been placed, goods made, and shipment begun, some countries no longer existed as political entities. Recapture or diversion of shipments to other ports was effected in some instances when foreign ports were closed while the goods were en route. As a central organization, the Webb law association was enabled to keep abreast of the situation from day to day, to carry on the increasingly complicated business of accepting orders, allocating them among the members, preparing documents, obtaining navicerts where required, and of keying these activities with the reservation of cargo space and expiration dates of letters of credit and import licenses being obtained by customers.

When it became impossible to ship to Europe, an effort was made to increase exports to South America, which was in some cases made possible because European goods were not reaching the Latin American markets, Shipments were controlled so that foreign markets were not glutted by too much tonnage movement at one time. Suitable deliveries were made possible in connection with large orders by splitting tonnage between members of an association. Some associations effected economies by handling sales through a single unit instead of having foreign sales representatives for each company. Uniformity in sales terms, especially as to terms of payment, centralized handling of inquiries, and arrangement for cargo space and insurance, are cited as advantages obtained by the groups.

Looking into the future, the associations feel that there will be more highly effective combinations of foreign buyers to deal with, as well as foreign government-controlled cartels, and that it will be more necessary than ever to meet these changed conditions by organized effort on the part of American exporters. With the return to world peace, the possibilities of trade in each market must be explored anew, and the expense entailed can best be borne by cooperative effort. (This suggestion is made by an association that includes a number of mills and its members will be in a position to share this item of expense.)

### EXPORTS IN 1940 TOTAL \$307,354,000

Exports by Webb law associations in 1940 reached a higher total than in 1939, due largely to an increase in shipments of metal products:

	<i>1939</i>	<i>1940</i>
Metals and metal products, including iron and steel, metal lath, pipe fittings and valves, screws, rail-way equipment, and electrical apparatus	\$134,950,000	\$207,498,000
Products of mines and wells, Including phosphate rock, potash, sulphur, and carbon black	18,750,000	16,587,000
Lumber and wood products, including pine, fir, redwood, hardwood, walnut, plywood, shooks, and wood naval stores	6,590,000	7,884,000
Food products, including canned milk, meat, rice, sugar, and fruit	20,010,000	12,297,000
Miscellaneous manufactures, including paper, abrasives, chemicals, textiles, rubber, glass, and pencils	56,760,000	63,088,000
	237,060,000	307,354,000

### 45 ASSOCIATIONS OPERATE UNDER THE ACT

The 45 export associations filing papers with the Commission at the end of the fiscal year, June 30, 1941, were:

American Box Shook Export Association, 308 Barr Building, Washington, D. C.  
 American Hardwood Exporters, Inc., 602 Carondelet Building, New Orleans.  
 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, 1 Drumm Street, San Francisco.  
 California Prune Export Association, 1 Drumm Street, San Francisco.  
 California Raisin Export Association, 1 Drumm Street, San Francisco.



- California Rice Exporters, 351 California Street, San Francisco.
- Carbon Black Export, Inc., 500 5th Avenue, New York.
- Cement Export Co., Inc., The, c/o M. S. Ackerman, Treasurer, 150 Broadway, New York.
- Copper Exporters, Inc., 50 Broadway, New York.
- Douglas Fir Export Co., 1125 Henry Building, Seattle.
- Durex Abrasives Corporation, 63 Wall Street, New York.
- Electrical Apparatus Export Association, 7 Pine Street, New York.
- Electrical Export Corporation, 122 East 51st Street, New York.
- Export Screw Association of the United States, 23 Acorn Street, Providence, R. I.
- Flints Export Agency, 50 Broad Street, New York.
- Florida Hard Rock Phosphate Export Association, 1403 Savannah Bank & Trust Building, Savannah, Ga.
- 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 42d Street, New York.
- Northwest Dried Fruit Export Association, 306 Title & Trust Building, Portland, Oreg.
- Pacific Forest Industries, Washington Building, Tacoma, Wash.
- Pacific Fresh Fruit Export Association, 333 Pine Street, San Francisco.
- Pencil Industry Export Association, 703 East 13th Street, New York.
- Phosphate Export Association, Room 1609, 393 7th Avenue, New York.
- Pipe Fittings & Valve Export Association, The, 1421 Chestnut Street, Philadelphia.
- Plate Glass Export Corporation, 2000 Grant Building, Pittsburgh.
- Potash Export Association, Inc., c/o Fred N. Oliver, Secretary, 110 East 42d Street, New York.
- Redwood Export Co., 405 Montgomery Street, San Francisco.
- Rice Export Association, 1103 Queen & Crescent Building, New Orleans.
- Rubber Export Association, The, Room 202, 19 Goodyear Avenue, Akron, Ohio.
- Shook Exporters Association, Box 5188, Memphis, Tenn.
- Signal Export Association, Room 2048, 420 Lexington Avenue, New York.
- Steel Export Association of America, The, 75 West Street, New York.
- Sulphur Export Corporation, 420 Lexington Avenue, New York.
- Textile Export Association of the United States, 40 Worth Street, New York.
- United States Alkali Export Association, Inc., 11 Broadway, New York.
- Walnut Export Sales Co., Inc., 12th Street and Kaw River, Kansas City, Kans.
- Walworth International Co., 60 East 42d Street, New York.
- Washington Evaporated Apple Export Association, 709 North 1st Avenue, Yakima, Wash.

### TRUST LAWS AND UNFAIR COMPETITION ABROAD

Under section 6 (h) of the Federal Trade Commission Act, the Commission follows developments in trust laws and regulation of competition abroad. The Annual Report for 1940 covered preparedness and defense laws passed prior to and immediately after the beginning of the European war in 1939. Subsequent measures for regulation of industry and trade to meet war conditions have affected production and trade in all parts of the world.



Production in some lines has been materially increased for war purposes; in others manufacture of less essential goods has been limited. Priority orders for defense and control of foreign trade to assure adequate supply at home, have been necessary. Defense organization calls for concentration and financial assistance under Government regulation; in some countries rigid control has been adopted. Efforts to prevent inflation and undue price increase have led to price control measures.

Trade and industrial regulation in 27 countries or dominions are reviewed briefly as follows:

*Argentina.*--A decree of November 6, 1940, created a Foreign Affairs Council to meet the increasing number of political and economic problems resulting from the world crisis. A Shipping Commission was created by decree in March 1941 to study, report, and advise on shipping problems. A Promotional Corporation was set up in April 1941 to undertake foreign market surveys.

*Australia.*--Under the National Security Act of 1939, orders have been issued for monetary control and regulation of prices, supplies, and capital issues. Full support has been given to Britain and large quantities of produce shipped for British use. The rates of bounty payments to cotton growers were raised in 1940. A new wheat stabilization measure was passed in November 1940. Farmers marketed all wheat through the Government which also bought the entire wool clip. The Commonwealth Prices Commissioner declared prices on practically all essential products and services, including transportation and wages; increases were permitted only as necessary to meet higher production costs.

*Belgium.*--Under German occupation, decrees issued in September 1940 gave to the Minister of Economic Affairs power to regulate production and distribution of essential products through a central office created for each industry. New plants may not be opened without special permit. A National Corporation for Agriculture and the Foodstuffs Trade was created by decree on August 27, 1940, with authority to regulate production and manufacture; create, suspend, or suppress groups; regulate qualities and merchandising methods; and impose fees, taxes and fines.

*Brazil.*--An Economic Defense Commission and a Production and Supply Control Commission have power to control production, prices, and distribution of foodstuffs, consumption goods and raw materials. There are also control offices or institutes for specific commodities. A National Pine Institute was established in 1941 to regulate production of pine wood, fix prices, establish export quotas, provide drying plants and warehouses, and promote the building of sawmills. A Maritime Commission was created by decree law in

March 1941 to organize the schedules of vessels, distribute tonnage, fix rates and subsidize the service.

*Canada.*--An Order in Council on July 2, 1940, provided for a Wartime Industries Control Board and appointment of controllers for the major industries, under the Minister of Munitions and Supply. Controllers have been appointed for steel, metals production, timber, and for ship construction and repairs.

The Wartime Prices and Trade Board, established in 1939 as a protective measure against undue price increases, profiteering and hoarding of the necessities of life, includes the Commissioner of Tariff, the Combines Investigation Commissioner, the Director of Marketing Services in the Department of Agriculture, and other appointed members. Its personnel is drawn largely from already existing offices, and its investigations are conducted by the Combines Investigation Commission, the Royal Mounted Police, the Weights and Measures Branch of the Department of Trade and Commerce, the Bureau of Statistics, Tariff Board and Fuel Board. Products under control include wool, sugar, hides and leather, coal, animal and vegetable oils, as well as rentals, with an administrator and a technical advisor for each of these industries. The Wool Administrator, for instance, assembles and checks the requirements of Canadian mills, passes them on to the Wool Control authorities in England, Australia and New Zealand, and when necessary apportion the materials available to the mills. Under increased authority in 1940, he may buy, sell, and store wool, process it, fix prices, ration supplies, license dealers, and license exports and imports. The Rental Administrator has cooperated with provincial committees to meet local problems, chiefly in areas where military or wartime expansion caused housing shortage.

Alleged price-fixing by coal dealers was referred by the Wartime Prices and Trade Board to the Combines Investigation Commission in 1940; conditions were said to have been corrected after hearings by the Commissioner. In May 1941, the Board warned bakers against joint action to increase the price of bread. The board has investigated a number of complaints of hoarding and profiteering. Prices fixed on butter were discontinued in January 1941, when the Dairy Products Board was given authority to set minimum butter prices, determine storage amounts, and buy and sell for export. An Animal Feedstuffs Committee cooperated with the Department of Agriculture in alleviating the farmers' feed problems. As to milk, the board decided not to duplicate the work of provincial authorities.

Budget Resolutions in June 1940, provided that no person should take advantage of the new 10 percent War Exchange Tax to increase prices by more than the actual increase in costs entailed thereby.

The Wartime Prices and Trade Board was directed to enforce that provision and in 1940 conducted inquiries into the price of more than 80 items affected by the tax. In December 1940, the Board was charged with the responsibility of protecting the public from persons who might take advantage of important prohibitions and excise taxes imposed by Parliament on December 2, 1940.

Two cases were in the courts during the year involving combinations in restraint of trade. Judgment was rendered by the Court of Appeal for Ontario in May 1941, against manufacturers of fiberboard shipping containers; 19 companies and one individual were convicted and fines were imposed totaling \$161,500. Prosecution of a tobacco combine was pending in an Alberta court.

An Army Defense Act and a Navy Defense Act passed on June 22, 1940, included provisions for contracts entered into by the army and navy. Work of the former War Supply Board was taken over by the Department of Munitions and Supply under the National Resources Mobilization Act of June 21, 1940. A War Contracts Depreciation Board was created by Order in Council on August 27, 1940. A Wartime Requirements Board was established by Order in Council on November 16, 1940, to speed up war projects.

A National Labor Supply Council was created by Order in Council June 19, 1940, and the wartime wages policy was set forth in an Order in Council December 16, 1940. Except in certain special situations, the highest wage rates established either during the period of greatest prosperity, 1926-29, or at any time thereafter, may be maintained but not increased. Such wages may be supplemented by a separate cost of living bonus to protect the worker from increases in the cost of basic necessities.

Under an Order in Council effective May 5, 1941, an Export Permit Branch was created in the Department of Trade and Commerce to centralize the export control and issuance of all permits. The War Exchange Conservation Act effective on December 2, 1940, set forth agricultural and industrial products for which imports from non-sterling countries are prohibited; another group may be imported only under license; and for a third group duties on imports from the United Kingdom were removed.

A Special Products Board was established on April 15, 1941, for regulation of agricultural products other than those already handled by the Bacon Board and the Dairy Products Board, which are to be shipped to the British Ministry of Food. The Canadian wheat program calls for limited purchases by the Wheat Board, bonuses paid for lessened acreage, continuance of the processing tax on flour, and construction of new storage facilities for wheat.



*Colombia.*--Decrees 1154 to 1157, June 18, 1940, cover a program for development of agriculture, manufacture and transportation facilities, and provisions for financing the plan which is made possible by negotiation of a loan from the Export-Import Bank of the United States, refunding of the internal debt at lower rates of interest, and the issuance of bonds. The Government proposes to survey and exploit native products, foodstuffs, medicinal products and raw vegetable, animal, and mineral materials.

*Cuba.*--Under the Cuban Constitution published in July 1940, the Government may grant exclusive manufacturing rights, termed "patents of industrial introduction" for the purpose of encouraging new factories and enlargement of existing plants. A patentee will be given for 15 years the sole right to manufacture, prepare or process for consumption or exportation articles that at that time are not produced or prepared in the national territory or the average production of which during the last five years has been less than 15 percent of the national consumption during that period.

*Denmark.*--Following German occupation of Denmark, in April 1940, a number of crisis laws were passed on May 28, 1940, including an act under which the Ministry of Commerce was given extended authority to require the production of books, accounts and files of commercial establishments, and to control and regulate prices. Prior to this time increased prices had been allowed if they were based upon replacement cost. Under the new law prices may be increased only if justified by a calculation of actual cost plus customary profits.

*France.*--In German occupied France a new constitution was adopted in July 1940, followed by various measures under which the Government was reorganized. A Law for the Control of Industrial Production, August 16, 1940, and decrees thereunder, required the formation of committees in each industry and trade, to function under the Minister for Industrial Production and Labor, to control production, standardize products to be sold, acquire raw materials, and regulate competitive conditions. All groups, syndicates and trade organizations are subject to control by the committees; some have already been dissolved and replaced by new organizations under Government direction.

Each industry is to be organized. In textiles, for instance, a decree published on October 30, 1940, provided for a General Committee for the Organization of the Textile Industry, to be governed by a General Director, who is authorized to make all decisions concerning any branch of the industry, to apply such technical, economic, and social measures as he may deem necessary for the employment and proper utilization of the industry, and to represent the industry in

all of its dealings with public and private organizations, French or foreign.

A Central Bureau for the Allocation of Industrial Products was established by law on September 10, 1940, to issue regulations as to acquisition, allocation, stocking, sale and consumption of each of the products under control. Producers will be required to sell to specified buyers, and consumers required to purchase from specified suppliers. Directors may determine what products may be bought and sold, what stocks may be accumulated or disposed of, and may impose rules for transportation of the goods and levy taxes for establishing an equalized price.

A law dated December 7, 1940, directed reorganization of French agriculture on a corporate basis. All peanuts, landowners, and agricultural laborers are to be grouped into regional corporations under Government control. Farm benefits, insurance and cooperative functions will be centralized and directed.

Decree laws of December 6, 1940, and March 5, 1941, created central committees in each of the French colonies and directed each of the committees to prepare programs of production and exportation of colonial products, and to propose rules for control of enterprises in the colonies.

*Germany.*--An Ordinance on Price Fixing, dated November 23, 1940, became effective on March 12, 1941. All price agreements among producers or distributors, resale price maintenance agreements, and agreements affecting the calculation of cost on Government contracts, must be approved by the Price Commissioner, who may make his approval subject to other conditions, such as a requirement for modern equipment or rationalization in the industry, or maintenance of a fixed price over a period. Price, as covered in the ordinance, includes mark-up, charges for conversion, payment and delivery terms, and any other terms affecting prices directly or indirectly. Collusive bidding on Government contracts is forbidden, and all agreements or recommendations for bidding on such contracts must be approved by the Price Commissioner or the authorities in charge of the Government contracts.

In some industries complete reorganization has been directed by the Government; this is true of coal in which a newly formed Reich Coal Association will be under control of a Reich Coal Board. A new oil cartel will function as a holding company with monopoly of German foreign oil business. The cartel system or the newly formed trade groups will doubtless be extended to include the occupied areas. An illustration is found in the German cement cartel organized by order of the Minister of National Economy in October 1940; its

activities were extended in 1941 by agreement with producers in Belgium, Holland, Bohemia, Moravia, and Slovakia.

*Great Britain.*--Under war control acts, numerous orders have been issued during the year, including Ministry of Supply Orders in industries subjected to control for war production, Ministry of Food orders in control of foodstuffs, price orders under the Prices of Goods Act, limitation of supplies orders in industries where domestic consumption of less essential products is limited, and export and import control orders by the Board of Trade.

Of first importance were orders for the production of war materials. Rationing was extended from foodstuffs to clothing and footwear, and Government subsidies granted in an effort to prevent undue increases in the price of essentials, such as bread, meat, milk, and bacon. Exports were encouraged, to pay for imports. As an example, the Wool Control Order, 1940, required farmers and other wool owners to sell and deliver to the Ministry of Supply all wool clipped in the Kingdom during 1940, at fixed prices, which included a substantial element of subsidy. A wool export corporation was formed and a levy of one-tenth of 1 percent imposed on purchases of wool sold for processing in the Kingdom, the proceeds to be used for promoting exports by the corporation. The domestic civilian consumption of textiles was restricted in order to assure the filling of export orders. The Government was the sole importer of raw wool and purchased the entire clip from the provinces. It was also the sole importer of raw cotton. The Cotton Controller and the Cotton Board created under the Cotton Industry Act of 1940, operated in cooperation with the Government-sponsored cotton export corporation.

The Board of Trade presented in 1941 a new plan for concentration of industrial plants, the closing of some factories in order that others may operate on full-time schedule. A new War Damage Act, 1941, provided for compulsory insurance on plant, machinery, and business equipment; as well as on movable machinery, crops, livestock, and produce valued at more than £1,000; and optional insurance on personal and household effects.

*Hungary.*--A decree on January 12, 1941, limited the amount of food that may be stored by a household or farmer, surplus supplies to be confiscated, and offenders punished by fines and imprisonment.

*Italy.*--Rigid control has been exercised over syndicates and corporations to assure the organization and discipline of productive activities. Under a Royal Decree on December 27, 1940, the Ministry of Corporations may purchase or requisition any industrial supplies, regulate the distribution of raw materials to industrial plants, direct

the distribution of finished products, and control all activities of industry and commerce, rationing the use of goods produced. A similar measure tightened control of agricultural production and distribution; heavy penalties are imposed on farmers withholding their goods from compulsory storage.

*Japan.*--After resignation of the Cabinet in July 1940, the new Government approved a number of plans for reorganization and more rigid control of industry and trade. A materials mobilization plan provided for replenishment of war materials, development of resources and industries in China and Manchuria, expansion of domestic industrial capacity, encouragement of export trade to increase imports, and an adequate supply of daily necessities. An import corporation in each industry will handle purchase and distribution of imported materials needed for manufacture of goods to be exported, and an export corporation will handle export sales, distribute orders, and establish standard prices. A decree on July 6, 1940, restricted the manufacture of a wide range of luxury and nonessential goods. Centralized control of production and sales has been effected for rice, cotton piece goods, electric power, shipping, machinery, and oil. The Price Policy Council of the Cabinet presented new plans for price control; more than 20,000 articles were affected by price control in 1940. A new Mobilization Law, 1941, extended control over labor, wages, commodities, capital, land and buildings, patent rights, and inventions.

*Latvia.*--After accession to the Soviet Union in July 1940, the Latvian Parliament voted to nationalize all banks, large industrial concerns, transport, and large agricultural estates, the land to be distributed for cultivation by the peasants. All foreign trade will be controlled by central Soviet authorities at Moscow.

*Lithuania.*--After accession to the Soviet Union in July 1940, the Lithuanian Ministerial Council took similar action to that in Latvia, for nationalization of banks and industries. All precious metals and jewels were taken over by the State.

*Mexico.*--A law in March 1941 created a National Distributing and Controlling Co., Ltd., to fix prices of articles of prime necessity or raw materials for the production of such articles; regulate storage, transport, grading and financing of the goods; and to grant subsidies for exportation and importation. An Industrial Registration Act in May 1941 required registration and reports by industrial firms, including statements on invested capital, maximum annual productive capacity, principal consuming markets, nationality of owners, and information concerning workers.

*Netherlands.*--German occupation of the Netherlands resulted in reorganization of the industrial system. Rijksbureaux similar to

the Reichsburos of Germany have been formed, and trade groups resembling German Reichsgruppen, with a Central Commission for the Organization of Trade and Industry. A Price Deputy with complete control of prices in the Netherlands was set up by decree in November 1940. All of these offices are under German control, and the Reichskommissar has authority to appoint all higher officials, provincial governors, burgomasters, and police officials. Principal cities have German commissioners. Shipping has been transferred to German ports. Laborers have been sent to Germany. Food, clothing, and textiles are distributed on a ration basis.

*New Zealand.*--Under the Emergency Regulations Act of 1939, and regulations in 1940, the Government has power to control all materials and producing plants, to acquire, use, and dispose of private property of all kinds, and to suspend or modify contracts. Price increases must be approved by the Price Investigation Tribunal. New regulations were issued in December 1940 for control of licensed industries under the Industrial Efficiency Act.

*Panama.*--A Pharmaceutical Law, April 7, 1941, provided for a Commission to take over the licensing of patent medicines, and prohibited advertising and sales promotion of any kind which include false, exaggerated, or misleading statements; violations to be punishable by fine, confiscation, and revocation of license. A Price Control Board was created in 1941 to stabilize the price of foodstuffs.

*Paraguay.*--Under a new Constitution in July 1940, the State will regulate national economic life to prevent monopolization of consumption goods and artificial price fixing. A decree on January 18, 1941, fixed wholesale and retail prices of foodstuffs and other articles of prime necessity; and a decree on February 10, 1941, prohibited increase in the price of imports. The Department of Industries and Commerce was directed to establish a basis for sales prices on imported goods, to include the delivered cost, an equitable profit, and the exchange rate. Under a decree in February 1941, the entire cotton crop will be purchased and disposed of by the Government through the Agricultural Bank. A decree law in June 1940 amended the mining law and declared that all deposits of minerals, oil, and gas belong to the nation, development to be undertaken only by the Executive Power, either directly or by concession. Only nationals may obtain concessions.

*Rumania.*--Legislation in March 1940 abrogated provisions of the Cartel Act of 1937, and gave to the Ministry of National Economy broad power over industrial production and prices, through commissions representing the industries; and to the Ministry of Labor, authority to prescribe working conditions.

Bessarabia and Northern Bukovina became a part of the U.S.S.R. in August 1940. A Soviet decree on August 15 directed nationalization of banks and other credit institutions, railroad, bus, and water transport, industrial enterprises, electric stations, trading agencies, schools and hospitals, hotels, larger apartment houses, and dwellings, the owner of which have left the country as refugees. Land will also be nationalized, including farms, forests, metals, and mineral deposits.

In January 1941, a military regime was set up in Rumania and the principal industries brought under military control.

*Spain.*--A law dated December 8, 1940, provided for national syndicates for control of all producers and distributors in Spain, to be developed under the control, leadership, and direction of the National Delegation of Syndicates and the National Syndicalist Centers, which control labor. Nationalization of railways was effected under a law dated January 24, 1941.

*Switzerland.*--Wartime control centers in a Federal Department of Public Economy which comprises the War Food Supply Office, the War Industry and Labor Office, the War Transportation Office, the War Trade Office for Imports and Exports, and the War Social Service Office. The department is authorized to create war economy syndicates or cooperative organizations, to deal with importation, exportation, storage, transportation, domestic production, distribution, and the use of commodities designated by the department. All firms in an industry may be required to join one of the syndicates, and a number have been formed to handle foodstuffs, feedstuffs, seed, fertilizers, fuels, textiles, metals, hides, leather, boots and shoes, rubber, chemicals, paper, and timber. The department is also authorized to make the establishment of new business and industrial enterprise subject to permit. The Federal Price Control Bureau has been concerned chiefly with control of prices of foodstuffs, rents, and other living expenses. Retail sales of food, fuel, textiles, soap and washing powders, and leather shoes, are under ration.

*Turkey.*--An emergency decree on May 31, 1940, authorized the Ministry of Commerce to fix the maximum prices of such articles and goods on the domestic market as it may deem necessary, through a price control commission in each provincial center. The National Defense Law, 1940, authorized the Government to purchase domestic and foreign products, and to sell, distribute, ship, and make collection therefor. A Government corporation to import, export, buy, and sell all kinds of food supplies was created by ordinance in February 1941.

*Union of Socialist Soviet Republics.*--The Soviet Union has acquired territory in Finland, Lithuania, Latvia, Esthonia, and a part of Rumania, and has set up appropriate control therefor.

A decree on September 6, 1940, directed a new People's Commissariat for Government Control, responsible for expenditures and advances to Governmental, cooperative, and other socialized organizations, institutions and enterprises. Decrees dated October 2 and 8, 1940, provided for training of a continual supply of new workers in Federal enterprises, such as mines, factories, transportation systems, and on the collective farms. A Federal labor reserve will be created and trained workers will be mobilized as soldiers of industry. Professional and skilled workers, as well as laborers, will be transferred from one plant or industry to another as they may be needed; it is forbidden by law for skilled men to leave a plant without Government permit.

The Resettlement Commission has continued its work, moving thousands of families from isolated areas into collective farm centers or village communes.

*Union of South Africa.*--*The War Measures Act*, 1940, gave to the Governor General power to make regulations for the maintenance of public order and to control situations arising as a result of war. The *Commandeering Law*, 1940, authorized the Government to take possession in time of war, of buildings, supplies and transportation facilities necessary for defense. A *Moratorium Act*, No.29, of 1940, was passed for the benefit of volunteers in military service.

The entire South African wool clip in 1940 was purchased by the British Government at an agreed price. The Mealie (Corn) Industry Control Board granted a supplementary payment or bounty to corn producers in order to distribute surplus profits on corn transactions during the 1939-40 season. The Tobacco Industry Control Board recommended curtailment of production of tobacco, and use of the land for other crops. Under a law of May 15, 1940, an Industrial Development Corporation was created by the Government to encourage expansion and assist in financing industrial undertakings.

**PART VIII. FISCAL AFFAIRS**

ACT PROVIDING FUNDS FOR COMMISSION WORK

APPROPRIATIONS AND EXPENDITURES FOR FISCAL YEAR

APPROPRIATIONS AND EXPENDITURES, 1915-41



## **PART VIII. FISCAL AFFAIRS**

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

The Independent Offices Appropriation Act, 1941 (Public, No. 459, 76th Congress), approved April 18, 1940, provided funds for the fiscal year 1941 for the Federal Trade Commission as follows:

For five Commissioners, and for all other authorized expenditures of the Federal Trade Commission in performing the duties Imposed by law or In pursuance of law, including secretary to the Commission and other personal services. contract stenographic reporting services; supplies and equipment, law books, books of reference, periodicals, garage rentals, traveling expenses, including not to exceed \$.900 for 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; \$2,240,000: *Provided*, That the Commission may procure supplies and services without regard to section 3709 of the Revised Statues (41 U. S. C. 5) when the aggregate amount involved does not exceed \$50: *Provided further*, That no part of the funds appropriated herein for the Federal Trade Commission shall be expended upon any Investigation hereafter provided by concurrent resolution of the Congress until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such Investigation.

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

Total, Federal Trade Commission, \$2,300,000.

### **APPROPRIATIONS AND EXPENDITURES FOR FISCAL YEAR**

Appropriations available to the Commission for the fiscal year ended June 30, 1941, under the Independent Offices Appropriation Act approved April 18, 1940, amounted to \$2,300,000. This sum is made up of three separate items: (1) \$50,000 *for* salaries of the Commissioners, (2) \$2,190,000 for the general work of the Commission, and (3) \$60,000 for printing and binding.

*Appropriations, allotments, expenditures, liabilities, and balances for the fiscal  
year ended June 30, 1941*

	Amount available	Amount expended	Liabilities	Expenditures and Balances liabilities	
Federal Trade Commission 1941-- salaries, Commissioners and all other authorized expenses	\$2,240,000.00	\$2,119,267.93	\$47,988.31	\$2,167,256.24	\$72,743.78
Printing and binding, Federal Trade Commission, 1941	60,000.00	15,421.87	43,578.13	59,000.00	1,000.00
Total fiscal year 1941	2,300,000.00	2,134,689.80	91,566.44	2,226,256.24	73,743.78
Unexpended balances.					
Federal Trade Commission 1940	141,066.46	68,965.19	1,592.91	70,558.10	70,508.36
Printing and binding, Federal Trade Commission 1940	36,040.00	36,040.00		36,040.00	
Federal Trade Commission 1939	88,192.66	1,506.00	107.30	1,613.30	86,579.36
Federal Trade Commission 1938	1 8.15	1 6.90		1 6.90	1 1.25
Federal Trade Commission 1937	89.01	87.75		87.75	1.26
Federal Trade Commission 1936	5.44	5.44		5.44	
Federal Trade Commission 1935	47.32	47.32		47.32	
Federal Trade Commission 1932-33	152.89	1 52.89		1 52.89	
Federal Trade Commission 1932	1 200.00	1 200.00		1 200.00	
Federal Trade Commission 1921	1 34.00	1 34.00		1 34.00	
Total	2,565,145.85	2,241,047.71	93,266.65	2,334,314.36	230,831.49

1 Denotes red figure.

*Detailed statement of costs for the fiscal year ending June 30, 1941*

	Salary	Travel expense	Other	Total
Commissioners	\$49,999.20	\$266.74		\$50,265.94
Attorneys to Commissioners	18,979.35	26.10		19,005.45
Clerks to Commissioners	15,229.00			15,229.00
Messengers to Commissioners	5,861.57			5,861.57
Total	90,069.12	292.84		90,361.98
Administration:				
Office of the secretary	40,991.69			40,991.69
Accounts and Personnel Section	30,915.62			30,915.62
Detail: Other Government agencies	204.28			204.28
Docket Section	51,512.48			51,512.48
Hospital	2,067.61			2,067.61
Labor	2,580.07			2,580.07
Legal Research and Compiling	13,638.02			13,638.02
Library Section	18,263.51			18,263.51
Mail and Files Section	18,498.46			18,498.46
Messengers	18,049.60			18,049.66
In formation service	15,227.53			15,227.53
Publications section	44,854.21			44,854.21
Stenographic section	112,533.05		\$118.00	112,651.05
Supply and Service section	19,797.47			19,797.47
Communications			12,102.87	12,102.87
Contract service			358.38	358.38
Equipment			44,414.14	44,414.14
Miscellaneous			233.40	233.40
Repairs			4,296.98	4,296.98
Supplies			41,016.34	41,016.34
Transportation of things			1,202.46	1,202.46
Witness fees			2,358.60	2,358.60
Total	389,133.60		106,101.17	495,234.77
Legal:				
Application for complaints	370,615.99	37,823.37	4,449.66	412,889.02
Complaints	614,141.69	55,981.59	15,016.66	685,139.94
Detail Other Government agencies	1,290.35	102.05		1,392.40
Expert trade	6,975.55			6,975.55

Preliminary inquiries	198,835.91	14,096.17	1,429.24	214,361.32
Trade Practice Conferences	83,729.90	680.36		84,410.26
Total	1,275,589.39	108,683.54	20,895.56	1,405,168.49

*Detailed statement of costs for the fiscal year ending June 30, 1941--Continued*

	Salary	Travel expense	Other	Total
General investigations:				
Accounting methods and practices	\$29,636.39	\$275.95		\$29,912.34
Detail: Other Government agencies.	8,344.64			8,344.64
Industrial corporation financial reports	62,245.67			62,245.67
Methods and costs of distribution	69,743.50	2,021.19	\$82.73	71,847.42
Motor-vehicle investigation	1 50.17			1 50.17
Price Administration and Civilian Supply	136.33			136.33
Resale price maintenance investigation (1939)	7,735.45	752.23	6.50	8,494.18
Temporary National Economic Committee	17,870.31	19.90		17,890.21
Total	195,662.12	3,069.27	89.23	198,820.62
Printing and binding			51,461.87	51,461.87
Summary:				
Commissioners	90,069.12	292.84		90,361.96
Administration	389,133.60		106,101.17	495,234.77
Legal	1,275,589.39	108,683.54	20,895.56	1,405,168.49
General investigations	195,662.12	3,069.27	89.23	198,820.62
Printing and binding			51,461.87	51,461.87
Total	1,950,454.23	112,045.65	178,547.83	2,241,047.71

1 Denotes red figures.

*Recapitulation of costs by divisions*

	Salary	Travel expense	Other	Total
Administrative	\$491,484.60	\$523.35	\$103,624.57	\$595,632.52
Economic	227,466.62	3,676.79	231,143.41	
Chief Counsel	371,841.57	32,714.27	11,153.38	415,709.22
Chief Examiner	508,059.02	58,751.70	12,268.26	579,078.98
Radio and Periodical	141,745.98	45.72	39.75	141,831.45
Trial Examiner	111,492.47	15,448.58		126,941.05
Trade Practice Conference	77,935.47	560.83		78,496.30
Medical Advisory	15,419.69	324.41		15,744.10
Temporary National Economic Committee	5,008.81			5,008.81
Total	1,950,454.23	112,045.65	127,085.96	2,189,585.84

**APPROPRIATIONS AND EXPENDITURES, 1915-41**

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

Year	Nature of appropriations	Appropriations and liabilities	Expenditures	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

Year	Nature of appropriations	Appropriations and liabilities	Expenditures	Balance
1923	Lump sum	952,020.11	948,293.07	3,727.04
	Printing and binding	22,460.21	22,400.21	0
1924	Lump sum	990,000.00	900,020.93	29,979.07
	Printing and binding	20,000.00	19,419.25	580.75
1925	Lump sum	990,000.00	988,082.37	1,917.63
	Printing and binding	20,000.00	19,866.14	133.86
1926	Lump sum	990,000.00	976,957.02	13,042.98
	Printing and binding	18,000.00	18,000.00	0
1927	Lump sum	980,000.00	943,881.99	36,118.01
	Printing and binding	17,000.00	17,000.00	0
1928	Lump sum	967,850.00	951,965.15	15,884.85
	Printing and binding	16,500.00	16,500.90	0
1929	Lump sum	1,135,414.83	1,131,521.47	3,893.36
	Printing and binding	27,777.69	27,777.69	0
1930	Lump sum	1,440,971.82	1,430,084.17	10,887.65
	Printing and binding	35,363.58	35,363.58	0
1931	Lump sum	1,932,857.81	1,808,463.35	124,454.46
	Printing and binding	39,858.73	39,858.73	0
1932	Lump sum	1,808,097.19	1,749,484.00	58,612.59
	Printing and binding	30,000.00	30,000.00	0
1933	Lump sum	1,421,714.70	1,378,973.14	42,741.56
	Printing and binding	30,000.00	20,000.00	10,000.00
1934	Lump sum	1,273,763.49	1,273,006.38	157.11
	Printing and binding	40,250.00	40,250.00	0
1935	Lump sum	2,063,398.01	1,922,313.34	141,084.67
	Printing and binding	34,000.00	34,000.00	0
1936	Lump sum	1,998,665.58	1,788,729.76	209,935.82
	Printing and binding	36,800.00	32,996.05	3,803.95
1937	Lump sum	1,895,571.94	1,850,673.82	44,898.12
	Printing and binding	43,353.95	43,353.95	0
1938	Lump sum	1,950,000.00	1,895,519.47	54,480.35
	Printing and binding	46,000.00	46,000.00	0
1939	Lump sum	2,236,795.00	2,150,474.40	86,320.60
	Printing and binding	46,700.00	46,709.00	0
1940	Lump sum	2,285,500.00	2,214,889.07	70,610.93
	Printing and binding	60,000.00	60,000.00	0
1941	Lump sum	2,240,000.00	2,167,256.24	72,743.76
	Printing and binding	60,000.00	59,000.00	1,000.00

## **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, 1915-1941

## 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

Sec. 1. *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. <sup>2</sup>

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

<sup>1</sup> The salary of the secretary is controlled by the provisions of the Classification Act of 1923, approved March --49-, 1923, 42 Stat. 1488.

<sup>2</sup> Auditing of accounts was made a duty of the General Accounting Office by the Act of June 10, 1921, 42 Stat. 24.

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, <sup>3</sup> 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

<sup>3</sup> 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 "and persons" (and following the words "to regulate commerce"), the following: "air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938."

and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition 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 days<sup>4</sup> 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

<sup>4</sup> 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.

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 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.

(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

<sup>5</sup> Public, No. 78, 73d Cong., approved June 19, 1933, making appropriations for the fiscal year ending June 30, 1934, for the "Executive Office and sundry independent executive bureaus, boards, commission," ect., made the appropriations for the Commission contingent upon the provisions (48 Stat. 291; 15 U. S. C. A., sec. 46a) that "hereafter no new investigations shall be initiated by the Commission as the result of a legislative resolution, except the same be a concurrent resolution of the two Houses of Congress."

<sup>6</sup> See footnote p. 4

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

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

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

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

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

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the Untied 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 the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000 or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 11. Nothing contained in this Act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust Acts or the Acts to regulate commerce, nor shall anything contained in the Act be construed to alter, modify, or repeal the said antitrust Acts or the Acts to regulate commerce or any part or parts thereof.

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,

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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 newspaper, 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. 7 (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 prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, 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-

<sup>7</sup> 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.

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) 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 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 per-sons 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 sh all 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

<sup>1</sup> This section of the Clayton Act contains the provisions of the Robinson-Patman Anti-Discrimination Act, approved June 19, 1936, amending Section 2 of the original Clayton Act, approved October 15, 1914. For certain exemptions from the provisions of the later act concerning cooperatives and purchases for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, see the later act as published at p.181.

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 purchased upon terms not accorded to all purchasers on proportionally equal terms.

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

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

\* \* \* \* \*

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

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

This section shall not apply to corporations purchasing such stock solely 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

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, reading "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,".

of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission, authority, or board may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside in whole or in part, any report, 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 set-

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ting 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.

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

Approved, June 19, 1036.

### 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 info 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.

<sup>1</sup> 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 commission such information as the commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals. Any association which shall fail so to do shall not have the benefit of the provisions of section two and section three of this Act, and It shall also forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the association has its principal office, or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of the forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Whenever the Federal Trade Commission shall have reason to believe that an association or any agreement made or act done by such association is in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, or that an association either in the United States or elsewhere has entered into any agreement, understanding, or conspiracy, or done any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein, it shall summon such association, its officers, and agents to appear 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.

(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 ACT<sup>1</sup>**

(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 <sup>2</sup> 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 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 com-

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

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

plained 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 be 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 3 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.

<sup>3</sup> see footnote on p.187.

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 Commission, but only after he has been afforded an opportunity to be heard in the matter.

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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 ½) inches; left margin, one and one-half (1 ½) inches; right margin, one (1) inch.

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

Documents shall be bound at *left side only*.

The originals of all answers, briefs, motions, and other documents shall be signed in ink, by the respondent or his duly authorized attorney. Where the respondent is an individual or a partnership, the originals of said documents shall be signed by said individual or by one of the partners, or by his or its attorney. Where the respondent is a corporation, the originals of said documents shall be signed under 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 (7) 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.

*Signing.*--At least one copy of each brief shall be signed in ink, by the respondent or his duly authorized attorney, as prescribed in Rule XII.

#### 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 (00) 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 requires 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.

### **WOOL PRODUCTS LABELING ACT**

In the handling of cases before the Commission arising under this act, the practice

and procedure of the Commission, insofar as applicable, will be as provided in cases arising under the Federal Trade Commission Act.

## REPORTS OF TRIAL EXAMINERS

The policy of the Commission is that reports of trial examiners shall not be open to public inspection or to publication until after the publication of the Commission's decisions in the cases in which such reports are made. During this time they are open only to the Commission, to counsel and to parties respondent in such cases.

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## INVESTIGATIONS BY THE COMMISSION, 1915-41

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. 1 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 numbers for those of the reports that were ordered printed by Congress. Publications not designated by such document numbers 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.**--See Distribution Cost Accounting.

**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

<sup>1</sup> The Wartime Cost Finding inquiry (see p. 221), included approximately 370 cost investigations.

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.--**Senate Resolution No. 163, Sixty-eighth Congress, first session, adopted February 16, 1924, 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. Reports were: *Competitive Conditions in Flour Milling*, submitted May 3, 1926, and printed as Senate Document No. 97, Seventieth Congress, first session (140 pages) ; *Bakery Combines and Profits*, submitted February 11, 1927, and printed as Senate Document No.212, Sixty-ninth Congress, second session (95 pages) ; and *Competition and Profits in Bread and Flour*, submitted January 11, 1928, and printed as Senate Document No. 98, Seventieth Congress, first session (509 pages). A supplementary report, *Conditions in the Flour Milling Business*, covering data withheld during court proceedings (Millers' National Federation against Federal Trade Commission) was submitted to the Senate May 28, 1932, and printed as Senate Document No.96, Seventy-second Congress, first session (26 pages). (See also Bakeries, Flour Milling and Food Investigation.)

**Calcium Arsenate.--**The high prices of calcium arsenate, a poison used to destroy the cotton boll weevil, led to this inquiry, which 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.)

**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 1 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, first session (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 Grocery Chains*, April 18, 1932, Senate Document No. 82, Seventy-second Congress first session (28 pages).

*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, 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 Congress, second session (42 pages).

*Sizes of Stores of Retail Chains*, December 21, 1932, Senate Document No. 156, Seventy-second Congress, second session (50 pages).

*Quality, of Canned Vegetables and Fruits (Under Brands of Manufacturers, Chains, and Other Distributors)*, January 13, 1933, Senate Document No.

*Gross Profit and Average Sales per Store of Retail Chains*, February 2, 1933, Senate Document No. 178, Seventy-second Congress, second session (75 pages).

*Chain-Store Manufacturing*, April 5, 1933, Senate Document No.13, Seventy-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).

*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--* 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 Margins 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, second session (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 Chain and Independent Distributors, Memphis-Drug*, December 30, 1933, Senate Docu

170, Seventy-second Congress, second session (53 pages).

ment No. 97, Seventy-third Congress, second session (40 pages).

<sup>1</sup> The Commission published *Chain Store System of Marketing and Distribution* (Progress Report), May 12, 1930, printed as S. Doc. No.146, 71st Cong., 2d sess. (6 pp.).



*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).

*Chain-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. 86, 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 (44 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, Document No.87, Seventy-third 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*, December 14, 1934, Senate Document No. 4, Seventy-fourth Congress, first session (110 pages, out of print).

**Coal, Anthracite and Bituminous.**--In response 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, the Commission investigated a rapid advance in the prices of 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. A preliminary report, *Anthracite Coal Prices*, 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 ; the premium prices and gross profits of wholesalers In the latter part of 1923 and early in 1924 ; 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.**--House Resolution No.352, Sixty-fourth Congress, first session, adopted August 18, 1916, called for an Investigation of the alleged depressed condition of the coal industry. Subsequent to 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. The *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 to Congress in two parts under the title *Investment and Profit in Soft-Coal Mining*.  
*Part*

*I. Summary and Conclusions* was submitted May 31, 1922, and *Part II. Explanatory and Statistical Material Supporting Part I*, July 6, 1922. They were published by the Commission in one volume (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.**--President Wilson, 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 ; and continuing with *Bulletin No. 2--Preliminary February, 1920, Costs*, May 24, 1920 ; *Bulletin No. 3--Preliminary March, 1920, Costs*. June 25, 1920 ; *Bulletin No. 4--Preliminary April, 1920, Costs*, July 26, 1920 ; *Bulletin No. 5--Preliminary May, 1920, Costs*, August 25, 1920 ; *Bulletin. No. 6--Preliminary June, 1920, Costs*, October 30, 1920 ; *Federal Trade Commission, Bituminous Coal--Quarterly Report No. 1, Revised Costs--First Quarter of 1920*, August 25, 1920 ; and *Quarterly Report No. 2, Revised Costs--Second Quarter of 1920*, December 6, 1920. (Processed, 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.**--On motion of the Commission an inquiry was made into the prevalence of bribery of employees of customers as a method of obtaining trade. A *Special Report on Commercial Bribery*, containing recommendations for legislation striking at this practice, was submitted to congress on May 15, 1918. and printed as House Document No.1107 Sixty-fifth Congress, second session (3 pages, out of print) . The Commission also reported on this subject in a letter of August 22, 1918. to Senator Duncan U. Fletcher, of Florida, which was printed under the title *Commercial Bribery*, as a 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.

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It covered the development of the cooperative movement in the United States and illegal interferences with the formation and 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 in 1917 and 1918. 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 reports were published at frequent intervals, the first appearing during October 1940. They have presented significant facts regarding business conditions and financial results of the more important corporations operating in many industries, without disclosing the business statistics of any individual corporation. As of June 30, 1941, the Commission had prepared 76 industrial corporation reports covering 1939 operations. These reports included the combined operations of 780 corporations with an average total investment, after deduction of reported appreciation of assets, aggregating \$28,138,187,401 ; with total sales amounting to \$24,932,624,668 ; and a combined current net profit, after deduction of interest and all taxes, amounting to \$2,127,475,966. The aggregate sales for the 780 corporations represented approximately 63.7 percent of the *total* value of products shown by the reports of the Bureau of the Census for the corresponding industry groups.

**Cost Accounting.**--See Distribution Cost Accounting and Accounting Systems.

**Cost of Living.**--At the direction of President Wilson, the Commission called a conference on April 30, 1917, to consider the rapid rise of war-time prices. Official delegates of the various States were invited. The proceedings, entitled *High Cost of Living*, were printed (119 pages, out of print).

**Cost of Living.**--President Roosevelt, in a published letter dated November 16, 1937, requested the Commission to investigate living costs. A resolution of the Commission, concerning its undertaking of the investigation, was adopted November 20, 1937. A few months thereafter the Commission submitted to the President a confidential report on the inquiry.

**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.**--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, directed the Commission to investigate certain practices of corporations operating cottonseed-oil mills. The purpose was 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. A preliminary report, *Investigation of the Cottonseed Industry*, was submitted to the Senate February 28, 1930, and printed as Senate Document No. 91, Seventy-first Congress, second session (4 pages, out of print). The final report (207 pages) was submitted to the Senate on May 19, 1933. This report and 12 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*.

**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. Entitled *The Cotton Trade*, the Commission report containing both the report and the transcript of hearings 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).

**Distribution Cost Accounting.**--In August 1939, the Commission directed an inquiry into the accounting methods of business in order to ascertain how these may better serve the needs of business management and the public, to provide legislative bodies a basis for guidance in the enactment and revision of legislation, and to make more effective the administration of existing legislation

The Commission made a special study of distribution cost accounting, which is concerned with the costs of such distribution functions as selling and sales promotion, warehousing, handling and delivery, credit and collection activities and all other office, supervising and administrative activities necessary to the proper functioning of the distribution processes.

A report by the Commission on *Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling*, was transmitted to Congress on June 23, 1941, and printed as House Document No. 287, Seventy-seventh Congress, first session.

**Distribution Methods and Costs.**--This inquiry, authorized under a Commission resolution dated June 27, 1940, was undertaken to develop information respecting the methods and practices used and the costs incurred in distribution, with special attention to trade usages, trade barriers, laws, charges and other factors that affect the cost of distributing various types of manufactured goods. The study was in progress at the end of the fiscal year 1940-41.

**Du Pont Investments.**--Pursuant to its motion of July 29, 1927, the Commission Investigated reported acquisitions by E. I. du Pont de Nemours & Co., of stock of the United States Steel Corporation, together with previously reported holdings in General Motors Corporation. The purpose was to ascertain 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**--Tills 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.**--Pursuant to Senate Resolution No. 140, Sixty-sixth Congress, first session, adopted July 31, 1919, this inquiry was conducted for the purpose of discovering whether there were any combinations or restraints of trade in the commercial feeds business. Although some association activities in restraint of trade were disclosed, no important violations of the antitrust laws were found. The report was submitted to the Senate March 29, 1921, and printed as a Commission publication under the title, *Report of the Federal Trade Commission on Commercial Feeds* (206 pages).

**Fertilizer.**--Begun by the Commissioner of Corporations pursuant to Senate Resolution No.487, Sixty-second Congress, third session, adopted March 1, 1913, this investigation disclosed the extensive use of bogus independent fertilizer companies for purposes of competition. However, through conferences held 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, 1916, 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 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 a more extended cooperative action in the 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.**--Unprecedented increases in the prices of the United States Flag due to the wartime demand were investigated by the Commission pursuant to Senate Resolution No. 35, Sixty-fifth Congress, first session, adopted April 16, 1917. 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.**--Senate Resolution No.212, Sixty-seventh Congress, second session, adopted

January 18, 1922, authorized an Inquiry into practices of the flour-milling industry. The report on the inquiry 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

<sup>1</sup> The Commission was created September 26, 1914, upon passage of the Federal Trade Commission Act Section 3 of which provided that “all pending investigations and proceedings of the Bureau of Corporations shall be continued by the Commission.”

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 vegetables 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 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, out of print); *Part III, Methods of the Five Packers in Control-ling the Meat-Packing Industry*, June 28, 1919 (325 pages, out of print); *Part IV. The Five Large Packers in Produce and Grocery Foods*, June 30, 1919 (390 pages); *Part V, Profits of the Packers*, June 28, 1919 (110 pages); and *Part VI, Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Live Stock*, 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 begin 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.**--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 many 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. Submitted to Congress June 30, 1916, the report 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.**--Made pursuant to Senate Resolution No.317, Sixty-eighth Congress, second session, adopted January 27, 1925, this inquiry concerned the development, methods, and activities of the Empire Cotton Growing Corporation, a British company. World cotton production and consumption were discussed and it was 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, *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.

**Furniture Prices, Costs, and Profits.**--Upon the request of the Administrator of the Office of Price Administration as contained in a letter of June 27, 1941 to the Chairman of the Federal Trade Commission, the Commission undertook an Immediate investigation of legal and accounting aspects of a recent increase in furniture prices to determine, in tile interest of the national defense program, whether and to what extent the increases were justified. (See also House Furnishings.)

**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 preliminary report, *Investigation of the Price of Gasoline*, April 10, 1916, which was printed as Senate Document No.403, Sixty-fourth Congress, first session (15 pages, out of print). The Commission submitted its *Report on the Price of Gasoline in 1915* (224 pages) on April 11, 1917, which was printed by the Commission and as House Document No.74, Sixty-fifth Congress, first session (224 pages). The high prices of petroleum products and how the various Standard Oil companies had continued to maintain a division of marketing territory among themselves were discussed. The Commission suggested several plans for restoring effective competition in the oil industry.

**Gasoline.**--Pursuant to President Coolidge's request of February 7, 1924, the Commission Investigated tile 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. The complaints alleged that there had been 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 which was printed under the title *Importation of Foreign Gasoline at Detroit, Mich.*, Senate Document No. 206, Seventy-second Congress, second Session (3 pages).

**Gasoline Prices.**--This inquiry was made pursuant to Senate Resolution No. 166, Seventy-third Congress, second session, adopted February 2, 1934. The Commission investigated the causes and effects of Increased gasoline prices during the 6-month period preceding the resolution's adoption. The report revealed an avenge 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 to the Senate May 10, 1934, and printed as Senate Document No. 178, Seventy-third Congress, second session (22 pages).

**Grain Exporters.**--The low prices of export wheat gave rise to this inquiry, which was made pursuant to Senate Resolution No. 133, Sixty-seventh Congress, second session, adopted December 22, 1921. The study developed facts regarding extensive and harmful speculative manipulations of prices on the grain exchanges



and conspiracies among country grain buyers to agree on maximum prices for grain purchased. Legislation for a stricter supervision of grain exchanges was recommended, together with certain changes in their rules. The Commission also recommended governmental action looking to additional storage facilities for grain uncontrolled by grain dealers. Reports submitted to the Senate were: *Report of the Federal Trade Commission on Methods and Operations of Grain Exporters, Vol. I, Interrelations and Profits* (123 pages), May 16, 1922, and *Vol. II, Speculation, Competition, and Prices* (264 pages), June 18, 1923. (See Food Investigation: Grain Elevators and Grain Trade.)

**Grain--Wheat Prices.**--An extraordinary decline of wheat prices in the summer and autumn of 1920 resulted on October 12, 1920 in President Wilson 's directing the Commission to inquire into the reasons. The reasons for the decline 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 Food Investigation: 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, *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 showing that there had been conspiracies to inflate the prices of several kinds of household furnishings, were submitted to the Senate and printed: *Report of the Federal Trade Commission on House Furnishing Industries, Vol. I, Household Furniture*, submitted January 17, 1923 (484 pages); *Vol. II Household Stores*, submitted October 1, 1923 (187 pages); and *Vol. III. Kitchen Furnishings and Domestic Appliances*, submitted October 6, 1924 (347 pages). A summary of Volume I was printed in 1923. (See also Furniture Prices, Costs, and Profits).

**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 interim reports of December 9, 1929, and March 10, June 11, and September 19, 1930. (See also Electric Power and Utility Corporations.)

**Leather and Shoes.**--General complaint regarding the high prices of shoes led to this inquiry which was made on motion of the Commission. A preliminary report. *Hide and Leather*

*Situation*, was submitted to the House of Representatives January 23, 1918, and printed as House Document No.857. Sixty-fifth Congress, second session (5 pages, out of print) . The Commission's *Report on Leather and Shoe Industries* (180 pages), dealing with the costs and prices of leather and shoes. was submitted to Congress August 21,1919.

**Leather and Shoes**--A further study of leather and shoe costs and prices was made pursuant to House Resolution No. 217, Sixty-sixth Congress, first session, adopted August 19, 1919. The *Report of the Federal Trade Commission on Shoe and Leather Costs and Prices* and a summary were 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, out of print). (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. In consequence of the Commission's findings and recommendations, the Department of Justice proceeded against certain of these associations for violations of the antitrust laws. The information obtained in the investigation was presented in a series of published Commission reports revealing the activities and attitude of lumber manufacturers toward national legislation, amendments to the revenue laws, elimination of competition of competitive woods, control of prices and production, restriction of reforestation, and other matters. The *Report of the Federal Trade Commission on Lumber Manufacturers' Trade Associations*, incorporating reports of January 10, 1921 (Part I. Preliminary Survey of Lumber Manufacturers' National and Regional Trade Associations) ; February 18, 1921 (Part II. Southern Pine Association of New Orleans, La.) ; June 9, 1921 (Part III. Douglas Fir Lumber Manufacturers' and Loggers' Associations) ; and February 15, 1922 (Part IV. Western Pine Manufacturers' Association), was printed (150 pages, out of print) . On January 24, 1923, the Commission submitted to Congress and the Attorney General the *Report of the Federal Trade Commission on Western Red Cedar Association, Lifetime Post Association, and Western, Red Cedarmen's information Bureau*, which was printed as a Commission publication (22 pages), and as Senate Document No.293, Sixty-seventh Congress, fourth session, under the title *Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory* (22 pages, out of print). The *Report of the Federal Trade Commission on Northern Hemlock and Hardwood Manufacturers Association*, was submitted to Congress on May 7, 1923 and printed as a Commission publication (52 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).

**Mass Food Distributors.**--This inquiry was undertaken in accordance with a Commission resolution adopted April 29, 1941. Its purpose is to present a comparison of (1) savings in costs of selling and delivering certain foods in large quantities, particularly when delivered to the buyer's warehouse, and (2) the concessions in price made to the buyer on such sales.

**Meat--Packing Profit Limitations.**--Made pursuant to Senate Resolution No. 177, Sixty-sixth Congress, first session, adopted September 3, 1919, this inquiry concerned 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, out of print). (See also Food Investigation: Meat Packing.)

**Milk--Canned.**--Pursuant to Senate Resolution No.431, Sixty-fifth Congress, third session, adopted March 3, 1919, an inquiry was made into the milk industry. Among the subjects

investigated were the fairness of milk prices to producers and of canned milk prices to consumers, and whether they were affected by fraudulent or discriminatory practices. The report showed a marked concentration of control in the industry and 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 pages, 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 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); *Report of the Federal Trade Commission on the Sale and Distribution of Milk and Milk Products (Connecticut and Philadelphia)*, 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, 1930, 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 were 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 President Roosevelt 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 Taxable and Tax Exempt 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 shown. 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 to wholesalers and retailers were maintained among members. 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, *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.--**Made pursuant to Senate Resolution No.269, Sixty-fourth Congress, first session, adopted September 7, 1916, this inquiry 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. A report, *Book Paper Industry--A Preliminary Report*, was submitted to the Senate June 13, 1917, and printed as Senate Document No. 45, Sixty-fifth Congress, first session (11 pages, out of print), and *Book Paper Industry--A Final Report*, was submitted to the Senate August 21, 1917, and printed as Senate Document No. 79, Sixty-fifth Congress, first session (125 pages)

**Paper--Newsprint.--**A sharp advance in prices of newsprint resulted in an inquiry made pursuant to Senate Resolution No.177, Sixty-fourth Congress, first session, adopted April 24, 1916. 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 in 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, pursuant to Senate Resolution No.95, Sixty-fifth Congress, first session, an additional brief report, *Newsprint Paper Investigation*, was submitted to the Senate and 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. 37, Seventieth Congress, second session, adopted February 27, 1929. The question was whether there existed a 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, 1929, 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 had 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 that it determine whether there had been any violations of the antitrust laws which were not prohibited by the decree.

**Peanut Prices.--**The Commission, pursuant to Senate Resolution No. 139, Seventy-first Congress, first session, adopted October 22, 1929, 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 of determine the manner in which a consent decree entered September 15, 1930, In the case of the United States



against the Standard Oil Co. of California, Inc., and others, had been or was being observed. The decree in question perpetually enjoined and restrained 7 major oil companies, 12 Independent oil companies, and 1 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.

**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 participation in reciprocity. The *Report 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 the influences affecting the movements of gasoline and other products and 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 No. 138, Sixty-sixth Congress, first session, adopted July 31, 1919. The Inquiry 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, and printed under the title *Pacific Coast Petroleum Industry: Part I, Production, Ownership and Profits* (276 pages) and *Part II, Prices and Competitive Conditions* (262 pages).

**Petroleum-Panhandle.**--Conditions in the Panhandle (Texas) oil fields were investigated on a motion of the Commission entered October 6, 1926, and in response to requests of crude-petroleum producers. The inquiry developed that a complained of reduction in prices late in 1926 had been due in large part to difficulties of handling and expenses of marketing this oil because of its peculiar physical properties. The *Report of the Federal Trade Commission on Panhandle Crude Petroleum* was submitted to the Senate on 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, and printed (467 pages, out of print), showed the dominating importance of the pipe lines of the great midcontinent oil fields. It also pointed out that the pipeline companies, which were controlled by a few large oil companies, charged excessively high rates for transporting petroleum, and evaded their duties as common carriers by insisting on unreasonably large shipments, to the detriment of the numerous small producers. A volume entitled *Letter of Submittal and Summary and, Conclusions of the Report of the Federal Trade Commission on Pipe-Line Transportation of Petroleum* was submitted February 28, 1916, and printed (27 pages, out of print).

**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.**--Complaints of several important producing companies in the Salt Creek oil field led to this investigation, which was made on

motion of the Commission. The *Report of the Federal Trade Commission on the Petroleum industry of Wyoming*, submitted to Congress January 3, 1921, and printed, covered the production, pipe-line transportation, refining, and wholesale marketing of crude petroleum and petroleum production in the State of Wyoming (54 pages, out of print).

**Petroleum--Wyoming and Montana.**--As a result of this inquiry, made on motion of the Commission, a special report was prepared inviting the attention of Congress to conditions existing in the petroleum trade in Wyoming and Montana and recommending remedial legislation. The report, *Petroleum Trade in Wyoming and Montana*, was submitted to Congress on 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 determine 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. The report 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 current conditions of profiteering as disclosed by various inquiries of the Commission, and submitted to the Senate on June 29, 1918. Entitled *Profiteering*, it was printed 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.**--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 which was made on motion of the Commission. The Commission recommended to Congress the enactment of legislation permitting resale-price maintenance under certain conditions. The report, *Resale Price Maintenance*, 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 on Resale Price Maintenance* 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 advantages 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.**--This inquiry developed facts concerning the effects of resale price maintenance on the interests of manufacturers, wholesalers, retailers, and consumers of price maintained and competing non-price-maintained articles. A report on the investigation was in course of preparation at the close of the fiscal year, 1940-41.

**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* (issued in processed form, 15 pages) 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, *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.**--Senate Resolution No.166, Seventy-third Congress, second session, adopted February 2, 1934, 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 the cease and desist order issued some years before by the Commission against the basing-point

system in 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.**--An Executive Order of President Roosevelt, dated May 30, 1934, 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 revisions 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. 286, 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 (9 pages), and Part II (2 pages) (both out of print).

**Steel Industry--Costs and Profits.**--Pursuant to an order of President Wilson, dated July 25, 1917, the Commission, in 1917 and 1918, investigated the costs and profits of the steel industry during the World War and reported to the President. Several years after conclusion of the inquiry certain data in regard thereto were compiled by the Commission in the *Report of the Federal Trade Commission on Wartime Profits and Costs of the Steel Industry*, submitted to Congress February 18, 1925, and printed (138 pages). (See also Wartime 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.**--Senate Resolution No. 304, Sixty-ninth Congress, second session, adopted December 22, 1926, 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, *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.**--An extraordinary advance in the price of sugar in 1919 led to the investigation, which was made pursuant to House Resolution No.150, Sixty sixth Congress, first session, adopted October 1, 1919. 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 dealt with the cost of growing beets and the cost of beet-sugar manufacture. The *Report on The Beet Sugar Industry in the United States* 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 Studies of the Federal Trade Commission.**--These studies were made pursuant to Public Resolution No. 113, Seventy-fifth Congress, approved June 16, 1938, on recommendation of the President for the establishment of a Temporary Economic Commission. The work of the Committee was directed to questions regarding the "concentration of economic power in and financial control over production and distribution of goods and services" with a view to determining the causes of such concentration and control and their effects on prices, employment, profits, and consumption. In addition to presenting witnesses at hearings for the Temporary National Economic Committee (Parts 5, 5a, 6, 7, 16, and 26), the Federal Trade Commission prepared the following four monographs as a part of the TNEC *Investigation of Concentration of Economic Power series: No. 13, Relative Efficiency of Large, Medium Sized, and, Small Business; No. 34, Control of Unfair Competitive Practices Through Trade Practice Conference Procedure of the Federal Trade Commission; No. 36, Reports of the Federal Trade Commission; and No.42, The Basing Point Problem*. The monographs were printed and are available at the office of the Superintendent of Documents, Washington.

**Textiles--Combed Cotton Yarns.**--House Resolution No.451, Sixty-sixth Congress, second session, adopted April 5, 1920, called upon the Commission 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 that 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 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 Weaving 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 (42 pages, processed); Part II. The Woolen and Worsted Textile Industry, July 20, 1936 (29 pages, processed), and Part III. The Silk and Rayon Textile Industry, August 22, 1936 (48 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 Rayon 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 World 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 30, 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 reports 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 President Coolidge, 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 production curtailment, improved marketing processes, a standardized system of grading, and greater co operation 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 of Leaf Tobacco in the Flue-Cured Districts of the States of 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 falling foreign markets, and (3) purchasing methods of large buyers. The Commission recommended that the decree of 1911 dissolving the old Tobacco Trust be modified to prohibit permanently the use of common purchasing agencies by certain of the tobacco companies and to prohibit their purchasing tobacco under any but their own names. A better system of grading tobacco was also recommended. The *Report of the Federal Trade Commission on the Tobacco industry*, 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.**-- Authorized by President Wilson as of July 22, 1915, this inquiry 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 pages, out of print).

**Utility Corporations.**--This inquiry, also known as the Electric and Gas Utilities investigation, 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 inter-state 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 controlled 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 1936.

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).

*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 (final report) (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).

*No. 84-D, General Index to Parts 1 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. They include investigations made by the Federal Trade Commission during the World War (1917-18) into the costs of numerous products, such as coal, steel and iron, lumber, petroleum, cotton textiles, locomotives, leather, canned and fresh foods, copper and other nonferrous materials. sand and gravel, surgical instruments, tobacco, electrical machinery, asbestos, fiber and gypsum wallboard, brick and fire clay, and chemicals and allied products. Altogether there were approximately 370 wartime cost investigations.

On the basis of the costs thus found prices were fixed, or controlled in various degrees, by such Government agencies as Food Administration, Fuel Administration, Price Fixing Committee, War Industries Board, War Department, Navy Department and Department of Agriculture. The Commission also conducted a great number of cost inquiries at the request of other agencies, such as Interior Department, Tariff Commission, Council of National Defense,

Post Office Department, Shipping Board, Emergency Fleet Corporation and Railroad Administration.

It has been estimated that the results of these inquiries helped to save the country many billions of dollars by checking unjustifiable price advances. Lists of the more important of these cost inquiries, reports on which have not been printed or otherwise published, are given in the Commission's annual reports for 1918 and 1919. Subsequent to the World War, a number of reports dealing with costs and profits were published, based on these wartime inquiries. (See Coal Reports-Cost of Production ; Copper ; Food Investigation-Food Canning ; Lumber-Costs; and Steel Industry-Costs and Profits.)



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