

ANNUAL REPORT  
OF THE  
FEDERAL  
TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30  
1937

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
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## FEDERAL TRADE COMMISSION

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

### FEDERAL TRADE COMMISSIONERS--1915-37

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

### EXECUTIVE OFFICES OF THE COMMISSION

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

### BRANCH OFFICES

45 Broadway, New York                      544 Federal Office Building, San Francisco  
483 West Van Buren Street, Chicago      801 Federal Building, Seattle

<sup>1</sup> Chairmanship rotates annually. Commissioner Ferguson will become chairman in January 1938.



## LETTER OF SUBMITTAL

*To the Congress of the United States:*

I have the honor to submit herewith the Twenty-fifth Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1939.

By direction of the Commission.

WILLIAM A. AYRES, *Chairman*

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## **INTRODUCTION**

POWERS AND DUTIES OF THE COMMISSION

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HOW COMMISSION WORK IS HANDLED

PUBLICATIONS OF THE COMMISSION

PRESIDENT LAYS CORNERSTONE OF NEW BUILDING

RECOMMENDATIONS

ANNUAL REPORT  
OF THE  
FEDERAL TRADE COMMISSION

**INTRODUCTION**

**POWERS AND DUTIES OF THE COMMISSION**

The Federal Trade Commission herewith submits its report for the fiscal year 1936-37. Organized March 16, 1915, under the Federal Trade Commission Act, approved September 26, 1914, the Commission is an administrative body exercising quasi-judicial functions. These functions are chiefly: (1) to prevent unfair methods of competition in interstate commerce; (2) to make investigations at the direction of Congress, the President, the Attorney General, or upon its own initiative; (3) to report facts in regard to alleged violations of the anti-trust laws; (4) to prevent discriminations in price and other forms of discrimination in violation of the Robinson-Patman Act amending the Clayton Act; (5) to prevent exclusive dealing contracts, capital stock acquisitions, and interlocking directorates in violation of the Clayton Act, and (6) to administer the Webb-Pomerene or Export Trade Act, aimed at promotion of foreign trade by permitting the organization of associations to engage exclusively in export trade.

In performing these functions, the Commission's duties fall into two categories, namely, (1) legal activities in connection with prevention of unfair practices prohibited by the acts it administers, and (2) general investigations of economic conditions in certain industries or commercial groups.

Legal activities have to do with (1) prevention and correction of unfair methods of competition in accordance with section 5 of the Federal Trade Commission Act, in which it is declared that unfair methods of competition in commerce are unlawful; (2) administration of section 2 of the Clayton Act prohibiting unlawful price discriminations, as amended by the Robinson-Patman Act, and sections 3, 7 and 8 of the Clayton Act dealing, respectively, with unlawful "tying" contracts, unlawful stock acquisitions, and unlawful interlocking directorates, and (3) administration of the Webb-Pomerene Export Trade Act.



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

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

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

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

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

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.<sup>1</sup>

### GENERAL LEGAL ACTIVITIES

Upon authority of the acts which it administers, the Commission, during the last fiscal year, has continued to direct its efforts toward the correction and elimination of unfair methods of competition and other unlawful practices.

*Cases before the Commission.*--During the fiscal year, the Commission made approximately 2,100 investigations in cases which were in a preliminary stage or had not progressed to the status of formal complaint or stipulation. These cases were disposed of either by progression to the status of formal complaint, by stipulation, or by closing. The number of such informal cases investigated in the preceding fiscal year was approximately the same.

During the year, the Commission approved a total of 624 stipulations to cease and desist, executed by parties against whom proceedings had been instituted. Of these, 364 were cases in which false and misleading advertising in newspapers, magazines, or by radio broadcast, was involved. The total number of stipulations to cease and desist approved in the last preceding fiscal year was 890.

<sup>1</sup> Public, No.78, 73d Cong., approved June 16, 1933, making appropriations for the fiscal year ending June 30, 1934, for the "Executive Office and Sundry Independent Executive Bureaus, Boards, Commissions" etc., made the appropriation for the Commission contingent upon the provision (48 stat. 291, 15 U. S.C. A., sec. 46a) that hereafter no new investigations shall be initiated by the Commission as the result of a legislative resolution, except the same be a concurrent resolution of the two Houses of Congress."

## GENERAL LEGAL ACTIVITIES

Webb-Pomerene Export Trade Act. They filed with the Commission statements required by the act, thereby becoming entitled to the benefits and exemptions provided therein. The total number of associations filing papers is now 45. They are discussed under Part V of this report, which also contains a review of trust law developments abroad.

*Misleading advertising.*--For handling certain types of false and misleading advertising cases, the Commission has set up a special board of investigation, consisting of three attorneys. Through this special board and its staff, the Commission examines the advertising columns of newspapers and magazines and commercial advertising continuities broadcast by radio, noting misleading representations appearing therein. Complaints against advertisers are also received from the public and are given careful consideration. Misleading representations in advertising are often corrected through the advertiser's agreement by stipulation to cease and desist from such mis-representations, although some of the cases before this board result in the issuance of formal complaints and orders to cease and desist.

#### **ROBINSON-PATMAN ANTI-PRICE DISCRIMINATION ACT**

Section 2 of the Clayton Act was amended, effective June 19, 1936, by Public 692, Seventy-fourth Congress, generally known as the Robinson-Patman Act.

The act had been in effect approximately one year at the close of the fiscal year. No additional appropriation to cover the expense of the work occasioned by the duty of enforcing the new act was available to the Commission until May 14, 1937. During this interval, however, the Commission administered the act as vigorously as the funds and personnel available permitted. In this period (the working period was actually much less than 1 year because of delays necessarily incident to beginning work under a new statute), the Commission instituted field investigations in

directly connected with price discrimination. Administrative and enforcement processes were also facilitated by a provision of the amending act that upon showing of a discrimination in price or in services or facilities furnished, a prima facie case is made out and the burden of rebutting it and of justifying the discrimination shall be upon the alleged violator.

In cases of price discrimination where quantity differentials, although justifiable under other provisions of the act, are found to be “unjustly discriminatory or promotive of monopoly in any line of commerce” because the “available purchasers in greater quantities are so few”, the Commission may, after investigation and hearing of all interested parties “fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities.”

Section 3 of the amending act makes it a criminal offense, subject to fine or imprisonment, to be a party to or assist in a sale or contract to sell which discriminates to the knowledge of such party against competitors of the purchaser for the purpose of destroying competition or eliminating a competitor, or to sell or contract to sell goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

Authority to enforce the amended act, except as to criminal proceedings and suits for damages, is vested concurrently in the Commission and the Department of Justice, except as to common carriers subject to the Interstate Commerce Act, as amended, to common carriers engaged in wire or radio communication, or radio transmission of energy, or to banks, banking associations and trust companies. As to these exceptions authority is vested in other agencies of the Government. Jurisdiction to enforce the criminal sections is conferred exclusively on the Department of Justice.

*Investigations touch various commodities.*--The commodities in connection with the sale of which investigations have been made, have included many phases of production and distribution, at least some of which touch the life of every citizen. The number of investigations by general commodity classifications was: Groceries, 60; building materials, 38; toiletries, 26; drugs, 17; petroleum products, 15; tobacco, 12; furniture and household supplies, 11; automobile accessories, 11; dairy products, 10; leather goods, beverages and seed inoculants, 6 each; machinery, optical goods, china and glassware, 5 each; steel, millinery, confectionery and sporting goods, 4 each; coal, fertilizer, stationery and office supplies, 3 each; plumbing and heating supplies, electrical supplies, feed, textiles, sanitary supplies, book paper, merchandise and clothing, 2 each; and a miscellaneous group including cast iron pipe, tin plate, tin cans, metal fittings, chemicals, books, hides, serum, jewelry, film, sand for use in making glass, shoes, school supplies, plate glass, buttons, playing cards, shoe



Under this procedure, a means is afforded whereby members of an industry may

the division of the consumers' dollar among producers, manufacturers and distributors of such commodities; and the costs, profits and rates of return of the principal companies.

*Fresh fruits and vegetables.*--Final report on this inquiry was made to Congress June 10, 1937. The scope of investigation was similar to that of the agricultural income inquiry. The report contained the Commission's conclusions and recommendations.

*Milk and dairy products.*--Investigation of alleged monopolistic conditions in the milk and dairy products industry, under a House Concurrent Resolution, was completed and a final report, summarizing principal facts, with conclusions and recommendations, was submitted to Congress, January 4, 1937.

*Farm implements and machinery.*--Undertaken pursuant to and completed by the Commission in 1937.

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of Kansas, chairman; Garland S. Ferguson, Democrat, of North Carolina, vice-chairman; Charles H. March, Republican, of Minnesota; Ewin L. Davis, Democrat, of Tennessee; and Robert E. Freer, Republican, of Ohio.

Each January the Commission designates one of its members to serve as chairman during the ensuing calendar year. Commissioner Ayres was chosen chairman for the calendar year 1937, succeeding Commissioner March. The chairmanship rotates, so that each Commissioner serves as chairman at least once during his term of office. The chairman presides at meetings of the Commission, supervises its activities, and signs the more important official papers and reports at the direction of the Commission.

In addition to the general duties of the Commissioners, in administering the statutes, the enforcement of which is committed to the Commission, each Commissioner has supervisory charge of a division of the Commission's work. Chairman Ayres has supervisory charge of the administrative division; Commissioner Ferguson of the chief trial examiner's division and the trade practice conference division; Commissioner March of the chief examiner's division; Commissioner 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 577, 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 supervises legal proceedings against respondents charged with violations of the acts administered by the Commission, and has charge of the trial of cases before the Commission and in the courts.



The chief examiner has charge of legal investigations of applications for complaint alleging violations of the laws over which the Commission has jurisdiction. When the Commission undertakes investigations in response to Congressional Resolutions, or under section 6 of the Federal Trade Commission Act, the chief examiner supervises such parts of such investigations as may be assigned to his division by the Commission.

Members of the chief trial examiner's division are appointed to preside at the trial of formal complaints and at the taking of testimony in investigations conducted by Executive direction, pursuant to Congressional Resolutions, upon the Commission's own initiative, or at the request of the Attorney General. They also arrange settlement by stipulation of applications for complaint, subject to the approval of the Commission.

There are also the division of trade practice conferences, the special board of investigation for cases involving false and misleading advertising, and the export trade section of the chief counsel's division for handling foreign trade work under the Export Trade Act and section 6 (h) of the Federal Trade Commission Act.

The economic division, under the chief economist, conducts certain of the general inquires of the Commission, such as those covering farm implements, the textile industry, and fresh fruits and vegetables.

The economic division and the chief examiner's division, jointly, have conducted the milk investigation and the agricultural income inquiry. The chief examiner's division had charge of the petroleum decree investigation.

Responsible directly to the assistant secretary of the Commission, the administrative division conducts the business affairs of the Commission and is made up of units such as are usually found in Government establishments, the functions of such units being covered largely by general statutes. These units are as follows: Accountib3nd

formation and opinions from non-government hospitals, clinics and laboratories.

### **PUBLICATIONS OF THE COMMISSION**

Publications of the Commission, reflecting the character and scope of its work; vary in content and treatment from year to year, especially documents relating to general business and industrial inquiries.<sup>4</sup> Such studies are illustrated by appropriate charts, tables, and statistics. These fact-finding studies, reports, and recommendations deal not only with current developments, possible abuses, and trends in an industry, but contain scientific and historical background. Considered as a whole, they have supplied economists and students of business and government, the Congress, and the public with information not only of general interest but of great value as respects the need or wisdom of new and important legislation, to which they have frequently led, as well as corrective action by the Department of Justice and private interests affected. The Supreme Court has at times had recourse to them, and many of them have been designated for and published.



allowed to remain honest and to carry on under fair competitive conditions, protected from the sharp or shady practices of the unscrupulous.

The Commission expects to occupy its new building early in 1938. It will be the first time since its organization that the Commission and its staff will have been housed in a permanent home, adequate to its needs.

### RECOMMENDATIONS

*Amendments to Federal Trade Commission Act.* For several years the Commission has made recommendations in its annual reports and in reports on particular investigations, to the effect that Section 5 of its organic act be so amended as to declare unlawful, not only "unfair methods of competition" as the present law declares, but also "unfair or deceptive acts and practices." The reason for the recommended amendment is that there are some unfair or deceptive commercial practices which primarily injure the public rather than competitors and in such cases it is difficult to show the latter type of injury which the courts have held necessary under the present law.

The Commission has also recommended amendments which would make its orders final and conclusive if and when respondents do not apply for court review within 60 days, which would make it unnecessary to establish violation of an order before the Commission can apply for court affirmance, and which would direct the courts upon such affirmance to incorporate the affirmed order in a court decree

In renewing these recommendations, the Commission is gratified to note that in substance, they have been incorporated in a bill, S. 1077, which passed the Senate during the first session of the Seventy-fifth Congress and in a bill which has been favorably reported by the Interstate and Foreign Commerce Committee of the House of Representatives.

*Amendments to Section 7 of the Clayton Act.* On a number of occasions the Commission has called attention to the fact that while this section now declares unlawful the acquisition by one corporation of the capital stock of a competing corporation where certain monopolistic tendencies and conditions may result, it does not purport to declare unlawful the acquisition of physical assets where similar tendencies and conditions may result. The Commission has also pointed out that this unforbidden method of accomplishing these similar results has been increasingly employed by corporations engaged in interstate commerce, thereby evading said section 7. The Commission has therefore recommended in earlier annual reports and upon other occasions and now renews its recommendation that the acquisition of assets be declared unlawful under the same circumstances that the acquisition of stock is already so declared.

In its recent report on Agricultural Income, pursuant to Joint Resolution of the Senate and House of Representatives (Senate Document No.54, Seventy-fifth Congress, first session) the Commission amplified the foregoing recommendation so as to preclude the acquisition of assets where the combined assets would exceed an amount to be specified by Congress. This would have the advantage of a positive

legislative standard, defining the limit at which corporate accretions in size and power shall be halted in order to prevent monopoly. The Commission now renews that recommendation.

**PART I. GENERAL INVESTIGATIONS**

AGRICULTURAL INCOME

FRESH FRUITS AND VEGETABLES

MILK AND DAIRY PRODUCTS

FARM IMPLEMENTS AND MACHINERY

TEXTILE INDUSTRIES

PETROLEUM DECREE

## **PART I. GENERAL INVESTIGATIONS**

### **AGRICULTURAL INCOME**

#### **FINAL REPORT ON INQUIRY SUBMITTED TO CONGRESS**

This inquiry was made by direction of Congress under Public Resolution No.61, Seventy-fourth Congress, first session, approved August 27, 1935, and amended by Public Resolution No.86, Seventy-fourth Congress, second session, approved May 1, 1936. The resolution, as amended, authorized and directed the Federal Trade Commission to investigate and report the extent of decline in agricultural income in recent years; the increase or decrease for the same years of the income of the principal corporations or other principal sellers engaged in handling or processing certain essential farm commodities; the distribution of the consumer's dollar paid for those commodities, as between farmers, processors and distributors; the growth of capitalization and assets of principal corporations and their costs, profits, investments and rates of return; the avoidance of taxes by such corporation or their officers; the extent of control or monopoly in the handling or processing of those commodities and the methods and devices used for obtaining and maintaining such control or monopoly; the extent to which any fraudulent, dishonest, unfair and indirect methods are employed in the grading, warehousing and transportation of those commodities, and the prevalence of producer-cooperative organizations and their effects on producer and consumer. The Commission was also directed to report its conclusions and recommendations owing out of the inquiry.

An interim report was made on December 26, 1935, and printed as House Document No. 103, 74th Congress, 1st Session, 1935.

The sharpest recovery in the gross income of farmers from the low year of 1932 was in tobacco. By 1934, the income from tobacco production aggregated 78.5 percent of that in 1929.

Generally speaking, the gross income represented by sales by the principal manufactures, processors and distributors of these products fell off less than the gross income of farmers from their production, and the recovery from the low point of the period by the manufacturers, processors and distributors reached a higher percentage of the 1929 figure than was true of the gross income of the farmer-producers of these products.

*Division of the consumer's dollar.*--The report shows how the consumer's dollar was divided between distributor, processor and farmer in the prices paid for butter, fluid milk, wheat flour, wheat bread, cigarettes, beef, veal and pork during the period covered by the inquiry. Butter, as contrasted with bread, a product involving relatively large processing costs, showed a high percentage of the consumer's dollar going to the farmer. In 1934 in 51 cities the weighted average retail price of butter, graded 92 score or better, was 31.5 cents per pound. Of this retail price, wholesale and retail distributors received a combined average gross margin of about 25 percent, manufacturers about 16 percent, and producers about 59 percent. In 1935 in 51 cities the weighted average retail price of white wheat flour bread was 8.3 cents per pound. Retail distributors received about 19 percent of this price as their average gross margin, bakeries 56 percent, flour millers 7 percent, wheat middlemen and transportation agencies 5 percent, and gross proceeds of wheat farmers were about 13 percent.

*Tobacco group's concentration of control.*--The inquiry disclosed that thirteen tobacco manufacturers sold in one year more than 97 percent of the cigarettes, more than 90 percent of the smoking tobacco, upward of 75 percent of the chewing tobacco and in excess of 98 percent of the snuff produced in the United States in 1934. The report discusses methods bythan

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8.76 percent for the bakers and 10.59 percent for the wheat middle-men. Returns to wheat processors, wholesale flour distributors and chain drug store companies (large distributors of tobacco products) were substantial for all years except 1932 and averaged 7.76 percent, 9.61 percent and 8.29 percent for these respective groups. Reporting meat packers had an average rate of return of 4.28 percent; shoe manufacturers, 4.77 percent; leaf tobacco middlemen, 7.44 percent; tobacco wholesalers and jobbers, 4.43 percent; cotton processors, 1.52 percent, with losses in some years.



No substantial price fixing or price agreements in the marketing of leaf tobacco were found except in the minimum sale prices established for dealers in Connecticut shade-grown tobacco pursuant to an Agricultural Adjustment Administration marketing agreement.

Information obtained during the inquiry indicated that competition in the cigarette industry might be increased by popular cigarettes selling in various price ranges and that new or more important competition in manufacturing would result in increased competition in the purchase of leaf tobacco. The opinion was expressed that the uniform internal revenue tax of \$3 per thousand on small cigarettes has tended to restrict the manufacture and sale of 10-cent cigarettes, the most active and substantial new competition that has manifested itself in the industry in many years. The Commission therefore recommended that Congress consider the advisability of levying a graduated tax on cigarettes in lieu of the present uniform tax.

*Potatoes.*--Processing of potatoes is so limited in volume as to be of little consequence. No close approach to monopoly was found in their warehousing, distribution or marketing. Excessive production financing charges and local marketing fees are exacted in certain instances, but remedies are available to the majority of growers affected through production credit associations organized pursuant to the Farm Credit Act of 1933, and by collective action among producers.

## FRESH FRUITS AND VEGETABLES

### REPORTS TO CONGRESS CONTAIN COMMISSION'S RECOMMENDATIONS

Public Resolution No.61, amended by Public Resolution No.112, Seventy-fourth Congress, second session, approved June 20, 1936, authorized and directed the Commission to make further investigation with respect to agricultural income from table and juice grapes, fresh fruits and vegetables, and to make both interim and final reports. The interim report was submitted February 1, 1937, and printed as Senate Document No.17, Seventy-fifth Congress, first session, and the final report was submitted June 10, 1937

Under the resolution, the scope of this investigation was generally the same as that of agricultural income.

*Decline in farmers' gross income.* --The Commission's final report shows that the farmers' gross income from the production of fruits and vegetables declined in 1932 to 51.84 percent of the 1929 gross income. This was the lowest point reached during the seven-year period, 1929 to 1935, inclusive. By 1935 it had recovered to 70.02 percent of the 1929 level. The sales of no group of the reporting processors and distributors of fruits and vegetables, either fresh or processed, fell during the seven-year period to as low a percentage of its 1929 sales as did the farmers' gross income in relation to its 1929 level, nor failed to





Anti-Racketeering Act. As to these practices, the Commission has made its evidence available to the Department of Justice.

The report recommended that the Perishable Agricultural Commodities Act be amended to authorize and direct the Secretary of Agriculture to make complete condition inspections for the purpose of determining the extent of damage and insofar as practicable the cause of such damage on all cars of the more perishable commodities arriving in the principal terminal markets.

It also recommended that the Interstate Commerce Commission be authorized and directed to require the claim division of the Association of American Railroads to furnish periodically, for the information of all interested persons, certain data concerning tonnage or number of carloads of each kind of fresh fruits and vegetables and of melons delivered by each railroad to each of the principal terminal markets, and the average amount of claims paid by each of these railroads per carload of each of these perishable commodities delivered in the various terminal markets.

Amendment of the Interstate Commerce Act was also recommended to empower the Interstate Commerce Commission to prescribe certain rules and regulations governing the filing, investigation and payment of all loss and damage claims in the shipment of perishable commodities.

## **MILK AND DAIRY PRODUCTS**

### **INVESTIGATION COMPLETED AND SUMMARY REPORT SUBMITTED TO CONGRESS**

Investigation of conditions with respect to sale and distribution of milk and other dairy products, made pursuant to House Concurrent Resolution No. 32, Seventy third Congress, second session, was concluded and a final report, summarizing the principal facts with conclusions and recommendations, was submitted to Congress on January 4, 1937.

Under the resolution, the Commission was directed to make the investigation with a view to determining particularly whether any person or organization:

is operating within any milkshed in the United States in such a manner as to substantially lessen competition or tend to create a monopoly in the sale or distribution of such dairy products, or 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, or is using any unfair methods of competition 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 was directed to report to the House of Representatives "the result of its investigations together with its recommendations, if any, for necessary remedial legislation."

The *Summary Report of Conditions with Respect to the Sale and Distribution of Milk and Dairy Products*, as sent to the Congress, January 4, 1937, summarized the six reports previously sent to the Congress dealing with milk and milk products and distribution problems, and also presented conclusions and recommendations based upon the factual data obtained during the investigation. Tj 9. 0 Tc ( ) T





Clayton Act as recommended in the Commission's Agricultural Income report, discussed elsewhere in this volume.

The milk inquiry disclosed trade practices which may amount to unfair methods of competition. However, such practices usually occurred in local transactions, and although in some instances they may have affected interstate commerce, they probably did not constitute unfair methods of competition in commerce within the meaning of

comparison between the price movement of farm implements and machinery and the price movement of implements and machinery of somewhat comparable material and labor; to inquire into (5) the extent and basis of concentration of control of manufacture and distribution of farm implements and machines in the hands of particular manufacturers, and (6) any developments and tendencies in the direction of monopoly and concentration of ownership or control of the means of manufacture, sale, or distribution.

The resolution also called for (7) all of the facts, for the three years preceding the adoption of the resolution, regarding violations of the antitrust laws, including the nature, extent and effects thereof; the existence and effect of any contract, agreement, combination or unlawful restraint of trade and the existence of any unfair methods of trade or competition; the existence and extent of any unlawful methods of price fixing, price maintenance, or price discrimination; the existence of any combination to restrict or control the manufacture or supply of agricultural implements or machinery or to raise or control the price thereof, or to restrict credit in the sale thereof, whether such to what extent present prices are due to violation of the antitrust laws, and to what extent the profits of any corporation engaged in any branch of the industry have been affected, enhanced or maintained by unlawful combinations or understandings and whether and to what extent the costs or profits of any corporation have been mis-stated or misrepresented, to conceal or promote violations of the antitrust laws.

Due to the lack of an appropriation for this investi 0 D 0 in T 0.88 n T D 0.88 r 29.04 0 TD 0 7

Manufacturers of farm machinery have furnished excellent cooperation in this inquiry. As of June 30, 1937, Commission accountants were at work in the offices of four of the larger manufacturers, checking and studying financial statements, cost statements and selling prices of these companies.

Retail distribution of farm machinery is accomplished primarily by independent retail dealers, although some of the large manufacturers operate retail stores. Report forms were sent to approximately 6,500 independent retail dealers and 250 retail dealers affiliated with manufacturers. Wholesale distribution of farm machinery is accomplished principally through branch houses by the farm machinery manufacturers.



Secretary of Labor; the Labor Advisory Board; other interested Government officials; textile trade associations; labor executives and to the general public. Each report was presented as a factual study. No recommendations or conclusions were called for in the Executive Order.

These reports of the Commission apparently proved of much value to the industry, to the individual manufacturer and to the general public. They made it possible for individual manufacturers to compare their costs with those of the entire industry or with important divisions thereof, and were of value in the adjustment of labor controversies.

### **PETROLEUM DECREE**

#### **REPORT ON INVESTIGATION TRANSMITTED TO THE ATTORNEY GENERAL**

Pursuant to duty imposed upon and the power granted to it under Section 6 (c) of the Federal Trade Commission Act, and at the request of the Attorney General made April 16, 1936, the Commission conducted an investigation for the purpose of determining the manner in which a consent decree entered in the case of United States against Standard Oil Company of California,

## **PART II. GENERAL LEGAL WORK**

DESCRIPTION OF PROCEDURE

LEGAL INVESTIGATION

CONSOLIDATIONS AND MERGERS

DISPOSITION OF CASES BY STIPULATION

REPRESENTATIVE COMPLAINTS

ORDERS TO CEASE AND DESIST

TYPES OF UNFAIR COMPETITION

CASES IN THE FEDERAL COURTS

## **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 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

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application is assigned interviews the party complained against, advising of the charges, and requesting the submission of such evidence as may be desired in defense or in justification. In making such investigation, it is not the policy of the Commission to disclose the identity of the complainant. If necessary, competitors of the respondent are interviewed to determine the effect of the practice from a competitive viewpoint. It is often desirable to interview consumers to assist in determining whether the practice alleged constitutes an unfair method of competition and also to establish the requisite public interest.

After developing the facts from all available sources, the examining attorney summarizes the evidence in a report, reviews the law applicable thereto, and makes recommendations as to what action the Commission should take.

The record is then reviewed by the Chief Examiner, and, if found to be complete, is submitted, with a brief statement of facts, with conclusions and recommendations, to the Commission for its consideration. The Chief Examiner may recommend: (1) that the case be closed without further action because of lack of evidence in support of the charge or for the reason that the practice does not violate any law over which the Commission has jurisdiction, (2) Closing of the application upon the signing by the respondent of conclusions The statement recommendations suspension ( ) Tj 2.7.0 TD0.018



mission 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, Robinson-Patman, and Export Trade 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 answer thereto with the Commission. 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 an answer within the time provided or failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to the respondent, to proceed with the hearing and to make such findings of fact and conclusions of law as it may deem proper and just." \* \* \*



these cases, 663 were investigated and transmitted to the Commission for action, leaving 447 cases of this character still pending for investigation at the end of the fiscal year.

Thus the chief examiner's division, during the fiscal year, completed 1,294 investigations of preliminary and docketed applications for complaint.

Several attorneys ordinarily assigned to legal investigational work were engaged during the year on the investigations of milk and dairy products, agricultural income, and petroleum decree, all of which inquiries are described in Part II, General Investigations.

The chief examiner conducts 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 a stipulation entered into between a respondent and the Commission, wherein the respondent agreed to cease and desist from certain unfair competitive practices, is not being observed in good faith.

The legal investigational 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**

Section 7 of the Clayton Act in substance declares it to be unlawful for a corporation, engaged in interstate commerce, to acquire directly or indirectly the capital stock or other share capital of another corporation also engaged in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporations involved, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce. It also declares it to be unlawful for a corporation or a holding company to acquire capital stock or other share capital or two or more corporations engaged in commerce where the effect of such acquisition also may be as aforementioned.

At the beginning of the fiscal year there were pending in the Commission 12 preliminary matters involving acquisitions, consolidations and mergers, while 18 new inquiries were instituted during the year. Of these 30 cases, at the close of the year, 1 was pending, 1 had been docketed as an application for complaint, and 28 had been closed without action, of which 2 had been referred to the Department of Justice for consideration under the Sherman Act.

One formal complaint alleging violation of Section 7 of the Clayton Act, was issued against Schenley Distillers Corporation of New Orleans, La. on 11/17/28. (100-10218)



violation of Section 2 of the Clayton Act as amended by the Robinson-Patman Act and 1 alleged violation of Section 7 of the Clayton Act prohibiting unlawful stock acquisitions.

The total number of complaints issued charging violation of the Clayton Act was 26, of which 23 alleged violation of Section 2 of that act as amended by the Robinson-Patman Act.

## **I. COMPLAINTS UNDER THE FEDERAL TRADE COMMISSION ACT**

### **A. SUPPRESSION OF PRICE COMPETITION AND OTHER ALLIED RESTRAINTS**

#### **ON TRADE**

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

Ten complaints were issued charging combination and conspiracy in restraint of

conspiracy among themselves.







Forty-six complaints involved alleged false and misleading advertising and misrepresentation as to therapeutic value of various medicinal preparations and devices.

Forty-four complaints charged misrepresentations as to nature, quality, character, and prices of various products or of the ingredients entering into their manufacture.

Twenty-eight complaints alleged fictitious retail price marking, false claims of distributors as being manufacturers, or false representation as to quality, nature and place of origin of ingredients. Some of these cases allegedly involved false claims as to beneficial therapeutic value of various toilet preparations and cosmetics.

Sixteen complaints charged false representations in the sale of books, encyclopedias, and home-study courses, ten of these complaints allegedly having to do with false representations by correspondence schools as to the nature and character of the schools and their courses of study, the availability of positions and earning capacity of students.

Thirteen complaints alleged false representation as to place of origin of such products as toys, candy, hams, chinaware, flavoring compounds, razor blades, and gloves.

Thirteen complaints alleged false representation in connection with the sale of automobiles and products for use in connection with their operation, eight of these cases allegedly involving misrepresentation as to the rate of interest on deferred balances on installment purchase contracts, and five allegedly embracing false representations as to the nature and effectiveness of motor compounds, anti-freeze solution and lubrication oil.

Eleven complaints (in addition to those otherwise listed which include a similar charge) alleged false representations as to a company or individual being the manufacturer or producer of such products as eye-glasses, adding machines, smoking pipes, nursery products, hosiery, blankets, ribbons, whiskies and other spirituous beverages.

Seven complaints alleged false representations in the sale of dog food, baby chicks, and medicinal products for animals.

### C. MISCELLANEOUS CASES

*Lotteries or gift enterprises.*--Forty-seven complaints charged manufacturers of and dealers in candy, clocks, blankets and bed-spreads, ice cream cones, hosiery, luggage and other miscellaneous products, with using schemes involving an element of chance or lottery in the sale of such products to the ultimate consumer. Thirty-one of these cases were against candy manufacturers and dealers.

*False disparagement of competitors, and other practices.*--Seven complaints alleged false disparagement of competitors or their products and 7 charged the respective respondents with misrepresentation as to the earning capacity of their sales agents. Five complaints charged imitation of competitor's products and the passing off of certain articles as the products of competitors.

## II. COMPLAINTS UNDER THE CLAYTON ACT

### A. COMPLAINTS CHARGING VIOLATION OF SECTION 2 OF THE CLAYTON ACT

#### AS AMENDED BY THE ROBINSON-PATMAN ACT <sup>1</sup>

##### 1. ALLEGED PRICE DISCRIMINATIONS

*Two complaints against large yeast distributors.*--Two complaints alleged that certain large yeast distributor corporations, maintaining similar discount schedules, were unlawfully discriminating in price between different purchasers and that the effect was substantially to lessen or to injure, destroy or prevent competition in the manufacture, sale, and distribution of bread and allied products in which yeast is used. It was also alleged that the discriminatory prices had a tendency to create a monopoly in favored customers of the corporations.

*Cheese distributors.*--In two complaints, simultaneously issued, the Commission charged the Kraft-Phoenix Cheese Corporation, Chicago (complaint dismissed July 17, 1937), and a second cheese distributing corporation (complaint pending at the close of the fiscal year), with unlawfully discriminating in price to retailers. Both corporations were alleged to have sold at similar prices. It was charged that the general effect of the systematic discriminations in price was to substantially lessen or to injure, destroy or prevent competition, in the Sale and distribution of cheese, cheese products and salad products, between the respondents and other manufacturers and distributors of similar products engaged in interstate commerce, and also between the favored customers and unfavored competing purchasers of cheese. It was further charged that the effect of the discriminations had been a tendency to create a monopoly in the respondents and also in the favored purchasers.

*Millinery distributor.*--Hollywood Hat Co., Inc., New York (against which the Commission issued an order to cease and desist, July 17, 1937), was charged in the complaint with discriminating in price in favor of certain retailers, particularly one retailer operating stores in 3 California cities, by giving them a lower price than that charged competing retailers. The alleged effect of such discrimination was to lessen or to injure, destroy or prevent competition in the sale and distribution of women's hats between those of the respondent's customers who received the benefit of such discriminatory lower prices and competing customers who did not receive such benefit and were charged higher prices.

*Manufacturer of glazed tile .*--The Commission charged a manufacturer and distributor of glazed tile with allowing a 15 percent discount,

<sup>1</sup> One of the cases described hereunder was closed prior to the end of the fiscal year, while two were disposed of by orders to cease and desist and two by orders of dismissal, shortly after the close of the fiscal year. These cases, respectively, are: (1) Procon Grocery service Co., Inc.; (2) Hollywood Hat Co., Inc.; (3) Biddle Purchasing Co.; (4) Bird & Son, Inc., Bird Floor Covering sales Corporation, and Montgomery Ward & Co., Inc., and (5) Krafaft Phoenix Cheese Corporation. In the remaining complaints,

pending at the close of the year, the respondents are not identified hereunder.





and purchasing services, and of companies engaged either in buying or selling foodstuffs and

duction of petroleum products and in the sale and distribution of such products and automobile accessories, such as automobile tires and tubes, batteries, spark plugs, window shield wipers, oil filters, and auto light bulbs. It was



Afta Solvents Corporation

New York, N.Y.

<i>Respondent</i>	<i>Location</i>
Allen's Cut-Rate Shops, and others	New Haven, Conn.
Allura, Inc	Sacramento, Calif.
Alvita Products Company	Pasadena, Calif.
Ambur Distilleries, Inc	Milwaukee, Wis.
American Bank Machinery Company	Philadelphia, Pa.
American Candy Co	Milwaukee, Wis.
American, Grain Distillers, Inc	Detroit, Mich.
American Mint Corporation, and others	New York, N.Y.
American Remedy Co	Philadelphia; Pa.
American Tap Bush Co	Detroit, Mich.
Ardelle, Inc., Helen	Seattle, Wash.
Army and Navy Supply Co., and others	Richmond, Va.
Arrow Distilleries, Inc	Peoria, Ill.
Atlantic Coast Oil Co. of New York, Inc	New York, N. Y.
Atlas Products Co	Newark, N.J.
Atz's Hatchery, and others	Milltown, Ind.
Avery Salt Co	Scranton, Pa.
Banner Distilling Co	Chicago, Ill.
Barage-Webster Co	Eau Claire, Wis.
Barletta Manufacturing & Packing Co., and others	New York, N. Y.
Barth Laboratories, Hec., and others	Chicago, Ill.
Bear Mill Manufacturing Co., Inc	New York, N. Y.
Becker, Inc., M. & J	Brooklyn, N. Y.
Beich Co., Paul F	Bloomington, Ill.
Beverly Products Co	Springfield; Mass.
Blackwell Journal Publishing Co	Blackwell, Okla.
Bonomo Candy and Nut Corporation	Brooklyn, N. Y.
Boston Sportswear Co., and others	Boston, Mass.
Boyd Business University	Washington, D. C.
Brecht Candy Co	Denver, Cob.
Brier & Co., Samuel, and others	Philadelphia.
British American Toffee Co	New Raven, Conn.
Brown&Haley	Tacoma, Wash
Buno Co.,	Philadelphia
Calafo Co	Los Angeles
California Packing Corporation, and others	San Francisco.
Campbell Distilleries, Inc.	Camden, N J
Cap Association of the United States, Inc., and others	New York City
Carey Salt Co	Hutchinson, Kans.
Casey Co., J H	Portland, Ore.
Casterline Brothers	Chicago.
Cataldo, Angelo, and others	Boston.
Cauk Co. L. D	Milford, Del.
Champion Co.	Springfield, Ohio
Charles of the Ritz Distributors Corporation	New York City
Chase Candy Co.	St. Joseph, Mo.
Chesapeake Distilling and Distributing Co	Baltimore
Claeys, J C	South Bend, Ind.
Clark Distilling Corporation, James, and others	Jersey city, N.J.
Clark Grave Vault Co	Columbus, Ohio.
Clopay Corporation	Cincinnati.
Close Co., George	Cambridge, Mass.
Colonial Distilling and Distributing Corporation	New York City.

<i>Respondent</i>	<i>Location</i>
Columbia Distilling Co., and others	San Francisco.
Conde Nast Publications, Inc	New York City.
Consolidated Distillers Corporation	Baltimore.
Cosner Candy Co	Denver.
Crystaltone Radio Corporation, and others	New York City.
Cushing Refining and Gasoline Co	Cushing, Okla.
Diamond Knitting Mills	New York City.
Distillers Exchange, Inc	Do.
Dockman & Son, Inc., John H	Baltimore.
Dollar Crystal Co	Omaha, Nebr.
Dominion Distilleries, Inc	New York City.
Duncombe Research Laboratory	Highland Park, Mich.
Durant Motor Car Co	Detroit.
Eagle Spice Co	Brooklyn, N. Y.
Eastern Art Co., and others	Providence, RI.
Edison-Bell Co., Inc., and others	New York City.

<i>Respondent</i>	<i>Location</i>
Herba Medicinal Laboratory	New York City.
Hercules Products and Distilling Corporation	Brooklyn N. Y.
Heusner & Son, H. N	Hanover, Pa.
Hewitt Soap Co., Inc. and others	Dayton, Ohio
Hirsch Distilling Co	Kansas City, Mo.
Hodgdon, Daniel R., and others	New York City
Hollywood Mask, Inc	Chicago
Hollywood Shirt Co	New York City
Holmes, Inc., Robert, and others	Jersey City, N.J.
Holst Publishing Co., and others	Boone, Iowa
Hughes Co., Inc., Henry L., and others	New York City
Humania Hair & Specialty Manufacturing Co	Do.
Hynd Corporation, A. C	Buffalo, N. Y.
I.S. U. Rank and File Group, and others	New York City.
I.T. S. Co., and others	Elyria, Ohio
Imperial Distillers Co	Detroit
Imperial Distillers Corporation	Los Angeles
International China Co., and others	Salisbury, N. C.
International Distilling and Distributing Corporation	Washington, D. C.
Interstate Distillers, Inc	Baltimore
Iokelp Co	San Diego, Calif.
Irish Hills Distilleries, Inc	Detroit
Italian-American Spice Co	New York City
Jenner Manufacturing Co., and others	Pontiac, Mich.
Johnson, Charles L., and others	Evanston, Ill.
Kalo Inoculant Co	Quincy, Ill.
Kienzler Distilling Corporation	New York City
Kimball Co., A., and others	Do.
King Trading Corporation, and others	Do.
Kleinert Rubber Co., I. B	Do.
Knight Electric Co., Inc., and others	Do.
Kolynos Co	New Haven, Conn.
Kroekel-Oetinger, Inc	Philadelphia
Krueger, Inc., B. H., and others	New York City
Landon & Warner	Chicago
La Salle Distillery, Inc	Stamford, Conn.
La Salle Extension University	Chicago
Lawrence Blanket Mills	Worcester, Mass.
Leader Novelty Candy Co., Inc	Brooklyn, N. Y.
Leeve-No-Ring Chemical Co	New York City
Lefebvre & Co., Ltd., P A., and others	Malone, N. Y.
Leonard, Inc., A. O	New York City
Leyden, Martin J	Seattle, Wash.
Liberty Distilleries, Inc	Baltimore
Licht's Fur Factory	New York City
Lindholm Co., Inc., G.	Brooklyn, N. Y.
Loft, Inc., and others	Long Island City, N. Y.
Luce & Co	Jersey City, N.J.
Luden's, Inc	Reading, Pa.
Lumber Mills Co	Chicago
M & M Bag and Suit Case Co	New York City
Malestic Distilling Co	Baltimore
Majestic Laboratories	Richmond Hill, Long

Island, N. Y.



<i>Respondent</i>	<i>Location</i>
Pratt Food Co	Philadelphia
Premier Peat Moss Corporation	New York City
Provincial Distilleries, Ltd., Inc	Brooklyn, N. Y.
Quaker City Chocolate and Confectionery Co	Philadelphia
Quality Distillers, Inc	Los Angeles
Quality Products Co., Inc	Brooklyn, N. Y.
Queen Anne Candy Co	Seattle, Wash.
Radumac Mineral Co., and others	Los Angeles
Raladam Co	Detroit
Rango Tablet Co., and others	Los Angeles
Raritan Distillers Corporation	Perth Amboy, N.J.
Reo Distillers, Inc	Newark, N. J
Repair Parts and Replacement Co., Inc	Chicago
Retail Furniture Dealers' Association of others	St. Louis,
Rex Distilling Co	Providence, R. I.
Rieser Co., Inc	New York City
Rittenhouse Candy Co	Philadelphia
Rosecrest Distillers	Paterson, N. J
Ross Knitting Mills, Inc., and others	New York City
Rubinstein, Inc., Helena	Do.
Russek's Fifth Avenue, Inc	Do.
Saffan, Inc., Erna, and others	Chicago
Sanderson Adjustment Bureau, Inc., and others	Atlanta, Ga.
Saretsky, Charles A	New York City
Savage Candy Co	Denver, Colo.
Schainuck and Son, Inc., Jonas	Washington, D. C.
Schwabacher Brothers & Co., Inc	Seattle, Wash.
Seld Leather Co	Gloversville, N. Y.
Sendol Co	Kansas City, Mo.
Service Products, Inc., and others	New York City
Shupe-Williams Candy Co	Ogden, Utah
Sorenson-Beales Candy Co	Sioux City, Iowa
South Bend Distributing Co., Inc	South Bend, Ind.
Spanish Diamond Co., and others	Wheeling, W. Va.
Springfield Metallic Casket Co	Springfield, Ohio
Standard Distributors, Inc., and others	New York City
Stanley Store	Collingswood, N.J.
Startup Candy Co	Provo, Utah
Stayton, G Fred, and others	Des Moines, Iowa
Sterling Co., and others	Do.
Sun Radio Service and Supply Corporation	Washington, D. C.
Sunlife Chlorophyllian Laboratories, Ltd	Los Angeles
Sunrise Distilling Corporation	Chicago
Sunset Distilling Co	Do.
Sutton Laboratories, Inc	Chapel Hill, N. C.
Sweet Candy Co	Salt Lake City
Tarzana Mineral Water Co	Hollywood, Calif.
Taylor Distributing Co., C. O	Chicago
Trieste Importing Co	New York City
Ucanco Candy Co. Inc	Davenport, Iowa
Udga, Incorporated, and others	St. Paul, Minn.
Unique Novelties; Inc	Brooklyn, N. Y.





DESCRIPTIONS OF OUTSTANDING CASES DECIDED 59

Electric & Manufacturing Co., Elliott Co. and Allis-Chalmers Manufacturing Co.,  
restraining them from entering into or maintaining any conspiracy to (1) fix and  
maintain uniform delivered prices in the sale of turbine 4 Tc ( ) Tj 2.52 0 TD 01. 0 Tc ( )o 07es

Their trade association, the Butter Tub Manufacturers' council, was also made a respondent. The six manufacturers were directed to cease and

to limit the number of retail dealers to whom it will sell and ship such garments in each locality. The order also prohibited the respondent from using and carrying out a plan whereby, pursuant to contracts with selected manufacturers of women's garments, it selects models of such manufacturers' garments, pictures the same in its magazine, selects and publishes the names of retailers who have such garments for sale and requires the manufacturers to refrain from selling such garments pictured to any retailers except those selected by the respondent.

*California Packing Corporation, and others, San Francisco.*-California Packing Corporation and Alaska Packers Association, packers and distributors of food products, such as dried fruits, canned fruits, canned vegetables, canned fish, canned pineapple and canned coffee, were required to cease and desist from inducing, coercing or compelling the routing of shipments of commodities purchased or sold by concerns which were in competition with them to or through Encinal Terminals at Alameda, Calif., or through any other terminals owned or controlled by them. Among

“Brunswick”, “General Electric”, “GE” in a circle with scroll-like interior decorations, “Radio Corporation of America”, and colorable imitations and simulations thereof, and from representing that their products so branded were manufactured, endorsed, sponsored or approved by any of the concerns whose trade-marks, names and symbols were as above set out, contrary to the facts, and when the use thereof was without the knowledge and consent of the lawful powers of these trade-marks, names and symbols.

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**MISREPRESENTATION OF EARNING CAPACITY**

*Food Display Machine Corporation, Chicago*, engaged in the sale of potato chip machines, was ordered to cease and desist from representing or holding out as possible or maximum earnings for prospective operators of its machines during a fixed period, any amount in excess of actual earnings of its regular operators under normal business conditions during a fixed period. The respondent was also directed to cease representing or holding out as usual or customary earnings or profits to be derived from operation of its machines, any sum in excess of the average amounts actually earned under normal business conditions.

**CLOSING OF CASE INVOLVING ROBINSON-PATMAN ACT**

In one complaint involving alleged violation of Section 2 of the Clayton Act as amended by the Robinson-Patman Act, the Commission closed the case without prejudice. A discussion of the charges contained in the complaint follows:

*Procon Grocery Service Co.,*

organize any similar corporation or any unincorporated association to engage in the business practices described in the complaint. The Commission then closed the case without prejudice to its right to reopen it and resume prosecution of the complaint in accordance with its regular procedure, should the facts so warrant.

## **TYPES OF UNFAIR COMPETITION**

### **PRACTICES CONDEMNED IN ORDERS TO CEASE AND DESIST**

Following is a partial list of unfair methods of competition which have been condemned by the Federal Trade Commission in orders to cease and desist issued during the fiscal year. These do not include violations of the Clayton Act as amended by the Robinson-Patman Anti-Price Discrimination Act, nor of those sections of the Clayton Act embracing

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orders, vitamin and mineral deficiencies; weakness, irritation and diseases of the eyes and ears.

7. Misrepresenting the advantages in using certain hair tonic, eyewash, facial cream, depilatory, eyelash grower and dentifrice, claimed to be beneficial, respectively, in relieving eye strain, promoting growth of hair, penetrating the skin below the epidermis so as to reach and beneficially affect the underlying muscles, tissues and glands, restoring gray hair permanently to its former color without dyeing, removing tartar on teeth and destroying mouth germs and bacteria.

8. Misrepresenting in the sale of encyclopedias and reference works that purchasers will receive all or a portion of the books free upon subscribing to additional research or extension services; that the purchasers are on preferred lists to receive the books free and without cost; that old and unrevised encyclopedias and reference works have been revised, enlarged and brought down to date; and that leaders in various professional fields are contributors to, or associate editors of, such encyclopedias and reference works, when they are not.

9. Use of misrepresentations by correspondence schools importing that they have some connection with, or are a branch or bureau of, the United States Government or of the Civil Service Commission; that there are many openings for various positions in the classified Civil Service and that examinations to fill such vacancies are held at frequent intervals; that upon completion of the courses of instruction, successful students will be placed in Government or other positions; that students have been selected on account of scholastic grades, or otherwise, to receive the courses at reduced rates; and that the respondents conduct, or are connected with, a university or an extension division of a university.

10. Misrepresenting through use of the words "Laboratory", "Manufacturer", "Mill", "Factory", and "Distiller" that the seller is the manufacturer of the products which he offers for sale, implying that middlemen's profits are eliminated and other advantages obtained because of the purchasers' ability to deal direct with the manufacturer.

11. Misrepresenting the character and quality of the raw materials used in manufacturing finished products, for example, misstating the amount and quality of the wool content of fabrics and other products; misrepresenting the amount and quality of silk in fabrics; misrepresenting split leather as being genuine cowhide, genuine leather, or chamois; misrepresenting the proportion or quantity of pure fruit juices or other food products in jams, preserves and other food stuffs.

12. Use of puzzle contests with the representation that the mere solution of the products,



Court

into the false belief that the goods to be purchased in such stores "were substantially: all if not all, procured from the Army and Navy Departments of the United States Government; that the goods were of the quality and nature used by said Departments;" and that substantial bargains in price and quality would be obtained in such stores, with resulting diversion of trade to the respondents from their competitors.

On August 24, 1936, the Court equality 25.2 0u 0 128 Tce2.96 TD 0.0128 T42TD 0.025ts Tc (bee

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s Court equality 25.2 0u 0 128 Tce2.96 TD 0.0128 T42TD 0.025ts Tc (bee

icals, includes the Butterick Co., MacFadden Publications, Inc., Frank A. Munsey Co., Street & Smith Publications, Inc., Pictorial Review Co., International Circulation Co., Inc., S. M. News Co., Inc., and Midwest Distributors, Inc. The group, on October 25, 1935, had filed with the Second Circuit (New York) petitions to review and set aside the Commission's order to cease and desist in this case. On August 13, 1936, the Second Circuit (85 F. (2d) 522), unanimously affirmed the Commission's order.

Under the order, the petitioners were directed to cease and desist from preventing or seeking to prevent, by agreement, combination or concert of action, any person, firm or corporation from selling to distributors thereof or dealers therein, second-hand or back-number magazines lawfully owned by such person, firm or corporation, or seeking to prevent, or causing wholesalers to prevent retailers of magazines from buying and selling second-hand or back-number magazines. A proviso was added to the effect that nothing therein contained should prevent the petitioners from taking such action against wholesalers and retailers of their respective magazines as might reasonably be necessary to prevent the placing on sale of the coverless magazines or returns for which the petitioners had reimbursed such wholesalers and retailers.

The Court, in part, said:

While it is

not sell second-hand magazines where the new ones are sold, as a condition precedent to being allowed to obtain new magazines for sale from the petitioners, has been shown unreasonable and unnecessary to protect any legitimate rights of the publishers, and the order of the Commission under review should be affirmed, since the facts which support it have been found on sufficient evidence.

*Candy Lottery Cases.*--The Seventh Circuit (Chicago) July 1, 1936, in a unanimous, opinion, modified slightly and affirmed the Commission's cease and desist orders directed against *A. McLean & Son* and *M. J. Holloway & Co.*, both of Chicago; *Queen Anne Candy Co.*, Hammond, Ind.; and *Bonita Co.*, Fond du Lac Tc 0.0(Fond) Tj 23 Tc ( ) 0 TD -0.0.

On October 3, 1936, the Commission filed with the Seventh Circuit an application for enforcement of its order directed against *George Ziegler Company, Milwaukee*. The Court, February 18, 1937, entered its decree affirming the order and commanding obedience thereto.

On November 18, 1936, the Commission filed with the Eighth Circuit (St. Louis) an application for enforcement of its order directed against *F. A. Martoccio Co., a corporation, in its own name and right, and trading as Hollywood Candy Co., Minneapolis*. The case was argued December 14, 1936, and the Commission's order unanimously affirmed January 23, 1937 (87 F (2d) 561). The Court concluded its opinion with the following language:

We conclude that this case is ruled by the Keppel case (291 U. S. 304). We so conclude since we construe the Keppel case to determine that a method of sale which employs the element of chance as an essential feature is against public interest because it is in the nature of a gambling game and that such a method is unfair competition because it places competitors in the position where they must unwillingly adopt such method or run the risk of losing business if they refrain from so doing. Since we are unable to distinguish, in essentials, the situation 'in this case from the one presented in the Keppel case, the enforcement of the order of the Commission here involved will be ordered and the petition to set aside the order will be denied.

The company's petition for rehearing was denied February 12. On March 30, 1937, it filed with the Supreme Court a petition for writ of certiorari. The Commission's brief in opposition was filed April 21, and the petition was denied May 3, 1937.

The effort of the *Sifers Confection Co., Kansas City, Mo.*, to modify the degree of the Eighth Circuit of June 4, 1936, affirming the Commission's order (84 F. (2d) 999), proved unsuccessful, its motion to that effect having been denied January 23, 1937.

The Commission, May 27, 1937, docketed with the Second Circuit (New York) an application for enforcement of its cease and desist order directed against *Leader Novelty Candy Co., Brooklyn*.

*Chicago Silk Co., Chicago* .--At the beginning of the fiscal year, July 1, 1936, there was pending in the Seventh Circuit (Chicago) a petition by Chicago Silk Co. to review and set aside the Commission's cease and desist order issued against it. The order had prohibited the interstate sale, by means of lottery methods (use of punch cards or push cards), of hosiery or lingerie. After briefs had been filed, the case was argued on the merits, April 22, 1937, and decided unanimously in favor of the Commission, June 24, 1937. The Court said, in the course of its opinion (90 F. (2d) 689):

We assume that the question which petitioner seeks to raise is that the facts as found by the Commission do do

harm in the mailing of the punch cards; that whether they are used for disposing of merchandise by chance is one to be bebcterminD 0 Tc 0.0044Tc (03 Tw ( ) Tj 1.92 0 TD 0.0389 Tc 0 Tw unch) Tj 24.2 7







*California, Washington, Oregon and Utah.--Fines totaling*

\$10,000 were imposed by the Ninth Circuit (San Francisco), March 17, 1937, upon the Pacific States Paper Trade Association and certain of its member companies, including the Zellerbach Paper Co., Blake, Moffitt & Towne, and others, for violation of a decree of that Court entered upon mandate of the Supreme Court of the United States (88 F. (2d) 1009).

The case originated upon a complaint of the Federal Trade Commission, terminating in a cease and desist order which ultimately was affirmed by the Supreme Court of the United States (273 U.S. 52).

Imposition of the fines was the outcome of a petition filed by the Commission, May 21, 1936, for a rule requiring the several respondents to show cause why they should not be adjudged in contempt for disobeying the Court's decree affirming the Commission's cease and desist order against price-fixing agreements in the sale of paper and paper products

Finally, it is not material that respondents have copyrighted the box label "Champion Spark Plug Set." A copyright is not a license to engage in unfair competition.

*Standard Education Society and others, Chicago.*--The Commission filed with the Second Circuit (New York), 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 (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.

The respondents' motion to dismiss as to the individual respondents was overruled, June 8, 1936.

The case was argued on the merits November 12, and the Court, December 14, 1936, in part affirmed, and in certain particulars reversed, the Commission's order. The Court, in referring to the wide latitude given to the Commission in protecting the unwary buyer (86 F. (2d) 692), said:

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TABULAR SUMMARY OF LEGAL WORK 79

**TABLES SUMMARIZING WORK OF THE LEGAL DIVISIONS AND COURT PROCEEDINGS, 1915-1937**

TABLE 1.--*Preliminary inquiries*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937
Pending beginning of year	4	12		32	19	29	61	68	147	102	191	176	298	328	224	260	409	307	423	478	760	185	111
Instituted during year	119	265	482	611	843	1,107	1,070	1,223	1,284	1,568	1,612	1,483	1,265	1,331	1,469	1,605	1,380	1,650	1,593	2,151	847	837	899
Total for disposition	119	269	474	643	862	1,136	1,131	1,291	1,381	1,670	1,303	1,659	1,503	1,659	1,693	1,765	1,789	1,965	2,016	2,629	1,607	1,022	1,010
Consolidated with other proceedings	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Closed after investigation	3	123	289	292	298	351	500	731	897	1,157	1,270	1,075	912	1,153	1,049	1,060	1,150	1,319	1,274	1,597	935	624	583
Docketed as applications for complaints	112	134	153	332	535	724	503	413	382	322	357	286	293	282	384	296	332	224	264	272	487	237	275
Total disposition during year	115	257	442	624	833	1,075	1,063	1,144	1,279	1,479	1,627	1,361	1,235	1,435	1,433	1,356	1,482	1,543	1,518	1,849	1,422	911	858
Pending end of year	4	12	32	19	29	61	68	147	102	191	176	298	328	224	260	409	307	423	478	760	185	111	152

CUMULATIVE SUMMARY TO JUNE 30, 1937

Inquiries instituted	26,533
Closed after investigation	18,672
Docketed as Applications for Complaints	7,709
Total disposition	26,381
Pending June 30, 1937	152

## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 2.--*Applications for complaints*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937						
Pending beginning of year						0	104	130	188	280	389	554	467	458	572	5665	488	420	457	530	843	753	754	440	476	469	634	685	
Complaints docketed						112	134	153	332	535	724	426	382	416	337	340	273	292	334	679	535	511	378	404	376	913	1,221	1,477	
Rescissions:																													
To complaints						0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2	0	3	0	0	0	0	3	
Settled by stipulations to cease and desist C.T.E. 1						0	0	0	0	0	0	0	0	1	1	1	0	2	2	3	5	3	3	1	6	6	9		
Settled by stipulations to cease and desist S.B.I. 1						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	4	12	18			
Settled by acceptance of T. P.C. rules						0	0	0	0	0	0	0	0	0	0	0	0	1	3	2	0	0	0	0	0	0	0		
Consolidated with other proceedings						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Dismissed for lack of merit							0	0	0	0	0	0	5	6	4	3	4	0	0	0	3	4	1	0	3	1	12	12	
Closed for other reasons						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	3	3		
Total for disposition						112	238	283	520	515	1,113	980	854	880	954	909	766	712	793	1,212	1,389	1,277	1,136	850	859	1,394	1,888	2,205	
To complaints						0	3	16	80	125	220	156	104	121	143	118	57	45	58	100	171	110	90	52	98	259	382	290	

TABULAR SUMMARY OF LEGAL WORK 81

CUMULATIVE SUMMARY TO JUNE 30, 1937

Applications docketed	11,324	
Rescissions:		
To complaints	10	
Settled by stipulations to cease and desist--C. T. E	43	
Settled by stipulations to cease and desist-S. B. I	37	
Settled by acceptance of T. P.C. rules	6	
Dismissed for lack of merit	58	
Closed for other reasons 2	5	
Total for disposition		11,483
To complaints 2,798		
Settled by stipulations to cease and desist-C. T. E	1,891	
Settled by stipulations to cease and desist-B. B. I	1,192	
Settled by acceptance of T P. C. rules	88	
Dismissed for lack of merit	3,863	
Closed for other reasons 2	687	
Total disposition		10,519
Pending June 30, 1937		964

C. T E. designates stipulations concerning general unfair practices negotiated for the Commission by its chief trial examiner. S. B. I. means stipulations handled by the





## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 3.--*Complaints*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1984	1935	1936	1937							
Pending beginning of year						0	0	5	10	86	133	286	312	257	232	264	220	152	147	136	198	275	225	208	144	115	218	419		
Complaints docketed						0	5	9	154	135	308	177	111	144	154	132	62	76	64	149	172	110	92	53	97	280	386	296		
Rescissions:																														
Orders to cease and desist						0	0	0	0	0	0	1	0	0	5	0	0	1	1	0	0	1	0	0	1	12	10			
Settled by stipulations to cease and desist						0	0	0	0	0	0	0	0	0	0	0	0	0	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	0	0	0	0	0	0	0	0	0	0	0	0	
Dismissed for lack of merit						0	0	0	0	0	0	1	0	1	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Closed for other reasons						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total for disposition						0	5	14	164	221	441	415	423	392	396	282	230	212	285	370	385	318	261	241	396	616	725			
Complaints rescinded							0	0	0	0	0	0	0	0	0	0	0	0	3	2	1	3	0	0	0	0	0	3		
Orders to cease and desist						0	0	3	71	75	111	116	91	82	92	73	44	52	48	67	48	108	83	56	111	126	161	296		
Settled by stipulations to cease and desist						0	0	0	0	0	0	0	0	0	6	3	1	3	3	3	0	1	1	2	1	1	1	17		
Settled by acceptance of T.P.C. rules						0	0	0	0	0	0	0	0	0	0	0	5	5	1	0	1	0	6	0	0	0	0	0		
Dismissed for lack of merit						0	0	1	7	13	44	37	75	88	36	97	83	25	20	16	41	49	45	41	12	38	19	13		
Closed for other reasons:						0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	13	16	38			
Total disposition during year						0	0	4	78	88	155	153	166	170	128	176	130	83	76	87	95	160	110	117	126	178	197	367		
Pending end of year						0	5	10	86	133	286	312	257	232	264	220	152	147	136	198	275	225	208	144	115	218	419	358		

TABULAR SUMMARY OF LEGAL WORK 83

CUMULATIVE SUMMARY TO JUNE 30, 1937

Complaint	3,166	
Rescissions:		
Orders to cease and desist:		
Contest	12	
Consent	18	
Settled by stipulations to CEASE and desist	0	
Settled by acceptance of TPC rules	0	
Dismissed for lack or merit	4	
Closed for other reasons	0	
		3,200
Complaints rescinded	12	
Orders to cease and desist:		
Contest	1,276	
Consent	627	
Settled by stipulations to cease and desist	42	
Settled by acceptance or TPC rules	18	
Dismissed for lack or merit	798	
Closed for other reasons	69	
Total disposition		2,842
Pending June 30, 1937		358

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

ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 4.--*Court proceedings--Orders to cease and desist--Petitions for review--Lower courts*

TABULAR SUMMARY OF LEGAL WORK 85

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

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937				
Pending beginning of year					0	0	1	3	3	1	0	4	6	1	0	1	0	0	1	0	1		
Appealed by Commission					0	2	2	4	5	0	5	2	1	0	1	1	0	8	12	0	0	0	
Appealed by others					0	0	0	0	2	1	1	3	1	0	2	0	0	1	0	1	0	4	0
Total for disposition					0	2	3	7	10	2	6	9	8	1	2	2	1	1	8	14	0	4	1
Decisions for Commission					0	0	0	2	0	0	0	0	3	0	0	0	0	0	13	0	0	0	0
Decisions for others					0	1	0	0	5	1	0	0	2	0	0	1	1	0	0	1	0	0	0
Petitions withdrawn by Commission					0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Certiorari denied Commission					0	0	0	2	1	0	1	2	1	0	0	0	0	1	0	0	0	0	0
Certiorari denied others					0	0	0	0	2	1	1	1	1	1	0	0	1	0	0	0	3	1	1
Total disposition during year					0	1	0	4	9	2	2	3	7	1	1	2	1	1	7	14	0	3	1
Pending end of year					0	1	3	3	1	0	4	6	1	0	1	0	0	1	0	0	1	0	1

CUMULATIVE SUMMARY--TO JUNE 30, 1937

Appealed by Commission	43
Appealed by others	16
Total appealed	59
Decisions for Commission	24
Decisions for others	12
Petitions withdrawn by Commission	2
Certiorari denied Commission	8
Certiorari denied others	13
Total disposition	59
Pending Jun, 30, 1937	0

## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 6.--*Court proceedings--Order to cease and desist--Petitions for enforcement--Lower Courts*

	1919	1920	1921	1922	1922	1924	1925	1925	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937					
Pending beginning of year						0	0	0	0	0	1	0	2	3	2	5	3	2	2	2	5			
Appealed						0	0	0	0	1	1	1	3	2	3	9	4	3	0	2	3	6	12	9
Total for disposition						0	0	0	0	1	4	2	3	4	6	11	9	6	2	3	5	8	14	14
Decisions for Commission						0	0	0	0	1	0	2	0	0	1	5	4	4	0	0	3	4	8	12
Decisions for others						0	0	0	0	0	0	0	1	0	1	0	1	0	0	0	0	0	0	0
Petitions withdrawn						0	0	0	0	0	0	0	0	1	2	0	1	0	0	1	0	2	1	1
Total disposition during year						0	0	0	0	1	0	2	1	1	4	6	6	4	1	1	3	6	9	13
Pending end of year						0	0	0	0	0	1	0	2	3	2	5	3	2	1	2	2	2	5	1

## CUMULATIVE SUMMARY--TO JUNE 30, 1937

Appealed	59
Decisions for Commission	43
Decisions for others	4
Petitions withdrawn	10
Total dispositions	57
Pending June 30, 1937	2

TABULAR SUMMARY OF LEGAL WORK 87

TABLE 7.--*Court proceedings--Orders to Cease and desist--Petitions for enforcement--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937		
Pending beginning of year					0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0
Appealed by Commission					0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0
Appealed by others					0	0	0	0	0	0	0	1	0	1	0	1	0	0	0	0	0
Total for disposition					0	0	0	0	0	0	0	1	1	1	1	2	0	0	0	0	0
Decisions for Commission					0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Decisions for others					0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0
Certiorari denied others					0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0
Total disposition during year					0	0	0	0	0	0	0	0	1	1	0	2	0	0	0	0	0
Pending end of year					0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0

CUMULATIVE SUMMARY--TO JUNE 30, 1937

Appealed by Commission	1
Appealed by others	9
Total appealed	10
Decisions for Commission	0
Decisions for others	2
Certiorari denied others	7
Total disposition	9
Pending June 30, 1937	1

## ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 8.--*Court proceedings--Miscellaneous--Lower courts*

	1919	1920	1921	1922	1922	1924	1925	1925	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937						
Pending beginning of year							0	1	4	5	6	4	4	4	5	3	2	1	1	2	1	0	0	1	
Appealed by Commission							1	2	0	3	5	0	1	0	1	0	1	0	0	4	2				
Appealed by others								1	2	2	3	0	0	0	1	1	2	1	2	0	2	0	2	1	1
Total for disposition							2	5	8	11	11	4	5	5	6	7	6	4	2	3	3	3	0	5	4
Decisions for Commission							1	0	1	3	0	0	0	0	1	1	4	1	1	1	2	2	0	4	3
Decisions for others							0	1	0	1	7	0	0	0	0	1	0	1	0	0	0	0	0	0	0
Petitions withdrawn by Commission								0	0	0	0	0	1	1	0	2	0	0	0	0	0	0	0	0	0
Petitions withdrawn by others								0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0	0	1
Total disposition during year							1	1	1	5	7	0	1	1	1	4	4	3	1	1	2	3	0	4	4
Pending end of year							1	4	5	0	4	4	4	4	5	3	2	1	1	2	1	0	0	1	0

## CUMULATIVE SUMMARY--TO JUNE 30, 1919-37

Appealed by Commission	23
Appealed by other	21
Total appealed	44
Decisions for Commission	25
Decisions for other	11
Petitions withdrawn by Commission	4
Petitions withdrawn by others	4
Total disposition	44
Total June 30, 1937	0



TABULAR SUMMARY OF LEGAL WORK 89

TABLE 9.--*Court proceedings--Mandamus, injunction, etc.--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937		
Pending beginning of year							0	0	0	0	6	4	1	1	0	0	0	0	0	0	0
Appealed by Commission							0	0	0	6	0	0	0	1	0	0	0	0	0	0	0
Appealed by others							0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total for disposition							0	0	0	6	6	4	1	2	0	0	1	0	0	1	0
Decisions for Commission							0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Decisions for others							0	0	0	0	2	3	0	0	0	0	0	0	0	0	0
Certiorari denied Commission							0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Certiorari denied others							0	0	0	0	0	0	0	0	1	0	0	0	1	0	0
Total disposition during year							0	0	0	0	2	3	0	2	0	0	1	0	0	1	0
Pending end of year							0	0	0	6	4	1	1	0	0	0	0	0	0	0	0

CUMULATIVE SUMMARY TO JUNE 30, 1938

Appealed by Commission	7
Appealed by others	2
Total appealed	9
Decisions for Commission	1
Decision for others	5
Certiorari denied Commission	1
Certiorari denied others	2
Total disposition	9
Pending June 30, 1937	0

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

ACTIVITIES UNDER TRADE CONFERENCE PROCEDURE

SALES OF INDUSTRIES ADOPTING RULES EXCEED BILLION DOLLARS

BENEFITS DERIVED FROM TRADE PRACTICE RULES

HISTORY AND PURPOSE OF PROCEDURE

OUTLINE OF TRADE CONFERENCE PROCEDURE

GROUP I AND GROUP II RULES



presenting to the Commission their suggestions or objections, if any, with respect to the proposed rules. Rules as promulgated by the Commission are sent to all members of the industries concerned, accompanied by acceptance blanks which they are requested to sign and return to the Commission.

With respect to applications filed with the Commission for trade practice rules, and regarding which proceedings are pending before the Commission in various stages of progress, the regular procedure was followed in making public the proposed rules for the following industries in order that the Commission might be informed of any objections to such rules before proceeding to their final consideration: (1) Radio  
rece937propo4s7pTj 13.56 0 1 TD ( ) Tj 23116 0 Tset0291 Tclowed

The Division of Trade Practice Conferences, created by the Commission, April 19, 1926, is charged with coordinating and facilitating the work incident to holding trade practice conferences and of encouraging cooperation between business as a whole and the Commission in serving the public interest. As early as 1919, the Commission held conferences with industry for the purpose of eliminating unfair methods of competition and trade abuses.

The trade practice conference procedure affords a means whereby representatives of an industry may voluntarily assemble and, under the auspices of the Federal Trade Commission, consider prevailing unfair trade practices and collectively agree upon and provide for their abandonment. By this method all members of an industry may be placed simultaneously on an equally fair competitive basis and large savings effected through cooperative and voluntary self-correction. Under this procedure, a business or industry takes the initiative in establishing its own rules of business conduct, subject to approval by the Commission. Through these conferences the same results are achieved as by issuance of formal complaints by the Commission, but without bringing charges or employing any compulsory process. The procedure is predicated on the theory that the primary concern of the Federal Trade Commission is the public interest. Its importance to the public consists in bringing widespread relief from the harmful effects of unfair methods of competition which relief otherwise might not be accomplished in years, and in the saving of public funds which necessarily would be spent in conducting the trials of many cases.

2. The authority of

the rules are released by the Commission for a 15-day period upon public notice whereby all interested or affected parties have the opportunity of presenting to the Commission their suggestions or objections, if any. Thereafter, and upon full consideration of the entire matter, the Commission proceeds to final consideration of the rules. The procedure requires that a copy of the rules, as promulgated by the Commission, be sent to each member of the industry whose name and address are available, together with an acceptance card providing opportunity to such member to signify his acceptance and willingness to observe the rules in the conduct of his business.

After rules have been approved for an industry, the Commission retains an active interest in their observance, and to that end a survey of the industry is made by the Commission, when the rules have been in effect for six months. This is to ascertain not only the manner in which such rules are being observed, but also the benefits being derived by those who adopted them.

#### **GROUP I AND GROUP 11 RULES**

Rules approved by the Commission

nberrules

ch

**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 scrutinized 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 misrepresentation 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, on the alert for misleading representations, has reviewed the advertising columns of newspapers and magazines, and, since 1934, commercial advertising continuities broadcast by radio, and also has received from the public complaints of false and misleading advertising. Each misrepresentation so noted and each complaint received from the public has been carefully investigated, and, where the facts have warranted, and informal procedure has not resulted in the prompt elimination of misleading claims and representations, formal procedure has been instituted. While many 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 the respondents signing stipulations to abandon the unfair practices.

The Commission believes its work in this field has contributed to the substantial improvement which has occurred in recent 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, of which there are some 20,000, it is physically impossible to review, continuously, all advertisements of a doubtful nature; also, it has been found unnecessary to review all the issues of publications of recognized high



broadcast of a commercial recording is not always known to the manufacturer of an article being advertised, the Commission's knowledge of current transcription programs is supplemented by special reports from individual stations from time to time, listing the programs of recorded transcriptions m1a4ons

appropriate technical agency of the Government for scientific opinion. Upon receipt of this opinion, the advertising is carefully studied, and a list of numbered excerpts made that appear to require justification or explanation. A copy of this numbered list and a copy of the opinions received are sent to the advertiser, who may then submit such evidence as he thinks may justify or explain the representations in his advertising.

An advertiser may answer by correspondence, or upon evidence.

parties respondent had discontinued advertising or selling without intent to resume, and others because the advertisers were able to justify their claims.

At the beginning of the fiscal year, 284 cases were pending before the special board. At the end of the year, 306 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, and other facilities 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 any of which it may r 0 Ts0o,c TTh0.0 m.2lhfcra/b.52 0 TD 0.05012 Tc (ittTj 18.7280 Tc ( ) Tj 4.56 0

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

ADMINISTRATION OF EXPORT TRADE ACT

ASSOCIATION EXPORTS INCREASE IN 1936

ASSOCIATIONS OPERATING UNDER THE ACT

ADVANTAGES OBTAINED BY EXPORTERS IN 1936

TRUST LAWS AND UNFAIR COMPETITION ABROAD

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

### **ADMINISTRATION OF THE EXPORT TRADE ACT**

Foreign trade work of the Commission includes administration of the Export Trade Act, commonly known as the “Webb-Pomerene law”, and inquiries made under section 6 (h) of the Federal Trade Commission Act, which empowers the Commission to investigate trade conditions in and with foreign countries. This

*Association exports for the years 1935 and 1936*

	1935	1936
Metals and metal products, including iron and steel products, copper, metal lath machinery, railway equipment, pipes and valves, and electrical equipment	\$20,250,000	\$40,507,335
Products of mines and wells, crude sulphur, phosphate rock, petroleum, and carbon black	55,875,000	40,780,283
Lumber and wood products, pine, fir, redwood, walnut, hardwood, plywood, barrel and box shooks, tool handles, and wood naval stores	9,450,000	8,533,374
Foodstuffs, such as milk, meat, sugar, flour and fruit	16,500,000	21,250,433
Other manufactured goods, rubber, paper, textiles, glass, cement, abrasives, and chemicals	35,610,000	38,225,100
Totals	137,685,000	149,296,525

**FORTY-FIVE ASSOCIATIONS OPERATING UNDER THE EXPORT TRADE ACT**

New Associations organized under the Export Trade Act during the fiscal year ended June 30, 1937, were: California June Association of Exporters, Inc., 19501810 252 (C



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

Metal Lath Export Association, 47  
West 34th Street, New York.

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

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

Pacific Forest Industries, Tacoma Building, Tacoma, Wash.

Pacific Fresh Fruit Export Association, 451 California Street, San Francisco.

Phosphate Export Association, 393 Seventh Avenue, New York.

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.

Scrap Export Associates of America, 350 Fifth Avenue, New York.

Shook Exporters Association, Stahlman Building, Nashville, Tenn.

Signal Export Association, 74 Trinity Place, New York.

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

Sugar Export Corporation, 120 Wall Street, New York.

Sulphur Export Corporation, 420 Lexington Avenue, New York.

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

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

United States Handle Export Co., Piqua, Ohio.

Walnut Export Sales Co., Inc., 12th Street & Kaw River, Kansas City, Kans.

Walworth International Co., 60 East 42nd Street, New York.

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

#### ADVANTAGES OBTAINED BY EXPORTERS IN 1936

Associations operating under the law represent mills, mines, factories and processing plants in all parts of the country. Shipments are made to all parts of the world.

The export association presents a united front to foreign competition; it concentrates and simplifies the problem of sales, makes for economy in operation, and generally builds up the prestige of American goods abroad. An association may adopt uniform sales terms as to price, credit, shipping dates, packing requirements, and other details of shipment. Complaints of foreign buyers against American shippers may be reduced through a centralized inspection service and an adjustment department. An arbitration board lessens legal expense.

Cooperative purchase of cargo space was especially helpful during the maritime strike tie-up of 1936. The pooling of orders makes it possible to complete large sales contracts over a longer period of shipment than could be handled by one company alone. Standardization of products and improvement in quality, have been effected through cooperative effort. Foreign buyers show more confidence in dealing with a large group of exporters than with a single company less known to the trade. The association is in a position to obtain current information for dissemination among the members as to market conditions abroad, tariffs, shipping requirements, tax regulations and exchange restrictions.

Exports were somewhat lessened in 1936 by labor disturbances, notably the maritime strike on the West Coast which delayed shipments and resulted in some cancellation of orders. There are still high duties and import quota plans in some countries abroad, although associations report that reciprocal tariff agreements negotiated by the United States have served to lessen these restrictions. Revaluation of gold-block currencies at lower levels gave foreign competitors an advantage. The policy of some countries to increase production to the point of becoming self-sustaining in time of war has led to changes in producing areas. Manufacturing plants have been built in the Orient, much effort has been spent in the development of substitute products in Europe, and the cultivation of grain and other foodstuffs has been encouraged abroad. These changes must be met and new markets developed to take the place of old. The Webb-Pomerene law offers a method under which the expense and effort of developing new markets may be divided among a number of exporters, for the benefit of all.

#### **TRUST LAWS AND UNFAIR COMPETITION IN FOREIGN COUNTRIES**

In accordance with Section 6 (11) of the Federal Trade Commission Act (15 U.S.C. 46) and the Federal Trade Commission Rules (16 C.F.R. 1.101) the following information is being furnished to the public.



under national control and to effect an adjustment between supply and demand in order to prevent local shortage and speculation in price.

*Colombia.*--Under an act approved in 1936, the Government may acquire utilities that are considered of public and social interest. A new land ownership law effective on December 30, 1936, provided that all rural lands shall revert to the State unless continuous possession or economic exploitation is shown for ten years.

*Czechoslovakia.*--In order to forestall an increase in prices after

credit for small sized commercial and industrial enterprises, gave temporary assistance to agricultural



*India.*--Amendments to the Indian Companies Act, effective on January 15, 1937, further safeguard the interests of shareholders.

*International.*--A sugar agreement was entered into in London in May, 1937, to be administered by an international sugar council. Basic export quotas were fixed for cane and beet sugar producers representing almost 90 percent of the world's output; and the contracting parties agreed not to increase their production during the five years beginning September 1, 1937.

An international coffee conference held at Bogota, Colombia, in October, 1936, resulted in establishment of a Pan American Coffee Council.





of the Bureau of Industry<sup>ab</sup>. Part 3 covered registration and licensing of such industries as may be named by the minister. Part 4 required consideration and report by the Bureau on Applications for Loans under the State Advances Corporation Act of 1936 and on grants and loans under the Employment Promotion Act of 1936. Upon recommendation of the bureau, orders-in-council may be issued by the Governor-General covering: the regulation of production and the licensing of industries; reports to be required of industrial firms; fixation of prices or rates for any class of goods or services; rates of royalties, fees, discounts, rebates, concessions, or considerations of any kind in respect of goods or services or in respect of any patent or proprietary rights; the control of production by fixing of quotas or otherwise; and the standardization and simplification of materials, processes and products.

A number of semi-private organizations have been completely nationalized, semi-private

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*Rumania.*--A law dated April 29, 1936, provided for a Supreme Economic Council representing agriculture, commerce, industry, labor and Government officials, for study and investigation of problems regarding foreign commerce, the valorization of

**FISCAL AFFAIRS**

ACTS PROVIDING FUNDS FOR COMMISSION WORK

APPROPRIATIONS AND EXPENDITURES

## FISCAL AFFAIRS

### APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation Act, 1937 (Public, No.479, 74th Cong.), approved March 19, 1936, provided funds for the fiscal year 1937 for the Federal Trade Commission as follows:

For five commissioners, and for all other authorized expenditures of the Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including secretary to the Commission and other personal services, contract stenographic reporting services; supplies and equipment, law books, books of reference, periodicals, garage rentals, traveling expenses, including not to exceed \$900

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Public Resolution, No.28, 75th Congress, 1st session, approved May 14, 1937, provided as follows:

*Salaries and expenses.*--For an additional amount for five commissioners, and for all other authorized expenditures of the Federal Trade Commission in performing the

APPROPRIATIONS AND EXPENDITURES

Detailed statements of costs for the fiscal year ending June 30, 1937

	Salary	Travel expenses	Other	Total
Commissioners	\$49,999.20	\$817.90		\$50,817.10
Clerks to Commissioners	14,651.75			14,651.75
Messengers to Commissioners	5,699.58			5,699.58
Total	70,350.53	817.90		71,168.48
Administration:				
Office of secretary	29,055.49			29,055.49
Accounts and Personnel section	29,481.36			20,481.36
Docket section	42,583.59			42,583.59
Hospital	1,805.61			1,805.61
Labor	3,135.50			3,135.50
Library section	12,501.11	37.65		12,538.76
Mail & File section	17,886.28			17,886.28
Messenger service	19,060.42			19,060.42
Public relations	17,866.83	44.85		17,911.68
Publications section	34,044.53			34,044.53
Purchases and supplies section	15,933.37			15,933.37
Stenographic section	114,740.6			3,130.75
m	o	Messenger servi	(71,951.29 0.05-0.0225	Tw
		A27 s sec	missioners	1

Chief Counsel	219,455.61	24,005.02	10,355.58	253,816.21
Chief Examiner	433,765.41	56,427.64	2,507.01	492,700.06
Special board of investigation	85,230.70	1.60	169.72	85,402.02
Trial Examiner	66,746.50	11,997.46		78,743.96
Trade practice conferences	51,806.63	1,484.60		53,291.23
Total	1,599,009.00	135,622.14	107,704.29	1,842,335.43



Appropriations available to the Commissions 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	1927	\$997,000.00	\$960,654.71	\$36,345.29
1916	430,964.08	379,927.41	51,036.67	1928	984,350.00	972,966.64	11,383.96
1917	567,025.92	472,501.20	94,524.72	1929	1,163,192.62	1,169,459.76	3,732.77
1918	1,608,865.92	1,462,187.32	156,678.60	1930	1,495,821.69	1,494,619.69	1,202.00
1919	1,753,530.75	1,522,331.95	231,198.50	1931	1,863,348.42	1,861,971.72	1,376.70
1920	1,305,708.82	1,120,301.32	186,407.80	1932	1,817,382.49	1,778,427.88	38,954.61
1921	1,032,005.67	938,659.69	93,345.98	1933	1,426,714.70	1,393,427.90	33,286.80
1922	1,026,150.54	956,116.50	70,034.04	1934	1,314,013.49	1,313,614.33	399.16
1923	974,480.32	970,119.66	4,360.66	1935	2,097,397.01	1,956,313.34	141,083.67
1924	1,010,000.00	977,018.28	32,981.72	1936	2,035,466.58	1,821,725.81	213,739.77
1925	1,010,000.00	1,008,998.80	1,001.20	1937	1,938,925.89	1,894,027.77	44,898.12
1926	1,008,000.00	996,745.58	11,254.42				

## **APPENDIXES**

## **APPENDIXES**

# **FEDERAL TRADE COMMISSION ACT 1**

(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*



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

The principal office of the Commission shall be in the city of Washington, but it may meet and exercise

which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person, partnership, or corporation fails or neglects to obey such order of the commission while 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 its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation and thereupon shall

(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 ~~such~~ ~~the~~ ~~commission~~ ~~such~~ ~~and~~ ~~may~~ as the



porations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to

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.

2 Public, No 78 73d Cong., approved June 16, 1933, making appropriations for the fiscal year ending June 30, 1934, for the "Executive Office and sundry independent executive bureaus, boards, commissions", etc., made the appropriation for the Commission contingent upon the provision (48 Stat. 291; 15 U.S. C. A., sec. 46a) that "thereafter no new investigations shall be initiated by the Commission as the result of a legislative resolution, except the same be e concurrent resolution of the two Houses of Congress."



an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

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





be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

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

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such or

of the provisions hereof by reason of any change in the affairs of such



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

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.



*provided further*, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

“(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima-facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification

minating 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.

“(e) That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

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

SEC. 2 That nothing herein contained shall affect rights of action arising, or litigation pending, or orders of the Federal Trade Commission issued and in effect or pending on review, based on section 2 of said act of October 15, 1914, prior to the effective date of this amendatory act: *Provided,* That where, prior to the effective date of this amendatory act, the Federal Trade Commission has issued an order requiring any person to cease and desist from a violation of section 2 of said act of October 15, 1914, and such order is pending on review or is in effect, either as issued or as affirmed or modified by a court of competent jurisdiction, and the Commission shall have reason to believe that such person has committed, used, or carried on since the effective date of this mandatory act, or is committing, using, or carrying on any act, practice, or method in violation of any of the provisions of said section 2 as amended by this act; it may reopen such original proceeding and may issue and serve upon such person its complaint, supplementary to the original complaint, stating its charges in that respect. Thereupon the same proceedings shall be had upon such supplementary complaint as provided in section 11 of said act of October 15, 1914. If upon such hearing the commission shall be of the opinion that any act, practice, or method charged in said supplementary complaint has been committed, used, or carried on since the effective date of this amendatory act, or is being committed, used, or carried on in violation of said section 2 as amended by this act, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and serve upon such person its order modifying or amending its original order to include any additional violations of law so found. Thereafter the provisions of section 11 of said act of October 15, 1914, as to review and

enforcement of orders of the commission shall in all things apply to such modified or amended order. If upon review as provided in said section 11, the court shall set aside such modified or amended order, the original order shall not be affected thereby, but it shall be and remain in force and effect as fully and to the same extent as if such supplementary proceedings had not been taken.

SEC. 3. It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than



or ownership by any corporation of the whole or any part of the stock or other capital of any corporation organized solely for the purpose of engaging in export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

SEC. 4. That the prohibition against "unfair methods of competition" and the remedies provided for enforcing said prohibition ~~shall apply to~~ export



SEC. 5. That every association now engaged solely" in export trade, within sixty days after the passage of this Act, and every association entered into hereafter which engages solely In export trade, within thirty days after its creation, shall file with the Federal Trade Commission a verified written statement setting forth the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated, a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of Its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and changes In its articles or certificate of incorporation or in its articles or contract of association. It shall also furnish to the commission such information as the commission may require as to its organization, business, conduct, practices, management, and re

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restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 2. Every person who shall monopolize, or attempt to monopolize, or combine or conspire

SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States; in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just the premises.

SEC. 5. Whenever it shall appear to the court before which any proceeding under section four of this act may be pending, that the ends of justice require that other parties should be brought before the court; the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

Section 1 of the act entitled “An act to protect trade and commerce against unlawful restraints and monopolies”, approved July 2, 1890, is amended to read as follows:

is

authorized by the Commission, or by any examiner of the Commission,--

(a) By delivering a copy of the document to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or

(b) By leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation.

The return post-office receipt for said complaint, order, or other process or brief registered and mailed as aforesaid, or the verified return by the person serving such complaint, order, or other process or brief, setting forth the manner of said service, shall be proof of the service of the document.

RULE IV. APPEARANCE

Any individual or member of a partnership which is a party to any proceeding before the Commission may appear for himself, or such partnership upon adequate identification, and a corporation or association may be represented by

and the name and address of the applicant and of the party complained of.

The Commission shall investigate the matters complained of in such application, and if upon investigation made either on its own motion or upon application, the Commission shall have reason to believe that there is a violation of law over which the Commission has jurisdiction, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, the Commission shall issue, and serve upon the party complained of, a complaint stating its charges and containing a notice of a hearing upon a day and at a place therein fixed, at least 80 days after the service of said complaint.



## RULE IX. ANSWERS

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Four copies of answers shall be furnished. All answers shall be signed in ink, by the respondent or by his attorney at law. Corporations or associations shall file answers through a bona fide officer or by an attorney at law. Answers shall show the office and post-office address of the signer.

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

If respondent desires to waive hearing on the charges set forth in 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)

Applications for

## 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.

Not less than five (5) days notice of the time and place of the initial examination of witnesses before the Commission, a Commissioner, or an examiner, shall be given by the Commission to counsel or parties.

## RULE XII. HEARINGS ON INVESTIGATIONS

When a matter for investigation is referred to a single Commissioner, or examiner, for examination or report, such Commissioner, or examiner, may conduct or hold conferences or hearings thereon, either alone or with other Commissioners who may sit with him, and reasonable notice of the time and place of such hearings shall be given to parties in interest and posted.

The chief counsel, or such attorney as shall be designated by him, or by the Commissioner, or by the Commission, shall attend such hearings and prosecute the investigation, which hearings shall be public, unless otherwise ordered by the Commission.

## RULE XIII. TRIAL EXAMINERS

*Duties.*--When evidence is to be taken in a proceeding upon complaint issued by the Commission, a trial examiner shall be designated for that purpose by the Commission.

It shall be the duty of the trial examiner to complete the taking of evidence with all due dispatch.

The trial examiner shall state the place, day, and hour to which the taking of evidence may from time to time be adjourned.

*Reports.*--The trial examiner shall, within fifteen (15) days after receipt by him of the complete stenographic transcript of all testimony in a proceeding, make his Report upon the Facts.

He shall forthwith serve a copy of the report upon each attorney for the Commission, upon each attorney for respondents, and upon each respondent not represented by counsel.

The report of the trial examiner is not a decision, finding, or ruling of the Commission. It is not a part of the record of the proceeding, and is not a public document.

The Commission's findings as to the facts are based upon the record.

## RULE XIV. EXCEPTIONS

Attorneys or other persons served with a copy of the report of the trial examiner may, within ten (10) days after receipt of such copy of report, file, in writing, their exceptions, if any, to the report.

They shall specify the particular part or parts of the report to which exception is made, and the exceptions shall include any additional facts which the person filing the exception may deem proper.

Citations to the record shall be made in support of the exceptions.

Seven (7) copies of the exceptions, signed, in ink, shall be filed.

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits.





½ ) inches by ten and one-half (10 ½) inches; left margin one and one-half (1 ½ inches; right margin, one (1) inch.

Depositions shall be bound at *left side only*

#### RULE XIX. EVIDENCE

*Documentary.*--Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be put in evidence, such immaterial or irrelevant parts shall be excluded, and shall be segregated insofar as practicable.

*Objections.*--Objections to 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 within fifteen (15) days after filing of brief on behalf of respondent.

Appearance of additional counsel in a case will not constitute grounds for extending time for oral argument.

## RULE XXII.--REPORTS SHOWING COMPLIANCE WITH ORDERS

In every case where an order is issued by the Commission for the purpose of preventing violations of the law, the respondent or respondents therein named shall file with the Commission, within the time specified in said order, a report, in writing, setting forth in detail the manner and form in which respondent or respondents have complied with the said order of the Commission. Within its sound discretion the Commission may require any such respondent or respondents, from time to time thereafter, to file further reports in writing, setting forth in

detail the manner and form in which they are complying with the said order.

Reports of compliance shall be signed, in ink, by respondent or attorney for respondent.

#### **RULE XXIII.--REOPENING PROCEEDINGS**

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.



**INVESTIGATIONS BY THE COMMISSION, 1915-37**

*Report of the Federal Trade Commission on Bakery Business in United States* (pages 5-13), (out of print).

**Bread and Flour.**--This inquiry was made pursuant to Senate Resolution No. 163, Sixty-eighth Congress, first session, February 16, 1924. This resolution directed the Commission to investigate the production, distribution, transportation) and sale of flour and bread, showing costs, prices, and profits at each stage

of the process of production and distribution; the extent and methods of price fixing, price maintenance, and price discrimination; concentration of control in the milling and baking industries; and evidence indicating the existence of agreements, conspiracies, or combinations in restraint of trade. Two preliminary reports were issued, dealing with competitive conditions in flour milling and bakery combines and profits. The final report showed, among other things, that wholesale baking in recent years had been generally profitable. It disclosed also price-cutting wars by big bakery combines and subsequent price-fixing agreements. Reports were issued entitled *Competitive Conditions in Flour Milling* (140 pages) printed as Senate Document No.97, Seventieth Congress, first session, *Bakery Combines and Profits* (95 pages), printed as Senate Document No.212, Sixty-ninth Congress, second session, and *Competition 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

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*Wholesale Business of Retail Chains,*  
38 pages, December 22, 1931, Senate  
*Leaders,*

Document No.29, Seventy-second Con-  
gress, first session

*Sources of Chain-Store Merchandise,*  
76 pages, December 22, 1931, Senate  
Senate

Document No.30, Seventy-second Con-  
gress, first session.

gress, first session.

*Chain-Store Leaders and Loss*

57 pages, January 15, 1932, Senate  
Document No.51, Seventy-second Con-  
gress, first session.

*Cooperative Drug and Hardware  
Chains,* 28 pages, April 18, 1932,

Document No. 82, Seventy-second Con-  
gress, first session.

*Growth and Development of Chain Stores*, 81 pages, June 11, 1933, Senate Document No. 100, Seventy-second Congress, first session.

Document No.96, Seventy-third Congress, second session.  
*Prices and Margins of Chain and*

Congress, first session, May 1, 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 these 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.

**Coal, Anthracite.**--This inquiry was made on motion of the Commission, and dealt with premium prices of anthracite coal charged by coalAnthracite. 0 aeTD 0.0i.56 0 r0 Tc 0.03 Tw ( ) Tj 3.84 0 TD

**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



**Coal--Retail Situation.**--An inquiry was made on motion of the Commission into the retail coal situation in Washington, D. C., and a typewritten report was issued on August 11, 1917, entitled *Washington, D. C., Retail Coal Situation* (5 pages).

**Commercial Bribery.**--An inquiry made on motion of the Commission into the prevalence of bribery of employees of customers as a method of obtaining trade was described in a special report to Congress, dated May 15, 1918, entitled *Special Report on Commercial Bribery*, printed as House Document No.1107, Sixty-fifth Congress, second session (3 pages, out of print). The report contained recommendations for legislation striking at this practice. On August 22, 1918, a letter from the Commission to Senator Duncan U. Fletcher of Florida, in the nature of a report, discussed this subject and was printed under the title *Commercial Bribery*, as Senate Document (unnumbered), Sixty-fifth Congress, second session (36 pages, out of print). On March 18, 1920, a brief report was transmitted to the Senate by the Commission, on its own motion, entitled *Commercial Bribery*, which was printed as Senate Document No.258, Sixty-sixth Congress, second session (7 pages, out of print).

**Cooperation in Foreign**

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prices had been fixed in violation

meal at a fixed price under boycott threat. The Commission was also directed to determine whether such corporations were acquiring control of cotton gins for the purpose of destroying competitive markets as well as for depressing or controlling prices paid to seed producers. The final report (207 pages) was submitted to the Senate on May 19, 1933. This report and twelve volumes covering hearings during the course of the investigation were printed as Senate Document No. 209, Seventy-first Congress, second session, under the general title, *Investigation of Cottonseed Industry*.

**Cotton Trade.**--An inquiry was made pursuant to Senate Resolution No. 262, Sixty-seventh Congress, second session, adopted March 29, 1922. A preliminary report discussed especially the causes of the decline in cotton prices during the period 1922. A report entitled *Cotton trade--A preliminary report* (28 pages, out of print) was transmitted February 26, 1923 (See next paragraph.)

**Cotton Trade.**--An inquiry was made pursuant to Senate Resolution No. 429, Sixty-seventh Congress, fourth session, adopted January 31, 1923. The inquiry in response to this second resolution on the cotton trade was combined with the one mentioned above and resulted in a report which was sent to the Senate in April 1924. This report recommended that Congress enact legislation providing for some form of southern warehouse delivery on New York contracts, and as a part of such a delivery system the adoption of a future contract which would require that not more than three adjacent or contiguous grades should be delivered on any single contract. The Commission also recommended a revision of the system of making quotations and differences at the various spot markets and the abolition of deliveries on futures at New York. The 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*, printed in two volumes, contained, respectively, the report and the transcript of hearings. It was transmitted to the Senate April 28, 1924, and 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 of 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 ascertaining the facts and their probable economic consequences. The report, entitled *Report of the Federal Trade Commission on Du Pont Investments*, was mimeographed (43 pages), together with views of Commissioner William E. Humphrey on the resolution and on the report (3 pages).

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

**Electric Power.**--This inquiry was made pursuant to Senate Resolution No. 329, Sixty-eighth Congress, second session, adopted 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 dangerous degree to which pyramiding had been practiced in superposing a series of holding companies over the underlying operating companies. The second report related to the supply of electrical equipment and competitive conditions existing in the industry. The dominating position of the General Electric Co. in the field of electric equipment was clearly brought out. These reports, entitled *Electric Power Industry--Control of Power Companies* (272 pages), printed as Senate Document No. 213 Sixty-ninth Congress, second session (out of print), and *Supply of Electrical Equipment and Competitive Conditions* (282 pages), printed as Senate Document No. 46, Seventieth Congress, first session, were transmitted to the Senate February

21., 1927, and January 12, 1928, and

**Farm Implements and**

**Food Investigation--Flour Milling.**--This inquiry was begun pursuant to the order of President Wilson dated February 7, 1917, but was continued as a separate inquiry. A report entitled *Commercial Wheat Flour Milling* was issued on September



*Part III. Methods of the Five Packers in Controlling the Meat Packing Industry*, submitted June 28, 1919 (325 pages, out of print); *Part IV*.



necessary therefor and the private control or public regulation thereof. The printed report, *Food Investigation, Report of the Federal Trade Commission on the Wholesale Marketing of Food* (268 pages, out of print), was dated June 30, 1919

**Food Investigation--Private Car Lines.--This**



printed as Senate Document No.403, Sixty-fourth Congress, first session (15 pages, out of print).

**Gasoline Importation.**--This inquiry, made pursuant to Senate Resolution No. 274, Seventy-second Congress, first session, adopted July 16, 1932, had its inception in complaints filed against four major oil companies operating in Detroit, alleging price discrimination due to zoning divisions in which different retail prices prevailed. The Commission transmitted its report to the Senate February 27, 1933, in the form of a letter entitled *Importation of Foreign Gasoline at Detroit, Mich.* (3 pages), printed as Senate Document No.206, Seventy-second Congress, second session.

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

**Grain Exporters.**--The low prices of export wheat gave rise to this inquiry, which was made pursuant to Senate Resolution No.133, Sixty-seventh Congress, second session, adopted December 22, 1921. The study developed facts regarding extensive and harmful speculative manipulations of prices on the grain exchanges and conspiracies among country grain buyers to agree on maximum prices for grain purchased. Legislation for a stricter supervision of grain exchanges were 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*,

in 1923.

**Independent Harvester Co.**--This inquiry was made pursuant to Senate Resolution No.212, Sixty-fifth Congress, second session, adopted March 11, 1918, calling for an investigation of the organization and methods of operation of the company which had been formed several years before to compete with the "Harvester trust." The company passed into receivership and the report disclosed that mismanagement and insufficient capital brought about its failure. A summary, entitled *Federal Trade Commission Report to the Senate on the Independent Harvester Co.* (mimeographed, 5 pages, out of print), was transmitted to the Senate May 15, 1918. (See also Farm Implements.)

**Interstate Power Transmission.**--This inquiry was made pursuant to Senate Resolution No. 151, Seventy-first Congress, first session, adopted November 8, 1929, which called for ascertainment of the quantity of electric energy used for develop-

## INVESTIGATIONS OF

ment of power or light, or both, generated in any State between points within the same State but through any part of the United States. A report, entitled *Interstate Movement of Electric Energy*, was printed as House Report No. 100, Sixty-first Congress, third session (134 pages), and transmitted to the Senate. The report had been issued as of December 9, 1929, March 1, 1930, and March 1, 1930. (See also Electric Power and Utility Corporations.)

**Leather and Shoes.**--This inquiry was made on motion of a member of the House in response to a general complaint regarding the high prices of shoes, and the high prices of leather and shoes. A report, entitled *Report on Leather and Shoes*, was published August 21, 1919. Previously, as of January 23, 1919, a report, entitled *Leather and Hide Situation. A Preliminary Report to the "Resolutions of the House of Representatives."* (Out of print.)

**Leather and Shoes.**--Under this inquiry, made pursuant to a resolution of the House, Sixty-sixth Congress, first session, adopted August 19, 1919, a study of the costs and prices was conducted. The report, entitled *Report on the Costs and Prices of Leather and Shoes* (212 pages), and was printed by the House, June 10, 1921.

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system of war-time control established by the United States Food Administration. Certain changes were recommended by the Commission, including more complete control of the business and lower maximum profits. The report, entitled *Maximum Profit Limitation on Meat-Packing Industry* (179 pages), on September 25, 1919, was ordered by the Senate to be printed and was published as Senate Document No.110, Sixty-sixth Congress, first session. (See also Food Investigation: Meat Packing.)

**Milk--Canned.--**An inquiry was made into the milk industry pursuant to Senate Resolution No.431, Sixty-fifth Congress, third session, adopted March 3, 1919. The investigation of the fairness of milk prices to producers and of canned milk prices to consumers, and whether they were affected by fraudulent or dis criminatory practices, resulted in a report showing marked concentration of control and of questionable practices in the buying and handling of cream by butter manufacturers, many of which practices 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 No.32, Seventy-third Congress, second session, adopted June 15, 1934, concerning questionable trade practices in the milk industry and alleged monopolistic tendencies in the control of milk supply. The titles of seven reports issued are as follows: *Report of the Federal Trade Commission on the Sale and Distribution of Milk and Milk Products, Connecticut and Philadelphia Milksheds*, dated April 5, 1935, and printed as House Document No.152, Seventy-fourth Congress, first session (105 pages); *Connecticut and Philadelphia Milksheds*, dated December 81, 1935, and printed as House Document No.387, Seventy-fourth Congress, second session (125 pages); *Chicago Sales Area*, dated April 15, 1936, and printed as House Document No.451, Seventy-fourth Congress, second session (103 pages) ; *Boston, Baltimore, Cincinnati and St. Louis*, dated June 4, 1936, and printed as House Document No.501, Seventy-fourth Congress, second session (243 pages); *Twin Cities Sales Area*, dated June 15, 1936, and printed as House Document No.506, Seventy-fourth Congress, second session (90 pages); *New York Milk Sales Area*, dated September 30, 1936, and printed as House Document No.95, Seventy-fifth Congress, first session (138 pages) ; and *Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products*, dated January 4, 1937, and printed as House Document No.94, Seventy-fifth Congress, first session.

**National Wealth and Income.**--This inquiry was made pursuant to Senate Resolution No.451, Sixty-Seventh Congress, fourth session, adopted February 28, 1923, calling for a comprehensive inquiry into national wealth and income and specially indicating for investigation the problem of tax exemption and the increase in Federal and State taxes (for reference to which see Taxation and Tax Exempt income). In the report devoted to national wealth and income, the national wealth was estimated to have been \$353,000,000,000 in 1922 and the national income to have been \$70,000,000,000 in 1923. The nature of the wealth and income and its distribution among various classes were also given. The report on *National Wealth and Income* was transmitted to the Senate May 25, 1926, and printed as Senate Document No. 126, Sixty-ninth Congress, first session (381 pages).

**Open Price Associations.**--This inquiry was made pursuant to Senate Resolution No.28, Sixty-ninth Congress, special session, adopted March 17, 1925, calling for an investigation to ascertain the number and names of so-called open-price associations, their importance in the industry, and the nature of their activities, with particular regard to the extent to which uniform prices were maintained among members to wholesalers and retailers. A report, entitled *Open Price Trade Associations*, was transmitted to the Senate February 13, 1929, and printed as Senate Document 226, Seventieth Congress, second session (516 pages). (See also Lumber Trade Associations.)

**Packer Consent Decree.**--Pursuant to Senate Resolution No.278, Sixty-eighth Congress, second session, adopted December 8, 1924, a report was made reviewing the legal history of the consent decree and the efforts made to modify or vacate it. A summary was given of the divergent economic interests involved in the question of packer participation in unrelated lines. The report, entitled *Packer Consent Decree*, recommended the enforcement of the decree against the Big Five packing companies. it was transmitted to the Senate February 20, 1925, and printed as Senate Document No.219, Sixty-eighth Congress, second session (44 pages, out of print). (See also Food Investigation--Meat Packing and Meat-Packing Profit Limitations.)

**Paper--Book.**--This inquiry, made pursuant to Senate Resolution No.269, Sixty-fourth Congress, first session, adopted September 7, 1916, was begun that year, shortly following the newsprint inquiry. (See below.) It had a similar origin and it disclosed similar restraints of trade,

resulting



were in restraint of trade. Through] the aid of the Commission, distribution of a considerable quantity of paper to needy publishers was obtained at comparatively reasonable prices. The Department of Justice instituted proceedings in consequence of which the association was abolished and certain newsprint manufacturers indicted. A letter to the Senate from the Commission entitled *N*

also discussed the organization and control of the various important concerns in the industry. No evidence was found of any understanding, agreement, or manipulation among the large companies to raise or depress prices of refined products. A report, entitled *Petroleum Industry-Prices, Profits, and Competition* (360 pages), was transmitted to the Senate December 12, 1927, and printed as Senate Document No. 61, Seventieth Congress, first session.

**Petroleum, Pacific Coast.**--The great increase in the prices of gasoline, fuel oil, and other petroleum products on the Pacific coast led to this inquiry, made pursuant to Senate Resolution 138. Sixty-sixth Congress, first session, adopted July 31, 1919. It disclosed that several of the companies were fixing prices. Reports entitled *Pacific Coast Petroleum Industry: Part I. Production, Ownership and Profits* (270 pages) and *Part II. Prices and Competitive Conditions* (262 pages),



*Formula and Cement Prices* (218 pages), was submitted to Congress on March 26, 1932, and printed. A mimeographed report, entitled, *Study of Zone-Price Formula in Range Boiler Industry*, was issued March 30, 1936. (See Steel Code Inquiry, Steel Code as Amended, and Cement Industry.)

**Price Deflation.**--To an inquiry of President Harding dated March 21, 1921, the Commission made immediate reply (undated) giving its views of the causes of the disproportional decline of agricultural prices compared with consumers' prices. This was entitled *Letter of the Federal Trade Commission to the President of the United States* (8 pages, out of print).

**Profiteering.**--This report was made in response to Senate Resolution No. 255, Sixty-fifth Congress, second session, adopted June 10, 1918, on the then current conditions of profiteering as disclosed by various inquiries of the Commission, and 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, out of print).

**Radio.**--This inquiry was made pursuant to House Resolution No.548, Sixty-seventh Congress, fourth session, adopted March 4, 1923. As a result of

followed. The report entitled *Mexican Sisal Hemp*, was transmitted to the Senate May 9, 1916, and printed as Senate Document No. 440, Sixty-fourth Congress, first session (8 pages out of print).

**Southern Livestock Prices.**--This inquiry was made pursuant to Senate Resolution No.133, Sixty-sixth Congress, first session, adopted July 25, 1919. The low prices of southern livestock, which gave rise to the belief that discrimination was being practiced, were investigated, but the alleged discrimination did not appear to exist. The report, entitled *Southern Livestock Prices*, was transmitted to the Senate February 2, 1920, and printed as Senate Document No. 209, Sixty-sixth Congress, second session (11 pages).

**Steel Code Inquiry.**--This inquiry was made pursuant to Senate Resolution No.166, Seventy-third Congress, second session, adopted February 2, 1934. The resolu-

tion directed the Commission to investigate and report upon certain practices of the steel Industry with particular reference to price fixing, the increased prices of steel products, and "other such matters as would give a full presentation of the facts touching the industry since it went under the National Recovery Administration code." The inquiry centered largely upon alleged collusive activities of steel producers in fixing identical delivered prices and eliminating competition under the code, the effects of the multiple basing-point system incorporated in the code, composition of the delivered selling prices which the code imposed, the influence of various code selling prices which applied.

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*Industry* (138 pages), which was sent to Congress February 18, 1925.

**Steel Sheet Piling--(Collusive Bidding) .--**In response to a direction of President Roosevelt dated November 20, 1935, to investigate the prices of steel sheet piling on certain Government contracts in New York, North Carolina, and Florida, the Commission, as of June 10, 1936, made a report demonstrating the existence of collusive bidding because of a continued adherence to the basing point system and other provisions of the code. The report (mimeographed) was entitled *Federal Trade Commission Report to the President on Steel Sheet Piling* (42 pages).

**Stock Dividends.--**This inquiry was made pursuant to Senate Resolution No. 304, Sixty-ninth Congress, second session, adopted December 22, 1926. This resolution called for a list of the names and capitalizations of those corporations which had issued stock dividends, together with the amount of such stock dividends, since



the decision of the Supreme Court, March 8, 1920, holding that stock dividends were not taxable. The same information for an equal period prior to that decision was called for. The report, entitled *Stock Dividends*, contains a list of 10,245 such corporations and a brief discussion. The report points out that the declaration of stock dividends at the rate prevailing for a few years preceding the date of its publication did not appear to be the result of any controlling necessity and seemed to be of questionable advantage as a business policy. The report was transmitted to the Senate on December 5, 1927, and printed as Senate Document No.26, Seventieth Congress, first session (273 pages).

**Sugar.**--This inquiry was made pursuant to House Resolution No.150, Sixty-sixth Congress, first session, adopted October 1, 1919. The extraordinary advance in the price of sugar in 1919 led to the investigation. The price advance was found to have been due chiefly to speculation and hoarding in sugar. Certain recommendations were made for legislative action to correct these abuses. The report, entitled *Report of the Federal Trade Commission on Sugar Supply and Prices* (205 pages), was transmitted to the House, November 15,-1920, and printed.

**Sugar-Beet.**--This inquiry was initiated by the Commissioner of Corporations at the direction of the Secretary of Commerce, but was completed by the Federal Trade Commission. It dealt with the cost of growing beets and the cost of beet-sugar manufacture. The report, entitled *Report on The Beet Sugar Industry in the United States* (164 pages), was published May 24, 1917 (out of print).

**Taxation and Tax Exempt Income.**--This inquiry was made pursuant to Senate Resolution No.451, Sixty-seventh Congress, fourth session, adopted February 28, 1923. The resolution was directed chiefly to a study of

*Report of the Federal Trade Commission on Textile Industries:*

*Part I. Investment and Profit, December 31, 1934 (26 pages).*

*Part II. The Cotton Textile Industry, March 6, 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 Industry, February 18, 1935 (14 pages).*

*Part VI. Tabulations Showing Financial and Operating Results for Textile Companies According to Rates of Return on Investment, Rates of Net Profit or Loss on Sales, and Amount of Investment (Six-Month Periods from January 1, 1933, to June 30, 1934, and for July-August 1934), (24 tables), June 20, 1935. Processed.*

*Report of the Federal Trade Commission on the Textile Industries in 1933 and 1934:*

*Part I. The Cotton Industry, August 1, 1935 (34 pages).*

*Part II. The Woolen and Worsted Textile Industry, September 25, 1935 (31 pages, processed).*

*Part III. The Silk and Rayon Textile Industry, November 29, 1935 (45 pages, processed).*

*Part IV. --Thread, Cordage and Twine Industries, December 5, 1935 (21 pages, processed).*

*Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934 (46 tables, processed).*

*Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934 (18 tables, processed).*

*Textile Industries in the First Half of 1935:*

*Part I. The Cotton Textile Industry, Including Thread, Cordage and Twine, May 22, 1936, (52 pages, processed).*

*Part II. The Woolen and Worsted Textile Industry, July 20, 1936 (40 pages processed).*

*Part III. The Silk and Rayon Textile Industry, August 22, 1936 (47 pages, processed).*

*Textile Industries in the Lost Half of 1935:*

*Part I. The Cotton Textile Industry, including Thread, Cordage and Twine, November 20, 1936 (66 pages, processed).*

*Part II. The Woolen and Worsted Textile Industry, December 21, 1936 (42 pages, processed).*

*Part III. The Silk and Rayon Textile Industry, January 6, 1937 (46 pages, processed).*

*Textile Industries in the First Half of 1936:*

*Part I, The Cotton Textile Industry, Including Thread, Cordage and Twine, January 21, 1937 66 pages, processed*

*Part II.*

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 systems should be instituted in the matter of

**Tobacco Prices.**--This inquiry was made pursuant to Senate Resolution No. 129, Sixty-seventh Congress, first session, adopted August 9, 1921. Among the subjects of investigation were the low prices of leaf tobacco and the high prices of tobacco products. It was alleged that in the sale of tobacco several of the largest companies were engaged in numerous conspiracies with their customers, the jobbers, to enhance the selling prices of tobacco. Proceedings were instituted by the Commission. The report, entitled *Prices of Tobacco Products* (109 pages), was transmitted to the Senate, January 17, 1922, and printed.

**Trade and Tariffs in South America.**--This inquiry, directed by President Wilson as of July 22 1915, was an outgrowth of the First Pan American Financial Conference which met in Washington, May 24-29, 1915. The immediate purpose of the inquiry was to furnish the American branch of the International High Commission, appointed as a result of this financial conference, with information to assist in the deliberations of that commission. Customs administration and related matters, including tariff policy, were discussed in the s 0.03 Tw ( ) Tj 67.68 0 TD /F2

*Operating Companies of Electric and Gas Utilities--Survey of State Laws and Regulations, Present Extent of Federal Regulation and the Need or Federal Legislation, Conclusions and Recommendations and Legal Studies in Support Thereof*, January 18, 1935, 218 pages ; *No. 81-A, Publicity and Propaganda Activities by Utilities Groups and Companies, With Index*, November 14, 1935, 570 pages ; and (final report) *No. 84-A, Economic, Corporate, Operating and Financial Phases of the Natural-Gas Producing Pipe-Line, and Utility Industries, with Conclusions and Recommendations*, December 31, 1935, 617 pages.

A list of the companies investigated and the volume numbers of the reports concerning them are printed in the Commission's annual reports for 1935 and 1936, beginning at pages 21 and 36, respectively. During the Investigation, the Commission's accountants, engineers, and economists examined 29 holding companies having total assets of \$6,108,128,713 ; 70 subholding companies with total assets of \$5,685,463,201, and 278 operating companies with total assets of \$7,245,106,464.

**War-time Cost Finding.**--This series of cost inquiries was ordered by President Wilson as of July 25, 1917. The numerous cost investigations made by the Federal Trade Commission during the World War into the coal, steel, lumber, petroleum, cotton-textile, locomotive, leather, canned foods, and copper industries, and scores of other important industries, on the basis of which prices were fixed by the Food Administration, the War Industries Board, and purchasing departments such as the Army, Navy, Shipping Board, and Railroad Administration, were all done under the President's special direction, and it has been estimated that they helped to save the country many billions of dollars by checking unjustifiable price advances. Lists of most of the reports prepared for this purpose (not printed or otherwise published) are given in the annual reports of the Commission for the years 1918 and 1919. Subsequent to the war a number of reports dealing with costs and profits was published based on these war-time inquiries. (See Coal Reports--Cost of Production, Copper. Food Investigation--Food Canning, Lumber--Costs, and Steel Industry--Costs and Profits).

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