

ANNUAL REPORT
OF THE
FEDERAL
TRADE COMMISSION

FOR THE
FISCAL YEAR ENDED JUNE 30, 1916

WASHINGTON
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1916

FEDERAL TRADE COMMISSION

EDWARD N. HURLEY, Chairman.
WILLIAM J. HARRIS, Vice Chairman
JOSEPH E. DAVIES.
WILL H. PARRY.

LEONIDAS L. BRACKEN, Secretary.

ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION.

WASHINGTON, D.C., *November 15, 1916.*

To the Senate and House of Representative:

The Federal Trade Commission, in compliance with statute, herewith submits to Congress its annual report for the fiscal year ending June 30, 1916.

This report is the second annual report of the Commission, but the first to cover a full year, the Commission having been originally organized on March 16, 1915.

THE COMMISSION.

According to its organic act, the Commission elects its own chairman. The Commission has adopted the policy of annual rotation of the chairmanship, the order or service in that capacity to be according to the seniority of appointment. This arrangement went into operation on July 1, 1916, with the intention that subsequent changes in the chairmanship should take place at the beginning of each fiscal year. The vice chairmanship was regulated in like manner, the incumbent of this position becoming chairman after serving one year.

Although occurring since the close of the fiscal year, it should be noted that the office of one commissioner became vacant through the fact that the Senate did not confirm the nomination of Hon. George Rublee. Mr. Rublee served on the Commission, however, pending the Senate's action from the original date of organization until the expiration of his commission at the end of the last session of Congress, and throughout the fiscal year covered by this report. We desire to express our appreciation of the exceptionally valuable service which he rendered while a member.

GENERAL ORGANIZATION OF THE STAFF.

The staff of the Commission is organized in three main departments, namely, administrative, legal, and economic.

The administrative department is under the direction of the secretary, who is also the formal channel of communication between the Commission and the other departments. The assistant secretary, acting solicitor, and chief clerk are directly under the secretary, as well as the chiefs of the docket, mails and files, supplies, and stenographic divisions.

The Commission had an advisory counsel as the head of the legal department during a part of the fiscal year, but this office is now vacant because the present appropriation makes \$5,000 the maximum

Questions of law are passed on by the law board of review, which is composed of three experienced lawyers. The reports of this board upon such questions are then passed on by the counsel of the Commission before being finally submitted to the Commission.

UNFAIR COMPETITION AND VIOLATIONS OF CLAYTON ACT.

Section 5 of the Federal Trade Commission act provides that whenever the Commission shall have reason to believe that any person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least 30 days after the service of such complaint. The Clayton Act contains a like provision in reference to the enforcement of the provisions of sections 2, 3, 7, and 8, except that it does not contain the proviso, "if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public." This provision was omitted from the Clayton Act presumably because such violations would per se be of interest to the public, as distinguished from an unfair method of competition, which might involve only a private injury.

Applications for issuance of complaints.--The Commission has power, of its own motion, to issue formal complaints charging violations of the Trade Commission act or of the Clayton Act. Usually, however, the facts concerning such violations are brought to its attention by persons who have suffered injury from the act complained of. Any communication indicating such violations of the law is termed "an application for the issuance of a complaint."

Number of applications filed.--Since the Commission has been organized and up to the end of the fiscal year there have been filed with it 246 separate applications for the issuance of complaints. Some of these applications charged violations of more than one provision of the law; 138 were applications for the issuance of complaints for violations of Section 5 of the Trade Commission act; 78 were for violations of section 2 of the Clayton Act; 28 were for violations of section 3 of the Clayton Act; 4 were for violations of section 7 of the Clayton Act; and 1 for violations of section 8 of the Clayton Act. Of the total number, 107 applications have been disposed of and 139 were pending June 30, 1916.

Character of violations charged.--In the applications for issuance of complaints for violations of section 5 of the Trade Commission act some of the unfair methods of competition alleged are: Predatory price cutting, inducing breach of contract, maintaining bogus independents, betrayal of trade secrets and confidential information, bidding up the price of goods purchased, combinations and threats to cut off competitor's supplies, disparagement and confusion of goods, unfair manipulation of guarantees against declines in price of goods sold, false and misleading advertising, fighting ships and fighting brands, misbranding of goods, instituting boycotts and threats to boycott, instituting vexatious actions and advertising such actions,

Some of the charges of violation of law brought to the attention of the Commission have been found, upon investigation, to be groundless; in other cases, although the practices were probably unfair, it did not appear to the Commission that it would be to the interest of the public to interfere, because even if the charges were true they did not appear to the Commission to injuriously affect the public interest. The Commission has acted with the utmost hesitation and consideration in dismissing cases on the ground of public interest. The applicant is requested to submit all the facts in his possession bearing on the matter involved in his application for the issuance of a complaint and to direct the Commission, so far as he is able, to evidence or sources of evidence in reference thereto.

Preliminary investigation.--Each application as soon as it is received is assigned by the secretary to the personal supervision of one of the commissioners, assignments being made to each commissioner in rotation. After examination by the commissioner to whom it is assigned, the application is turned over to the attorney specially assigned to that commissioner for preliminary investigation.

No formal rule is laid down to regulate the manner in which such investigation shall be conducted, but that method is pursued which seems best adapted to bring out all the facts in the particular case under consideration, so that a clear understanding may be had of the matters involved. The joint board of review advises with the special attorney who has the case in charge and with the commissioner to whom it is assigned, who directs the general character and scope of the preliminary investigation. The chief examiner sees that the general instructions given by the joint board are properly carried out, and passes upon the reports of those who make the field investigations. Many complaints involve exceedingly complex business situations, which require the advice and assistance not only of

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source of the information upon which it proceeds to make a preliminary investigation.

Report of joint board of review.--When an investigation is completed the special attorney in charge makes a report to the appropriate commissioner, and the entire matter is then turned over to the joint board of review to be examined and considered. The board makes a formal report to the commissioner having personal supervision over the matter, stating concisely the facts developed from the investigation, together ~~to~~ together

Instances of cases disposed of without proceedings.--As an indication of the character of cases thus disposed of, the following instances are cited:

A manufacturer on the Pacific coast complained that a competitor whose factories were located in the East was selling certain of its goods on the Pacific coast at a lower price than it was selling the same goods in other parts of the country, the cost of transportation being considered, and that this discrimination was considered,

of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purpose," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges as follows :

(Here follow the specific allegations of unfair competition.)

THEREFORE, NOTICE IS HEREBY GIVEN YOU, the said respondent, that the charges of this complaint, which are hereby made a part of this notice, are as follows:

required to pass on the evidence in the proceeding and to make findings therein, the commissioners have endeavored with scrupulous circumspection to allow the conduct of the proceedings, and the presentation of the evidence, to be controlled as much as possible by the attorneys and examiners to whom the case has been assigned, in order that no Commissioner may be finally committed on questions involved until all the evidence has been presented.

VIOLATIONS OF SHERMAN ACT.

Commission directed to report form of decree in Corn Products case.--The duties of the Commission with respect to the enforcement of the Sherman Act have already been described. In the opinion rendered by the Hon. Learned Hand, judge of the District Court of the United States for the Southern District of New York, delivered June 24 1916, in the case of United States v. Corn Products Refining Co., which is a suit in equity brought by the Attorney General as provided in the antitrust acts, the court found the defendant, the Corn Products Refining Co., an unlawful combination in violation of the Sherman Antitrust Act and referred the suit to the Federal Trade Commission, as a master in chancery, to ascertain and report an appropriate form of decree. This was done by the court under the authority of section 7 of the Trade Commission act. At the end of the fiscal year the proceedings in the suit had not yet been certified to the Commission.

Commission directed to investigate Standard Oil companies.--By resolution of September 28, 1914 (Senate resolution No. 457, Sixty-third Congress, second session) , the Commission was directed by the Senate to investigate the relations now existing among the companies into which the Standard Oil Co. was dissolved by the decree of the Supreme Court; the business practices of these companies toward other producers, transporters, and refiners of oil; the efforts of these companies, if any, to control the price of crude oil and its refined products, and the result of such efforts; and the earnings, dividends, and capital of the Standard and other companies in the oil industry.

Relations with Department of Justice.--The most cordial relations have existed and are maintained between time Commission and the Department of Justice. Each refers to the other complaints primarily within the other's jurisdiction. Complaints involving solely restraints of trade in violation of the Sherman Antitrust Act which have been made to the Commission, or which develop into such cases upon investigation, are

ECONOMIC DEPARTMENT

All of the matters which the commission is empowered by the Trade Commission act to investigate or determine involve questions of fact and require work which is partly, and often wholly, of an economic character, namely:

(1) To investigate the organization, business conduct, etc., of corporation. (Sec.6, par. a)

(2) To require annual and special reports from corporations. (Sec. 6, par. b.)

(3) To investigate and make recommendations concerning the observance of decrees in antitrust cases. (Sec. 6, par. c.)

(4) To investigate alleged violations of antitrust laws. (Sec. 6, par. d.)

(5) To recommend adjustments of corporations alleged to be violating antitrust acts. (Sec. 6, par. e.) (6) To investigate trade conditions in and with foreign countries, particularly with respect to combinations. (Sec. 6, par. h.)

(7) To recommend appropriate form of decree in antitrust cases. (Sec. 7.)

(8) To determine and prevent unfair methods of competition. (Sec. 5.)

The same is true of those provisions of the Clayton Act the enforcement of which is intrusted to the Commission. These provisions relate to--

(9) Price discriminations. (Sec. 2.)

(10) Tying contracts. (Sec. 3.)

(11) Intercorporate stockholding. (Sec. 7.)

(12) Interlocking directorates. (Sec. S.)

Broadly speaking, the economic work under these powers may be grouped as follows:

(1) Compilation of information of a general character through corporation reports.

(2) Specific investigations of particular corporations, industries, or business problems, including those relating to the enforcement of the antitrust laws.

(3) Investigation of cases arising under the quasi-judicial, or administrative powers of the Commission under section 5 of the Trade Commission act, and sections 2, 3, 7, and 8 of the Clayton Act. .

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particular article he is making a fair profit and on what he is making only a narrow margin of profit or losing money.

It is the desire of the Federal Trade Commission to help cure these conditions and bring about a more healthy state of affairs, and it hopes to accomplish this by reviewing systems of cost accounting submitted to it and by making suggestions looking to their improvement.

The Commission, while believing in and recommending uniform methods of accounting, has consistently pointed out that a uniform method of cost accounting does not mean uniform costs, and it does not approve any system which attempts to standardize

As the work was not completed during the fiscal year, the Commission at this time desires merely to describe the general plan and the great possibilities it presents for useful service to the public generally to the Government, and to the business men immediately concerned.

SPECIFIC INVESTIGATIONS.

The term "specific investigations," as already stated, is used to denote the investigations of particular corporations, industries, or business problems, including those relating to the enforcement of the antitrust laws. These investigations are generally similar to those formerly undertaken by the Bureau of Corporations, which was merged in the Federal Trade Commission on its organization. In fact, some of the investigations now being conducted by the Federal Trade Commission were initiated by the Bureau of Corporations

The specific investigations upon which important work was done during the fiscal year under consideration were as follows :

- (1) Cooperation in American export trade.
- (2) Trade and tariffs in South America.
- (3) Pipe-line transportation of petroleum.
- (4) Fertilizer industry.
- (5) Gasoline prices.
- (6) Beet-sugar industry.
- (7) Lumber industry.
- (9) Trade associations.
- (10) Mexican sisal hemp.

The pipe-line and gasoline investigations were parts of a general investigation of the petroleum industry which was directed by several resolutions of the Senate.

Preliminary work on certain new investigations was also begun near the end of the fiscal year, namely :

- (11) Anthracite coal industry.
- (12) Bituminous coal industry.
- (13) News-print paper industry.

Of these investigations, which are described in more detail below, the first three and the tenth, namely, (1) Cooperation in American export trade, (2) trade and tariffs in South America, (3) pipe-line transportation of petroleum, and (10) Mexican sisal hemp, were completed (during the fiscal year under consideration; and the three others, fertilizer industry, gasoline prices, and beet-sugar industry, were nearly complete. Two others, namely, resale-price maintenance and trade associations, were suspended on account of pressure of other work. The limited appropriations for the staff and quarters of the Commission have made it impossible to carry out and complete all investigations simultaneously and have tended to delay the work on those which were completed or continued.

Since the close of the fiscal year under consideration a Senate resolution was passed calling for another investigation of the paper industry (Senate resolution No. 269, Sixty-fourth Congress, first session), the one previously ordered having been confined to the news-

print paper, while an investigation of the bituminous coal industry tentatively begun by the Commission during the fiscal year was since then specifically ordered to be conducted by resolution of the House (House resolution No. 352, Sixty-fourth Congress, first session). Precedence is naturally given to those investigations which are directed by Congress or imposed upon the Commission by its organic act.

Cooperation in American export trade.--During the year the Commission concluded its investigation of cooperation in American export trade. This investigation was undertaken pursuant to the authority given in section 6, paragraph (h), of the act creating the Commission. The investigation was started in the closing weeks of the preceding fiscal year.

The plan of this investigation included public hearings and professional men, research in published material, questionnaires sent out to business and professional men, special reports from the United States consuls and commercial attaches, and investigations both in the United States and abroad by representatives of the Commission. The investigation was conducted according to this plan, and public hearings were held by the Commission in New York, Boston, Chicago, Detroit, Cincinnati, Indianapolis, St. Paul, Spokane, Seattle, Tacoma, Portland, San Francisco, Los Angeles, San Diego, and other cities. At these hearings the Commission obtained much first-hand information from business men who were personally acquainted with the conditions of international trade and the export trade of the United States.

Following the public hearings questionnaires were sent out to several thousand corporations, firms, associations, and individuals throughout the United States who were understood to have any interest in the question of cooperation in American Export trade or any information bearing on international competitive conditions. In sending out these questionnaires the Commission endeavored to get information and opinions in a comprehensive manner from export commission merchants, manufactures, export agents, importers, domestic merchants,

countries, so far as available, together with bulletins and reports of their trade associations, monographs and reports of students and economic investigators, as well as other material, were examined. In this way also a great deal of valuable information was obtained.

Through the cooperation of the Secretary of State and the Secretary of Commerce arrangements were made whereby special reports were to be made to the Commission by American consuls and commercial attache's abroad. Owing to the disturbed condition resulting from the war these reports contained much information which it would have been impossible for the Commission to have obtained through its own agents or in any other way. They constitute an especially valuable contribution to the information collected.

In order to obtain certain facts first hand in respect to conditions in South America the Commission sent one of its expert investigators there, and the activities of various European combinations in South American markets were studied. In addition, valuable information was obtained as to the opportunities for cooperative effort by organizations of Americans to develop trade in South America.

A summary of the Commission's findings and recommendations was sent to Congress on May 10, 1916. The complete report was not published until after the end of the year. This report is in two volumes, the first containing the Commission's discussion of the facts presented regarding competitive conditions in international trade and setting forth its recommendations in detail; the second volume, of about 600 pages, consists of exhibits. Exhibit 1 gives the special reports of United States consuls; Exhibit 2 consists of excerpts from the statements made at the public hearings held by the Commission; Exhibit 3 gives the forms of the questionnaires used by the Commission in the investigation; Exhibit 4 gives a large number of typical replies to the different inquiries in the questionnaires; Exhibit 5 consists of examples of price and export agreements of different foreign combinations; and Exhibit 6 contains miscellaneous data concerning foreign corporations and combinations.

On the whole, the report is the most comprehensive presentation of facts relating to the question of comb
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The representatives of the Federal Trade Commission studied the subjects discussed in its report in Brazil, Uruguay, Argentina, Chile, Bolivia, and Peru, and the report of the Commission was placed in the hands of the Secretary of the Treasury before the American branch of the International High Commission departed for Buenos Aires in March, 1916.

The report was also submitted to Congress and published on June 30, 1916.

In the preparation of this report the Federal Trade Commission also sought to make it of general utility to American business men engaged in or contemplating trade with South American countries.

The tariff characteristics of each country are discussed in the report. The administrative requirements respecting ships' manifests, bills of lading, and consular invoices are described, as well as customhouse procedure and the functions of customs brokers in the different countries visited. The important regulations relating to fines and seizures, protests and appeals, and samples of commercial travelers are either cited or discussed in condensed form. Peculiarities of tariff classifications and rules governing them and dutiable returns are given whenever of special importance. Methods of valuation for customs purposes are described, and specific examples of their results given when they were available. Smuggling and irregularities are discussed in a broad way, and the competitive effects of the sales of abandoned or unclaimed goods at less than their value plus duties and other charges.

A number of typical shipments of different American goods were selected as examples, and a full illustration of the exact customs duties, other fiscal charges, and important expenses incurred upon their importation in each country, are shown in explicit detail in the report for each of the six countries, after verification of these items at the principal customhouses of the countries visited. The relation of these duties and charges to the invoiced value is shown in each instance.

The principal industries of these countries are described, and statistical information principal countries upon

gress a number of the outstanding features of South American tariffs and customs systems which most tend to restrict freer commercial intercourse with our South American neighbors were pointed out. In connection with these facts it was shown how the Governments of those countries could contribute effectively toward improving commercial relations with the United States by modifying unworkable or burdensome tariff provisions and customs regulations.

Pipe-line transportation of petroleum.--An investigation of the important features of the production, transportation, refining, and distribution of petroleum and its products was begun in 1913 by the Bureau of Corporations in response to a Senate resolution (Senate resolution No. 109, passed June 18, 1913). This resolution directed a thorough investigation into the price of oil in Oklahoma transported by interstate pipe lines, and a comparison of such prices with the general market level in the United States, quality and transportation considered. In order to answer this resolution completely a thorough study into the several different branches of the petroleum industry, including the pipe lines, was necessary.

Another Senate resolution was passed September 28, 1911 (Senate resolution No. 457), which, in contemplation of the organization of the Federal Trade Commission, directed the Commission to investigate certain features of the petroleum industry. This resolution further extended the scope of the inquiry already in progress.

On February 28, 1915, the Commission issued its report on Pipe Line Transportation of Petroleum. This is the first of a series of reports to be issued in answer to Senate resolutions 109 and 457, mentioned above. The subject of pipe-line transportation is one of the most important in the industry. The economic value of the information which had been collected, and the need for immediate use of some of it in dealing with present-day conditions, made it advisable to issue this report before the final completion of the investigation in order to make the information immediately available in a convenient and authoritative form.

The report covers the interstate pipe-line transportation of

rates are still higher. Lower pipe-line rates and also smaller minimum shipments are necessary in many cases, therefore, to enable small concerns to compete with large refineries affiliated with pipe-line companies.

Reasonable and equitable conditions of shipment by pipe line would tend to a greater equality in the prices of Mid-Continent and Appalachian crude oil and in the prices of refined products in different markets.

Fertilizer industry.--An investigation into the prices of certain fertilizing materials was begun by the Bureau of Corporations in accordance with a resolution of the Senate, but the completion of the investigation devolved upon the Commission. The work was finished and the report on this subject prepared during the fiscal year 1916, but its issue was delayed in order to give certain fertilizer manufacturing companies an opportunity to consider what they should do with regard to matters which were the subject of criticism by the Commission.

The ability of the Federal Trade Commission to bring about improved business methods in an industry through the cooperation of those in it was demonstrated in this conference with the fertilizer manufacturers. As a result of its investigation of this industry, the Commission found that several of the larger companies were operating subsidiary concerns ostensibly as competitors. This practice had certain advantages to the controlling companies, the most important of which was that it enabled them to get more dealers in a locality, and thereby to increase their sales and distribute their credit risks. But the practice also involved features which the Commission felt were not fair to competitors nor to the public. Following the plan of informal conference rather than formal procedure, which has proven so successful in numerous complaints that have been dealt with, the Commission referred the matter to one of its members, who held informal conferences with various fertilizer manufacturers, at which the whole matter was considered with the greatest frankness. The fertilizer manufacturers explained the business reasons back of the practice and admitted that it was responsible, in part at least, for some of the unsatisfactory conditions existing in the industry. They all voluntarily agreed, however, that they would identify their subsidiary and affiliated companies by using suitable expressions on their letterheads, advertising matter, contracts, and bags, so that hereafter the identity of such concerns will be evident to all who have dealings with them.

The consensus of opinion of those engaged in the fertilizer industry is that while this identification of controlled companies may work some temporary inconvenience to those making this change, in the long run it will be beneficial to the business. The fictitious nature of some of the competition previously existing will be eliminated. Hereafter competition will be directed more to the manufacture and sale of goods of superior quality, for it will no longer be possible to sell dissatisfied customers the same goods under different names. Some of the subsidiaries and affiliated companies will be given up, because with their identity disclosed it will not be found profitable to continue their operation. In a number of cases the interest of the large corporations in the local concerns will be disposed of, so that they will again become bona fide independents.

Trade associations.-- One of the most important questions of trade policy at the present time relates to the practice of trade associations. Their activities are of a varied character, and many of them are of great benefit not only to the branch of trade concerned therein, but also to the public. Nevertheless, their activities have sometimes involved them in practices which have been condemned by the courts as violations of the antitrust laws. The practices of trade associations have important relations also to the problem of unfair competition. For these reasons a study of their methods is of great importance to this Commission and requires a comprehensive investigation.

The Commission collected a large amount of general information on this subject during the fiscal year 1916, but no thorough investigation was attempted.

Mexican sisal hemp.--In Acetin, Mexico, a commission (Comision Reguladora del Mercado de Henequen) was organized under authority of law in Mexico to purchase sisal hemp from the producers and sell it for export trade in such a manner as to control prices. This commission established connections with certain financial interests in the United States and practically controlled the importation and price of sisal in this country. During the fiscal year difficulties arose in obtaining this commodity, and a marked advance in the price occurred. A Senate committee made an investigation of the situation and of this sisal combination, in the course of which the Comision Reguladora, in order to meet in part the requirements of American manufacturers, offered to sell a certain quantity at definite prices if the Senate committee would indicate the quota which the various manufacturers were fairly entitled to receive.

The determination of this question was referred by the Senate committee to this Commission, and report was made by the Commission, indicating what would be a fair allotment of this commodity to American manufacturers under the conditions laid down by the Comision Reguladora.

Anthracite coal industry.--According to a Senate resolution (Senate resolution No.217, Sixty-fourth Congress, first session) passed just before the close of the fiscal year the Commission was directed to make an investigation of the anthracite coal industry with reference to the recent increase of prices and especially the relation of the price increase to the increase of labor cost.

The Commission was not able immediately to organize the investigation directed by this resolution, because the entire available force of the Commission was engaged on other work. It regards the investigation of the anthracite situation, however, as very important and believes that a thorough and impartial study of the reasonableness of the price of anthracite coal will be of great public interest and value at thus time.

Bituminous coal industry.--As early as March, 1915, the attention of the Commission was called to conditions existing in the bituminous coal industry in Indiana and Illinois, through requests made by coal operators with respect to existing conditions and various plans of cooperation which they desired to undertake to remedy a situation which was claimed to the injuries not only to the bituminous coal producers, both operators and miners, but also to the consumers and the general public.

A preliminary investigation made at that time indicated that the conditions complained of might also exist in other sections of the country, and that it would be necessary to consider the bituminous coal industry as a whole before the questions submitted by the operators in Illinois and Indiana could receive an adequate answer.

Hearings, in May and June, 1915, were held in Chicago, and in June in Pittsburgh, at which many of the coal operators were present. Many of the difficulties of the situation were discussed. Subsequent to the end of the fiscal year, similar hearings were held at Charleston, W. Va., Kansas City, Mo., and Denver.

On August 18, after the close of the fiscal year 1916, a resolution was passed by the House (House resolution No. 352, Sixty-fourth Congress, first session) which directed the Commission to make inquiry into the conditions in the production and distribution of bituminous coal, and to report the facts to Congress with recommendations.

"News-print paper industry.--In consequence of a marked advance in the prices of news-print paper during the fiscal year 1916 a Senate resolution (Senate resolution No. 177, Sixty-fourth Congress, first session) passed just before the close of the year, directed the Commission to make an investigation of the situation.

The work was only begun during the fiscal year under consideration, but it was expedited in order that a report might be submitted to the Senate on this subject shortly after it convenes in December.

UNFAIR COMPETITION.

The quasi judicial or administrative powers of the Commission to prevent unfair methods of competition and to enforce certain sections of the Clayton Act, referred to above in connection with the work of the economic department, have been described in detail in connection with the work of the legal department and require no detailed discussion here.

As already noted, in connection with the organization of the Commission, the economic department is represented on the joint board of review which makes final recommendations to the Commission concerning cases arising under this provision of the law. The staff of the economic department is engaged in the investigation and study of these cases from the point of view of the facts, and economic aspects of such practices as come before the Commission for consideration.

While the legal aspects of these matters are of fundamental importance, particularly in the accurate determination of jurisdiction and the development of a body of rules consistent and in harmony with the general principles of law, the Commission regards the social and economic aspects of which rules and their practical business consequences as a matter of prime importance. For this reason they require very careful consideration of these questions from the economic or business point of view. The Commission aims, in making its rulings and orders to promote business efficiency and, within the limits of practicability, to cooperate with the business world in developing the best standards of commercial ethics. This attitude has received the general approbation of the business public and has greatly facilitated the settlement of such matters without friction or expensive litigation.

Much of the detailed work in determining facts in a given case requires careful economic study and often involves the examination of the books of account of the parties interested or affected. This work is the special field of the economists and accountants. Some of the economic problems involve very large questions of business organization and methods of distribution or sale, as, for example, questions of price cutting, maintenance of resale prices, and practices affecting the channels of distribution. Such questions really demand specific investigation of conditions in the country as a whole, so that the work of the economic department with respect to specific investigations has important relations to the solution of particular cases regarding the trade practices which come before the Commission under its quasi judicial or administrative powers.

ADMINISTRATIVE DEPARTMENT.

The principal administrative divisions under the immediate direction the

During the greater part of the year the work of the division was considerably in arrears, due to a great increase in the volume of work. Owing to lack of space, it was not practicable to employ additional men to take care of this work, and it was necessary to draft clerks from other divisions to assist in typewriting. At the close of the year the current work was being kept approximately up to date, although there was much other work of not so pressing a nature which was necessarily delayed through lack of the force to handle it.

Due to lack of funds, it was impossible to provide adequately for depreciation in typewriter equipment. Many machines are now in use which need thorough overhauling, and others which are so old that overhauling would not be economical. They are kept only in such state of repair as will enable them to be used on rough work for office use.

Library division.--The library of the Commission during the fiscal year under consideration was entirely inadequate on account of the lack of specific authority in the appropriation for the purchase of books, etc. The requirements of the Commission in this respect are of a highly specialized character, and the libraries of other departments of the Government do not afford adequate facilities. Efficiency, moreover, demands that the library material most constantly in use should be immediately at hand.

The services of an experienced librarian were secured to organize a library for the Bureau of Corporations, which would serve as a foundation for the new Commission when created.

The library now contains 2,100 catalogued volumes, exclusive of the law collection, which consists of 1,300 volumes. In addition to law books, the library has collections on economics, corporation finance, industries, foreign trade, scientific management, transportation, accounting, etc. Special attention has been given to collecting trade directories, city directories, and corporation and security manuals. The collection of documents in antitrust cases numbers 1,152. Owing to the fact that no money was available for the purchase of books for the Commission during the fiscal year 1916, it was possible to secure only such volumes for the library as could be procured without cost.

The material in the library is catalogued in detail, as it is necessary to produce at a moment's notice all information on hand concerning a certain subject or corporation.

In addition to the above-mentioned material the library maintains a corporation and trade-association file. The corporation file consists of reports and other information arranged alphabetically by corporations. The association file consists of constitutions and bylaws, proceedings, lists of members and other information arranged alphabetically by associations under an industrial classification.

The law library at present consists of approximately 1,300 volumes. Many of these are State session laws which should be replaced by recently compiled codes, and some other volumes are useless for the present purposes of the Commission. Even the useful books in its possession are insufficient in number; namely, one set of United States Supreme Court Reports; one incomplete set of Federal Court Reports; one incomplete set Lawyer's Annotated Reports; one incomplete set of State codes; one set American and English Encyclopedia, second edition; American and English Corporation

Cases (old series); Rose's Notes; Rose's Digest; Federal Statutes, Annotated; United States Statutes at Large; Opinions of Attorneys General; and a very limited number of suitable textbooks. With such a meager equipment it is not difficult to see that much time must needs be wasted and much delay and inconvenience caused to the Commission by having at times many members of its legal staff working in the thoroughly equipped libraries of other departments.

In order that the legal work of the Commission may be expeditiously and economically performed under

The following statement gives an analysis of the personnel of the Commission and its staff at the close of June 30, 1916.

| | |
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| 77 statutory employees | \$132,420 |
| 147 lump-sum roll employees | 263,770 |
| 224 Total | 396,190 |

Classified as follows :

| | | |
|--------------------------------|----------|-----------|
| 5 commissioners, at | \$10,000 | |
| 1 secretary at | 5,000 | |
| 5 clerks to commissioners at 1 | 1,800 | |
| 1 chief clerk at 1 | 2,500 | |
| 4 clerks of class 4, at | 1,800 | |
| 3 clerks at class 3, at | 1,600 | |
| 6 clerks at class 2, at | 1,400 | |
| 11 clerks at class 1, at | 1,200 | |
| 12 clerks, at | 1,000 | |
| 49 clerks, at 2 | 900 | |
| 1 messenger, at | 840 | |
| 2 assistant messengers at | 720 | |
| 8 messenger boys, at | 480 | |
| | ----- | \$162,320 |
| 3 special attorneys, at | 5,000 | |
| 2 special attorneys, at | 3,000 | |
| 1 special attorney, at | 2,640 | |
| 2 special attorneys, at | 2,460 | |
| 2 special attorneys, at | 2,400 | |
| 1 special attorney, at | 2,340 | |
| 1 special attorney, at | 2,000 | |
| 1 special attorney, at | 1,980 | |
| 2 special attorneys, at | 1,800 | |
| 1 special attorney, at | 1,440 | |
| | ----- | 44,720 |
| 1 attorney and examiner, at | 4,750 | |
| 1 special agent, at | 4,000 | |
| 3 special agents, at | 3,000 | |
| 1 special agent, at | 2,700 | |
| 1 special agent, at | 2,520 | |
| 2 special agents, at | 2,460 | |
| 1 special agents, at | 2,400 | |
| 1 special agent, at | 1,740 | |
| 2 special agents, at | 1,680 | |
| 4 special agents, at | 1,620 | |
| 3 special agents, at | 1,500 | |
| 3 special agents, at | 1,440 | |
| 1 special agent, at | 1,400 | |
| 4 special agents, at | 1,380 | |
| 4 special agents, at | 1,320 | |
| 3 special agents, at | 1,260 | |
| 1 special agent, at | 1,200 | |
| | ----- | \$96,780 |
| 1 special expert, at | 3,000 | |
| 1 special expert, at | 2,700 | |
| 1 special expert, at | 1,800 | |
| 1 special expert, at | 1,200 | |
| | ----- | 8,700 |
| 1 special examiner, at | 5,000 | |
| 2 special examiners, at | 4,200 | |
| 1 special examiner, at | 3,500 | |
| 1 special examiner, at | 2,640 | |
| 2 special examiner, at | 2,520 | |
| 1 special examiner, at | 2,400 | |
| 1 special examiner, at | 2,220 | |
| | ----- | 28,800 |
| 1 examiner, at | 5,000 | |
| 1 examiner, at | 2,700 | |
| 1 examiner, at | 2,400 | |
| 1 examiner, at | 2,000 | |
| 1 examiner, at | 1,920 | |

| | |
|------------------|-------|
| 5 examiners, at | 1,800 |
| 2 examiners, at | 1,500 |
| 21 examiners, at | 1,200 |
| 1 examiner, at | 900 |

- 1 At the close of June 30, 1916, the salaries of the clerks to commissioners were \$1,800 each, the new rate of \$1,500 becoming effective on July 1, 1916; in the case of the chief clerk the salary was \$2,500 on June 30, 1916, becoming \$2,000 on July 1, 1916.
- 2 Of these 49 clerks at \$900 each, 31 were carried on the lump-sum roll.

At the close of June 30, 1916, the services of the following terminated :

| | | |
|----------------------------|----------------------|----------|
| 12 examiners (temporary) | | |
| 5, at \$1,800 | | |
| 2, at \$1,500 | total salaries _____ | \$18,000 |
| 5, at \$1 ,200 | | |
| 1 special expert _____ | | 2,000 |
| 1 special attorney _____ | | 14,400 |
| | | ----- |
| | | 34,400 |

The total personnel of the Commission and its staff at the end of the fiscal year 1916 was 224, as compared with 143 at the end of the fiscal year 1915, showing a increase of 81.

QUARTERS OF THE COMMISSION.

The quarters occupied by the Commission during the fiscal year were those allowed by the Secretary of Commerce, in the Commerce Building, and were, with comparatively slight additions of space, the same as those occupied by the Bureau of Corporations. As already shown, the Bureau of Corporations had a much smaller staff than the Federal Trade Commission and needed less room for the superior officers and for the accommodation of hearings, etc. The provision of law regarding the quarters of the Federal Trade Commission for the fiscal year under consideration, found in the sundry civil appropriation act approved March 3, 1915, reads as follows :

The space now occupied by the Bureau of Corporations in the building rented for the use of the Department of Commerce is transferred to and for the accommodation of the Federal Trade Commission, and the Secretary of Commerce is directed to transfer to said Commission any additional rooms or space in said building that may be required for its use.

The inadequate quarters which the Commission obtained under this provision of law was a serious physical impediment to the proper performance of its duties and undoubtedly diminished the efficiency of the staff in consequence of crowded rooms and insufficient air and light. As there was no other room available, hearings were held in the office of the chairman. A slight measure of relief was afforded for a part of the time by the courtesy of the Treasury Department, which furnished space for those members of the staff who were working on its records.

While an appropriation was made for rent for the current fiscal year, the amount was much below that estimated as necessary. The Commission has been unable to find satisfactory accommodations up to the present time within its appropriation and has, therefore, been obliged to remain in its old quarters.

APPROPRIATIONS AND EXPENDITURES.

The appropriations of the Commission for the fiscal year ended June 30, 1916, under the study civil appropriations act approved March 3, 1915, were \$355,000. Besides this amount the Commission had the sum of \$75,964.08 allowed by the ruling of the Comptroller of the Treasury, under the second paragraph of section 3 of the act creating the Commission. Thus fund consisted of the unexpended

balance of the appropriation for the Bureau of Corporations for the fiscal years ended
calance

tions prepared by the Commission and transmitted by the Department of State to American consuls in all parts of the world. Likewise, in the investigation of trade and tariffs in South America the diplomatic and consular officials of the State Department rendered valuable aid to the representatives of the Commission in their work in the countries visited.

The Treasury Department, through the appraiser's office in New York, furnished very important information regarding combinations and trade conditions in foreign countries, in connection with the investigation of cooperation in American export trade. Furthermore, it placed its valuable lists of business corporations and certain other important data at the disposal of the Commission for use in the preparation of its schedules for corporation reports, and in that connection furnished quarters for the accommodation of a part of the force of the Commission which was engaged on this subject. On the other hand, the report of the Commission on trade and tariffs in South America, which was undertaken at the suggestion of the Secretary of the Treasury and by the direction of the President gave to the former, as member of the Joint High Commission, at the Pan American Conference, in Buenos Aires, in April, 1916, useful data for the purpose of that conference, for which very cordial acknowledgments were received.

Between the Department of Justice and the Commission cooperation is contemplated by the very terms of the organic act of the Commission with respect to certain matters which relate to the enforcement of the antitrust acts. This desirable arrangement has been carried out in a spirit intended to give the fullest effect to ameliorative methods of procedure and in the proper manner to meet the general desire

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0 448 (of amendments (specifically 26900) (Tj 0.19.2470.01) (51.93215) (Tj 3.36 0 TD 0.0036 Tc (which

tions of the Senate had directed the work to be done both by this Commission and by the Interstate Commerce Commission, which would necessarily have resulted in a duplication of a part of the work. By this cooperative arrangement

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sions of the Commission, as stated in the summary of this report, were as follows:

PREVENT DANGER OF MISUSE OF COOPERATIVE EXPORT ORGANIZATIONS.

Two chief dangers from cooperative export organizations of American manufacturers and producers are apparent. They may be used to exploit the home market and they may be used unfairly against individual American exporters in foreign trade. The dangers in cooperative action must be faced frankly and provided against fully.

The Commission is confident that this can be done without sacrificing the essential advantages of joint action and without altering the policy of the anti-trust laws or interfering with their enforcement. Thus specific extension of the law prohibiting unfair methods of competition to export trade and requirement of full reports to the Federal Trade Commission from cooperative export Organizations will protect the individual exporter, while the enforcement of the antitrust laws will prevent the use of such organizations to effect restraint of trade or monopoly in the domestic market.

The Commission does not believe that Congress intended by the antitrust laws to prevent Americans from cooperating in export trade for the purpose of competing effectively with foreigners, where such cooperation does not restrain trade within the United States and where no attempt is made to hinder American competitors from securing their due share of the trade. It is not reasonable to suppose that Congress meant to obstruct the development of our foreign commerce by forbidding the use, in export trade, of methods of organization which did not operate to the prejudice of the American public, are lawful in the countries where the trade is to be carried on, and are necessary if Americans are to meet competitors there on equal terms.

DECLARATORY LEGISLATION RECOMMENDED.

By this investigation the Commission, however, has established the fact that doubt as to the application of the antitrust laws to export trade now prevents concerted action by American business men in export trade, even among producers of noncompeting goods. In view of this fact and of the conviction that cooperation should be encouraged in export trade among competitors as well as noncompetitors, the Commission respectfully recommends the enactment of declaratory and permissive legislation to remove this doubt.

The Commission feels that it would fail of its duty if it did not urge the pressing need of such action immediately. If American business men are to make the most of the great opportunities now before them, are to build securely in foreign trade, and are to avoid disaster in the shock of the stern and determined competition that will doubtless follow the war, they must at once perfect the organization demanded by the conditions of international trade.

This recommendation of the Commission was given consideration by the Committee on the Judiciary of the House of Representatives, which reported a bill (H. R. 17350), commonly known as the Webb bill (see Exhibit 5), embodying the principles recommended by the Commission. This bill was passed by the House near the close of the present session, but there was not sufficient time left for its consideration by the Senate.

Particular attention, however, is called to the fact that though the bill as originally reported to the House appears, in the opinion of the Commission, to effectively meet the purpose for which it was drafted, yet, on the other hand, two amendments were made to the bill during the debate which seem to give a basis for legal construction which might entirely nullify this purpose.

The first amendment referred to was made in the first section of the bill. In order to permit cooperation only with respect to export trade, the term "export trade" was originally carefully defined to exclude the production or manufacture of goods within the United States, but the

dations that were within the appropriation made. In the opinion of the Commission the most desirable method of providing for the quarters of the Commission is to allow it to make a contract of lease or a series of years with an adequate rental appropriation in order that it may make arrangements for the erection of a suitable building. The building should be erected on a site sufficiently large so that subsequent additions might be made thereto as needed, thus enabling the staff to be always housed under one roof in the interest of economy and efficiency.

EXHIBIT I.

FEDERAL TRADE COMMISSION ACT.

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

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

The commission shall be organized and shall hold its first meeting on the first day of July, 1914, and thereafter on the first day of July of each year. The commission shall have the honor and respect of a cabinet department.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the commission in the exercise of the powers, authority, and duties conferred on it by this act.

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

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

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

of competition. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

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

any corporation engaged in commerce, excepting, banks and common carriers and it subject to the act to regulate commerce, relation to other corporations and to Individuals, associations, and in partnerships.

(b) To require, by general or Special orders, corporations engaged in commerce, excepting, banks, and common carriers subject to the act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by 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 recommendation for the readjustment of the business of any corporation alleged to be violating the antitrust acts in order that the corporation may thereafter maintain its Organization, management, and conduct of business in accordance with law.

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

(g) From time to time to classify corporations and to make, rules and regulations for the purpose of carrying out the provisions of this act.

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

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as 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 protection of documentary evidence.

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

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

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

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

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for

provisions of sections two, three, seven and eight of this act, it shall issue and serve upon such person a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission or board requiring such person to cease and desist from the violation of the law so charged in said complaint. Any person may make application, and upon good cause spoken may be allowed by the commission or board, to intervene and appear in said proceeding by counsel or in person.

The testimony in any such proceeding shall be reduced to writing.

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in any wise relieve or absolve any person from any liability under the antitrust acts.

Complaints, orders, and other processes of the commission or board under this section may be served by anyone duly authorized by the commission or board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) served as provided in Title 16, Chapter 1, Section 238 of the Federal Trade Commission Act, 15 U.S.C. § 238.

EXHIBIT 3.

RULES OF PRACTICE BEFORE THE FEDERAL TRADE COMMISSION.

I. SESSIONS.

The principal office of the commission at Washington, D. C., is open each business day from 9 a.m. to 4.30 p.m. The commission may meet and exercise all its powers at any other place, and may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

Sessions of the commission for hearing contested proceedings will be held as ordered by the commission.

Sessions of the commission for the purpose of making ~~orders~~ TD 0.0266 TcTw (orders) Tj 22j 2.4 0 TD -0.02Tj 22j Tw

The testimony of the witness shall be reduced to writing by the officer before whom the deposition is taken, or under his direction, after which the deposition shall be subscribed by the witness and certified in usual form by the officer. After the deposition has been so certified it shall, together with a copy thereof made by such officer or under his direction, be forwarded by such officer under seal in an envelope addressed to the commission at its office in Washington, D. C. Upon receipt of the deposition and copy the commission shall file in the record in said proceeding such deposition and forward the copy to the defendant or the defendant's attorney.

Such depositions shall be typewritten on one side only of the paper, which shall be not more than 8 ½ inches wide and not more than 11 inches long and weighing not less than 16 pounds to the ream, folio base, 17 by 22 inches, with left-hand margin not less than 1 ½ inches wide.

No deposition shall be taken except after at least 6 days' notice to the parties, and where the deposition is taken in a foreign country such notice shall be at least 15 days.

No deposition shall be taken either before the proceeding is at issue, or, unless under special circumstances and for good cause shown, within 10 days prior to the date of the hearing thereof assigned by the commission, and where the deposition is taken in a foreign country it shall not be taken after 30 days prior to such date of hearing.

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IX. DOCUMENTARY EVIDENCE.

Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be offered in evidence.

EXHIBIT 4.

CONFERENCE RULINGS OF THE FEDERAL TRADE COMMISSION.

EXPLANATORY NOTE.

The following are rulings of the Commission in conference which are published as being of public interest. Future rulings will be announced from time to time through the public press and subsequently compiled and Issued by the Commission in successive bulletins. The rulings are published for the information of business men engaged in interstate commerce and others interested in the work of the Commission. They are not decisions in formal proceedings, but merely expressions of the opinion of the Commission on applications for the issuance of complaints and informal settlements. (Complaints) 9339

state commerce issued a publication in which, under

where the tendency of such acquisition may be to substantially lessen competition between such two corporations, or to restrain interstate commerce, or to create a monopoly; and also possibly to enforce section 5 of the Federal Trade Commission Act, if such purchase either of property or of capital stock in connection with other circumstances might constitute an unfair method of competition. *Held, also,* That the mere purchase of the property of such competitor other than capital stock is not prohibited by the Clayton Act or the Federal Trade Commission Act.

As to the validity of such purchase of property or capital stock under the Sherman by

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21. **Exclusive agency--Exclusive territory--Refusal to sell.**--On application for the issuance of a complaint, it appeared that a manufacturer, engaged in interstate commerce, having selected an exclusive agent or distributing dealer in certain territory, refused to sell to another dealer within this territory. *Held*, That neither the Federal Trade Commission Act nor the Clayton Act prohibits manufacturers establishing exclusive agencies or assigning exclusive territory to dealers. Under these circumstances a refusal to sell to others than such agents or distributors is therefore not unlawful under these acts.

22. **Railroads--Jurisdiction.**--On application for the issuance of a complaint as to abandonment by an interstate railway company of part of a branch line and its purpose to abandon more of it: *Held*, That the Commission has no jurisdiction of the subject matter of this complaint.

23. **Interstate commerce--Jurisdiction.**--On inquiry whether a local merchant in offering an automobile free to the customer drawing a specified number is practicing an unfair method of competition: *Held*, That, as interstate commerce is not involved, the Commission has jurisdiction to determine whether or not the act complained of is unlawful.

24. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, a retail dealer alleged that a competitor, engaged in business in the same city, sold goods below the price at which the applicant could purchase them. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

25. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it appeared that a retail dealer was selling a well-known make of underwear much below the customary price, to the injury of a jobber in the same city who sold these goods to the local retail trade. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

26. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it appeared that two competitors of the applicant, located in the same city, sold lumber below cost. The sales of all parties at interest were confined wholly within one State. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

27. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it was alleged by a retail dealer that other dealers in the community were using unfair methods in competition with him. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the methods complained of are unlawful.

28. **Bank--Jurisdiction.**--On inquiry respecting the refusal of banks to lend money on a particular kind of collateral: *Held*, That the facts do not present a case within the jurisdiction of the Commission, banks being expressly excepted from the provisions of section 5 of the Federal Trade Commission Act.

29. **Practice where suggestion of violation of decree of Federal court is made.**--On application for the issuance of a complaint, it appeared that the practice complained of might be in violation of a decree against the party charged with these practices, which decree was entered in a Federal court. *Held*, That the matter should be, in this instance, referred by the Commission to the Department of Justice. Each matter of this kind will be disposed of upon its own facts.

30. **Jurisdiction--Deprivation of rights by municipal ordinance.**--On inquiry: *Held*, That the Commission has no jurisdiction to pass upon the claim of an electrical engineer that, by town ordinance, his right there to carry on his work is unduly abridged.

31. **Interstate Commerce--Jurisdiction--Refusal to sell.**--On inquiry: *Held*, That where a jobber or manufacturer refuses to sell to retailer in the same State, and no interference with interstate commerce appears to be involved, the Commission has no jurisdiction to act in the premises.

32. **Interstate commerce--Labor unions--Jurisdiction.**--On application for the issuance of a complaint respecting tire enforcement of certain local labor-union rules: *Held*, That as the labor union is not engaged in commerce, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

33. **Refusal to manufacture and sell--Competition--Jurisdiction.**--On application for the issuance of a complaint, it appeared that a company engaged in the manufacture of bottle crowns refused to make certain crowns for the appli-

cant, assigning as the reason that the crowns ordered would constitute an infringement of the trade-mark of another customer, a competitor of the applicant. It did not appear that the refusal complained of was induced by the competitor. *Held*, That, as the facts do not disclose a method of competition, the Commission is without jurisdiction to act in the premises.

34. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it appeared that the proprietors of certain small coal mines refused to sell to a retail dealer in the immediate vicinity except through a competing dealer and, through the purchase of other near-by mines, cut off his supply of coal. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

35. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it appeared that a retail dealer competing with the applicant, both doing business only within the State, discriminated in price between different localities in the sale of a commodity. *Held*, That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

36. **Procedure--Combinations in restraint of trade.**--On application for the issuance of a complaint, suggesting unlawful combinations by companies engaged in interstate commerce, the Commission

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with it the corporation complained of adopted the policy of selling certain staple articles, in which there was competition from the applicant, at a delivered price, absorbing all

provided a special Federal remedy for the redress of alleged infringements of registered trade-marks (sec. 17, Trade-Mark Act, 33 U. S. Stats. at Large, 775; and par. 7, sec. 24, Judiciary Act, 36 U. S. Stats. at Large, 1092) , whereby unusual advantages are given a complainant by being permitted to bring suit in a Federal court irrespective of citizenship of parties or of amount of damages sought. *Held*, That where the conditions complained of involve nothing more than a question of infringing registered trade-marks, a proceeding will not be instituted in the absence of important considerations of public interest.

47. **Misbranding--Competitive method discontinued.**--On application for the issuance of a complaint, it appeared that the applicant was engaged in manufacturing an article in which deer hair is used, and selling the same in interstate commerce, and that a competitor manufactured and sold similar articles marked "100% Deer Hair," whereas in fact they contained approximately 50 per cent goat hair which was worth considerably less than deer hair. After an investigation by the Commission the company complained of discontinued the practice and assured the Commission that it would not be resumed. In view of the fact that the practice complained of has been permanently discontinued, it is *Held*, That further action by the Commission would not be to the interest of the public.

48. **Unfair competition--Refusal to sell.**--On application for the issuance of a complaint, it was alleged that a corporation engaged In the manufacture and sale of goods in interstate commerce refused to sell to the applicant certain commodities manufactured by it. It was further alleged that this refusal to sell was made at the direction of an officer of the corporation complained of, who was also the president of another corporation competing with the applicant. On investigation it appeared that the refusal to sell was made on personal grounds and was not made for the purpose, and did not have the effect, of restraining interstate commerce. *Held*, That a refusal to sell, made solely for personal reasons, without the purpose or effect of restraining interstate commerce, is not a violation of any law which the Commission is authorized to enforce.

EXHIBIT 5.

AN ACT TO PROMOTE EXPORT TRADE, AND FOR OTHER PURPOSES.

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

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 of 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

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 certificates of incorporation or in its articles or contracts of association and of all contracts, agreements, and understandings had with any foreign or domestic association in regard to the conduct of or practices in foreign trade. Any association which shall fail to do so 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.

Passed the House of Representatives September 2, 1916.

EXHIBIT 6.

APPROPRIATIONS FOR FEDERAL TRADE COMMISSION, FISCAL YEAR ENDED JUNE 30, 1916.

Federal Trade Commission, 1916:

For five commissioners, at \$10,000 each; secretary, \$5,000; in all, \$55,000.

To continue all of such services and employments provided for the Bureau of Corporations during the fiscal year nineteen hundred and fifteen, except the offices of commissioner and deputy commissioner, as in the discretion of the Federal Trade Commission may be required for its purposes and at the rates of compensation specified or authorized therefor, and for such additional clerks and others as are authorized in and at the rates of compensation fixed by section one hundred and sixty-seven of the Revised Statutes of the United States; for necessary contingent and miscellaneous expenses, including per diem in lieu of subsistence when allowed pursuant to section thirteen of the sundry civil appropriation act approved August first, nineteen hundred and fourteen, \$300,000.

The space now occupied by the Bureau of Corporations in the building rented for use of the Department of Commerce is transferred to and for the accommodation of the Federal Trade Commission, and the Secretary of Commerce is directed to transfer to said commission any additional rooms or space in said building that may be required for its use.

Estimates in detail for all expenditures under the Federal Trade Commission for the fiscal year nineteen hundred and seventeen, and annually thereafter, shall be submitted to Congress in the annual Book of Estimates. - - Sundry civil act

| | |
|----------------------------|---------------|
| March 3, 1915 _____ | \$355, 000.00 |
| Printing and binding _____ | \$15, 000.00 |

EXHIBIT 7.

EXPENDITURES OF FEDERAL TRADE COMMISSION, FISCAL YEAR ENDED JUNE 30, 1916.

| | |
|------------------------------|-------------|
| Annual leave----- | \$18,860.23 |
| Sick leave----- | 4,197.67 |
| Administrative: | |
| General-----office-- | 62,659.60 |
| Do-----field-- | 18,828.67 |
| Miscellaneous--office-- | 74.66 |
| Purchase and supplies----- | 4,900.41 |
| Mail and files----- | 8,239.69 |
| Labor (messenger service)-- | 5,040.68 |
| Docket----- | 2,932.14 |
| Contingent expenses----- | 10,843.93 |
| Corporation reports--office- | 22,765.99 |
| Do-----field-- | 443.02 |
| Library-----office- | 5,850.16 |