

ANNUAL REPORT
OF THE
FEDERAL
TRADE COMMISSION
FOR THE
FISCAL YEAR ENDED JUNE 30
1936

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FEDERAL TRADE COMMISSION

Charles H. March, *Chairman*¹

William A. Ayres, *Vice Chairman*

LETTER OF SUBMITTAL

To the Congress of the United States:

I have the honor to submit herewith the Twenty-second Annual Report of the Federal Trade Commission for the fiscal year ending June 30, 1936.

By direction of the Commission:

CHARLES H. MARCH, *Chairman*

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INTRODUCTION

POWERS AND DUTIES OF THE COMMISSION

GENERAL LEGAL ACTIVITIES

TRADE PRACTICE CONFERENCES

GENERAL INVESTIGATIONS

COMMISSIONERS AND THEIR DUTIES

HOW COMMISSION WORK IS HANDLED

ROBINSON-PATMAN BORAH-VAN NUYS ACT

COMMISSION PUBLICATIONS

RECOMMENDATIONS

competition or other practices, as compared with 280 issued during the last preceding year. In 161 cases, the Commission served upon respondents its orders to cease and desist from unfair practices which had been alleged in complaints and which were found to have been engaged in by the respondents, as compared with 126 were

formed under authority of the Fe

Distributors in Boston, Baltimore, Cincinnati, and St. Louis; and Sale and Distribution of Milk and Milk Products, Twin Cities Area (Minneapolis and St. Paul).

Agricultural income.- Public Resolution No. 61, Seventy-fourth Congress, first session, approved August 27, 1935, directed the Commission to investigate and report to Congress concerning the extent of the decline in agricultural income in recent years; the extent of increases or decreases in the income of principal corporations engaged in the sale, manufacture, warehousing, and processing of principal farm products; the proportion of total consumer cost of representative farm products, represented by profits to the farmers, manufacturers, processors, warehousemen and distributors of such products, and other facts. Seven principal farm commodities were chosen for investigation as comprising the leading sources of agricultural income; namely, dairy products, cotton, wheat, cattle, hogs, tobacco, and potatoes. An interim report was filed by the commission January 1, 1936. A resolution adopted by the Congress at its last session directed an investigation of table and juice grapes and fresh fruits and vegetables, an interim report on these commodities to be filed on or before January 31, 1937, and a final report not later than May 31, 1937.

Farm implements and machinery.- Investigation of corporations engaged in manufacturing, selling, or distributing agricultural implements and machinery was undertaken by the Commission at the close of the fiscal year in response to Public Resolution No. 130, Seventy fourth Congress, approved June 24, 1936. Under this resolution, the Commission will seek to determine "whether any corporation engaged in the manufacture, sale, or distribution of agricultural implements and machinery, of whatever kind and description is, or within the past 3 years has been, violating any of the antitrust

ments of companies and establishments in the cotton, woolen and worsted, silk and rayon, and the thread, cordage, and twine industries.

Electric and gas utilities.--This investigation, conducted under Senate Resolution No. 83, Seventieth Congress, first session, was completed as of December 31, 1935, and final reports have been submitted on the financial operations of electric power utilities, publicity and propaganda activities of the utility industries, and on financial phases of the natural-gas and pipe-line industries, with conclusions and recommendations in each instance. The inquiry embraced examination of 29 holding companies, 70 subholding companies, and 278 operating companies having combined total assets of \$19,038,698,378. Testimony and reports, including final summary reports, comprise 94 printed volumes.

Petroleum decree investigation.--At the close of the fiscal year, the Commission was conducting an investigation to determine the manner in which a consent decree entered in the case of the Government against certain Pacific coast oil companies has been observed. This investigation was requested by the Attorney General and is being conducted pursuant to duty imposed upon and power granted to the Commission under section 6 (c) of the Federal Trade Commission Act.

Price bases-range-boiler industry.--The Commission, on March 30, 1936, transmitted to Congress a report of its study of the zone-price formula in the range-boiler industry. This was one of a series of studies made by the Commission in its price-bases inquiry to ascertain the part that transportation charges play in the making of delivered and shipping-point prices. The study disclosed that the basing-point principle is involved in the making of prices in the range-boiler industry.

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."

At the close of the fiscal year, June 30, 1936, the Commission was composed of the following members: Charles H. March, Republican,

of Minnesota, chairman; William A. Ayres, Democrat, of Kansas, vice-chairman; Garland S. Ferguson, Jr., Democrat, of North Carolina; Ewin L. Davis, Democrat, of Tennessee; and Robert E. Freer, Republican, of Ohio. Commissioner Freer was appointed to office August 24, 1935.

Each January 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 1936, 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, supervises its activities, and signs the more important official papers and reports at the direction of the Commission. The chairman of the Commission is a member of the National Emergency Council.

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 Ayres of the administrative division; Commissioner Ferguson of the chief trial examiner's division and the trade practice conference division; Commissioner Davis of the chief counsel's division and the special board of investigation; and Commissioner Freer of the economic division. 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 the jurisdiction of the Commission are acted upon by the Commission as a whole.

The Commission meets regularly for the transaction of business every business day at its offices in Washington. The Commissioners hear final arguments in the cases before the Commission, as well as arguments on motions of counsel for the Commission or respondents.

The Commissioners usually preside individually at trade-practice conferences held for industries in various parts of the country, and also have numerous administrative duties incident to their position.

The secretary of the Commission is its administrative officer.

At the close of the fiscal year the Commission had a total personnel of 571, including the Commissioners.

HOW THE COMMISSION'S WORK IS HANDLED

The work of the Federal Trade Commission may be divided broadly into the following general groups: Legal, economic, and administrative.

The legal work of the Commission is under the direction of the chief counsel, the chief examiner, and the chief trial examiner.

The chief counsel acts as legal adviser to the Commission, and has charge of legal proceedings against respondents charged with unfair methods of competition as prohibited by the Federal Trade Commission Act, with acts or practices in violation of the Clayton Act and with violations of the Federal Trade Commission Act as extended by the

sonnel, disbursing office, docket section, publications, library, mails and files , supplies, stenographic, and hospital.

The Commission has a public relations and editorial service for the distribution of information,

customers of either of them.”

of the principle of nondiscrimination. These extensions are independent of the prohibition against the discriminations in price as such. The methods forbidden were evidently considered as either constituting indirect price discrimination or other forms of discrimination which had effects similar to price discrimination. The payment of brokerage, commission, or other compensation in lieu thereof to an intermediary is forbidden, except for services rendered, where the intermediary "is acting in fact for or in behalf, or

is subject to the direct or indirect control” of any party to the transaction other than the one paying the intermediary’s compensation. Allowances for advertising and sales-promotion work are declared unlawful unless they are made “available on proportionally

RECOMMENDATIONS

PART I. GENERAL INVESTIGATIONS

MILK AND DAIRY PRODUCTS

AGRICULTURAL INCOME

PART I. GENERAL INVESTIGATIONS

MILK AND DAIRY PRODUCTS

REPORT SUBMITTED ON TRADE CONDITIONS IN SEVERAL AREAS

An inquiry into conditions with respect to the sale and distribution of milk and other dairy products was ordered by Congress under House Concurrent Resolution No. 32, Seventy-third Congress, second session, adopted June 15, 1934.

Under this resolution, the Commission was directed to determine whether any “persons, partnership, association, , cooperative or corporation is operating within any milkshed of the United States in such a manner as to substantially lessen competition 01. tend to create a monopoly in the sale or distribution of such dairy products * * *”

The resolution also directed the Commission to ascertain whether such person or organization “is a party to any conspiracy in restraint of trade or commerce in any such dairy products, or is in any way monopolizing or attempting to monopolize such trade or commerce within the United States or any part thereof”, also whether any such person or organization “is using any unfair methods of com-petition in connection with the sale or distribution of any such dairy products, or is in any way operating to depress the price of milk sold by producers.”

The Commission, on April 5, 1935, transmitted to Congress its first report on this investigation entitled Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds, later printed as House Document No. 152, Seventy-fourth Congress, first session. This report was summarized in the Commission ‘s annual report for 1935.

A supplemental report, Sale and Distribution of Milk and Milk Products, discussing certain problems encountered in the Connecticut and Philadelphia milksheds, was sent to Congress as of December 31, 1935, and later printed as House Document No.387, Seventy-fourth Congress, second session.

Other reports on the milk investigation issued during the fiscal year 1935-36 were:

Sale and Distribution of Milk and Milk Products, Chicago Sales Area, April 15, 1936.

Rates of return on total milk investment for nine Connecticut distributing companies examined declined from about 19 percent to a little more than 6 percent from 1931 to 1933. This decline is accounted for chiefly by the progressive decrease in the sales of milk and milk products. The average rate of return for the whole 4-year period (1930 to 1933) was 14.14 percent, which shows that, despite the depression extending over these years, the dealers were still making a profit, some of them in fact a high rate of return.

For Philadelphia, the rates of return for seven distributing companies examined fell from about 20 percent in 1930 to less than 6 percent in 1934.

The report also pointed out how costs may be so allocated in the distributors' accounting as to show varying results for the several products handled by milk distributors.

The report discussed the difficulties of determining costs per unit of delivery on wholesale and retail routes and suggested the desirability for the industry of devising some standard system of accumulating and allocating delivery costs in order that accurate and comparable information might be available on this important expense item.

The gross spread or margin per quart on all milk products sold by 3 Connecticut distributors was \$0.03427 as compared with \$0.05262 for 10 Philadelphia distributors. The difference between these results for the two milksheds was influenced by the fact that the Connecticut companies sold substantial quantities of both fluid cream and other products to affiliated companies at cost, thus reducing the margin per quart for both items. There was comparatively little difference between the two markets in the respective spreads on fluid milk.

Sale and distribution *Salerespinning* TD358.0 *Transport* 6192 Ph 0 *Trade* (b6) (b7) 9.240375 *Del*

The sales contract in force since November 1, 1935, provided for flat prices, based on prices paid for milk used in the manufacture of evaporated or condensed milk. Prices paid for milk used in the production of evaporated milk are computed by the use of an arbitrary formula based on the current price of 92 score butter on the Chicago market in combination with the current weekly price of "twins" cheese quoted on the Wisconsin Cheese Exchange at Plymouth, Wis. The price of "twins" cheese is determined at a 15 minute meeting at Plymouth, Wis., each week, of a few large dairy and meat packing companies, constituting the active members of the cheese exchange, at which a small quantity of cheese is sold, not for the purpose of supplying any demand therefor, but for the purpose of fixing the price for the following week.

Two large dairy products corporations distributed fluid milk in the Chicago sales area--The Borden Co. and Bowman Dairy Co. While the National Dairy Products Corporation distributed no fluid milk in the Chicago market, it had a wholly owned subsidiary, Kraft Phoenix Cheese Corporation, a large purchaser of raw milk from farmers in the production area accessible to Chicago, engaged in the manufacture of cheese.

The Borden Co., through its subsidiary, Borden-Wieland, Inc., and Bowman Dairy Co., sold approximately 49 percent of the fluid milk sold in Chicago, and handled nearly 68 percent of the fluid milk sold there by all dealers purchasing under contract from the Pure Milk Association.

The records and files of the Milk Dealers' Bottle Exchange, operating in the Chicago area, indicated that it was organized by and operated for the benefit of the large distributors and such other distributors as cooperated with them in maintaining uniform practices and stabilized prices. The two largest fluid milk distributors in Chicago owned a controlling interest in the outstanding voting stock of the exchange.

Facts were also developed indicating that officials and members of the Milk Wagon Drivers' Union, through intimidation, threats and violence, had frequently interfered with the work of employees of independent milk distributors of Chicago. Drivers for independent dealers had been refused membership in the union because such dealers cut prices. The two large milk distributors in Chicago employed a majority of union members. Union officials tried to get milk peddlers selling milk for independent distributors either to sell their business or buy milk from Borden-Wieland, Inc.

Files and records of the Chicago Board of Health revealed that requirements for improvements on many dairy farms worked hardships on small producers. While evidence was found in a few cases

conditions are reported to be remarkably stable, while in Boston and St. Louis the reverse appears to be true.

The actual gross margins per quart on all milk products sold by the distributors covered by the inquiry into these four markets during October 1935, were 5.02 cents for Baltimore, 4.28 cents for Cincinnati, 3.41 cents for St. Louis, and 3.35 cents for Boston.

The combined rates of return earned by the companies covered by the inquiry in the four cities, respectively, on their actual milk business investment ranged from 25.6 percent in 1930 down to 14 percent in 1934 for two Baltimore companies; from 20.5 percent in 1930 to 3.3 percent in 1934 for two Boston companies; from 13.1 percent in 1930 to a loss of .02 percent in 1933 for four Cincinnati companies, and from 19.4 percent in 1930 to a loss of 2.8 percent in 1935 for three St. Louis companies. It appears that most of the companies covered by the inquiry realized substantial returns during 1935 on actual investments in the milk business.

Sale and distribution of milk products--Twin Cities area.--Minneapolis and St. Paul are situated in one of the most favorable dairy regions in the United States. Fluid milk consumed in the two cities is supplied by the producers within a radius of approximately 40 miles.

The Twin Cities Milk Producers' Association is the largest producers' organization in the Twin Cities area. Officials of the association met with distributors at least once each month to agree upon prices for fluid milk. Fluid milk only was purchased from the association by distributors, therefore, there was but one price for one class of milk.

The plan of arriving at prices for fluid milk in the Twin Cities area was based upon a final average arrived at by a compilation of average cheese prices on the Plymouth, Wis., Cheese Exchange, and the average 92-score New York Extra butter prices on the New York butter market. To this final average were added fixed amounts each month to cover loss of whey, transportation charges, and other incidental expenses. Evidence also disclosed that prices were influenced by fluctuations in the butter and cheese markets, and the price at which distributors could purchase milk independently of the association.

In March 1933, independent creameries offered to sell milk in Minneapolis to customers of Twin Cities Milk Producers' Association at 20 cents below the association price, which resulted in a price war. During the price war, the cooperative association reduced the price of milk to Minneapolis distributors to 50 cents per hundred pounds, or a small fraction over 1 cent per quart. This was less than the association returned to its members, the loss being replaced from the reserve-for-advertising fund. During the low-price period

products, and the general effect of such cooperative agencies among producers and consumers.

The resolution directed the Commission to report "any conclusions and/or recommendations with regard to increasing the income of farm producers, or other recommendations with regard to the improvement of the economic position of farmers or consumers, growing out of the inquiry."

The resolution directing the investigation was approved in August 1935, but funds were not made available for the purpose until February 1936. During that interval the Commission did such preliminary work as was possible, pending an appropriation by Congress.

Seven principal farm commodities were chosen for investigation as comprising the leading source of agricultural income. These were: Dairy products, cotton, wheat, cattle, hogs, tobacco, and potatoes.

Subsequently, by Public Resolution No.112, Seventy-fourth Congress, second session, provision was made for broadening the scope of the inquiry to include table and juice grapes, fresh fruits, and vegetables.

The original resolution directed the Commission to present an interim report to Congress on January 1, 1936, and a final report, with recommendations, not later than July 1, 1936. The interim report was filed as directed. By Public Resolution No.86, Seventy-fourth Congress, second session, the time in which the Commission might file its final report in response to Public Resolution No 61, was extended to October 1, 1936, while Public Resolution No.112 directed that an interim report on the investigation of table and juice grapes, and fresh fruits and vegetables be filed on or before January 31, 1937, and a final report in respect to those products not later than May 31, 1937.

ECONOMIC ASPECTS OF THE INQUIRY

As regards the economic aspects of this

with Pittsburgh governing most of the eastern section of the country and Chicago governing most of the west. When mills in one area sell into the area governed by another basing point, they must abide by the price of the other basing point, even though it is higher than their own. When selling piling in the higher price territories governed by Chicago and Buffalo, this requirement applies to Pittsburgh. The report discloses that identity of delivered prices on steel products generally is preserved to fractions of a tenth of a cent by elaborate formulae worked out by committees of the American Iron and Steel Institute. In one case, a bidder was 12 cents below his competitors on a \$60,000 Government order for pipe, because he carried out the delivered price to three decimal places instead of two. When discovered, such

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tion. He further stated that the cement industry “must systematically restrain competition or be ruined.”

The report made reference to Secretary Ickes’ recent testimony before the Senate Committee on Interstate Commerce that during the 9-month period immediately subsequent to the codes, his department had received identical bids on 48 different commodities and in 257 instances, and that as a result the Federal statute requiring awards to be made on the basis of competitive bids, had been nullified. The Commission reiterated statements made in a prior report as an epitome of the issue:

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Part 1.--The Cotton Textile Industry in 1933 and 1934.

Certain tabulations made at the suggestion of the Cabinet Committee on Textiles showing analysis of operating results in 1933 and 1934, grouped by type of product, size of textile investment, rate of return on textile investment, and by profit or loss on sales, of 108 cotton spinning companies, and for 296 companies manufacturing cotton woven goods.

Part 2.--The Woolen and Worsted Textile Industry in 1933 and 1934.

Part 3.--The Silk and Rayon Textile Industry in 1933 and 1934.

Part 4.--The Thread, Cordage, and Twine Industries in 1933 and 1934.

The first two parts of a study based on data furnished by 1,188 companies for the first half of 1935 were issued during the fiscal year ending June 30, 1936. The third part was practically completed at the end of the fiscal year. The titles of these parts are:

Part 1.--The Cotton Textile Industry in the First Half of 1935 (including Thread, Cordage and Twine).

Part 2.--The Woolen and Worsted Textile Industry in the First Half of 1935.

Part 3.--The Silk and Rayon Textile Industry in the First Half of 1935.

In addition to the foregoing, preliminary reports based on information furnished by 582 cotton textile companies for the first half of 1935 and by 257 cotton textile companies for the 6-month period ending December 31, 1935, were released as of March 19 and April 10.

As rapidly as these parts were completed, copies were forwarded to the President, the Cabinet Committee on Textiles consisting of Hon. Henry A. Wallace, Secretary of Agriculture; Hon. Frances Perkins, Secretary of Labor; Hon. Cordell Hull, Secretary of State; and Hon. Daniel C. Roper, Secretary of Commerce; the Labor Advisory Board, and other interested Government officials, textile trade associations, and labor executives, and made available to the public. Further reports to be made public later will cover the period up to and including June 30, 1936.

The report for the first half of 1935 introduced tables showing separately the unit cost of labor, fuel and power, dyes and chemicals, property taxes, depreciation, gain or loss on commodity exchange futures, processing tax, raw material, cost of selling and bad debts, payments to officers and directors, and other general and administrative

The Commission is further empowered to inquire and report whether, and to what extent, such corporations or any of the officers thereof or any onee

Final report en economic, corporate, operating, and financial phases of the natural-gas-producing, pipe-line, and utility industries, with conclusions and recommendations	84-A
Legal appendixes to no. 84-A	84-B
Economic appendixes to no. 84-A	84-0

¹ Volume 84 was in press at the time of publication of tills report.

Western Gas Co
Equitable Gas Co
Federal Water Service Corporation (G. L.

84
83

Minnesota Northern Power Co
Mississippi River Fuel Corporation
Missoula Gas & Electric Corporation (G. L.

84
82

GOhrv22sv.ater Service C

COMPANIES CONCERNING WHICH HEARINGS WERE HELD--Continued

Company	Vol- ume of record 1	Company	Vol. ume of record 1
Mountain Fuel Supply Co	84	Reserve Gas Co	84
National Fuel Gas Co	84	River Gas Co	84
Natural Gas Distributing Co	84	San Antonio Public Service Co	84
Nebraska Natural Gas Co	84	Shale Gas Corporation	84
New York State Natural Gas Corporation.	84	Southern Gas Co	83
Niagara Hudson group (exhibits of min utes of various companies)	79	Southern Gas & Fuel Co	83
North American Light & Power Co. (gathering system)	84	Southern Gas & Fuel Co. Re: New Orleans Public Service Co. contract	84
North American Oil & Gas Co.	84	Southern Gas Utilities, Inc	83
North American Pipe Line Co	84	Standard Gas & Electric Co. (interstate statistics)	84
Northern Natural Gas Co. and subsidi- aries	81	Tatloyd Oil & Gas Co	84
Northern Natural Gas Co	83	Texas Interstate Pipe Line Co	84
Northern Natural Gas Development Co.	84	Uinta Pipe Line	84
Northern Texas Utilities Co	83	United Gas Corporation	83
Northwest States Utilities Co	81	United Gas Public Service Co	83
Ogden Gas Co	84	United Natural Gas Corporation	84
Ohio Edison Co. (Commonwealth & Southern Group)	79	United Power & Light Corporation	84
Oklahoma Natural Gas Co	83	United Production Corporation	83
Oklahoma Natural Gas Corporation	84	Utah Gas & Coke Co	84
Panhandle Eastern Pipe Line Co	84	Utilities Power & Light Corporation (schedule E)	81
Pan handle Illinois Pipe Line Co	84	Virginia Gas Distributing Corporation	84
Peoples Gas Co	84	Virginia Gas Transmission Corporation	84
Peoples Ice & Fuel Co	84	Wasatch Gas Co	84
Peoples Natural Gas Co	84	Washington Gas Light Co. (principally manufactured gas)	84
Pittsburgh & West Virginia Gas Co.	83	Western Gas Co	84
Power, Gas & Water Securities Corpora- tion (G. L. Ohrstrom group)	81	Western Pipe Line & Gas Co	84
Public Service Co. of Kansas	81	Western Public Service Corporation	84
Relative Usefulness of Different Heating Values (B. t. u. content of natural gas)	81	Wibaux Gas Co	84

FINAL REPORT ON NATURAL GAS INDUSTRY

The work during the last 6 months of the inquiry was confined to the completion of the examination of companies engaged in the natural gas business, and in the preparation of a final report on the natural gas industry.

This report was submitted to Congress December 31, 1935, and summarized the pr

structure, and practices of holding companies, and their competitive relations. In the report were set forth in detail the growth of assets of principal natural gas holding company groups and information concerning growth of capital liabilities and financing methods of natural gas production, transmission, and distribution companies.

The report also presented in detail an analysis of income, expenses, and surplus of large gas companies; information concerning the servicing and servicing arrangements of representative gas utility systems, and gave a description of the physical properties and operating characteristics of typical natural gas transmission companies.

Another feature of the Commission's summary report on the Economic, Corporate, Operating, and Financial Phases of the Natural-Gas Producing, Pipe-Line, and Utility Industries with Conclusions and Recommendations,

discontinued by the Commission in 1956

(13) Reckless financing and stock manipulation by certain natural gas holding companies.

(14) Exploiting subsidiary natural-gas companies through fees for construction, management, promotion, and so forth.

(15) Exaction of excessive bonuses or commissions by investment bankers in connection with financial transactions with natural-gas companies in certain instances.

(16) Exaction of excessive fees and bonuses or commissions by officials of certain companies in connection with sales and construction of properties.

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 is conducting an investigation for the purpose of determining the manner in which a consent decree entered in the case of the Government against certain Pacific coast oil companies, has been observed.

The decree in question was entered under date of September 15, 1930, perpetually enjoining and restraining some 19 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.

A staff of attorney-examiners and accountants has been assigned to the task of developing the facts

formula found to be prevailing in the earlier period of the Commission's inquiry.

The industry's pricing system sets up three zones: Zone A comprising all States east of the Mississippi River ; zone B, those west of the Mississippi River except the Pacific Coast States ; and zone C the Pacific Coast States. For destinations in zone A the published delivered price is uniform, I. e., the price is f. o. b. plant full freight allowed. For all other destinations the same published price is applicable but with only partial freight allowances. Since the zones are alike for all manufacturers and the gateway points from which allowances in zones other than A are calculated are alike, published delivered prices for any given destination are alike for all manufacturers, provided only the published prices for zone A and other terms of sale are alike.

For a large part of the 6-year period for which detailed price data were obtained ending in 1932 the published delivered prices of the large manufacturers were almost identical, and during the last 3 years of this period when few changes were being made in the published price lists there was comparatively little secret price-cutting in the form of special discounts off these published lists.

The proportion of shipments made by one plant into the territory where other plants have an advantage over it in freight costs is, under this system, large. Such cross shipments were shown for the year 1929. Their significance lies in these facts: That the boilers are competitively of the same type and the type most largely manufactured ; that the shipments of 1929 were typical of other years ; and that the freight is a considerable element of the delivered price.

PART II GENERAL LEGAL WORK

DESCRIPTION OF PROCEDURE

LEGAL INVESTIGATION

CONSOLIDATIONS AND MERGERS

CASES SETTLED BY STIPULATION

REPRESENTATIVE COMPLAINTS

ORDERS TO CEASE AND DESIST

TYPES OF UNFAIR COMPETITION

CASES IN THE FEDERAL COURTS

TABULAR SUMMARY OF LEGAL WORK

PART II. GENERAL LEGAL WORK

DESCRIPTION OF PROCEDURE

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 if the laws administered by it are being violated.

No formality is required for anyone to make application for a 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, through its chief examiner, considers the essential jurisdictional elements. Under section 5 of the Federal Trade Commission Act it must be shown that a proceeding involves the use of an unfair method of competition in commerce and that such proceeding "would be to the interest of the public." The provisions of section 5 are also extended to foreign trade of American exporters by the Export Trade Act. Sections 2, 3, 7, and 8 of the Clayton Act make unlawful, under the circumstances therein set forth, discrimination in price, tying and exclusive-dealing contracts, agreements, or understandings, corporate acquisitions of stock in competing companies, and interlocking directorates. The Federal Trade Commission, the Interstate Commerce Commission, the Federal Communications Commission, and the Federal Reserve Board are empowered to enforce compliance with such sections in the respective fields of those agencies.

It must also appear that the practice complained of is one over which the Federal Trade Commission has jurisdiction. 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. The investigation is then made and the facts regarding the matter are

A complaint is issued in the name of the Commission acting in the public interest. It names a respondent and charges a violation of law, with 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 forbidden by the Federal Trade Commission Act and those practices prohibited by the Clayton and Export Trades Acts.

The Commission's rules of practice and procedure provide that in case the respondent desires to contest the proceedings he shall, within 20 days from service of the complaint, file with the Commission an answer to the complaint. The rules of practice also specify a form of answer for use should the respondent decide to waive hearing on the charges and not contest the proceeding.

Under the rules of practice, "failure of the respondent to file answer within the time * * * provided and failure to appear at the fixed time and place of hearing shall be deemed to authorize the Commission, without further hearing or notice to respondent, to proceed in regular course on the charges set forth in the complaint and make, enter, issue, and serve upon respondent findings of fact and an order to cease and desist."

In a contested case the matter is set down for taking of testimony before a trial examiner. This may occupy varying lengths of time, according to the nature of the charge or the availability and number of witnesses to be examined. Hearings are held before a member of the Commission's staff of trial examiners, who may sit anywhere in the country, the Commission and the respondents being represented by their respective attorneys.

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

Within a stated time after the trial examiner's report is made, briefs are filed, and the case is set for final argument before the Commission. Thereafter the Commission reaches a decision sustaining the charges made in the complaint, or dismissing the complaint, or closing the case.

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

Commission applications pending at the beginning of the year and 671 docketed for investigation without preliminary work, the total of applications docketed for investigation was 915. There were disposed of during the year 632 such applications, leaving 283 cases still pending at the close of this fiscal year.

Thus the Chief Examiner's Division during the fiscal year completed 1,535 investigations of preliminary and docketed applications for complaint alleging unfair methods of competition.

Several attorneys on the chief examiner's staff usually assigned to the investigation of applications for complaint were engaged during the year on the milk investigation which was begun near the close of the preceding fiscal year pursuant to House Concurrent Resolution No. 32, Seventy-third Congress, second session. Also several members of the staff were engaged during a portion of the year on the agricultural income inquiry pursuant to Public Resolution No.61, Seventy-fourth Congress, and the petroleum decree inquiry being made at the request of the Attorney General.

The Chief Examiner also conducts, by direction of the Commission or on request of other units of the Commission, supplemental investigations (1) in matters originating with the Special Board of Investigation (relating to false and misleading advertising) ; (2) where additional evidence is necessary in connection with formal complaints; (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 stipulations entered into between the respondent and the Commission wherein the respondent agreed to cease and desist from certain unfair competitive practices are not being observed in good faith.

The legal investigation work of the Commission is directed from its central office in Washington and conducted through that office and four branch offices, located at 45 Broadway, New York City; 433 West Van Buren Street, Chicago ; 544 Market Street, San Francisco ; and 801 Federal Building, Seattle.

CONSOLIDATIONS AND MERGERS

CASES ARISING UNDER SECTION 7 OF THE CLAYTON ACT

The Commission and the Department of Justice have concurrent jurisdiction in the enforcement of section 7 of the Clayton Act which, in substance, makes it unlawful for a corporation to acquire capital stock in a competing corporation, or for a holding company to acquire capital stock of two or more corporations competing with one another, where the effect of such acquisitions may be to substantially lessen competition between the corporations involved, restrain commerce in any section or community, or tend to create a monopoly

of any line of commerce. This section, however, does not prevent consolidations or mergers of competing corporations brought about by the acquisition of the physical assets of such competing corporations.

CASES SETTLED BY STIPULATION**PROCEDURE PROTECTS THE CONSUMER FROM UNFAIR PRACTICES**

An alternative to the Commission's formal complaint procedure in legal cases is

service training bureau”, thereby implying untruthfully by the last designation that it has a Government connection.

Other tyther 4ng

¹ The Commission's procedure in false and misleading advertising cases is described beginning on p.105.

five of these complaints charged violation of section 5 of the Federal Trade Commission Act through use of unfair methods of competition in commerce. The other five charged violation of the Clayton Act. Of the five Clayton Act cases, two were issued under section 2 of that act, one under section 3, and two under section 7.

COMPLAINTS UNDER THE FEDERAL TRADE COMMISSION ACT

False advertising and misrepresentation.--By far the greater number of complaints issued during

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people, with the resulting demoralizing effect of the introduction of the element of chance, this practice having grown to such an extent as to seriously affect the candy trade.

Combinations to fix and maintain prices.--Sixteen complaints were issued charging violation of section 5 of the Federal Trade Commission Act by combination and conspiracy in restraint of trade and to control prices, usually by agreement among members of an industry upon minimum prices at which products would be sold, or fixing prices at uniform figures among the members. The agencies for establishing and making these combinations effective were usually trade associations. The commodities involved were candy and other confections, automobile parts and accessories, foodstuffs, electric cable and wire, polishing wheels, photo-engraving plates, tin plate, clothing, furniture, shoe soles, and lumber and other building materials and supplies.

Fraudulent selling and distributing schemes.--In this group are classified methods of selling and distributing which deceive dealers as to the nature of the contracts into which they are entering, and also misrepresentations as to the prospective earnings of salesmen, who are generally house-to-house canvassers, and other sales arrangements in which fraud and deception enter. Seventeen complaints of this class were issued during the year.

Miscellaneous cases

turers of

A prospective dealer, it was alleged, then would be invited to visit the New York office of the respondent company where similar demonstrations and misrepresentations were made, including plans for financing the dealer under his contract.

Among misrepresentations alleged to have been made by the representatives and confirmed by the officials at the home office were that the respondent company would organize a competent sales force for the dealer and instruct him in soliciting orders and would turn over to the dealer all inquiries and orders received directly by the respondent; that the company would furnish various forms of advertising matter to the dealer, and the dealer was in effect to do little more than warehouse and distribute the paint as orders came to him. Then, having secured a dealer's order and a trade acceptance from him, it was the practice, according to the complaint, to negotiate and transfer this paper to cut off any equities the dealer might have by reason of the misrepresentations.

CASES PENDING AT CLOSE OF YEAR

At the close of the fiscal year there were pending 419 complaints in various stages of advancement.

ORDERS TO CEASE AND DESIST

<i>Respondent</i>	<i>Location</i>
Baker Paint and Varnish Co	Jersey City, N. J.
Banner Novelty Co	Chicago.
Benson Studios, Inc., S., and others	New York City.
Benton Novograph Co	Buffalo.
Berkshire Textile Co	Binghamton, N. Y.
Best and Co	New York City.
Billings-Chapin Co	Cleveland.
Birmingham Automotive Jobbers Association and others	Birmingham, Ala.
Blind Weavers, Inc	Chicago.
Brenner Paper Manufacturing, Inc	New York City.
Bronson Shoe Co	Minneapolis.
Cal-Aspirin Corporation	Chicago.
Cameo Silk Mills, Inc	New York City.
Cannaday, Dr., J. E	Sedalia, Mo.
Canton Silk Mills, Inc	New York City.
Cape Cod Shirt Co	Fall River, Mass.
Carlsbad Products Co. Inc	New York City.
Catonsville Distilling & Distributing Co	Catonsville, Md.
Certified Products Co., Inc., and others	Birmingham, Ala.
Chicago Silk Co	Chicago.
Climax Rubber Co	Brooklyn, N. Y.
Colombo Extract Co	Do.
Commercial Extension University, and others	Omaha, Nebr.
Commercial Manufacturing Co., and others	Iowa City, Iowa.
Commercial Silk Mills	New York City.
Consolidated Trading Corporation	Do.
Crescent Shoe Co., Inc	Do.
Cronin China Co., Publicity Dept., and others	Chicago.
Davis Knitting Mills, Inc., and others	Brooklyn, N. Y.
Dennison Brothers, Inc	New York City.
Diamond Match Co	Do.
Dispensary Supply Co., Inc	Do.
Dobe School of Drafting, and others	Libertyville, Ill.
Eastern Textile Co	Greenfield, Mass
Eton Knitting Corporation	New York City.
Economy Rubber Products Co	Dayton, Ohio.
Edes Manufacturing Co., and others	Plymouth, Mass.
Edwin Cigar Co., Inc., and others	New York City.
Electric Magnetic Belt Co., and others	Minneapolis.
Everfresh Products Co	Washington, D. C.
Excelsior Silverware Corporation	New York City.
F. & S. Manufacturing Co	Do.
Falcon Camera Co	Detroit.
Famous Pure Silk Hosiery Co	Newark, N. J.
Federal Distilled Products	Milwaukee.
Fyr-Fyter Co., and others	Dayton, Ohio.
General Handkerchief Mfg. Co., Inc	Chicago.
General Implement Co. of America., Inc., and others	Cleveland.
General Tire and Rubber Co	Akron
Goodyear Tire and Rubber Co	Do.

<i>Respondent</i>	<i>Location</i>
Gotham Aseptic Laboratory Co., Inc	Long Island City, N. Y.
Gotham Sales Co., and others	New York City.
Gottlieb Brothers Manufacturers of Silk Underwear, Inc	Do.
Greenberg & Josefsberg, and others	Do.
Grove Distillers & Wine Co., Inc	Jersey City, N. J.
Hollywood Candy Co	Minneapolis.
Home Drug Co	Do.
Humania Hair and Specialty Mfg. Co	New York City.
Huntley Furniture Co., B. F	Winston-Salem, N. C.
Imperial laboratories	New York City.
International Sheffield Works Inc	Do.
International Tableware Co	Detroit.
Johnson Manufacturing Co., and others	Birmingham, Ala.
Jones Brothers Publishing Co	Arbor Place, Norwood,
Ohio.	
K & E DeLuxe Padded Van Co., Inc., and others	New York City.
K-W Graphite Corporation	Kansas City, Mo.
Kotalko Sales Co	New York City.
Leach and Co., G	Pittsburgh.
Leading Perfumers and Chemists, Inc	New York City.
LeGay, Inc	Chicago.
Linen Supply Association of the District of Columbia and others	Washington, D. C.
Lur-Eye Products, Inc	New York City.
Maxwell Steel Vault Co	Oneida, N. Y.
Mayers Company, Inc., L. & C	New York City.
McCreery and Co., James	Do.
Mendell, Alfred	Ozone Park, N. Y.
Mid West Mills, Inc	Chicago.
Modex Mills Co	New York City.
More Co., Robert	Chicago.
Mormiles	Peoria, Ill.
Morris, Charles E	New York City.
Morris Shoe Co., Inc	Do.
National Remedy Co	Do.
National Silver Co	Do.
Natural Body Brace Co., and others	Salina, Kans.
New England Collapsible Tube Co., and others	New London, Conn.
New York State Wholesale Confectionery Association. Inc., and others	Watertown, N. Y.
Newark Felt Novelty Co., Inc	Newark, N. J.
Norris Co., Louise	Kansas City, Mo.
North Shore Cement Burial Vault Co	Kenosha, Wis.
Nu-Way Shoe Co	New York City.
Oakland Shingle Co	Edmonds, Wash.
Old Trusty Dog Food Co	Needbann Heights, Mass.
Park Row Pen CO., and others	New York City.
Peters Serum Co	Kansas City, Mo.
Philadelphia Badge Co	Philadelphia.
Pioneer Maple Products Co	St. Paul.

Piatell Shoe Co

New York City.

<i>Respondent</i>	<i>Location</i>
Poindexter and Sons Merchandise Co., H. T	Kansas City, Mo.
Pratt Food Co	Philadelphia.
Prince Matchabelli Pise Co., AOp7Co	

DESCRIPTIONS OF OUTSTANDING CASES

Some illustrative orders to cease and desist issued during the fiscal year are

according to findings, the credentials

made chenille rugs for sale without disclosing in such advertisements that they were not woven by the blind, and to stop selling such chenille rugs without a tag affixed making such disclosure.

conducting a course of study preparing applicants for civil-

service examinations, and operating under the names Rayson Service Bureau, Rayson Bureau, and Rayson Service.

The order restrained the respondents from including in their “follow-up” or other advertising matter r

dealers on the one hand and Sears, Roebuck & Co. on the other.”

The Commission found that the Goodyear Co., since about 1914, had distributed for resale in the several States the great bulk of its pneumatic rubber tires through approximately 25,000 retail dealers; that on March 8, 1926, it entered into a contract with Sears,

Following is a partial list of unfair methods of competition which have been
Condemned by the Commission in orders to cease and

desist issued during the fiscal year. These do not include violations of the Clayton Act embracing price discrimination, tying contracts, corporate stock acquisitions, and interlocking directorates. The list follows:

1. Use of false and misleading advertising, false branding and labeling of products, for example:

(a) Use of the term “gold shell” to describe jewelry containing a very thin deposit of gold by electro-plating or electrolytic process.

(b) Use of misrepresentations importing that paint offered for sale has been made in conformity with formulae, specifications, or requirements of the United States Navy or the United States Government, or has been approved, tested, or adopted by the Navy or the Government.

(c) Representing extracts to be imported when they are in fact domestic-made.

(d) Representing automobile tires to be “reconstructed” when the reconditioning is limited to the repair of worn or damaged portions.

(e) Using the word “doctor” in connection with Shoes not made in accordance with the design or under the supervision of a doctor or not having Scientific or orthopedic features which are the result of medical advice or Services.

(f) Misrepresenting that a preparation for the hair with impart color other than as the result of dyeing.

(g) Use of the word “Sheffield” in connection with silverware not made or manufactured in Sheffield, England, in accordance with the process used by the silversmiths of Sheffield.

(h) Misrepresenting the wood of which furniture is made.

(i) Misrepresenting dairy feeds by stating that the use of this feed decreases the amount of feed necessary; that the milk produced from such feed is purer, richer, more nutritious, has increased vitamin content; that it produces superiodized milk; that hospitals and Similar institutions are paying a premium for Super iodized milk and that this feed makes it possible for any dairyman to produce the required superiodized milk.

(j) Representing candy to be flavored and colored with juice of a fruit when in fact it is synthetically flavored and colored.

(k) Misrepresenting surgical Supplies as being sterilized and packed under Sanitary conditions when such is not the fact.

(l) Labeling wines of domestic make from domestic-grown grapes with the names of famous French wines.

11. Misrepresenting the financial condition, or the business policy, or the quality of the product of a competitor, or otherwise disparaging a competitor's product.

12. Manufacturing and selling hats and caps made from used and reconditioned felts without disclosing the second-hand character of the material.

13. Using a method of sale involving an element of chance or lottery or preparing goods so that such a method of sale may be used.

GENERAL LIST OF UNFAIR COMPETITIVE PRACTICES

The following list illustrates unfair methods of competition 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.

1. The use of false or misleading advertising, calculated to mislead and deceive the purchasing public to their damage and to the injury of competitors.

2. Misbranding of fabrics and other commodities respecting the materials or ingredients of which they are composed, their quality, purity, origin, source or qualities, properties, history, or nature of manufacture, and selling them under such names and circumstances that the purchaser would be misled in these respects.

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

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

5. Inducing employees of competitors to violate their contracts and enticing away employees of competitors 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, their value, safety, etc., and competitors' business, financial credit, etc., 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 of alleged infringing products of competitors, such threats not being made in good faith but for the purpose of intimidating the trade and hindering or stifling competition, and claiming and asserting, 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

17. Imitating or using standard containers customarily associated in the mind of the

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

23. Selling below cost, with the intent and effect of hindering, stifling and suppressing competition.

24. Dealing unfairly and dishonestly with foreign purchasers and thereby discrediting American exporters generally, with the effect of bringing discredit and loss of business to all manufacturers and business concerns engaged in and/or seeking to engage in export trade, and with the capacity and tendency to do so, to the injury and prejudice of the public and of the offending concerns' export-trade competitors.

25. Coercing and enforcing 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 refusal to export the same commodity or sell to anyone other than those who agree not to so export the same.

27. Giving products a purported unique status or special merit or properties through pretended reciprocal deal.0 TD -0C- 0 Tc -01tTD TD 06.56 -12.96 TD 0.0166 Tc2 Tc (trade2j 3

Circuit Courts of Appeals to

its products (cosmetics) fixed at arbitrary levels imposed by the company.

The court, after summarizing the facts found by the Commission, concluded:

It was found as a fact by the Commission that the chief objective of petitioner's merchandising policy was the maintenance of the wholesale and wholea

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policyand

with principal office and place of business in Washington, to cease and desist from using, as a part of its trade or corporate names, the letters "U. S. A.", or any letter or letters, word or words, symbol, device, or insignia denoting or indicating that the corporation was officially connected or affiliated with the United States Army or Navy, or with any department or branch of the Government of the United States; or that its course of instruction was conducted in accordance with the requirements or under the supervision or direction of the Army or Navy, or other department or branch of the Federal Government, or officer or employee thereof.

Subsequent to the institution of the court proceeding, the respondent filed with the Commission a supplemental report, from which it appeared that it had dropped the letters "U. S. A." from its name, and had changed it to "Aviation Institute of America." The Commission, feeling that this was a compliance with its order, joined with the respondent in asking dismissal of the suit. The order of dismissal was entered October 9, 1935.

Battle Creek Appliance Co., Ltd., Battle Creek, Mich.--This company, on January 11, 1935, filed with the Sixth Circuit (Cincinnati) a petition to review and set aside the Commission's order to cease and desist entered in this case.

Based on findings of fact supported by evidence, the order to cease and desist was directed against what the Commission found to be false, misleading, and deceptive statements and representations concerning respondent's treatment for goiter. Among other things, the order directed the respondent to cease and desist from representing by testimonials, endorsements, newspaper and magazine advertising, radio broadcasts, or in any manner:

- (1) That goiter can be or has been correctly diagnosed by said respondent from answers made by the laity to questions propounded by respondent through the mails.
- (2) That the presence of goiter can be determined or the type of goiter can be diagnosed without personal examination of a patient by a skilled physician.
- (3) That said respondent can or has successfully treated goiter by mail.
- (4) That said respondent can or has successfully treated goiter patients in their homes without the personal supervision and services of a skilled physician in such treatment.

After briefing and argument, the court, on October 14, 1935, being of the opinion that the Commission's findings of fact were supported by the evidence, and that such findings were legally sufficient to support the cease and desist order, affirmed the

Pictorial Review Co., International Circulation Co., Inc., S. M. News Co., Inc., and
Midwest

nonapplicability of the Keppel ease. He differentiates the Keppel case on the ground that sales to children was there the determining factor, but was here absent.

* * * * *

It cannot be denied that the persuasive argument in the Keppel case was based on the fact that the consumers of the candy were, in the main, children. We are not satisfied, however, that the conclusion there reached is not here applicable. It will be noted that the Supreme Court emphasized the factor of lottery and chance in determining what constituted an unfair method of competition, and it spoke in general terms at times without limitation to instances where the consumers were children. The practice there disclosed was deemed offensive to some manufacturers who refrained from adopting it and therefore suffered loss. In the Keppel case there are many facts indicative of unfair trade practices.

proceedings instituted by the Commission.

sidiaries, and their officers, agents, etc., to cease and desist from discriminating in price between Sears, Roebuck & Co. and the Goodyear company's retail-dealer customers, by selling automobile tires to Sears, Roebuck & Co. at net realized prices lower than those at which the Goodyear company sold the same sizes of tires of comparable grade and quality to individual tire dealers or other purchasers.

The Commission filed a certified transcript of the record with the court on May 18. The next steps, in order, are: Condensation and printing of the record (provided for by an order of the court), filing of briefs, and oral argument.

Hires Turner Glass Co., Philadelphia.--On August 24, 1935, the Commission filed with the Third Circuit (Philadelphia) an application for enforcement of its order in this case. There were also filed the printed transcript and brief for the Commission.

The order directed the respondent to cease and desist from designating mirrors having thereon a protective coating consisting of & mixture of shellac and powdered copper, by use of such descriptions as "copper-back" mirrors, "copper-backed" mirrors, mirrors "backed with copper", or by other word, words, or expressions of the same meaning or like import.

The Commission found the respondent to be in competition in interstate commerce with the makers of the electrolytic type of "copper-back" mirrors and also with makers of ordinary mirrors. Findings were that "the representations of respondent as aforesaid in regard to its said mirrors have had and do have the tendency and capacity to confuse, mislead, and deceive the trade and members of the purchasing public into the belief that such mirrors backed with a continuous sheath or film of solid metallic copper which is adherent to the reflecting medium, or that it is backed with such a film of copper deposited thereon by the electrolytic process." Such erroneous beliefs, it was found, had a capacity and tendency to induce the purchase of respondent's mirrors and to divert trade to the respondent from competitors engaged in selling ordinary mirrors and also "copper-back" mirrors made by the electrolytic process.

Respondent's brief was filed September 27, 1934, and the case was argued October 10, 1934.

The court, July 11, 1935 (81 F. (2d) 3(32)), unanimously affirmed the Commission's order. In its opinion, after summarizing the Commission's findings and the testimony upon which they were based, the court remarked:

It may well be that, had this court been a fact-finding tribunal, it might have reached conclusions other than those reached by the petitioner. The petitioner, however, had before it ample evidence upon which to find that the terminology had acquired a secondary meaning, prior to its use by the

respondent, and that the respondent's mirrors did not contain the essentials of genuine copper-back mirrors. Inasmuch as it is the duty of the Commission to determine the facts, it is our duty to sustain the Commission if there is any substantial evidence upon which its findings are based.

* * * * *

Even though there was no evidence of actual deception, the natural and probable result of the use of descriptive names, which do not properly describe the respondent's product, has the tendency and capacity to deceive. *Federal Trade Commission v. Balme*, 23 F. (2d) 615. *Notaseme Hosiery Co. v. Straus*, 201 Fed. 99. As was said by the Supreme Court in *Federal Trade Commission v. Alogoma Lumber Co.*, supra:

"The consumer is prejudiced if upon giving an order for one thing, he is supplied with something else . .

In such matters, the public is entitled to get what it chooses, though the choice may be dictated by caprice or by fashion or perhaps by ignorance."

So, if the purchaser orders a copper-back mirror in the Justifiable belief that he will receive a mirror with a backing consisting of a solid sheath of copper electrolytically applied to the reflecting medium and receives, instead, a mirror having a backing of shellac and powdered copper, he is prejudiced.

On December 20, 1935, the court modified the Commission's cease and desist order by adding thereto a proviso to the effect "that the respondent may use such designations as are accompanied by qualifying terms which clearly signify that the copper backing on its mirrors is not electrolytically applied."

Hoffman Engineering Co., New York City.--The Commission, October 17, 1985, filed with the Second Circuit (New York City) an application for enforcement of its order in this case.

The order was directed against what the Commission found to be unwarranted claims for a Super-Fyre Amplifying Unit, manufactured and sold by respondent for use in connection with the ignition system of automobiles. This appliance or device was advertised "to cause the engine to have more power and speed, to be smoother in its running, to have less accumulation of carbon", etc.

On November 7, 1935, the court entered its decree affirming the Commission's order, and commanding the respondent to comply therewith.

E. Griffiths Hughes, Inc., Rochester, N. Y.--Afor

Developments in the last fiscal year were: Filing by the corporation, August 12, 1935, with the Supreme Court of the United States, of a petition for writ of certiorari to review the decision of the second circuit; filing, on behalf of the Commission, of a brief in opposition, and denial of the respondent company's petition by the Supreme Court, October 14, 1935 (296 U. S. 617).

Ironized Yeast Co., Atlanta.--In this case, the Commission's order, based on findings supported by evidence, required the respondent to cease and desist from mailing certain extravagant assertions concerning the medicinal properties of its product Ironized Yeast that is that the use of this product would cause to vanish over night, indigestion, constipation, nervousness, a tired feeling, or skin eruptions; that skinny or scrawny persons or those deficient in shape or form could by use of this product develop well-rounded and curved limbs and otherwise become transformed into shapely persons, and similar representations.

An effort by the respondents to set aside the order was unsuccessful, the Sixth Circuit (Cincinnati), June 3, 1935, affirmed it, with a statement that the findings of the Commission were amply supported by evidence and legally sufficient to authorize the issuance of the order.

On August 30, 1935, respondents petitioned the Supreme Court of the United States for a writ of certiorari; opposition brief on behalf of the Commission was filed September 20, and on October 14, 1935, the Supreme Court denied the petition (296 U.S. 623)

Louis Leavitt, Brooklyn, N. Y.--The Second Circuit (New York City), on December 17, 1935, assessed a fine of \$1,000 against Louis Leavitt for violation of a decree of that court affirming an order of the Commission directed against the misbranding of paint products.

The Commission's original order, issued June 9, 1925, prohibited Leavitt in designating and describing a product sold by him in interstate commerce, from using the terms "Gold Seal Combination White Lead", or combination white lead", unless the product so designated and described actually contained sulphate of lead or carbonate of lead or the two in combination as its principal and predominant ingredients "to the extent of not less than 50 percent by weight of the product." Leavitt was also forbidden from employing any other designation, brand, or label which falsely represented the relative quality of genuine white lead contained in the products so sold by him.

Leavitt disputed the legality of the order and sought to have it set aside. The Second Circuit, however, on December 9, 1926 (16 F. (2d) 1019), affirmed the order, and by its decree directed Leavitt to comply therewith. The Commission, finding that the court's decree was being violated, on December 12, 1928, petitioned the

chasing clubs, as "wholesale jewelers", and quoted certain so-called list prices, with discounts therefrom, for the purpose of inducing the purchasing public to buy its products, under the belief that it was a wholesaler engaged in selling to the retail-dealer trade, and that the purchaser was buying from it at retail-dealer prices.

However, according to findings, the so-called list prices were not list prices, but were figures which, when reduced by the discount offered, showed the prices of its articles as offered for sale to members of the purchasing public. The Commission's order directed cessation of these practices.

Certification and printing of the transcript of record, the filing of briefs, and oral argument await the outcome of a hearing before the Commission with reference to modification of its order.

Ward J. Miller, Kalamazoo, Mich.--On October 21, 1935, the Commission filed with the Sixth Circuit (Cincinnati) an application for enforcement of its order directed against this respondent, an individual trading under the name Amber-Ita, and engaged in the sale and distribution of a preparation of the same name as a treatment and cure for diabetes. There were filed, with the application, a printed transcript of the record,

and brief.

As a result of this petition, the Court, on

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The case has been appealed to the Court of Appeals for the District of Columbia.

C. J. Ozment, St. Louis.--The Commission instituted in the Eighth Circuit (St. Louis), January 29, 1936, proceedings for enforcement of its order against C. J. Ozment, of that city, an individual doing business under the trade names and styles of Ozment's Instruction Bureau, Ozment's Bureau, and Instruction Bureau, and engaged in selling by means of the United States mails, courses of instructions purporting to qualify applicants for or subscribers thereto, and to enable them to succeed in competitive examinations with credits sufficient to entitle them to be appointed to positions in the United States Government.

Various misrepresentations with respect to such examinations, to positions available in the Federal service, salaries, hours of work, etc., were mentioned in the Commission's findings of fact, supported by a stipulation of facts. The order directed discontinuance of the unfair competitive methods.

The court, February 10, 1936, entered its decree affirming the Commission's order, and directed the respondent to comply therewith.

Pacific States Paper Trade Association, and others, of San Francisco, and points in California, Washington, Oregon, and Utah.--The Commission, on May 21, 1936, filed with the Ninth Circuit (San Francisco), a petition for a rule requiring the Pacific States Paper Trade Association, its officers and members, and the officers and members of local associations affiliated therewith, to show why they should not be required to show i

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graphs, etc., that the dental plates so made by him were of a value greater than their actual value; that he made properly fitting and satisfactory dental plates from impressions of the mouth taken by laymen for whose use such plates were intended; that he adopted and was using in the manufacture of such plates the same scientific methods as dentists; that his plates would give full power of mastication, restore the natural facial expression, or enable the purchasers to wear them with ease and comfort, and other similar exaggerations.

After argument, June 2, 1936, the court affirmed the Commission's order from the bench.

Rossett Manufacturing Corporation, New York City.--This corporation, March 30, 1936, filed with the Second Circuit (New York City) its petition to review and set aside the Commission's cease and desist order, directed against representations that the petitioner, engaged in the sale of hats and caps in interstate commerce, was a manufacturer, unless and until it actually owned plants where its products were made.

The Commission, upon reconsideration of the matter and before filing with the court a certified transcript of the record, vacated and set aside its findings and order and dismissed the complaint.

Standard Education Society, and others, Chicago.--The Commission filed with the Second Circuit (New York City), on January 20, 1936, an application for enforcement of its cease and desist order against the respondents Standard Education Society, Standard Encyclopedia Corporation, H. M. Stanford, W. H. Ward, and A. J. Greener, all of Chicago, and engaged in the sale and distribution, in interstate commerce, of encyclopedias or reference works, so-called extension services, and works of fiction.

The order, which has been in effect since 1931, was directed against misleading advertisements and representations as to the date of printing, prices, and methods of sale and distribution of respondents' publications, and editorial services, testimonials and recommendations rendered or received in connection therewith.

With the application for enforcement there were filed a printed transcript of the record before the Commission and brief.

A subsequent development has been the argument and overruling of respondents' motion to dismiss as to the individual respondents the Commission's application for enforcement. This action was taken June 8, 1936. The case awaited filing of the respondents' brief and argument at the close of the year.

Viscose Co. and others, New York City.--This case, the so-called rayon case, involved alleged conspiracy to stifle competition in the price of rayon yarn.

During the course of hearings and after several postponements granted at the respondents' request, certain witnesses refused, on the

ground of in health, to respond to subpoenas duces tecum issued by the Commission. Thereupon the Commission applied to and obtained from the United States Court for the Southern District of New York, on January 29, 1936, orders compelling these witnesses to appear before the Commission's trial examiner on February 5, 1936, to testify and produce the desired documents.

The witnesses, on February 4, obtained a stay until February 14, to enable them to undergo medical examination. On February 7, on motion of Commission counsel, the stay was modified, and the court ordered the witnesses to submit themselves to a committee of doctors for examination between February 14 and 21. The report of the doctors was filed February 24, pronouncing the witnesses able to testify.^{field, 2.289}

A further motion by the Commission was granted March 30, 1936.³⁰²¹¹ TD 0.0211 To

Walker's 4

without having in any way contributed to the efd

CUMULATIVE SUMMARY TO JUNE 30, 1936

TABLE 3.--Applications for complaints

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1926
Pending beginning of year	0	104	130	188	280	389	554	467	458	572	555
Applications docketed	112	134	153	332	535	724	426	382	416	377	340
Rescissions:											
To complaints	0	0	0	0	0	0	0	0	0	0	0
Settled by stipulations to cease and desist-C. T. E	0	0	0	0	0	0	0	0	0	1	1
Settled by stipulations to cease and desist- S. B. I	0	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	0	0	0	0	0	0	0	5	6	4	3
Closed for other reasons	1	0	0	0	0	0	0	0	0	0	0
Total for disposition	112	238	283	520	815	1,113	980	854	880	954	909
To complaints	0	3	16	80	125	220	156	104	121	143	118
Settled by stipulations to cease and desist--C. T. E	0	0	0	0	0	0	0	0	0	3	5
Settled by stipulations to cease and desist--S. B. I	0	0	0	0	0	0	0	0	0	0	0
Settled by acceptance of T. P. C. rules	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit	8	105	79	160	301	339	357	292	187	243	298
Closed for other reasons	1	0	0	0	0	0	0	0	0	0	0
Total disposition during year	8	108	95	240	426	559	513	396	308	389	421
Pending end of year	104	130	188	280	389	554	487	458	572	565	488
	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936
Pending beginning of year	488	420	457	530	843	753	754	440	476	469	634
Applications docketed	273	292	334	679	535	511	378	404	376	913	1,221
Rescissions:											
To complaints	0	0	0	0	2	2	0	0	0	0	0
Settled by stipulations to cease and desist-C. T. E	1	0	2	2	3	5	3	3	1	6	8
Settled by stipulations to cease and desist-S. B. I	0	0	0	0	0	0	0	0	3	4	12
Settled by acceptance of T. P. C. rules	0	0	0	1	3	2	0	0	0	0	0
Dismissed for lack of merit	4	0	0	0	3	4	1	0	3	1	12
Closed for other reasons	1	0	0	0	0	0	0	0	0	1	3
Total for disposition	766	712	793	1,212	1,389	1,277	1,136	850	859	1,394	1,888
To complaints	57	45	58	100	171	110	90	52	98	259	382
Settled by stipulation to cease and desist-C.T.E	102	80	68	118	244	160	123	96	111	228	301
Settled by stipulations to cease and desist-S.B.I	0	0	0	0	31	48	209	85	90	129	243
Settled by acceptance of T.P.C. rules	2	3	19	17	32	5	6	3	0	1	0
Dismissed for lack of merit	185	127	118	134	158	205	268	138	91	66	4
Closed for other reasons	1	0	0	0	0	0	0	0	0	77	273
Total disposition during year	846	255	268	369	636	523	696	374	390	760	1,203
Pending end of year	420	457	530	843	753	754	440	475	469	634	685
CUMULATIVE SUMMARY TO JUNE 30, 1936											
Applications docketed										9,847	
Rescissions:											
To complaints										7	
Settled by stipulations to cease and desist-C. T. E										34	
Settled by stipulations to cease and desist-S. B. I										19	
Settled by acceptance of T. P. C. rules										6	
Dismissed for lack of merit										46	
Closed for other reasons										4	
Total for disposition										9,963	
To complaints										2,508	
Settled by stipulations to cease and desist-C. T. E										1,639	
Settled by stipulations to cease and desist-S. B. I										830	
Settled by acceptance of T. P. C. rules										85	
Dismissed for lack of merit										3,863	

Closed for other reason	350
Total disposition	9,278
Pending June 30, 1936	685

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

2 C T. 0. designates stipulations concerning general unfair practices negotiated for the Commission by its chief trial examiner. S. B.

TABLE 4.--Complaints

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	
Pending beginning of year	0	0	0	5	10	86	133	287	312	257	232	264
Complaints docketed	0	5	9	154	135	308	177	111	144	154	132	
Orders to cease and desist:												
Contest	0	0	0	0	0	0	0	0	0	0	4	0
Consent	0	0	0	0	0	0	0	0	0	0	1	0
Default	0	0	0	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	0	0	
Settled by acceptance of T.P.C rules	0	0	0	0	0	0	0	0	0	0	0	0
Dismissed for lack of merit.	0	0	0	0	0	0	0	1	0	1	1	0
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	0	0	0
Total for disposition	0	5	14	164	221	441	465	423	402	392	396	
Complaints rescinded	0	0	0	0	0	0	0	0	0	0	0	0
Orders to cease and desist:												
Contest	0	0	3	71	75	110	116	74	28	45	30	
Consent	0	0	0	0	0	0	0	17	54	47	43	
Default	0	0	0	0	0	0	0	0	0	0	0	
Settled by stipulations to cease and desist	0	0	0	0	0	0	0	0	0	0	8	
Settled by acceptance of T.P.C rules	0	0	0	0	0	0	0	0	0	0	0	
Dismissed for lack of merit	0	0	1	7	13	44	37	75	88	36	97	
Closed for other reasons 1	0	0	0	0	0	0	0	0	0	0	0	
Total disposition during year	0	0	0	4	78	88	154	153	166	170	128	176
Pending end of year	0	5	10	86	133	287	312	257	232	264	220	

1926 1927 1928 1929 1930 1931 1932 1933 1934 1935 1936

Pending beginning of year 0 (1249) 1173 602 308 150 75 37 19 10 6 3 2 (228) 118 27 10 8

Dismissed for lack of merit	4
Closed for other reasons 1	0
Total for disposition	2,894

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

TABLE 4.--*Complaints--Continued*CUMULATIVE SUMMARY TO JUNE 30, 1936--*Continued*

Complaints rescinded	9
Orders to cease and desist:	
Contest	1,075
Consent	494
Default	38

TABLE 6.--*Petitions for review--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	0	1	3	3	1	0	4	6
Appealed by Commission	0	2	2	4	5	0	5	2	1
Appealed by others	0	0	0	0	2	1	1	3	1
Total for disposition	0	2	3	7	10	2	8	0	8
Decisions for Commission	0	0	0	2	0	0	0	0	8
Decisions for others	0	1	0	0	5	1	0	0	2
Petitions withdrawn by Commission	0	0	0	0	1	0	0	0	0
Certiorari denied Commission	0	0	0	2	1	0	1	2	1
Certiorari denied others	0	0	0	0	2	1	1	1	1
Total disposition during year	0	1	0	4	9	2	2	3	7
Pending end of year	0	1	3	3	1	0	4	8	1

	1928	1929	1930	1931	1932	1933	1934	1935	1936
Pending beginning of year	1	0	1	0	0	0	1	0	0
Appealed by Commission	0	0	1	1	0	8	12	0	0
Appealed by others	0	2	0	0	1	0	1	0	4
Total for disposition	1	2	2	1	1	8	14	0	4
Decisions for Commission	0	0	0	0	0	6	13	0	0
Decisions for others	0	0	1	1	0	0	1	0	0
Petitions withdrawn by Commission	0	0	1	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	0	0	1	0	0	0
Certiorari denied others	1	1	0	0	1	0	0	0	8
Total disposition during year	1	1	2	1	1	7	14	0	8
Pending end of year	0	1	0	0	0	1	0	0	1

CUMULATIVE SUMMARY TO JUNE 30, 1936

Appealed by Commission	43
Appealed by others	15
Total appealed	59
Decisions for Commission	24
Decisions for others	12
Petitions withdrawn by Commission	2
Certiorari denied Commission	8
Certiorari denied others	12
Total disposition	58
Pending June 30, 1936	1

TABLE 7.--*Petitions for enforcement--Lower courts*

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	0	0	0	0	0	1	0	2
Appealed	0	0	0	0	1	1	1	8	2
Total for disposition	0	0	0	0	1	1	2	3	4
Decisions for Commission	0	0	0	0	1	0	2	0	0
Decisions for others	0	0	0	0	0	0	0	1	0
Petitions withdrawn	0	0	0	0	0	0	0	0	1
Total disposition during year	0	0	0	0	1	0	2	1	1
Pending end of year	0	0	0	0	0	1	0	2	3

TABLE 10.--*Court proceedings-Miscellaneous--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927
Pending beginning of year	0	0	0	0	0	6	4	1	1
Appealed by Commission	0	0	0	0	6	0	0	0	1
Appealed by others	0	0	0	0	0	0	0	0	0
Total for disposition	0	0	0	0	6	6	4	1	2
Decisions for Commission	0	0	0	0	0	0	0	0	1
Decisions for others	0	0	0	0	0	2	3	0	0
Certiorari denied Commission	0	0	0	0	0	0	0	0	1
Certiorari denied others	0	0	0	0	0	0	0	0	0
Total disposition during year	0	0	0	0	0	2	3	0	2
Pending end of year	0	0	0	0	8	4	1	1	0

	1928	1929	1930	1931	1932	1933	1931	1935	1936
Pending beginning of year	0	0	0	0	0	0	0	0	0
Appealed by Commission	0	0	0	0	0	0	0	0	0
Appealed by others	0	0	1	0	0	0	1	0	0
Total for disposition	0	0	1	0	0	0	1	0	0
Decisions for Commission	0	0	0	0	0	0	0	0	0
Decisions for others	0	0	0	0	0	0	0	0	0
Certiorari denied Commission	0	0	0	0	0	0	0	0	0
Certiorari denied others	0	0	1	0	0	0	1	0	0
Total disposition during year	0	0	1	0	0	0	1	0	0
Pending end of year	0	0	0	0	0	0	0	0	0

CUMULATIVE SUMMARY TO JUNE 30, 1936

Appealed by Commission	7
Appealed by others	2
Total appealed	9
Decision for Commission	1
Decisions for others	5
Certiorari denied Commission	1
Certiorari denied others	2
Total disposition	9
Pending June 30, 1936	0

PART III. TRADE-PRACTICE CONFERENCES

HISTORY AND PURPOSE OF PROCEDURE

VOLUNTARY AGREEMENTS

TRADE-PRACTICE CONFERENCE PROCEEDINGS

OUTLINE OF TRADE CONFERENCE PROCEDURE

GROUP I AND GROUP II RULES

PART III. TRADE-PRACTICE CONFERENCES

HISTORY AND PURPOSE OF TRADE-PRACTICE CONFERENCE PROCEDURE

The trade-practice conference is the logical development of the efforts of the Federal Trade Commission, in cooperation with industry, to protect the public from unfair methods of competition and to raise the standards of business practices.

The Division of Trade-Practice Conferences, created by the Commission on April 19,

days to afford interested parties opportunity to offer objections or suggestions.

Trade-practice conference proceedings for the following industries advanced during the fiscal year to the stage of final promulgation of rules: Wholesale tobacco trade, fire extinguishing appliance manufacturers, and vegetable ivory button manufacturers. Proceedings were virtually completed during the year for the following industries (although the remaining steps necessary for promulgation of the rules in each instance were not taken until shortly after the close of the fiscal period): Paper drinking straw manufacturers; buff and polishing wheel manufacturers; cotton converting industry (including the eight branches above mentioned); and flat glass manufacturers and distributors.

Rules promulgated by the Commission are sent to members of the industries concerned, accompanied by acceptance blanks which they are requested to sign and return to the Commission.

In addition to public hearings and trade-practice conferences, approximately 300 informal conferences were held with representatives of different industries respecting pending applications for conferences or other phases of the Commission's trade-practice conference work.

OUTLINE OF PROCEDURE

The first requisite of a trade-practice conference is an expression of desire on the part of a substantial majority of the members of an industry to eliminate unfair methods of competition and trade abuses and to improve competitive conditions. The procedure is as follows:

I. Method of applying for a trade-practice conference.--Before authorizing a trade-practice conference, the Commission assures itself that the holding of such conference is desirable and to the best interest of the industry and the public. An application, in the form of a petition or informal communication, should contain the following information:

1. A brief description of the business for which the conference is intended, stating also the products manufactured or the commodities distributed, and approximating the annual volume of production, volume of sales, capitalization of the industry, or like items, so as to furnish an idea of the size and importance of the industry.

2. The authority of the person or persons making the application must also be shown. If the application is made by an association executive, a resolution showing the action of the association should be submitted, together with a statement showing the percentage of the entire industry represented by the association membership, which may be given on the basis of volume of business, or numerically, or both. If the application comes from an unorganized group, the per-

centage of the entire industry represented by the group applying for the conference should be indicated.

3. The application should state whether the conference is intended for all branches of the industry, or is to be limited to a particular branch or branches thereof. If the resolutions to be adopted by manufacturers, for example, are confined to practices which do not materially affect distributors, there would be no particular reason for including distributors; however, if the proposed action involves distribution, the distributors should be included.

4. The application should set out the various unfair methods of competition, trade abuses, and uneconomic and unethical practices alleged to exist in the industry at the time the application is filed and which the industry desires to eliminate through the medium of a trade-practice conference. This does not mean, however, that discussion at the conference is limited to the particular subjects thus proposed, as the conference itself constitutes an open forum wherein any practice existing in the industry may be brought forward as a proper subject for consideration. Any resolutions submitted by a committee or member of an industry prior to the holding of a trade-practice conference are tentative, and their introduction does not prohibit other members of the industry from presenting new or different resolutions.

If convenient, the application should be accompanied by a complete and accurate list of the names and addresses, of all firms in the industry, or such list may be furnished shortly after the application is filed. This list should be divided or symbolized to indicate the types of concerns, that is, manufacturers, distributors, and so forth, which are to be included in the conference.

II. Procedure following authorization by the Commission.--After a conference has been authorized by the Commission, a time and place are arranged and a commissioner or member of the Commission's staff is designated to preside. Anyone engaged in the industry for which the conference is authorized may participate. Resolutions are introduced, discussed, and, if necessary, amended before adoption by the conference.

Following receipt of the official transcript of the conference proceedings by the Commission, the rules adopted are transmitted to the Commission with appropriate recommendations. The rules approved by the Commission are then sent to a committee of the industry appointed to cooperate with the Commission, with the request that said committee indicate, on behalf of the industry, its acceptance of the rules. Following such acceptance, every member of the industry whose name and address is available to the Commission is furnished a copy of the Commission's action, together with an ac-

ceptance card which he is requested to sign and return to the Commission indicating his purpose to comply with the rules.

After a trade-practice conference has been held, the Commission retains an active interest in the observance of the rules adopted by the industry and approved by the Commission.

GROUP I AND GROUP II RULES

Rules approved by the Commission which relate to practices violative of the law are designated as group I rules. Other resolutions adopted by the industry, and received by the Commission as expressions of the trade on the subjects covered, are placed in group II.

Explanation of group I rules.--The unfair trade practices embraced in group I rules are considered to be unfair methods of competition or illegal competitive methods within the statutes and decisions of the Federal Trade Commission and the courts, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use of such unlawful practices in or directly affecting interstate commerce.

Explanation of group II rules.--The trade practices embraced in group II rules do not, per se, constitute violations of law. They are considered by the industry either to be unethical, uneconomical, or otherwise objectionable; or to be conducive to sound business methods which the industry desires to encourage and promote. Such rules, when they conform to the foregoing specifications and are not violative of law, will be received by the Commission, but the observance of said rules must depend upon and be accomplished through the cooperation of the members of the industry concerned, exercised in accordance with existing law. Where, however, such practices are used in such manner as to become unfair methods of competition in commerce or a violation of any law over which the Commission has jurisdiction, appropriate proceedings will be instituted by the Commission as in the case of violation of group I rules.

**PART IV. SPECIAL PROCEDURE IN CERTAIN TYPES OF
ADVERTISING CASES**

NEWSPAPER, MAGAZINE, AND RADIO ADVERTISING

PART IV. SPECIAL PROCEDURE IN CERTAIN TYPES OF ADVERTISING CASES

NEWSPAPER, MAGAZINE, AND RADIO ADVERTISING

False and misleading advertising matter as published in newspapers and magazines and as broadcast over the radio is surveyed and studied by a special board set up by the Federal Trade Commission in 1929. This board, known as the Special Board of Investigation, consists of three Commission attorneys designated to conduct hearings and specialize in this class of cases.

Misrepresentation of commodities sold in interstate commerce is a type of unfair competition with which the Commission has dealt under authority of the Federal Trade Commission Act since its organization. By 1929, it had become apparent that misrepresentations embodied in false and misleading advertising in the periodical field was of such volume that it should receive specialized attention from the Commission.

Since that time the Commission, through its special board, has examined the advertising columns of newspapers and magazines, and since 1934 commercial advertising continuities broadcast by radio it has noted any misleading representations appearing in this material, and has also received from the public complaints of false and misleading advertising. Each representation so noted and each complaint received from the public is carefully investigated, and, where the facts warrant, and informal procedure does not result in the prompt elimination of misleading claims and representations, formal procedure is instituted. While a number of orders have been issued requiring the respondents to cease and desist from advertising practices complained of, in a majority of cases the matters have been adjusted by means of the respondent signing a stipulation agreeing to abandon the unfair practices.

The Commission believes its work in this field has contributed to the general improvement which has occurred in the last few years in the character of advertising.

Newspaper and magazine advertising.--In reviewing advertisements in current publications, the Commission, through its special board, has found it advisable to call for some periodicals on a continuous basis, due to the persistently questionable character of the advertisements published. However, as to publications generally, it

is physically

The combined material received from the individual stations for specified periods, from the weekly returns on regional and national network broadcasts, and from the special transcription reports, furnishes the Commission with representative and specific data on the character of radio advertising which has proven of great value in its efforts to curb false and misleading trade representations.

During the last fiscal year, the special board received copies of 299,334 commercial broadcasts by individual radio stations and 38,109 commercial broadcasts by networks, of chain Originating key stations. The broadcasts from the independent stations averaged 1½ pages each and from the networks 10 pages each.

The special board and its staff read and marked about 947,000 pages of typewritten copies during the year, an average of 3,105 pages every working day. Of these, 19,572 commercial broadcasts were marked as containing representations that appeared to be false or misleading. These broadcasts were assembled in 1,314 prospective cases for further review and procedure in instances that appeared to require it.

In its examination of advertising, the Commission's purpose is to prevent false and misleading representations. It does not undertake to dictate what an advertiser shall say, but rather indicates what he may not say. Jurisdiction is limited to cases which have a public interest as distinguished from a mere private controversy, and which involve practices held to be unfair to competitors in interstate commerce.

The Commission is receiving the helpful cooperation of the nearly 600 active commercial and radio stations

20 active

0.00250 j 2874TD()6 0 TD 0.0218 Tc (of) Tj 9.24 0 TD 0 250 j 2874TD()15.56 0 m)roductTDSRTj 1855.92 -1

mit such evidence as he thinks may justify or explain the representations in his advertising.

An advertiser may answer by correspondence, or upon request, may confer in person with the special board.

Should the advertiser justify the representations that have been questioned, the board reports the answer to the advertiser, T

out intent to resume, and others because the advertisers were able to justify their claims.

At the beginning of the fiscal year 344 cases were pending before the special board, and at the end of the year 284 cases were pending.

Commission has access to scientific services.--Effective cooperation continued throughout the year with other departments of the Government. The Commission has access to the laboratories, libraries, etc., of various agencies of the Federal Government, including the Bureau of Standards, the Public Health Service, and the Food and Drug Administration of the Department of Agriculture, to which it refers matters for scientific opinion.

tion, 230 Park Avenue, New York City.

way, New York City.

Copper Exporters, Inc., 26 Broadway, New York City.

Douglas Fir Exploitation & Export Co., Henry Building, Seattle.

Durex Abrasives Corporation, 63 Wall Street, New York City.

Electrical Apparatus Export Association, 541 Lexington Avenue, New York City.

Export Petroleum Association, Inc., 67 Wall Street, New York City.

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

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

General Milk Co., Inc., 19 Rector Street, New York City.

Goodyear Tire & Rubber Export Co., 1144 East Market Street, Akron, Ohio.

Grapefruit Distributors, Inc., Davenport, Fla.

Inter-America Exporters, Inc., 11 Broadway, New York City.

Metal Lath Export Association, 47 West Thirty-fourth Street, New York City.

Northwest Dried Fruit Export Association, Title & Trust Building, Portland, Oreg.

Pacific Flour Export Co., care of Fisher Flouring Mills Co., Seattle.

Pacific Forest Industries, Tacoma Building, Tacoma, Wash.

Phosphate Export Association, 393 Seventh Avenue, New York City.

Pipe Fittings & Valve Export Association, 1421 Chestnut Street, Philadelphia.

Plate Glass Export Corporation, Grant Building, Pittsburgh.

Redwood Export Co., 405 Montgomery Street, San Francisco.

Rubber Export Association, 19 Good-year Avenue, Akron, Ohio.

Shook Exporters Association, Stahlman Building, Nashville, Tenn.

Signal Export Association, 74 Trinity Place, New York City.

Standard Oil Export Corporation, 30 Rockefeller Plaza, New York City.

Steel Export Association of America, 75 West Street, New York City.

Sugar Export Corporation, 120 Wall Street, New York City.

Sulphur Export Corporation, 420 Lexington Avenue, New York City.

Textile Export Association of the United States, 40 Worth Street, New York City.

United States Alkali Export Association, Inc., 11 Broadway, New York City.

United States Handle Export Co., Piqua, Ohio.

Walnut Export Sales Co., Inc., Twelfth Street and Kaw River, Kansas City, Kan.

Walworth International Co., 60 East Forty-second Street, New York City.

Western Plywood Export Co., Taconia Building, Tacoma, Wash.

Wood Naval Stores Export Association, 1220 Delaware Trust Building, Wilmington, Del.

TRUST LAWS AND UNFAIR COMPETITION IN FOREIGN COUNTRIES

Under section 6 (h) of the Federal Trade Commission Act, the Commission notes the following measures involving trust laws and unfair competition in foreign countries

Argentina.--A new grain act was passed in September 1935. Fixing of minimum prices will continue, as will fixing of basic prices at which the grain board will purchase from producers for resale to exporters at world prices. A corporation of meat producers was formed by 10

regulations for unfair advertising in labels, containers, wrappers, literature, and radio announcements.

Australia.--Benefit payments were made to growers during the year under the Wheat Growers Relief Act and the Wheat Bounty Act, part of the amount having been derived from a sales tax on flour. A compulsory pool and a commonwealth marketing system are under consideration. The Dairy Products Act, consolidating various export levies, assured producers of a domestic price above ex-port parity.

Austria.--The Government's price-raising program, effective in 1935, was modified in 1936 by a new policy including a plan to dissolve the antiprice-cutting courts and active attempts to lower the price of foodstuffs.

Belgium.--Under a decree dated January 13, 1935, providing for regulation of production and distribution by cartels or trade associations, a number of industries have entered into agreements to prevent the creation of new means of production or the enlargement of existing plants.f enlargement

The following laws were amended in 1935: The Combines Investigation Act, the Companies Act, section 498A of the Criminal Code, the Natural Products Marketing Act, Precious Metals Marking Act, Canadian Farm Loan Act, Farmers' Creditors Arrangement, Customs Tariff Act, Patent Act, Public Works Construction Act, Live Stock and Live Stock Products Act, and Weights and Measures Act. The Economic Council Act of 1935, and section 98 of the Criminal Code dealing with unlawful associations were repealed in 1936.

In decisions rendered by the Supreme Court of Canada in June 1936, the ~~Case of the~~ ~~1936-1937~~ ~~Trade~~ ~~Measures~~

the products that may be sold. A law defining installment sales and setting forth the rights of the parties was passed in 1935. The Grain Monopoly Act, effective July 13, 1935, continued the monopoly created by law in 1934, which controls the purchase and sale of all domestic and foreign grain, including also flour and mill products. A bill for revision of the Cartel Act was introduced in 1936. On May 1, 1936, there were 787 agreements in operation on the cartel register.

Denmark.--The Danish Grain Law, August 3, 1935, imposed taxes on certain grain imports, the proceeds to be used for agricultural aid. This act was amended on April 7, 1936.

Dominican Republic.--Law No.929, June 21, 1935, regulated the hours of work in commerce and industry.

Ecuador.--Decree No.209, issued in March 1936, established a control board to regulate fruit exports and imposed export taxes to be used in aid of domestic production. A National Economic Council to coordinate governmental policy was created by executive decree in 1935. Similar councils are functioning in Colombia, Chile, Mexico, and Peru.

Egypt.--Decree Law No.108, September 19, 1935, established surtaxes on imports to compensate for exchange dumping.

Estonia.--Under the Control of Industry Law, April 1, 1936, the Minister of Economic Affairs is authorized to exercise a wide control over all types of industries, in order to prevent unfair competition and to safeguard economic interests. Existing plants may not be extended or new plants established without license from the Ministry.

France.--A series of decrees signed in July and August 1935 included provisions for price control, agricultural encouragement, foreign-trade control under a quota system, investment safeguards, banking regulations, and

A decree law on October 30, 1935, authorized a compulsory industrial agreement for the silk manufacturing industry, if subscribed to by two-thirds of the manufacturers representing three-fourths of the means of production ; but a vote in the industry on December 1

eggs, and potatoes. The beet-sugar subsidy, inaugurated in 1925 for a 10-year period, was extended; a bill presented in 1936 would continue the subsidy and create a marketing board and a permanent commission to control the production of growers and factories. Amalgamation of sugar mills is also proposed.

The wheat subsidy provided by the Wheat Act of 1932 has been continued ; a milk subsidy was instituted in July 1934, for a 2-year period ; a subsidy on cattle and beef has been effective since September 1934. Under the Cotton Spinning Industries Act, 1936, a spindles board is empowered to acquire property and machinery for the purpose of eliminating redundant machinery in mills. The Coal Mines bill, introduced in 1936, would amend the act of 1930 and extend the coal control to 1942; the most controversial portion concerns compulsory amalgamation of mining interests. A special committee of the Board of Trade recommended extension of part I of the Safeguarding of Industries Act, which would otherwise have expired on August 19, 1936.

International--The British steel industry joined the Continental Steel Cartel under a 5-year agreement effective in August 1935, and South African producers signed a 5-year agreement in February 1936. Japanese manufacturers joined the International Nitrogen Syndicate in January 1936. The European potash cartel has been joined by the newly developed industry in Palestine. An international agreement is reported between coke producers in Britain, Germany, Netherlands, Belgium, and possibly Poland, under which export quotas will be determined and prices fixed. The European citric acid cartel, established in 1934, now includes the Italian industry and synthetic producers in England, Belgium, Czechoslovakia, and France.

Trade agreements of great interest to American exporters and importers were concluded by the United States under the Trade Reciprocity Act of 1934; with Colombia on September 13, 1935, effective on May 20, 1936 ; with Canada on November 15, 1935, effective synthetic

tive scrap. Special export subsidies are effective on agricultural products produced in surplus quantities. Other measures to encourage agricultural production include liberal credit terms, lowering of interest rates on farm loans, reclamation projects, restriction of imports, milling regulations, and prize offers. All wheat supplies are under control of the Ammassi Collectivi, with authority to fix prices to be paid by the millers. Economic reforms include nationalization of key industries which supply requirements for national defense, effected in 1936; the Institute for Industrial Reconstruction already held capital stock in the industries affected.

Japan.--A recently established National Reconstruction Commission will study the production of farm products and make recommendations for agricultural aid. The 5-year plan instituted in 1932 has greatly stimulated the production of wheat. Rice production and marketing are regulated under the Rice Control Act. Special aid has also been given to the silk cocoon industry. A plan under discussion in 1936 involves creation of an export raw silk sales control association, which would establish prices and trade practices and regulate exports. New machinery for the control of production and exportation of rayon textiles will be set up in 1936 by the Ministry of Commerce and Industry and representatives of the manufacturers and export associations.

Netherlands.--A commission of the Economic Council was appointed in 1985 to regulate commercial and industrial agreements, to promote cooperation, and discourage unsound competition, and to prevent the formation of pernicious monopolies. A bill introduced in 1936 would control the establishment of retail, craftsman's, and small industrial shops requiring Government license, dependent upon proof of business ability and financial capacity. The production and marketing of agricultural products are controlled by monopoly agencies under the Farm Crisis Act of 1933 ; import fees are used to finance agricultural relief.

Netherlands East Indies.--An ordinance on July 1, 1935, empowered the Government to fix prices of necessities of life. The Crisis Import Ordinance of 1933 was amended in November 1935. The Industrial Control Ordinance of 1934, which gave to the Government authority to regulate definite branches of industry, restrict the expansion of existing plants, or the founding of new units, was applied in 1935 to dairy farms, warehousing and docking, printing houses, cigarette factories, rice and weaving mills. A packing ordinance on May 17, 1935, imposed regulations concerning the labeling of goods.

Newfoundland.--An act passed on March 24, 1936, repealed the antidumping provisions of the tariff law.

TRUST LAWS & UNFAIR COMPETITION IN FOREIGN COUNTRIES 123

New Zealand.--The Primary Products Marketing Act, 1936, provided for a new department, under a Minister of Marketing, authorized to handle, pool, transport, store, and market all dairy produce and other primary products under ownership or control of the Government; to take over the duties of the Executive Commission of Agriculture in control of export trade in such products; to supervise acts of the Dairy Board, and to enter into negotiations with foreign countries for agreements in promotion of reciprocal trade.

Panama.--The Nationalization of Commerce Law, 1934, imposing a tax on merchants classified as "surplus", was declared unconstitutional by the Supreme Court in a decision dated December 18, 1935.

Paraguay.--An antidumping law was passed October 26, 1935.

Poland.--In an effort to equalize industrial and agricultural production

of Commerce (Supreme Court)

plan having been designed to increase the domestic price. A wheat control board was established by the Wheat Industry Control Act, No. 58, of 1935. The Customs and Excise Amendment Act of Southern Rhodesia, 1935, included antidumping provisions.

Uruguay.--A law effective on December 26, 1935, provided for organization of a National Milk Producers' Cooperative to handle the national supply of milk and dairy products, with authority to expropriate processing plants, fix prices, and determine quantities to be handled. Government assistance to the live-stock industry, through bounties on exports and revaluation of land, was continued in 1935 and 1936.

Venezuela.--Under a decree of December 21, 1935, an export subsidy was granted to coffee growers. This was superseded by a decree on January 27, 1936, which granted havi.

FISCAL AFFAIRS

FISCAL AFFAIRS

APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation

head in the Independent Offices Appropriation Act, 1936, including \$4,000 for printing and binding, \$200,000, to remain available until December 31, 1936.

The Supplemental Appropriation Act, fiscal year 1936 (Public, No.440, 74th Cong.), approved February 11, 1936, provides as follows:

Salaries and expenses.--For an additional amount for the Federal Trade Commission, including the same objects specified under this head in the Independent Offices Appropriation Act, 1936, fiscal year 1936, \$150,000.

Printing and binding.--For the printing of 10,000 additional copies of no. 71-A of Senate Document 92, Seventieth Congress, first session, \$2,800.

ALLOTMENTS FROM OTHER APPROPRIATIONS

In addition to the foregoing direct appropriations, the Administrator of Public Works, by letter of December 28, 1935, to the Secretary of the Treasury, allotted to the Federal Trade Commission \$150,000 out of the funds appropriated in the Fourth Deficiency Act, fiscal year 1933 (Public, No.77, 73d Cong.), approved June 16, 1933, to carry into effect the provisions of the National Industrial Recovery Act (Public, No.67, 73d Cong.), approved June 16, 1933.

At the beginning of the fiscal year there was available to the Federal Trade Commission a balance of \$18,091.08 from an allotment by the Administrator for Industrial Recovery made by letter of January 26, 1934, to the chairman. The money so allotted came out of funds appropriated in the Fourth Deficiency Act, fiscal year 1933, for the National Recovery Administration.

Balance of allotment in the sum of \$1,265.50 made by the President, October 1, 1934, out of funds appropriated in the Emergency Appropriation Act, fiscal year 1935 (Public, No.412, 73d Cong.), approved June 19, 1934.

APPROPRIATIONS, ALLOTMENTS, AND EXPENDITURES

Appropriations available to the Commission for the fiscal year ended June 30, 1936, under the Independent Offices Act approved February 2, 1935, \$1,403,309 ; under the Deficiency Act approved March 21, 1935, \$110,000 ; under the SO TJS Office, 13.12.0 TD 0 the

APPROPRIATIONS, ALLOTMENTS, AND EXPENDITURES 129

ries of the Commissioners, (2) \$1,776,509 for the general work of the Commission, and (3) \$36,800 for printing and binding.

In addition there were allotted funds by the President from the National Industrial Recovery Act, 193337, in the sum of \$150,000; available allotment balance from the National Recovery Administration, \$18,091.08, and available balance of allotment by the President from the Emergency Relief and Public Works Fund of \$1,265.50 ; a total of \$169,356.58 in allotted funds.

Appropriations, allotments, expenditures, liabilities, and balances

	Amount available	Amount expended	Liabilities	Expendi- ture, and liabilities	Balances
Federal Trade Commission, 1936, salaries, Commis- sioners, and all other author- ized expenses	\$1,523,309.00	\$1,508,045.72	\$15,175.73	\$1,523,221.45	\$87.55
Printing and binding, Federal Trade Commission, 1936	32,800.00	22,999.63	9,800.37	32,800.00	
Federal Trade Commission, 1935-36	110,000.00	109,218.09	781.91	110,000.00	
Federal Trade Commission 1936, Dec. 31, 1936	196,000.00	97,428.06	1,800.00	99,228.06	1 96,771.91
Printing and binding, Federal Trade Commission 1936, Dec.31, 1936	4,000.00	146.05	50.00	196.05	1 3,803.95
National Industrial Recovery, Federal Trade Commission, 1933-37	150,000.00	46,833.95	46,833.95	103,1611.05	
Working fund, Federal Trade Commission, National Recovery Administration	18,091.08	8,180.80	8,180.80	9,910.28	
Emergency relief and public works, Federal Trade Com- mission, investigation of textile industry	1,265.50	1,265.50		1,265.50	
Total fiscal year 1936	2,035,465.58	1,794,117.80	27,608.01	1,821,725.81	213,739.77
Unexpended balances:					
Federal Trade Commission, 1935	60,901.73	58,566.02	345.22	58,911.24	1,995.49
Printing and binding, Federal Trade Commission. 1935	11,777.80	11,777.80		11,777.80	
Federal Trade Commission, 1914-35	6,541.25	6,270.80		6,270.80	270.45
Federal Trade Commission, 1934	472.19	103.90		103.90	368.29
Federal Trade Commission, 1933-34	259.31	1.85		1.85	257.46
Federal Trade Commission, 1933	997.29	5.25		5.25	992.04
Federal Trade Commission, 1932-33	158.25				158.25
Federal Trade Commission, 1931	25.00	2 50.00		2 50.00	75.00
Federal Trade Commission, Certified Claims	159.87	159.87		159.87	

Total	2,116,763.27	1,870,953.29	27,953,23	1,898,908.52	217,856.76
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1 Available during the first half of the fiscal year 1937.

2 Credit.

Detailed statement of costs for the fiscal year ending June 30, 1936

	Salary	Travel expense	Other	Total
Commissioners	\$48,443.67	\$94.38		\$48,538.05
Clerks to Commissioners	14,637.61			14,637.61
Messengers to Commissioners	6,233.88			6,223.88
Total	69,315.16	94.38		69,409.54
Administration:				
Office of Secretary	25,867.59			25,867.59
Accounts and personnel section	25,770.95			25,770.95
Docket section	35,963.85			35,963.85
Hospital	1,798.15			1,798.15
Labor	2,533.18			2,533.18
Library section	13,320.26			13,320.26
Mail and file section	16,223.48			16,223.48
Messenger service	14,575.70			14,575.70
Public relations	15,600.64			15,600.64
Publications section	27,535.59			27,535.59
Purchases and supplies section	14,455.25			14,455.25
Stenographic section	90,507.62			90,507.62
Communications			\$11,413.61	11,413.61
Equipment			55,894.10	55,894.10
Miscellaneous			223.55	223.55
Rents			1,891.69	1,891.69
Repairs			6,632.34	6,632.34
Reporting service			327.34	327.34
Supplies			27,376.01	27,376.01
Transportation of things			2,266.54	2,266.54
Witness fees			3,028.50	3,028.50
Total	284,152.26		109,053.68	393,205.91
Legal:				
Application for complaints	160,266.41	19,444.73	818.42	180,523.56
Complaints	242,653.83	49,028.71	237.52	291,920.06
Export trade	7,167.55	10.80		7,178.35
National Recovery Administration	39.45	1,250.98		1,296.43
Preliminary inquiries	220,820.70	20,279.59	470.53	241,570.82
Trade practice conferences	52,295.02	68.25		52,363.27
Total	613,236.96	90,089.06	1,526.47	774,852.49
General investigations:				
Amended steel code	201.29			201.29
Cement Industry	27.07			27.07
Chain stores		83.52		83.52
Cottonseed	381.03			391.63
Farm products	131,830.79	22,885.16	100.00	154,815.95
Milk investigation	84,659.25	18,754.96	325.75	103,739.96
Petroleum decree, 1936	4,363.20			4,303.20
Power and gas	230,304.49	38,118.53	1,535.61	269,958.63
Price bases	3,506.41	124.63		3,631.04
Resale price maintenance				

Commissioners	69,315.16	94.38	69,409.54
Administration	284,152.26		109,053.68 393,205.94
Legal	683,216.96	90,089.06	1,526.47 774,852.49
General investigation	515,281.68	81,087.22	2,192.94 598,561.84
Printing and binding			34,923.48 34,923.48
Total	1,551,986.66	171,270.66	147,696.57 1,870,953.29

Detailed statement of costs for the fiscal year ending June 30, 1936--Continued

Recapitulation of costs by divisions

	Salary	Travel expense	Other	Total
Administrative	\$359,638.75	\$94.33	39,836.39	\$499,569.52
Economic	423,136.92	59,770.49	1,867.19	484,774.60
Chief counsel	193,876.47	31,179.76	3,407.98	228,464.21
Chief examiner	412,043.68	66,521.53	2,543.75	481,108.96
Special board or Investigation	58,995.77	78.56	41.26	59,115.59
Trial examiner	70,740.72	13,478.18		84,218.90
Trade practice conferences	33,513.75	68.25		33,622.00
Securities		79.51		79.51
Total	1,551,986.06	171,270.66	147,696.57	1,870,953.29

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

Year	Appropriations	Expenditures	Balance	Year	Appropriations	Expenditures	Balance
1915	\$184,016.23	\$90,442.05	\$93,574.18	1926	1,008,000.00	996,745.58	11,254.42
1916	430,964.08	379,927.41	51,036.67	1927	\$997,000.00	\$960,654.71	\$36,345.29
1917	567,025.92	472,501.20	94,524.72	1928	984,350.00	972,966.64	11,383.96
1918	1,608,865.92	1,462,187.32	156,678.60	1929	1,163,192.62	1,169,459.76	3,732.77
1919	1,753,530.75	1,522,331.95	231,198.50	1930	1,495,821.69	1,494,619.69	1,202.00
1920	1,305,708.82	1,120,301.32	186,407.80	1931	1,863,348.42	1,861,971.72	1,376.70
1921	1,032,005.67	938,659.69	93,345.98	1932	1,817,382.49	1,778,427.88	38,954.61
1922	1,026,150.54	956,116.50	70,034.04	1933	1,426,714.70	1,393,427.90	33,286.80
1923	974,480.32	970,119.66	4,360.66	1934	1,314,013.49	1,313,614.33	399.16
1924	1,010,000.00	977,018.28	32,981.72	1935	2,097,397.01	1,956,313.34	141,083.67
1925	1,010,000.00	1,008,998.80	1,001.20	1936	2,035,466.58	1,821,725.81	213,739.77

APPENDIXES

FEDERAL TRADE COMMISSION ACT

SHERMAN ACT

CLAYTON ACT

ROBINSON-PATMAN ANTI-PRICE DISCRIMINATION ACT

EXPORT TRADE ACT

RULES OF PRACTICE

INVESTIGATIONS, 1915-1936

FEDERAL TRADE COMMISSION ACT

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

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

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

use.

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

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

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

appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the Commission in the exercise

partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, 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. upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as

hereinafter provided, the commission may at any time, 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 the 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 such order.

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

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

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks, and common carriers

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 under ~~oath~~

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, w d io or other erson, u m e 0 n

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.

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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 Any

SHERMAN ACT

(U.S.C., Title 15, Sec. 1)

SECTION 1. Every contract, combination the form of trust or otherwise, conspiracy, in restraint of trade or commerce among the several States, or with foreign

person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold 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.

**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. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided,* That nothing herein contained shall prevent discrimination in price between purchasers, of commodities, on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of Selling or transportation, or discrimination in price in n o t h i onpurchasers,dis5.92 0 TD 0.0218 Tc (o

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 corporate (attempting) T 47.160 HPW (dt 0 TD 0 Tc (0 T5substanti

of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of thea

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 Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the commission, authority, or board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections two, three, seven, and eight of this Act, it shall issue and serve upon such person a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission, authority, or board requiring such person to cease and desist from the violation of the law so charged in said complaint. Any person may make application, and upon good cause shown, may be allowed by the commission, authority, or board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission, authority, or board. If upon such bearing the commission, authority, or board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock held or rid itself of the directors chosen contrary to the provisions of sections seven and eight of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission, authority, or board may at any time, upon such notice and in such manner as it 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 comply with the order of the commission, authority, or board, it shall be the duty of the commission, authority, or board to apply to the circuit court of appeals of the United States for an order compelling such person to comply with the order of the commission, authority, or board.

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

upon certiorari as provided in section two hundred and forty of the Judicial Code.

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

The Jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission, authority, or board shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission, authority, or board or the judgment of the court to enforce the same shall in any wise relieve or absolve any person from any liability under the antitrust Acts.

Complaints, orders, and other processes of the commission, authority, or board under this section may be served by anyone duly authorized by the commission, authority, or board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

* * * * *

Approved October 15, 1941.

[The foregoing excerpts from the Clayton Act are published as effective during substantially the entire fiscal year covered by this report, i.e., the 12 months ending June 30, 1936. For text of sec.2 as amended by the Robinson-Patman Anti-price Discrimination Act, approved June 19, 1936, see text of said act beginning on p.146.]

ROBINSON-PATMAN ANTI-PRICE DISCRIMINATION ACT

[PUBLIC--No. 692--74TH CONGRESS]

[H. R. 8442]

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 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 such discrimination amounts to a denial of the opportunity for competition, and where such discrimination is in violation of the antitrust laws, if such person—
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actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

“(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima-facie

case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

“(c) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

“(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.”

person its order modifying or amending its original order to include any additional violations of law so found. Thereafter the provisions of section 11 of said act of October 15, 1914, as to review and enforcement of orders of the commission shall in all things apply to such modified or amended order. If upon review as provided in said section 11, the court shall set aside such modified or amended order, the original order shall not be affected thereby, but it shall be and remain in force and effect as fully and to the same extent as if such supplementary proceedings had not been taken.

SEC. 3. It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service

charge is granted to the purchaser over and above any discount, rebate, allowance or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both.

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

Approved, June 19, 1936.

SEC. 4. That the prohibition against “unfair methods of competition” and the remedies provided for enforcing said prohibition contained in the Act entitled “An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes”, approved September twenty-sixth, nineteen hundred and fourteen, shall be construed as extending to unfair methods of competition used in export trade against competitors engaged in export trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

SEC. 5. That every association now engaged solely” in export trade, within sixty days after the passage of this Act, and every association entered into hereafter which the

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

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RULES OF PRACTICE

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, and to make, enter issue, and serve upon respondent findings of fact and an order to cease and desist.

If respondent desires to waive hearing on the charges set forth the complaint and not to contest the proceeding, the answer may consist of a statement that respondent admits all the material allegations of the complaint to be true. Any such answer shall be deemed to waive a hearing thereon, and to authorize the Commission, without trial and without further evidence, or other intervening procedure, to make, enter, issue, and serve up on respondent:

(a) In cases arising under section 5 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 purposes" (the Federal Trade Commission Act), or under sections 2 and 3 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purpose" (the Clayton Act,) or under section 2 of the aforesaid Clayton Act as amended by "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", approved June 19, 1936 (the Robinson-Patman Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint

(b) In cases arising under section 7 of the said act of Congress approved October 15, 1914 (the Clayton Act), findings of fact and an order to cease and desist from the violations of law charged in the complaint and to divest itself of the stock found to be held contrary to the provisions of said section 7 of said Clayton Act;

(c) In cases arising under section 8 of the said act of Congress approved October 15, 1914 (the Clayton Act), findings of fact and an order to cease and desist from the violation of law charged in the complaint and to rid itself of the directors found to have been chosen contrary to the provisions of said section 8 of said Clayton Act.

RULE VIII. MOTIONS

A motion in a proceeding by the Commission shall briefly state the nature of the order applied for and all affidavits, records, and other papers upon which the same is founded, except such as have been previously filed or served the same proceeding, shall be filed with such motion and plainly referred to therein.

Three copies of the motion shall be filed.

RULE IX. CONTINUANCES AND EXTENSIONS OF TIME

The Commission may, in its discretion, grant continuances, or, on good cause shown, in writing, extend time fixed in these rules.

Applications for continuances and extensions of time prescribed by these rules should be made prior to the expiration of time so prescribed.

RULE X. 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 he or it claims to be interested.

The Commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem just.

RULE XI. 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.

Upon the joining of issue in a proceeding upon complaint issued by the Commission, the

examination of witnesses therein shall proceed with all reasonable diligence and with the least practicable delay.

the proceeding.

Statements of facts are not to be exchanged between counsel, and are not to be argued before the trial examiner.

Statements of facts are not a part of the record of the proceeding.

RULE XVI. SUBPOENAS

Subpoenas requiring the attendance of witnesses from any place in the United States, at any designated place of hearing, may be issued by any member of the Commission.

Subpoenas for the production of documentary evidence, unless issued by a member of the Commission

RULE XVII. WITNESSES

Witnesses shall be

Objections.--Objections to the evidence before the Commission, a Commissioner, or an examiner shall, in any proceeding, be in short form, stating the grounds of objections relied upon, and no transcript filed shall include argument or debate.

RULE XX. BRIEFS

Filing.--All briefs must be filed with the secretary of the Commission within the time limits fixed by these rules.

Briefs tendered after expiration of the times fixed will be filed 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 in support of the complaint shall be filed by the trial attorney of the Commission within twenty (20) days after service upon him of 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.

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 on behalf of the Commission shall contain, in the following order:

(a) A concise abstract or statement of the case;

(b) A brief of the argument, exhibiting a clear statement 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 when recommended by the chief counsel, and shall be strictly in answer to brief on behalf of respondent.

No reply brief on behalf of respondent shall be filed.

Form.--Briefs on behalf of respondent shall be printed in ten (10) or twelve (12) point type; on good, unglazed paper, size eight and one-half (8 ½) by ten and one-half (10½) inches; left margin of one and one-half (1½) inches, right margin of one (1) inch; with double-leaded text and single-leaded citations.

RULE XXI.--ORAL ARGUMENT

Oral arguments shall be had only as ordered by the Commission, on written application of the chief counsel of the Commission, or of the respondent, or of attorney for respondent, filed with 8 0 TD 0 TD 0 Tc

In any case where an order to cease and desist, an order dismissing a complaint, or other order disposing of a proceeding has been issued by the Commission, the Commission may, at any time within ninety (90) days after entry of such order, for good cause shown, in writing, and on notice to the parties, reopen the case for such further proceeding as to the Commission may seem proper.

evidence indicating the existence of agreements, conspiracies, or combinations in restraint of trade. Two preliminary reports were issued, dealing with competitive conditions in flour milling and bakery combines and profits. The final report showed among other things that whole-sale baking in recent years had been generally profitable. It disclosed also price-cutting wars by big bakery combines and subsequent price-fixing agreements., Reports were issued entitled *Competitive Conditions in Flour Milling* (140 pages) (out of print), *Bakery Combines and Profits* (95 pages), printed as Senate Document No.212, Sixty-ninth Congress, second session, and *competi-*

tion and Profits in Bread and Flour (509 pages) printed as Senate Document No.98, Seventieth Congress, first session, May 3, 1926, February 11, 1927, and January 11, 1928, respectively. A supplementary report covering data withheld during court proceedings (Millers' National Federation against Federal Trade Commission) entitled *Conditions in the Flour Milling Business*, was transmitted to the Senate May 28, 1932, and printed as Senate Document No. 96, Seventy-second Congress, first session (26 pages). (See also Bakeries, Flour Milling, and Food Investigation.)

Calcium Arsenate.--This inquiry was made pursuant to Senate Resolution 417, Sixty-seventh Congress, fourth session, January 23, 1923. The high prices of calcium arsenate, a g 1520570 WT (523, IT) 03T (1420j T180826420146TD (sj Resolj 612440112D C.018-175

Tobacco Trade, 1933; Special Discounts and Allowances to Chain and Independent Distributors--Grocery Trade, 1933; Special Discounts and Allowances to Chain and Independent Distributors--Drug Trade, 1933; Invested Capital and Rates of Return of Retail Chains, 1933; Service Features in Chain Stores, 1933; The Chain Store in the Small Town, 1933 ; Miscellaneous Financial Results of Retail Chain, 1933 ; and State Distribution of Chain Stores, 1913-28, 1933.

The final report was transmitted on December 14, 1934, and printed a Senate Document 4, Seventy-fourth Congress, first session.

Coal, Anthracite.--This Investigation was conducted pursuant to Senate Resolution 217, Sixty-fourth Congress, first session, June 22, 1916, and Senate Resolution 51, Sixty-fifth Congress, first session, April 30, 1917. A rapid advance in the prices of anthracite at the mines, compared with costs, and the overcharging of anthracite jobbers and dealers, were disclosed in the inquiry in response to the resolutions. Current reports of operators' and retailers' selling prices were obtained, and this was believed to have substantially benefited the consumer. Reports were transmitted to the Senate May 4, 1917, and June 20, 1917.

Source: *U.S. Government Printing Office, Washington, D.C., 1936.*

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a preliminary report, suggested various measures for insuring a more adequate supply at reasonable prices. This report, entitled *Preliminary Report by the Federal Trade Commission on the Production and Distribution of Bituminous Coal*, was printed as House Document No. 152, Sixty-fifth Congress, first session (8 pages) (out of print)

Coal Reports on Cost of Production.--This inquiry was made at the direction of the President. Before the passage of the Lever Act in August 1917, the Commission was called upon by the President to furnish information to be used by him in fixing coal prices under the said 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. Page 6.9TD 6

about 95 percent of the bituminous coal production. This information was summarized, after the war, in a series of reports for the principal coal producing States or regions, which were all date June 30, 1919, and entitled as follows: *Cost reports of the Federal Trade Commission--Coal. No. 1, Pennsylvania--Bituminous* (103 pages) (out of print). *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* (256 pages). *No. 7. Trans-Mississippi States--Bituminous* (59 pages).

Coal--Current Monthly Reports.--In December 1919, provided with a special appropriation by Congress, the Commission initiated a system of current monthly returns from the soft-coal industry somewhat similar to those required from coal-producing companies during the war. An injunction to prevent the Commission from calling for such reports (denied aboutand

comparative costs, prices, and marketing practices as between cooperative marketing organizations and other types of marketers and distributors handling farm products. The report, entitled *Cooperative Marketing*, was transmitted to the Senate April 30, 1928, and printed as Senate Document No. 95, Seventieth Congress, first session (721 pages)

Copper.--This inquiry was a part of the war-time work done at the direction of the President. 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 published in a report entitled *Cost Reports of the Federal Trade Commission Copper* (26 pages), and issued under date of June 30, 1919.

Cost of Living.--At the outbreak of the World War the rapid rise of prices led the Commission to call a conference on April 30, 1917, to which official

delegates of the various States were invited. The proceedings, entitled *The High Cost*

special warehouse committee of the New York Cotton Exchange on June 28, 1924, Adopted the recommendations of the Commission with reference to the southern delivery on New York contracts, including the contiguous grade contract. A report entitled *The Cotton Trade*, which was printed in two volumes, containing, respectively, the report amid the hearings, was transmitted to the Senate April 28, 1924, amid printed as Senate Document No. 100, Sixty-eighth Congress, first session (510 pages, out of print).

Du Pont Investments.--This inquiry was made on motion of the Commission, July 29, 1927. The reported acquisitions of E. I. du Pont de Nemours & Co., of the stock of the United States Steel Corporation, together with previously reported holdings in General Motors Corporation, caused an inquiry into these relations with a view to

Electric and Gas Utilities.--See Electric Power, Interstate Power Transmission, and Utility Corporations.

Electric Power.--This inquiry was made pursuant to Senate Resolution 329, Sixty-eighth Congress, second session, February 9, 1925. Two reports on the control of the electric-power industry were made pursuant to this resolution. The first dealt with the organization, control, and ownership of commercial electric power companies, and showed, incidentally, the extreme degree to which pyramiding had been carried 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 electric equipment was clearly brought out. These reports, entitled *Electric Power Industry. Control of Power Companies* (272 pages) (out of print), printed as Senate Document 213, Sixty-ninth Congress, second session, and *Supply of Electrical Equipment and Competitive Conditions* (282 pages) , printed as Senate Document 46, Seventieth Congress, first session, were transmitted to the Senate February 21, 1927, and January 12, 1928, respectively. (See also Interstate Power Transmission and Utility Corporations.)

Farm Implements.--This inquiry was made pursuant to Senate Resolution 223, Sixty-fifth

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also Grain Exporters and Grain-Wheat Prices.)

Food Investigation-Grain Trade.--Made pursuant to the direction

(332 pages) (out of print), December 21, 1921; *IV. Middlemen's Profits and Margins* (215 pages), 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 the President, 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, dairy products, etc. 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 below.) 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. These six reports submitted to the President were; *Food Investigation. Report of the Federal Trade Commission on the Meat-Packing Industry. Summary and Part I (Extent and Growth of Power of the Five Packers in Meat and Other Industries)*, submitted June 24, 1919 (574 pages, out of print); *Part II. Evidence of Combination Among Packers*, submitted November 25, 1918 (290 pages); *Part III. Methods of the Five Packers in Controlling the Meat Packing Industry*, submitted June 28, 1919 (325 pages, out of print). *Part IV. The Five Large Packers in Produce and Grocery Foods*, submitted June 30, 1919 (390 pages, Out of print); *Part V. Profits of the Packers*, submitted June 28, 1919 (110 pages); and *Part VI. Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Live Stock*, submitted June 30, 1919 (183 pages, out of print).

of 1933, on motion of the Commission, when amendments to the anti-dumping laws
of

Senate Document No.206, Seventy-second Congress, second session.

Gasoline Prices.--This inquiry was made pursuant to Senate Resolution 166, Seventy-third Congress, second session, February 2, 1934. The Commission investigated the causes of increased gasoline prices during the 6-month period preceding the resolution's adoption and the effect of such increases on gasoline consumers. The report revealed an average price increase of 2 cents about the time of the effective date, September 2, 1933, of the petroleum code. Following subsequent declines the average net increase was 1.04 cents. The report submitted May 10, 1934, entitled *Gasoline Prices*, was printed as Senate Document No.178, Seventy-third

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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 entitled *Report of the Federal Trade Commission on Methods and Operations of Grain Exporters, Vol. I. Interrelations and Profits* (123 pages), and *Vol. II Speculation, Competition, and Prices* (264 pages), were transmitted to the Senate May 16, 1922, and June 18, 1923, respectively. (See Food Investigation: Grain Elevators and Grain Trade.)

Grain--Wheat Prices.--The extraordinary decline of wheat prices in the summer and autumn of 1920 led to a direction of the President (as of October 12, 1920) to inquire into the reasons. These were found chiefly in abnormal market conditions, including certain arbitrary methods pursued by the grain-purchasing departments of foreign governments. The resulting report, entitled *Report of the Federal Trade Commission on Wheat Prices for the 1920 Crop* (91 pages), was transmitted to the President, December 13, 1920. (See Food Investigation: Grain Elevators and Grain Trade.)

Guarantee Against Price Decline.--The Commission, in 1919, made an inquiry into the practice of guarantee against price decline through a circular letter calling for information and opinions. The report, entitled *Digest of Replies * * * Relative to the Practice of Giving Guarantee Against Price Decline*, was published May 27, 1920 (66 pages).

House Furnishings.--Pursuant to Senate Resolution 127, Sixty-seventh Congress, second session, January 4, 1922, the Commission investigated the alleged high prices for house furnishing goods which had prevailed since 1920, as compared to the price declines in other lines. Three reports were issued showing that in respect to several kinds of household furnishings there had been conspiracies to inflate the prices of such goods. These reports, entitled *Report of the Federal Trade Commission on House Furnishing Industries, Vol. I. Household Furniture* (484 pages), *Vol. II. Household Stoves* (187 pages) and *Vol. III. Kitchen Furnishings and Domestic Appliances* (347 pages), were transmitted to the Senate January 17, 1923, October 1, 1923, and October 6, 1924, respectively.

Independent Harvester Co.--This inquiry was made pursuant to Senate Resolution 212, Sixty-fifth Congress, second session, 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 report, entitled *Federal Trade Commission Report to the Senate on the Independent Harvester Co.* (typewritten or mimeographed, 5 pages), was transmitted to the Senate May 15, 1918. (See also Farm Implements.)

Interstate Power Transmission.--This inquiry was made pursuant to Senate Resolution 151, Seventy-first Congress, first session, November 8, 1929, providing 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, entitled *Interstate Movement of Electric Energy*, was printed as Senate Document No. 238, Seventy-first Congress, third session (134 pages), and transmitted to the Senate December 20, 1930. Interim reports had been issued as of December 9, 1929, March 10, June 11, and September 19, 1930. (See also Electric Power and Utility

Corporations.)

led the Commission to compile certain reports among which was one entitled *Report of the Federal Trade Commission on War-Time Costs and Profits of Southern Pine*

have since been recognized as unfair by the trade itself. The report, entitled *Report of the Federal Trade Commission on Milk and Milk Products, 1914-1918* (234 pages), was transmitted to the Senate June 6, 1921, with a summary.

Milk Investigation.--This inquiry was made pursuant to House Concurrent Resolution 32, Seventy-third Congress, second session, February 5, 1934, concerning questionable trade practices in the milk industry *and* alleged monopolistic tendencies in the control of milk supply. The titles of five reports issued *are* as follows: *Report of the Federal Trade Commission on the Sale and Distribution of Milk a. and Milk Products, Connecticut and Philadelphia Milk sheds, PhApril TD 0 (16 2.2c7follod8 T8.6.0254 Td)4*

4, 1936, and printed as House Document 501, Seventy-fourth Congress, second session

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*, transmitted Mardi 3, 1917, was printed as Senate Document No. 3, Sixty-fifth Congress, special session. The report was transmitted to the Senate June 13, 1917, entitled *Report of the Federal Trade Commission on the Newsprint Paper Industry* (162 pages). Following this inquiry the Commission established a system of monthly reporting of current figures dealing with production, stocks, sales, and the like, which was continued for several years. On July 10, 1917, an additional brief report was submitted to the Senate pursuant to Senate Resolution No.95, Sixty-fifth Congress, first session, entitled *Newsprint Paper Investigation*, which was printed as Senate Document No. 61, Sixty-fifth Congress, first session (8 pages).

Paper--Newsprint.--An inquiry was made pursuant to Senate Resolution 337, Seventieth Congress, second session, February 27, 1929. The question was whether there existed an alleged monopoly among

disclosed that several of the companies were fixing prices. Reports entitled *Pacific Coast Petroleum Industry; Part I. Production Ownership, and Profits* (276 pages) and *Part II. Prices and Competitive Conditions* (262 pages), were transmitted to the Senate April 7, 1921, and November 26, 1921, respectively, with a summary.

Petroleum--Panhandle.--This inquiry into conditions in the Panhandle (Texas) oil fields was made on a motion of the Commission of October 6, 1926, and in response to requests of crude-petroleum producers. The reduction of prices late in 1926 as complained of was largely a result of difficulties of handling and expenses of marketing this oil because of peculiar physical properties, according to the report, which was entitled *Report of the Federal Trade Commission on Panhandle Crude Petroleum* (19 pages), issued as of February 3, 1928.

Petroleum--Pipe Lines.--This inquiry, made pursuant to Senate Resolution 109, Sixty-third Congress, first session, June 18, 1913, was begun by the Bureau

of

decline of agricultural prices compared with consumers' prices. This was entitled *Letter of the Federal Trade Commission to the President of the United States* (8 pages). (See Agricultural Income.)

Profiteering--This report was made in response to Senate Resolution No. 225, Sixty-fifth Congress, adopted June 10, 1918, on the current conditions of profiteering as disclosed by various inquiries of the Commission, and transmitted to the Senate on June 29, 1918. It was printed under the title of *Profiteering* as Senate Document No.248, Sixty-fifth Congress, second session (20 pages).

Radio--This inquiry was made pursuant to House Resolution 548, Sixty-seventh Congress, fourth session, March 4, 1923. As a result of this investigation, 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

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

Document No.208, Sixty-seventh Congress, second session, part 2 (9 pages and 2 pages, respectively) (out of print).

Steel Industry--Costs and Profits.--Inquiry into the costs and profits of the steel industry during the war was made pursuant to the order of the President of July 25, 1917, and after its conclusion certain data in regard thereto were compiled by the Commission in a report, entitled *Report of the Federal Trade Commission on War-Time Profits and Costs of the Steel Industry* (138 pages), which was sent to Congress February 18, 1925.

Steel Sheet Piling--(Collusive Bidding).--In

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; and July-August 1934, the 60-day period prior to the strike. Due to the desirability of an early report, essential information was obtained by means of a comprehensive schedule, subscribed to under oath and forwarded to approximately 2,600 textile manufacturing companies. Material for immediate comparable results was transmitted by 765 concerns, with an aggregate investment of slightly less than \$1,200,000,000. The investigation continued and, at the date of this report was to be concluded with reports for the 6-month period ending June 30, 1936. The following reports had been issued up to June 30, 1936: *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.

In continuation, the Commission began another series of reports, entitled *Report of the Federal Trade Commission on the Textile Industries in 1933 and 1934*, of which one volume had been published before the end of the

the prices of leaf tobacco and the selling prices of tobacco products was reported to be due in part to the purchasing methods of the large tobacco companies. As a result of this inquiry, the Commission recommended that the decree dissolving the old Tobacco Trust should be amended and that proceedings be instituted in the matter of alleged violations of the existing decree. Better in(t) Tj c32.64 0 0.0303 T1 v5() Tj 2.28() Tj t

Subsequent to the war a number of reports dealing with costs and profits was published based on these wartime inquiries. Among these were the reports on steel, coal, copper, lumber, and canned foods.

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[Index does not include names or items in alphabetical lists or tables. For names of electric and gas utility companies concerning which hearings were held during fiscal year, see pages 36-37; of respondents in orders to cease and desist, see pages 57-60 ; of export trade associations, see pages 115-116; of foreign countries and various acts and references listed under “Trust Laws and Unfair Competition in Foreign Countries”, see pages 116-124 ; for appropriation items, see pages 127-131; and for “Investigations of the Commission, 1915-1936” and various references thereunder see pages 157-175]

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