

ANNUAL REPORT  
OF THE  
FEDERAL  
TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30, 1929

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**ANNUAL REPORT OF THE FEDERAL TRADE  
COMMISSION, 1928-29**

*To the Senate and House of Representatives:*

The Federal Trade Commission herewith submits to the Congress its 30, 1929. annual report for the fiscal year July 1, 1928, to June 30, 1929.

## **PART I. INTRODUCTION**

THE COMMISSION AS AN AID TO BUSINESS

INVESTIGATION OF STOCK ACQUISITIONS

THE YEAR'S ACTIVITIES

BACKGROUND

PROCEDURE

PUBLICATIONS

## **THE FEDERAL TRADE COMMISSION AS AN AID TO BUSINESS**

American business saves hundreds of thousands of dollars each year through the Federal Trade Commission's activities in preventing and correcting unfair methods of competition.

It would be impossible even to estimate for a given year what the abandonment of unethical and economically wasteful practices means to the business community in terms of dollars. The cost of private litigation that would be necessary were it not for the commission's procedure would alone be enormous to contemplate.

Even considering only a single industry it is difficult to arrive at specific amounts saved. One reason is that moral values do not readily lend themselves to financial estimates and the benefits derived by an industry from the work of the commission are often largely ethical in character.

One of the commission's most successful and far-reaching means of effecting savings for an industry is its trade practice conference procedure which permits the members to meet and agree to outlaw unfair methods of competition, making it possible at hundredfold one to eliminate numerous pernicious practices a hundredfold, correction of which would require long litigation if one hundred offenders were to be proceeded against individually.

Probably the outstanding case in the history of the commission from which an actual saving to the general public on a large scale can be estimated in dollars, occurred in a previous fiscal year when, as a result of the commission's order in the "Pittsburgh plus" case, there was a saving of \$30,000,000 to the farmers of the nation, estimated on difference in cost to them of the steel which they used when sold on a Pittsburgh basis and when sold on a Chicago and Birmingham basis.

It also was estimated that the saving to purchasers of all classes in the West and South as a result of the order in this case was more than \$150 000,000 annually.

The following specific instances should also be suggestive of what as a whole is being accomplished:

One order of the commission prohibited fraudulent misrepresentations in connection with cosmetics being sold to the extent of \$400,000 a Year. The products were practically worthless. The commission's order seems to have driven them from the market. The entire amount paid by the public was doubtless a total loss which would have continued to accumulate but for the commission's order. The savings to the public could be safely placed at approximately \$400,000 a year.

A respondent sold close to 275,000 spurious automobile accessories of little or no value, at an estimated price of 35 cents each. At this rate between \$90,000 and \$100,000 was taken from the public before proceedings of the commission and private litigation put a stop to it. But for this action, the sale of these worthless wares would doubtless have gone on in greater volume.

Short measuring of paint was prohibited in an order directed to a paint company. On the basis of volume of sales a year, and at the price charged the

consumer, the shortage was being paid for by the consuming public at the rate of \$41,250 a year; which was saved thenceforward by the commission's order prohibiting short measuring.

The export trade act administered by the commission is undoubtedly of substantial financial value to the companies that have joined export trade associations. Some of the smaller associations say they could not export without the act being in force, while other associations report such advantages as "saving of operating expenses, at "saving in inland freight," "economy in distribution," and reduction in selling costs." <sup>1</sup>

Other hundreds of thousands of dollars have been saved for the business community through the commission's orders against commercial bribery, misbranding, and other forms of misrepresentation. Individually examples could be listed in abundance, but they would be only indications of what must be the total savings in money and the resulting moral benefits.

<sup>1</sup> Exports by foreign-trade associations organized under the export trade associations organized under the export trade act totaled in 1928 more than \$476,000,000.

## INVESTIGATION OF STOCK ACQUISITIONS

In a day when mergers and consolidations are forming with a rapidity hardly foreseen even by the authors of the present antitrust laws; the Federal Trade Commission makes inquiry and takes action when necessary, but always within the narrow limits prescribed by the acts and further circumscribed by the courts.

The commission and the Department of Justice have concurrent jurisdiction in the enforcement of the sections of the Clayton Act pertaining to stock acquisitions.

Under certain conditions section 7 makes unlawful the acquisition by one corporation of stock or other share capital of a competing company and also the acquisition by a holding company of the stock of competing corporations. More specifically, the act applies only to the acquisition of stock and not assets. It was believed that if the stock was acquired prior to the assets the matter would constitute a violation of the act. The United States Supreme Court, however, held that unless the commission had issued its complaint prior to the acquisition of the assets the commission was without jurisdiction. (*Federal Trade Commission v. Thatcher Manufacturing Co. et al.*, 272 U. S. 554.) These decisions have limited and in a large measure nullified the application of the act.

With a view to correcting violations of this law, the commission institutes promptly inquiries into all important industrial mergers and acquisitions throughout the country. These preliminary inquiries are directed to the ascertainment of the method or manner by which acquisition was effected, extent of competition between or among the companies involved prior to such acquisition, interstate business done, together with details of organization, capitalization, and methods of competition.

During the fiscal year 228 preliminary inquiries were instituted into acquisition matters with a view to determining violations of the act. There were 43 inquiries pending at the beginning of the year. Out of a total of 271 inquiries handled only a small percentage were docketed as applications for complaint. The commission filed 196 inquiries without docketing, while 71 were pending at the close of the year. Of the 196 matters filed without docketing 99 involved acquisition of assets; 49 showed lack of competition, either because of the territory served or noncompeting products, and in 18 cases the commission found that it lacked jurisdiction, while the remaining 30 had been instituted on reports of mergers on which negotiations were suspended.

Of the 99 matters filed without action involving the acquisition or consolidation of assets during the year nearly 10 per cent involved the acquisition of assets subsequent to the acquisition of capital stock by the acquiring corporation. An equally small percentage

of matters filed without action involved acquisition or consolidation of assets which were acquired for a cash consideration or in which no stock issue was involved.

In addition to the cases in which the commission was precluded from taking action because the acquisitions involved assets, there were several which involved the consolidation of integrated industries, the products being noncompeting. Two important mergers of this character in food lines were consummated, and recently a third has been proposed. Other acquisitions or mergers of integrated lines involved aviation, radio, talking machines, rubber goods, motion pictures, oil, drugs, and chemicals. All of these inquiries have not been completed.

## **THE YEAR'S ACTIVITIES**

Among major activities of the Federal Trade Commission during the fiscal year of 1928-29 were:

Continuation of the investigation of power and gas utilities, their financial structure and publicity enterprises.

Holding of 31 trade practice conferences with that many industries for adoption of rules of business practice that would tend to eliminate unfair methods of competition.

Continuation of the investigation of chain-store systems of the country, their organization, extent, methods of marketing and distribution, pricing, possibilities of antitrust law violations.

Campaign against fraudulent and misleading advertising and establishment of a special board of investigation to work on the preliminary features of cases arising out of unfair advertising.

Continuation of the investigation of resale price maintenance.

Investigation of newsprint paper industry.

## **THE UTILITIES INVESTIGATION**

Continuing its investigation of electric power and gas utilities, under Senate Resolution 83, Seventieth Congress, the commission practically completed public hearings on utility methods of obtaining publicity and made elaborate preparations for the hearings on financial structures of operating, holding, service, and management companies. The hearings on financial phases were expected to begin in the fall or winter of 1929.

Outstanding developments of the fiscal year in the power investigation were:

Inquiry into publicity methods of utility national associations, regional divisions and State committees, practically completed by holding of public hearings in Washington for examination of utility publicity officials from Pacific Coast States.

Evidence that public utilities or persons closely identified with them have acquired substantial ownership interests in newspapers in various parts of the country presented in public hearings.

Commission sends to 2,500 utility companies comprehensive report forms, Report of Utility Corporations, calling for information on growth of capital assets and capital liabilities of holding companies; methods of issuing securities; services furnished to electric and gas public-utility companies; intercompany re-

lationships among holding companies, managing or service companies, and financial, engineering, construction, and electric and gas operating companies; and political campaign contributions and expenditure of funds to influence or control public opinion with respect to municipal or public ownership of electric power or gas enterprises.





Accountants examine books of larger holding, service, management, and construction companies, including some of their larger electric and gas operating companies, analyzing investment accounts, capital accounts, pertinent asset and liability accounts, earning and expense accounts and surplus and reserve accounts.

Field workers investigate relationships between utility companies and service organizations at offices of the more important management groups.

Foundation laid in public hearings for application to Federal court, southern district of New York,

to require Electric Bond & Share Co., one of the largest holding companies, to submit operating expense ledgers for inspection by commission examiners as necessary to comply with

Senate's direction to ascertain and report on financial structure of utility companies.

Electric Bond & Share Co. resists application to Federal court. Argument before Judge Knox, February 15. Filing of briefs. Offer of proof.<sup>1</sup>

In its annual report herein on public utilities, page 28, the commission suggests a suitable amendment of its organic act to remove much of the difficulty encountered in carrying on investigations at the direction of either House of Congress. The commission declares that--

Under the present terms of the act the commission, is empowered, upon direction of the President or either House of Congress, to investigate and report the facts relating to alleged violations of the antitrust acts by any corporation. Both Houses of Congress have long held and exercised with judicial sanction the auxiliary power of investigation in aid of legislation, including the power to subpoena witnesses and compel the production of books and papers.

A specific delegation of such power, limited to the general scope of matters now committed to the commission by its organic act and to be exercised only upon the direction of either House of Congress, would greatly facilitate the work of the commission in conducting the general business inquiries which have been frequently directed by either the Senate or House of Representatives. Senate Resolution 88, in some of its phases, is such an inquiry and specifically calls for recommendations as to needed legislation.

Annual reports of the utilities investigation may be read beginning on page 26 (Public Utilities Investigation), on page 66 (Economic Division), and on page 108 (Court Cases, Electric Bond & Share. Co.).

The investigation is purely fact finding on the part of the commission, which has made no charges against any person or organization involved, nor any recommendations to the Senate, although reports of progress have been and are being sent to the Senate each month.<sup>2</sup>

### **TRADE-PRACTICE CONFERENCES**

The commission's chief contribution to self-government of industry was the group of 31 trade-practice conferences held in the year

<sup>1</sup> Judge Knox handed down a memorandum opinion July 18, 1929, sustaining the commission's power of subpoena in investigations under sec. 6, Federal Trade Commission act and held that witnesses must answer pertinent questions, but that to date no sufficient showing had been made to entitle the commission to have produced the books subpoenaed. The case awaited possible reference by either side to a master for taking testimony.

2 Printed copies of these interim reports containing transcripts of testimony and lists of exhibits introduced may be obtained from the Superintendent of Documents Washington, at a nominal cost. Digests of all exhibits introduced are in course preparation for printing.

1928-29, with that many industries seeking to eliminate unfair methods of competition among their members.

This was the largest number of conferences held in any year of the trade-practice conference movement and undoubtedly signifies a constantly growing interest in and appreciation of this procedure on the part of American business men.

Summary reports of these conferences may be read beginning on page 34.<sup>3</sup>

### **CHAIN-STORE INQUIRY**

The chain-store investigation originated under Senate resolution. Thousands of questionnaires calling for information on various methods of distribution were sent to wholesalers and to chain-store systems of the country while previously a corps of investigators went to the field to gather information necessary to planning and preparing the questionnaires. Intensive study was given by field men to organization and operating methods of several leading chains.

In this investigation the commission is seeking to ascertain advantages and disadvantages of chain-store distribution in comparison with those of other types; significance of the growth of chains by actual savings in costs of management and operation and by quantity prices available only to chain stores; extent, if any, to which consolidations of chain stores have been effected in violation of the antitrust laws; and the extent, if any, to which the chain-store movement has tended to create a monopoly.

The chain-store resolution, unlike that calling for the investigation of public utilities, does not provide for public hearings. The survey thus far has been confined to field and office work. When completed a final report will be sent to Congress and made public.

### **FRAUDULENT ADVERTISING**

Creation of the special board of investigation to handle cases of fraudulent advertising was partly a result of the commission's having on file a large number of applications for complaint regarding this practice. In addition a survey of advertising columns of certain magazines and other periodicals carried on for several months prior to inception of the board revealed an enormous amount questionable copy.

The board, consisting of three of the commission's attorneys; was given general power to investigate, hold informal hearings, and make reports and recommendations to the commission. All proceedings are based on section 5 of the Federal, Trade Commission act.

Taking a somewhat new departure the commission, in the prosecution of complaints charging unfair advertising, joined as co-respondents with the advertiser in each case the advertising agency and the publisher involved, so that the latter might have opportunity to stipulate to abide by action of the commission without becoming respondents to complaints.

<sup>3</sup> In September, 1929, the commission published Trade Practice Conferences, July in 1929, containing

rules of business practice adopted at 56 conferences. The pamphlet may be obtained from the Superintendent of Documents, Washington, for 25 cents.

Hearings before the board are informal and for the protection of proposed respondents as well as for development of information needed by the commission. The commission does not make a case public prior to issuance of complaint.

The board's annual report may be found on page 55.

### **RESALE PRICE MAINTENANCE**

A preliminary report (Part I) on resale price maintenance covering the legal status and the general experience and opinions of interested business classes and of consumers was sent to Congress in January, 1929.

Part II will treat of the results of actual business experience in handling trade-marked or otherwise identified products, and upon the relationship of resale price maintenance to different types of products and methods of distribution.

This is an inquiry into general business phases and not necessarily related to individual complaints pending before the commission. Further reference may be seen on page 69.

### **NEWSPRINT PAPER INQUIRY**

Another important investigation conducted during the fiscal year was that on newsprint paper, directed by a Senate resolution adopted February 27, 1929. Field work is in progress but the material is not yet in condition for a report to be made.

The resolution calls for information on the question of whether certain practices of manufacturers and distributors of newsprint paper tend to create a monopoly in supplying newsprint to publishers of small daily and weekly newspapers, or constitute a violation of antitrust laws.<sup>4</sup>

Other investigations concern open price associations,<sup>5</sup> geographic bases of price making, and blue sky securities. These inquiries concern general trends in business rather than individual cases.

### **EXPORT TRADE TOTALS \$476,000,000**

Exports by foreign trade associations organized under the export trade act, administered by the commission, have greatly increased each year, totaling in 1926, \$200,000,000; in 1927, \$371,500,000 . and in 1928 more than \$476,000,000.

Fifty-seven export associations were operating in June, 1929, including three new associations formed during the fiscal year.

A review of trust laws and unfair competition in foreign countries and economic features of international trade are included in the report of the commission's export trade section, page 122.

Additional expedition of the commission's work was effected through establishment of a second board of review to augment the first board in reviewing general cases in a stage prior to issuance of complaint. Alternating cases are referred to the boards for review and opinion. Each board is composed of three lawyers. Prior to June 14 the single board functioned with five members.

<sup>4</sup> Text of the Senate resolution directing this inquiry may be found on p.224.

<sup>5</sup> This report, dealing with price and trade statistics reporting, as well as trade association work in

general, is available in printed form.

**COMPLAINTS ISSUED TOTAL 148**

During the year the commission issued 148 complaints, all but 5 of which charged violations of section 5 of the Federal Trade Commission act prohibiting unfair methods of competition. Fifty of the complaints were against manufacturers of western yellow pine, known botanically as *Pinus ponderosa*, on the ground that they wrongfully designated their products as "white pine." The salient features of these and other representative complaints may be read, beginning on page 75.

The final expression of the commission in a case where it finds the respondent to have violated the law, is an order to cease and desist from the practices charged. Such orders were issued during the year in 67 cases. Abstracts of representative orders may be read beginning on page 82

Application may be made by the commission to the United States Circuit Courts of Appeals to enforce its orders to cease and desist, or, the respondent may petition the court to have the order modified or set aside.

Since its organization the commission has issued 924 orders to cease and desist. Petitions to review have been filed in only 110 of these cases. The circuit courts of appeals decided 32 of these in favor of the commission and 36 against. In five of these cases, the commission was sustained by the Supreme Court of the United States.

Since its creation the commission has applied to the circuit courts of appeal for enforcement of its orders to cease and desist in a total of 20 cases. Seven of these were decided in favor of, and none against, the commission; six are pending; and in four instances the applications for enforcement have been withdrawn.

## **BACKGROUND OF THE COMMISSION**

The Federal Trade Commission was created by an act of Congress that became a law September 26, 1914. The law is known as the Federal Trade Commission act. It is the chief foundation of the commission's activities, although there are two other acts which the commission administers, namely, the export trade act and several sections Of the Clayton Act.

The commission was Organized March 16, 1915. The nucleus of the new body was the old bureau of corporations of the Department of Commerce, which ceased to exist as such upon formation of the commission, although its work was taken over by the commission under what is now the economic division. The legal functions of the commission were brought into being by the act.

For years prior to passage of the act there was widespread demand on the part of the public, especially through the medium of business men, commercial organizations, and trade associations, for creation of an administrative agency of quasi judicial character to administer rules of business conduct so as to prevent unfair methods of competition in the channels of interstate trade.

With the increase of business and industrial activities situations were arising with such complications that owing to the fixed precedents the courts could not give such relief as would meet the public interest. The inflexibility of the law was illustrated in many important decisions of the Supreme Court and inferior courts of the United States subsequent to passage of the Sherman Antitrust Act in 1890, and prior to passage of the Federal Trade Commission act.

The courts appear to have had jurisdiction of an action for unfair competition only when a property right of the complainant was invaded. But the Federal Trade Commission act gave authority to the commission itself when it had reason to believe that any person, partnership, or corporation was using unfair methods of competition in commerce, providing it appeared that a proceeding in respect thereof would be in the public interest, to institute a proceeding by complaint against such party. After a hearing the commission could, for good cause shown, require the party to cease and desist from the unlawful methods.

Before passage of the Federal Trade Commission act, unfair methods of competition were enjoined or damages procured through individual actions in the courts; a person claiming monetary damages as a result of another's passing off" merchandise by simulation or misrepresentation, sought relief in a private action. After passage of the act additional relief was afforded the injured competitor, who could avail himself of the authority vested in the Federal Trade Commission under this organic act.



The Federal Trade Commission act supplements the Sherman Antitrust Act. The Sherman Act, the antitrust measure, commands business to compete and compels free competition, while the Federal Trade Commission act commands business to compete fairly, and compels that form of fair competition without which there can be no free competition.

### **FUNCTION OF TRADE COMMISSION ACT**

The trade commission act is aimed not at persons but at methods. Its function is remedial, not punitive, as no authority is vested in the commission to impose penalties. Its object is to protect the public, not to punish the offender. Its final function is an order to cease and desist. This carries no penalty but if the respondent to whom it is directed does not comply, then the commission has the right to petition the Federal courts for enforcement.

The important provision of the Federal Trade Commission act is that "unfair methods of competition in commerce are hereby declared unlawful." These words are the very essence of the act.

Discretion is given the commission in determining in the first instance what is or what is not an unfair method of competition in accordance with the practices, usages, and customs peculiar to a particular industry or business. The act provides that the findings of the commission as to the facts in any case, if supported by testimony shall be conclusive, but such decisions of the commission, as set orth in its findings and orders, are subject on appeal to review by the United States circuit courts of appeals.

A complete list of various types of unfair competition that come before the commission may be seen on page 88.

In section 6 of the act the commission is given power "to gather and compile the 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."

The Clayton Act (approved October 15, 1914) is a part of the antitrust laws. It does not amend the Sherman Act, but supplements it. The sections assigned to the commission for administration are those relating to (sec. 2) price discrimination, (sec. 3) tying and exclusive contracts, (sec. 7) acquisitions of stock in a competing company, and (sec. 8) interlocking directorates. The remaining sections Justice, Interstate are in the jurisdiction of the Department of Justice, Interstate Commerce Commission, and the Federal Reserve Board.

The export trade act (Webb-Pomerene law), enacted in April, 1918, "to promote export trade," offers exemption from antitrust laws to an association "entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade."

### **HOW THE COMMISSION IS ORGANIZED**

The commission is organized into the following general divisions:

Administrative, legal, and economic.

The administrative division, as its name indicates, is charged with the administration of duties pertaining to personnel, supplies, and equipment, to the service, of complaints, and execution of orders, and official actions.

The economic division makes scientific investigations concerning trends in national business life, ascertaining and interpreting facts relating to the organization, conduct, and results of commercial enterprises. The division is special charged with conducting investigations directed President. by the Senate, House of Representatives, or the President.

The legal division is charged with legal investigation of unfair methods of competition, and with trial of cases. For convenience of procedure the legal division is subdivided into independent agencies, which are also commonly called divisions. They are: The legal examining division, charged with legal investigation of alleged violations of the Federal Trade Commission and Clayton Acts; the boards of review, which review these legal investigations and recommend to the commission the disposition of the issues involved; the chief counsel's division, which conducts the prosecution of complaints and subsequent enforcement proceedings in the courts ; and the trial examiner's division, charged with presiding at the taking of testimony on the issues and making report upon the facts to the commission, on which report the matter is finally determined.

The trial examiner's division is further charged with the stipulation of certain informal cases under agreement with respondents that they will forever cease and desist from the allege un air practices, as set forth in such stipulations. This procedure is steadily increasing in scope and practice.

A special board of investigation was recently created to make investigations, and hold informal hearings prior to issuance of complaint in cases of false and misleading advertising.

The trade practice conference division conducts preliminary inquiries to determine the feasibility of holding a conference for a given industry. When a conference is authorized by the commission it is arranged by this division, and conducted by a commissioner.

### **SELF-REGULATION IS ENCOURAGED**

At a conference held with members or representatives of an entire industry who desire to eliminate unfair methods of competition, rules of business practice are adopted by the industry and submitted to the commission for action. Those rules applying to violations of the Federal Trade Commission act are affirmatively approved by the commission. There after the members of the industry sign an agreement binding themselves to abide by the rules. Thus a large number of potential complaints of unfair competition are disposed of at a time.

Both the trade-practice conference and the stipulation procedures have evolved since creation of the commission in combating unfair methods of competition. It is the policy of the commission to encourage self-regulation of business and industry

wherever consistently possible and the trade-practice conference is one of its most effective agents in this endeavor.

The Federal Trade Commission is neither an executive nor a judicial department of the Government, but is an independent establishment; that is, not under supervision or control of a cabinet officer. The control is lodged in five commissioners appointed by the President, confirmed by the Senate. The law, in order to make this agency nonpolitical and bipartisan, further provides that not more than three members shall belong to the same political party.

Personnel of the commission at the close of the recent fiscal year included the five commissioners and 375 employees, with a total pay roll of \$1,141,580, which included \$50,000 for salaries of the commissioners. Of the 375 employees, 183 were at work in administrative and clerical positions while there were 89 attorneys, 40 economists, and 63 accountants. The total number of women employed was 118.

The commission's principal offices are situated at 2000 D Street NW., in one of the temporary Government Buildings erected in Washington during the World War. Provision has been made to house the commission in the magnificent Independent Offices Building to be built as a part of the new Government project on the "triangle." Branch offices of the commission are maintained in New York, Chicago, San Francisco, and Seattle.

The present commission is composed of the following members: Messrs. Edgar A. McCulloch, of Arkansas, chairman; G. S. Ferguson, jr., of North Carolina; C. W. Hunt, of Iowa; William E. Humphrey, of Washington; and Charles H. March, of Minnesota.

The complete list of all commissioners who have served the coin-mission since its organization in 1915 is as follows:

#### FEDERAL TRADE COMMISSIONER--PAST AND PRESENT

Name	State from which appointed	Period of service
Joseph E Davies	Wisconsin	Mar. 16, 1915-Mar. 18, 1918.
William J. Harris	Georgia	Mar. 16, 1915-May 31, 1918.
Edward N. Hurley	Illinois	Mar.16, 1915-Jan. 31, 1917.
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, 1920-Feb. 24, 1925.
John Garland Pollard	Virginia	Mar. 6, 1925-Sept. 25,1921.
John F. Nugent	Idaho	Jan.15, 1921-Sept. 25, 1927
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926.
C. W. Hunt	Iowa	June 16, 1924.
William E Humphrey	Washington	Feb.25, 1925.
Abram F. Myers	Iowa	Aug. 2, 1926-Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb.11, 1927.
G. S. Ferguson, Jr	North Carolina	Nov.14, 1927.
Charles H. March	Minnesota	Feb. 1, 1929.



## **DESCRIPTION OF PROCEDURE**

A case before the Federal Trade Commission may originate in several ways .

The most common origin is through application for Complaint on the part of a competitor or from other public sources. Another way in which a case may begin is by direction of the commission.

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

When such an application is received, the commission, through its chief examiner, considers the essential jurisdictional elements. Is the practice complained of being carried on in interstate commerce? Does it come under jurisdiction of the Federal Trade Commission Act prohibiting unfair methods of competition?<sup>1</sup> Would the prosecution of a complaint in this instance be in the public interest?

It is essential that these three questions be capable of answer in the affirmative.

Frequently it is necessary to obtain additional data either by further correspondence or by a preliminary investigation before deciding whether to docket, an "application for issuance of complaint."

## **INTERVIEWING THE RESPONDENT**

Once an application is docketed it is assigned by the chief examiner to an examining attorney or a branch office of the commission for investigation. It is the duty of either to obtain all facts regarding the matter from both the applicant and the proposed respondent.

Without disclosing the name of the applicant, the examiner may interview the party complained against, advising of the charges and requesting submission of such evidence as is desired in defense or explanation.

After developing the facts from all available sources, the examining attorney summarizes the evidence in a final report, reviews the law applicable thereto, and makes a recommendation as to action.

The entire record is then reviewable by the chief examiner. If it appears to be complete, it is submitted with recommendation to one of the boards of review or to the commission for consideration.

If submitted to a board of review, all records, including statements made by witnesses interviewed by the examiners, are reviewed and passed on to the commission with a detailed summary of the facts developed, an opinion based on the facts and the law, and the board's recommendation.

<sup>1</sup> Types of unfair methods of competition encountered by the commission are listed on p.88.

The board may recommend: (1) Dismissal of the application for lack of evidence in support of the charge or on the grounds that the charge indicated does not Violate any law over which the commission has jurisdiction, or (2) dismissal of the application upon the signing by the proposed respondent of a stipulation of the facts and an agreement to cease and desist the unlawful practice charged, and (3) issuance of a complaint without further procedure.

Usually if the board believes that complaint should issue it grants the proposed respondent a hearing. Such hearing is informal, involving no taking of testimony.

### **COMPLAINT IS ISSUED**

The foregoing procedure is applied to all cases except those involving false and misleading advertising, the preliminary investigations of which are conducted by a special board of investigation recently installed for that purpose.

Up to the present point the procedure is informal and for the purpose of furnishing information to the commission. Nothing in regard to a case in the application stage is ever given out or made public. This is done for protection of the proposed respondent against whom a formal complaint has not been served.

In cases that have been stipulated prior to issuance of formal complaint the name of the respondent is not revealed although the commission issues a publicity release setting forth only the facts for the information of the public and benefit of the industry involved.

Only after most careful scrutiny does the commission issue a complaint. Unlike the preliminary inquiries and application for complaint, which are informal, the complaint and the answer of respondent thereto are a public record.

A complaint is issued in the name of the commission in the public interest. It names a respondent and charges a violation of law, with a statement of the charges. The party first complaining to the commission is not a party to the complaint when issued by the commission; nor does the complaint seek to adjust matters between parties. It is to unfair methods of competition for the protection of the to prevent public.

The commission's rules of practice and procedure provide he shall, that in case the respondent desires to contest the proceeding shall, within 30 days from service of the complaint, unless such time be extended by order of the com mission, file with the commission an answer to the complaint. The rules of practice also specify a form of answer for use should the respondent decide to waive hearing on the charges.

Failure to file an answer within the time specified "shall be deemed to be an admission of all allegations of the complaint and to authorize the commission to find them to be true and to waive hearing on the charges set forth in the complaint."

### **THE CASE GOES TO TRIAL**

In a contested case the matter is set down for taking of testimony before a trial examiner. This may occupy varying lengths of time according to the seriousness of the charge or the availability and number of witnesses to be examined. Hearings may be



held before

a commission trial examiner, who may sit in various parts of the country, the commission and the respondent each being represented by its own attorneys.

After the taking of testimony and the submission of evidence on behalf of the commission in support of the complaint, and on behalf of the respondent, the trial examiner prepares a report of the facts for the information of the commission, counsel for the commission, and counsel for the respondent. Exceptions to the trial examiner's report may be taken by either counsel for the commission or counsel for the respondent, and if no exceptions are filed the trial examiner's findings of fact are accepted by the commission as final

Within a stated time after receipt of the trial examiner's report briefs are filed and the case comes on for final argument before the full commission. Thereafter the commission reaches a decision either sustaining the charges of the complaint or dismissing the complaint.

If the complaint is sustained, the commission makes a report in which it states its findings as to the facts and conclusion that the law has been Violated, and thereupon an order is issued requiring the respondent to cease and desist from such practices.

If the complaint is dismissed, an order of dismissal is entered.

These orders are the final functions of the commission as far as its own procedure is concerned no direct penalty is attached to an order to cease and desist, but a respondent against whom it is directed is required within a specified time, usually 60 days, to report in writing the manner in which he is complying with the order. If he fails or neglects to obey an order while it is in effect, the commission may apply to a United States circuit court of appeals for enforcement. A respondent likewise may apply to such court of appeals for review of the commission's order and these proceedings may be carried by either party on certiorari to the Supreme Court of the United States for final determination.

### **CLAYTON ACT PROCEDURE**

The same procedure applies under the Clayton Act as under the Federal Trade Commission act. Preliminary investigations are frequently begun by the commission on its own initiative with reference to possible violations of section 7 of the Clayton Act This section prohibits acquisition of stock in a competing company when the effect may be to substantially lessen competition between the company obtaining the stock and the company disposing of it.

### **TRADE PRACTICE CONFERENCE PROCEDURE**

The trade practice conference procedure performs the same function as a formal complaint but in an entirely different manner. A complete description of this procedure may be found in the introduction to the report of the trade practice conference division on page 32.

### **EXPORT TRADE PROCEDURE**

Export trade associations formed under the export trade act to compete in foreign markets on an equal basis with foreign combines are granted exemption from the

antitrust laws as long as they

do not restrain trade in the domestic field. These associations file with the Federal Trade Commission copies of their organization papers and furnish other required information.

A full description of the procedure may be read on page 122.

#### **ECONOMIC DIVISION PROCEDURE**

Work of the division consists largely in ascertaining and interpreting facts relating to the organization, conduct, and results of commercial enterprises, and in recommending constructive or remedial legislative action.

## **PUBLICATIONS OF THE COMMISSION**

Leading the list of recent Federal Trade Commission publications is the pamphlet Trade Practice Conferences, July 1, 1929,<sup>1</sup> containing the rules of business practice adopted by industries at 56 conferences. There is also a brief journal of each conference.

Publications of the commission, reflecting the character and scope of the commission's work, vary in content and treatment from year to year, especially those documents covering general business inquiries. These reports are sometimes printed as commission publications and often as Senate or House documents, depending on which division of Congress directed the investigations from which they resulted or whether these inquiries were made at the instance of the commission itself.

During the fiscal year there were printed comprehensive reports on Open Price Trade Associations, and a preliminary volume devoted to the survey of resale-price maintenance, as well as the monthly reports of testimony taken in the investigation of power and gas utilities.

These studies are illustrated by appropriate charts, tables, and statistics. They deal not only with current developments in an industry but contain a wealth of scientific and historical background that proves valuable not only to members of the industry under consideration but to the student and the writer.

Other important reports on phases of business in the last few Years include expositions of the national wealth and income, of investments and profits in the mining of soft coal, of the fertilizer industry, house furnishings industries, meat-packing industry, milk and milk products, radio industry, prices of tobacco, products, shoe and leather costs and prices, cooperative marketing, petroleum industry, and the bread and flour industry, to mention only a few.

Among publications of the last few years for which there has been large demand are: Radio Industry, 1923; Cooperation in Foreign Countries, 1925; Fertilizer Industry, 1923; Grain Reports, 1920--1926; National Wealth and Income, 1926; Control of Power Companies, 1927; Bakery Combines and Profits, 1927; Competition in the Electric Supply Industry, 1928; Cooperative Marketing, 1928; Open Price Trade Associations, 1929; and Trade Practice Conferences 1929.

Reprints were called for in the printings of the electric power, grain, and fertilizer reports, while the supply of pamphlets on trade-practice conferences has to be continually renewed. Numerous requests have already been received for publications concerning inquiries not yet completed, such as those on resale-price maintenance, price bases, and chain stores.

<sup>1</sup> This booklet may be obtained from the Superintendent of Documents, Washington, D.C.



The findings and orders of the Commission as published contain a mass of interesting material regarding business and industry. Written with legal exactitude they tell, case by case, the story of unfair Competition in interstate commerce and of the efforts put forth by the Commission to correct and eliminate it.

Some idea of the demand for the commission's publications may be seen in the fact that in the fiscal year ending June 30, 1928, a total of 13,960 documents published by the commission were sold by the Government Superintendent of Documents at a total price of \$1,700. The amounts for the last fiscal year are not yet available.

Wide discretion in issuing publications is given the Commission by law. The statute says the commission shall have power--

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

A complete list of the commission's publications issued during the fiscal year may be found on pages 138-139.

Many commission publications are out of print while others are obtainable only by purchase from the Superintendent of Documents, Washington.

The complete list of publications is as follows:

Acts from which the commission derives its powers, with annotations, February, 1922; American Flags, Prices of, July 26, 1917; Annual Reports, 1915-1929.

Bakery Combines and Profits, February 9, 1927; Beet Sugar Industry, May 24, 1917; Book Paper Industry, August 15, 1917.

Calcium Arsenate Industry, March 3, 1923; Canned Foods, 1918, November 21, 1921; Canned Salmon, December 27, 1918; Canned Vegetables and Fruits, May 15, 1918.

Coal-Anthracite and Bituminous, June 20, 1917; No. 1 (Pennsylvania-Bituminous), June 30, 1919; No. 2 (Pennsylvania-Anthracite), June 30, 1919; No. 3 (Illinois--Bituminous), June 30, 1919; No. 4 (Alabama, Tennessee, and Kentucky-Bituminous), June 30, 1919; No. 5 (Ohio, Indiana, and Michigan Bituminous), June 30, 1919; No. 6 (Maryland, Virginia, and West Virginia-Bituminous), June 30, 1919; No. 7 (Trans-Mississippi--Bituminous) June 30, 1919; Investment and Profits in Soft Coal Mining, May 31, 1922; Premium Prices of Anthracite, July 6, 1925.

Combed Cotton Yarns, April 14, 1921; Commercial Feeds, March 29, 1921; Commercial Wheat Flour Milling, September 15, 1920; Competition and Profits in Bread and Flour, January 11, 1928; Cooperation in American. Export Trade, Parts 1 and 2, June 30, 1916; Cooperation In Foreign Countries, December 2, 1924; Cooperative Marketing, May 2, 1928; Copper, Cost of Production, June 30, 1919; Cottonseed Industry, March 5, 1928; Cotton Trade, Preliminary, February 26, 1923; Parts 1 and 2, April 28, 1924; Cotton Merchandising Practices, June 7, 1924 and Commercial Bribery, March 18, 1920.

Decisions, volume 1 (1915--1919); volume 2 (1919-20); volume 3 (1920-21); volume 4 (1921-22); volume 5 (1922-23); volume 6 (1923); volume 7 (1924); volume 8 (1924-25); volume 9 (March, 1925--November, 1925); and volume 10 (November, 1925-November, 1926)

Electric Power Industry-Control of Power Companies, February 22, 1927; Supply of Electrical Equipment and Competitive Conditions, January 12, 1928; Empire Cotton Growing Corporation, January 27, 1925; Export Grain, volume 1, May 16, 1922; volume 2, June 18, 1923.

Farm Implements, Causes of High Prices of May 4, 1920; Fertilizer Industry, August 19, 1916; March 3, 1923; Flour Milling--Competitive Conditions in, May 3, 1926 Flour Milling and Jobbing, April 4, 1918; Foreign Trade Series, No. 1, 1919; Functions of Federal Trade Commission, July 1, 1922;

Fundamentals of a Cost System for Manufacturers, July, 1916.



Gasoline, Price of, in 1915, April 11, 1917; Grain Trade, volume 1 (Country Grain Marketing), September 15, 1920; volume 2 (Terminal Grain Markets), September 15, 1920; volume 3 (Terminal Grain Marketing), December 21, 1921; volume 4 (Middlemen's Profits), September 26, 1923; volume 5 (Future Trading Operations), September 15, 1920; volume 6 (Prices of Grain and Grain Futures), September 10, 1924; volume 7 (Effects of Future Trading), June 25, 1926; Guarantee Against Price Decline, May 27, 1920.

High Cost of Living, April 30-May 1, 1917; House Furnishings, volume 1, (Household Furniture), January 17, 1923; volume 2 (Stoves), October 11, 1923; volume 3 (Kitchen Equipment and Domestic Appliances), October 6, 1924

Index Digest of Decisions, volumes 1, 2, and 3.

Leather and Shoe Industries, August 21, 1919; Lumber-Southern Pine Companies, May 1, 1922; Lumber Manufacturers' Trade Associations, March 29, 1922.

Meat Packing Industry, Maximum Profit Limitations on, September 25, 1919; Summary and Part 1, June 24, 1919; Part 2, November 25, 1918; Part 3, June 28, 1919; Part 4, June 30, 1919; Part 5, June 28, 1919; Part 6, December, 1919; Milk and Milk Products, June 6, 1921.

National Wealth and Income, May 25, 1926; Newsprint Paper Industry, June 13, 1917; Northern Hemlock and Hardwood Manufacturers, May 7, 1923.

Open-Price Trade Associations, February 13, 1929.

Packers' Consent Decree, December 8, 1924; Petroleum Industry, Foreign Ownership in, February 12, 1923; Pacific Coast, Part 1, April 7, 1921; Part 2, November 28, 1921; Prices, Profits, and Competition, December 12, 1927; Petroleum Industry of Wyoming, January 3, 1921; Petroleum Panhandle Crude, February 3, 1928; Petroleum, Pipe Line Transportation of, February 28, 1916; Petroleum Products, Advance in Prices of, June 1, 1920; Petroleum Trade in Wyoming and Montana, July 13, 1922; Price Associations, Letter to President, 1921; Private Car Lines, June 27, 1919; Profiteering, June 29, 1918.

Radio Industry, December 1, 1923; Resale Price Maintenance, June 30, 1919; January 30, 1929 (Part I); Rules of Practice, with amendments, February 1, 1924; Rules of Practice and Procedure, June 30, 1927; January 1, 1928; October 1, 1928; October 15, 1929.

Shoe and Leather Costs and Prices, June 10, 1921; Southern Livestock Prices, February 2, 1920; Steel-Pittsburgh Basing Point for, October 15, 1919; Steel-War-Time Costs and Profits, February 18, 1925; Stock Dividends, December 5, 1927; Sugar Supply and Prices, November 15, 1920; System of Accounts for Retail Merchants, July, 1916.

Taxation and Tax Exempt Income, June 6, 1924; Tobacco Industry, December 11, 1920; Tobacco-Prices of Tobacco Products, January 17, 1922; Tobacco-Report on American Tobacco Co. and Imperial Tobacco Co. (S. Doc. 34), December 23, 1925; Trade Marks, Patents, Etc.; Extracts from the Trading with the Enemy Act and Executive Order of October 12, 1917; Trade Practice Submittals, July 1, 1925; Trade Practice Conferences, September 15, 1927; March 15, 1928; July 1, 1929; Trade and Tariffs in South American Countries, June 30, 1916; Trust Laws and Unfair Competition, March 15, 1915.

Uniform Contracts and Cost Accounting Definitions, July, 1917; Utility Corporations (testimony), 16 volumes, March 15, 1928, to July 15, 1929.

Western Red Cedar Association, January 24, 1923; Wheat Flour Milling Industry, May 18, 1924; Wheat Prices for 1920 Crop, December 13, 1920; Wholesale Marketing of Food, June 30, 1919; and Woolen Rag Trade, June 30, 1919.

## **PART II. DIVISIONAL REPORTS**

UTILITIES INVESTIGATION

TRADE PRACTICE CONFERENCES

SPECIAL BOARD OF INVESTIGATION

CHIEF EXAMINER'S DIVISION

TRIAL EXAMINERS' DIVISION

ECONOMIC DIVISION

CHIEF COUNSEL

COURT CASES

SUMMARY OF LEGAL WORK

EXPORT TRADE SECTION

BOARDS OF REVIEW

ADMINISTRATIVE DIVISION

## PUBLIC-UTILITIES INVESTIGATION <sup>1</sup>

By resolution of the United States Senate adopted February 15, 1928 (S. Res. 83, 70th Cong., 1st sess.), the commission was directed to investigate and report the facts concerning certain phases of, and alleged Conditions in, the production and interstate transmission of electrical energy and of artificial and natural gas. The resolution directed that public hearings be held, that a stenographic record of the evidence be taken, and that a report, accompanied by the stenographic record, be made to the Senate each 30 days on the progress of the inquiry. The text of the resolution is as follows:

*Resolved*, That the Federal Trade Commission is hereby directed to inquire into and report to the Senate, by filing with the Secretary thereof, within each thirty days after the passage of this resolution and finally on the completion of the investigation (any such inquiry before the commission to be open to the public and due notice of the time and place of all hearings to be given by the commission, and the stenographic report of the evidence taken by the commission to accompany the partial and final reports) upon (1) the growth of the capital assets and capital liabilities of public-utility corporations doing an interstate or international business supplying either electrical energy In the form of power or light or both, however produced, or gas, natural or artificial, of corporations holding the stocks of two or more public-utility corporations operating in different States, and of nonpublic-utility corporations owned or controlled by such holding companies; (2) the method of issuing, the price realized or value received, the commissions or bonuses paid or received, and other pertinent facts with respect to the various security issues of all classes of corporations herein named, including the bonds and other evidences of indebtedness thereof, as well as the stocks of the same; (3) the extent to which such holding companies or their stockholders control or are financially interested in financial, engineering, construction, and/or management corporations, and the relation, one to the other, of the classes of corporations last named, the holding companies, and the public-utility corporations; (4) the services furnished to such public-utility corporations by such holding companies and/or their associated, affiliated, and/or subsidiary companies, the fees, commissions, bonuses, or other charges made therefor, and the earnings and expenses of such holding companies and their associated, affiliated, and/or subsidiary companies; and (5) the value or detriment to the public of such holding companies owning the stock or otherwise controlling such public-utility corporations immediately or remotely, with the extent of such ownership or control, and particularly what legislation, if any, should be enacted by Congress to correct any abuses that may exist in the organization or operation of such holding companies.

The commission is further empowered to inquire and report whether, and to what extent, such corporations, or any of the officers thereof, or any one In their behalf, or in behalf of any organization of which any such corporation may be a member, through the expenditure of money, or through the control of the avenues of publicity, have made any and what effort to influence or control public opinion on account of municipal or public ownership of the means by which power is developed and electrical energy is generated and distributed, or since 1923 to influence or control elections: Provided, That the elections herein referred to shall be limited to the elections of President, Vice President, and Members of the United States Senate.

<sup>1</sup> Further reference to the public-utilities investigation may be seen on p. 66 under Economic Division and on p. 108, Electric Bond & Share Co.



The commission is hereby further directed to report particularly whether any of the practices heretofore in this resolution stated tend to create a monopoly, or constitute violation of the Federal antitrust laws.

The commission designated one of its members to preside at the public hearings and its chief counsel to conduct the examination of all witnesses. The chief counsel and the chief economist were directed to cooperate in the investigation, the former to have charge of the investigation of the so-called propaganda activities of the industry, and the latter to supervise the investigation of its financial structure and relationships.

The resolution of the commission accepting the assignment, and invoking the powers of its own organic act in aid thereof is as follows :

Whereas the Senate of the United States has by a resolution agreed to on February 15, 1928 (S. Res. 83, 70th Cong., 1st sess.), directed the Federal Trade Commission to make an inquiry into certain practices and conditions relating to specified classes of public-utility corporations and corporations connected therewith: Now, therefore, be it

*Resolved*, That an inquiry shall be undertaken immediately by the commission in strict and full compliance with the terms of the said resolution and that in the prosecution of said inquiry the commission shall rely on and employ the powers conferred on it to make investigations at the discretion of either House of Congress, and any and all powers conferred upon it by law to conduct inquiries on its own initiative or otherwise and any other powers legally available to it, whether contained in its organic act or elsewhere, which may conduce to a diligent and complete performance of the end and purposes set forth in said resolution.

Monthly reports of progress have been made to the Senate through out the fiscal year just closed, accompanied by a complete stenographic transcript of the testimony and a descriptive list of 41 exhibits introduced. Most of the evidence put into the record thus far relates to the methods used by public utilities to influence public opinion on the subject of Government or municipal ownership and/or operation. During the fiscal year this phase of the inquiry was practically completed, so far as the joint cooperative activities of the industry are concerned. The separate activities of individual companies on the same subject will be presented in connection with the evidence relating to the financial structure of the various groups of which these companies are a part.

The last two months of the year were marked by the presentation of evidence that public utilities or persons closely identified with them have acquired substantial ownership interests in newspaper's in various sections of the country.

#### **ELECTRIC BOND & SHARE CO. CASE**

Several of the public hearings were devoted to laying the foundation for an application to the Federal court for the southern district of New York to require the Electric Bond & Share Co. (one of the largest holding companies) to submit its operating-expense ledgers for inspection by the commission's examiners as necessary to comply with Senate's direction (to ascertain and report on the financial structure) and to require its officers and employees to give testimony on various subjects. The extra and special work resulting from the refusal of the Electric Bond & Share Co. to submit these records for

analysis occupied the entire time of several members of the legal staff, as well as a large part of the time of some of the economic staff, from mid-October to nearly the middle of January. During this period no hearings were held on the so-called propaganda phases of the inquiry.

The application was resisted by the Electric Bond & Share Co. It was argued before Judge Knox February 15, 1929, and the argument was followed by the filing of briefs and a written offer of proof. The grounds on which the application was opposed by the Electric Bond & Share Co. were as follows:

1. That the subpoenas were void and without authority of law and beyond the power of the commission to issue, and that the witnesses were not required to testify before the commission because neither the witnesses nor the Electric Bond & Share Co. are engaged in "commerce" as defined in the Constitution of the United States or the Federal Trade Commission act.

2. That the pending investigation, so far as the same may be within the powers and jurisdiction of the commission, was being conducted under section 6 (a) of the Federal Trade Commission act, and not under section 5 or other sections of said act, and the commission has no jurisdiction or authority to issue subpoenas in this investigation.

3. That the subpoena duces tecum is void and of no effect in that it is, in substance, a general warrant for "unreasonable searches and seizure of papers and effects without probable cause," and constitutes a deprivation of property without due process of law all in violation of the fourth and fifth amendments to the Federal Constitution.

Shortly after the close of the fiscal year Judge Knox handed down his decision. For the purposes of his decision he assumed that the company was engaged in interstate commerce, thus denying the validity of the first ground of opposition as above stated. The court stated that if the company were not satisfied with that assumption testimony would have to be taken before a master.

The court also held that the commission has the power of subpoena in a general investigation as distinguished from an adversary proceeding, thus declining to accept the second contention of the company as above set forth. This phase of the decision is noteworthy in that the court specifically declined to follow an opinion of the Supreme Court of the District of Columbia to the effect that the commission has no subpoena power in general investigations but only in adversary proceedings. The court held further that the witnesses must appear and answer pertinent inquiries.

As to the third ground of the company's opposition, however, the court was of the opinion that the commission had not yet established probable cause to believe that the books and papers called for by subpoena duces tecum contained evidence relevant and material to the inquiry.

#### **AMENDMENT OF ORGANIC ACT SUGGESTED**

A suitable amendment of the commission's organic act would remove much of the difficulty the commission has encountered in

carrying on investigations at the direction of either House of Congress. Under the present terms of the act the commission is empowered, upon direction of the President or either House of Congress, to investigate and report the facts relating to alleged violations of the antitrust acts by any corporation. Both Houses of Congress have long held and exercised with judicial sanction the auxiliary power of investigation in aid of legislation, including the power to subpoena witnesses and compel the production of books and papers.

A specific delegation of such power, limited to the general scope of matters now committee to the commission by its Organic act and to be exercised only upon the direction of either House of Congress, would greatly facilitate the work of the commission in conducting the general business inquiries which have been frequently directed by either the Senate or House of Representatives. Senate Resolution No.83, in some of its phases, is such an inquiry and specifically calls for recommendations as to needed legislation.

When the summer recess was taken June 27 1929, a total of 77 witnesses had been examined since the preceding summer recess, 4,448 typewritten pages of testimony had been taken and 819 exhibits introduced. Since the opening of the hearings in March, 1928, 148 witnesses have been interrogated, 8,118 typewritten pages of testimony taken, and 4,489 exhibits introduced, many of these consisting of numerous items.

## **TRADE-PRACTICE CONFERENCE DIVISION**

Thirty-one trade-practice conferences were held during the fiscal year 1928-29 by that many different industries which sought this method of eliminating various unfair methods of competition and destructive trade practices. This is the greatest number on record in any one year of the movement which began in 1919 and is an increase of more than 100 per cent over the year 1927-28.

Accordingly, the trade-practice conference staff of the commission recently has been enlarged in order that work may be expedited.

Conferences held during the year covered a wide variety of industries, the largest meetings being those for the grocery, petroleum, jewelry, plumbing and heating, scrap iron, and fertilizer industries. They were national in point of both production and distribution of the respective industries. Others, like the cheese-assemblers and cottonseed-oil conferences, were national in point of distribution although actual production was carried on in but a few States.

Rules of business practice adopted by the 31 industries and as acted upon by the commission are recorded, briefly, because of space limitations, beginning on page 34 of this report.

A more complete account of each conference containing full text of all rules acted on by the commission not only in the last fiscal year, but since inception of the trade-practice conference movement, may be seen in the publication, Trade Practice Conferences, July 1, 1929, now available at the office of the Superintendent of Documents, Washington.<sup>1</sup> Reports of all later conferences and actions thereon may be had upon request of the commission.

Work of the trade-practice conference division increased steadily from its organization in 1926. The yearly average since then has been 16, compared to two and three for the seven years preceding the establishment of this division the function of which is to feature and give specialized direction to such conferences.

A striking contrast to this rather sparse record of the earlier days may be cited in the fact that seven conferences were held in May and eight in June, 1929.

## **FACTORS MAKING FOR SUCCESS OF CONFERENCES**

Among factors which account for the success of this work are an increasing understanding of the trade-practice conference on the part of American business men, the benefits derived, the economies effected, and the substitution where feasible of a cooperative attitude in lieu of the use of the compulsory process of the commission.

The press generally and trade publications in particular generously devoted space to the creation of the division of trade practice-conferences, its announced objects, purposes, and possibilities. These causes forecast the development of a cooperative attitude in

<sup>1</sup> A complete tabulation of conferences held during the fiscal year and since July 1, 1929, may be seen in Exhibit 7, p. 166.





the relationship between Government and industry in a new method of keeping the interstate channels of distribution clear of undue restraints and other illegal obstructions. Here, at last, was a means by which industry could make its own rules of business conduct and have their legality officially reviewed or sanctioned. Burdensome unfair practices and bad business methods could now be eliminated through voluntary action instead of by prosecution.

The appeal was strong. California made the trade practice conference rules applicable to produce exchanges enforceable in that State. Similar movements seem to have been at least started in other States. The Chamber of Commerce of the United States initiated its trade-relations work in obedience to a resolution unanimously adopted May 5, 1927, at the suggestion of the then chairman of its board of directors, who, in addressing the chamber at its annual meeting of that year, strongly indorsed the Federal Trade Commission's trade practice conference program, and the Chamber of Commerce of the United States, through its trade-relations work started for this purpose, has since given unquestionable aid.

The trade press of the country, ever since creation of the division of trade-practice conferences, has been of increasing assistance in keeping business communities informed of the movement's progress. Trade associations in many industries have also been helpful in this connection. The procedure's most ardent supporters during its development have been and are the members of industries for which' trade-practice conferences have been held and who have benefited thereby through elimination of unfair trade practices.

The trade-practice conference procedure not only provides a means for expediting the work of the commission, thereby effecting a tremendous saving in the public funds, but, through the elimination of unfair methods of competition on a large scale, saves industry in general many hundreds of thousands of dollars annually and years of litigation; and more important is the benefit which the public receives by this quicker and more positive action in the elimination of practices which are detrimental to the public interest.

### **MONETARY VALUE OF TRADE CONFERENCE WORK**

The value of the trade-practice conference to various industries both morally and financially is vouched for by representatives of industries involved who have generously replied to queries sent out by the commission on this subject.

"Any estimate of the monetary value to the petroleum industry from elimination of unfair and uneconomic practices resulting from the trade-practice conference must be more or less of a guess," declares the secretary of a petroleum trade association, and his declaration is typical of all replies received. But this same secretary continues--

Taking the United States as a whole, I would say there is an annual saving of \$75,000,000 to \$100,000,000.

A branch of the grocery industry refers to the savings effected as a result of that industry's trade-practice conference, as follows:

It will run into millions. The moral value is cumulative and is beyond translation into monetary

estimate.

From the steel-furniture industry comes the following:

Adoption of Group I trade-practice rules should mean an increase of two millions a year through elimination of ruinous discriminatory price cutting.

Adoption of Group II rules should save the industry at least another million.

The waxed-paper trade likewise believes that--

While this procedure is relatively new to the industry it is now conservatively estimated that the net return to the industry is about \$150,000 per annum.

It is believed that this figure will endure an increase by diligent compliance with the trade-practice rules by all manufacturers.

The industry acknowledges its indebtedness to the Federal Trade Commission and feels that the procedure has been well worth the effort expended thereon.

Other industries express themselves regarding the value of their trade practice conferences as follows:

We can note a decided improvement in customer relations, due to the fact that price discrimination is practically done away with.

We consider our trade-practice conference to have been of incalculable value \* \* \*.

*Woodworking Machinery Industry.*

It is not possible to translate benefits into terms of money, but it is safe to say it (the trade-practice conference) has been worth hundreds of thousands of dollars.

*Creamery Industry.*

We can not practically estimate savings from elimination of unfair practices condemned by the grocery conference. We can only say it will be large.

*Grocery Industry.*

Monetary value to our members has been almost inestimable. Commercial bribery and unethical trade practices are now greatly reduced, and business is on a higher and more substantial plane.

*Insecticide and Disinfectant Industry.*

That thousands of dollars have been saved to the shirting fabrics industry as a result of the trade-practice conference rules eliminating unfair and uneconomic practices can not be disputed.

We believe this work on the part of the Federal Trade Commission to be the most constructive ever undertaken in this market, and it has the enthusiastic indorsement of our industry.

From a psychological point of view, the trade practice conference has achieved a salutary result during the last few months.

*Scrap Iron and Steel Industry.*

For this industry at least, there is no basis whatever upon which to arrive at even an approximate estimate in terms of dollars. Nevertheless the entire industry is satisfied as to the wisdom of having had the conference. \* \* \*

*Paint, Varnish & Lacquer Industry.*

Elimination of fraud against the public will be the outstanding result from enforcing the conference resolutions.

*Spice Grinders and Packers.*

### TRADE PRACTICE CONFERENCE PROCEDURE

For the information of those previously unfamiliar with the system, it may be noted that the trade practice conference affords a means through which representatives of an industry voluntarily assemble under auspices of the commission to consider unfair practices in their industry and collectively agree upon and provide for their abandonment in cooperation with and with the support of the commission.

It is a procedure whereby business or industry may take the initiative in establishing self-government through making its own

rules of business conduct, resembling, in a sense, its own "law merchant," subject, of course, to sanction or acceptance by the commission.

The procedure deals with an industry as a unit. It is concerned solely with practices and methods not with individual offenders.

It regards the industry as occupying a position comparable to that "friend of the court" and not as that of the accused. It tends to wipe out on a given date all unfair methods condemned at the conference and thus places all competitors on an equally fair competitive basis. It performs the same function as a formal complaint without bringing charges, prosecuting trials, or employing a compulsory process, but multiplies results by as many times as there are members in the industry who formerly practiced the methods condemned and voluntarily abandoned. Mere attendance at a conference or actual participation in the deliberations thereat should not be taken as indication that any firm or individual thus participating has indulged in the practices condemned at such conference.

The procedure is as follows:

When a trade-practice conference is applied for, a preliminary inquiry is made by the trade practice conference division; the result of which serves as a basis for determining whether the practices or methods used are unfair to competitors or against the public interest and whether the interest of the public is best served by calling a trade-practice conference for the particular industry. The commission is then advised as to the facts and the law and is given a recommendation as to the action to be taken with reference thereto. If the commission determines on a trade-practice conference, the industry is assembled at a place and time specified.

Such a conference may be called on the application of a representative group in an industry, such as a trade association. In every case the consensus of opinion of the entire industry is sought, and if a desire for such a conference is shown on the part of a sufficiently representative number the entire industry is invited to assemble at a time and place designated by the commission. A commissioner of the Federal Trade Commission presides, but in order to give the widest possible range to the discussion of practices which may be proposed and to preserve the voluntary character of the conference those present are encouraged to organize by electing their own secretary for the conference.

After the industry is examined and freely discussed practices or methods, elimination of which would be beneficial and fair to all in the industry and to the public, resolutions are framed which, in the judgment of its representatives, are workable, and they are separately voted on. Proceedings of the conference are then reported to the commission through the division of trade-practice conferences and, after consideration, such resolutions as are accepted and affirmatively approved by the commission become the rules of business conduct for that industry on the subjects covered. Should any be considered as against the public interest, they would be rejected.

The procedure is predicated on the theory that the primary interest of the Federal Trade Commission is the interest of the public. The public is entitled to the benefits

which flow from competition, and each competitor is entitled to fair competition. The legitimate interests of business are in perfect harmony with the true interest

of the public. That which injures one undoubtedly injures the other, and the commission, in the trade practice conference procedure, provides a medium through which, in appropriate situations, the interests of both may be mutually protected in matters of competitive practices. It also offers, in the conferences, a common ground upon which competitors can meet, lay aside personal charges, jealousies, and misunderstandings, freely discuss practices of an unfair or harmful nature, or otherwise not in the public interest, reach a basis of mutual understanding and confidence, and provide for the abandonment of such practices (into which they often drift unwillingly and without wrongful intent), to the mutual advantage of all and to the protection of the public.

### **SUMMARY OF TRADE-PRACTICE CONFERENCES**

Trade-practice conferences held during the fiscal year 1928-29 are summarized briefly as follows:

#### **BARN EQUIPMENT INDUSTRY**

Conference held May 1, 1929, in Chicago, Commissioner Ferguson presiding, assisted by Director Flannery. R. H. Klumb elected secretary of the conference.  
Commission's statement of action on rules released July 11, 1929

Of the 11 rules of business practice adopted by the barn-equipment industry 6 were affirmatively approved and placed in Group I, indicating that they related to practices having to do with possible violations of law, while the remaining 5 rules, designated Group II were accepted as expressions of the trade.

Former resolution 9, as adopted, was stricken out by the commission. The resolution, as adopted, read:

The barn-equipment industry hereby records its approval of the practice of each producer distributing to the entire industry current price lists which shall include the terms of sale and all subsequent changes when made.

Practices covered by Group I rules include: Inducing breach of contract; fraud and misrepresentation; secret rebates; price discrimination (selling prices); defamation of competitors; adherence to published prices.

Group II rules cover such subjects as price discrimination (freight and drayage); employment; definition of a "qualified distributor"; arbitration and blanket contracts.

Thirteen barn-equipment companies of Middle Western States were represented by delegates at the conference.

#### **BEAUTY AND BARBER SUPPLY DEALERS**

Conference held December 14, 1928, In Chicago, under direction of Commissioner Ferguson, and March 8, 1929, in New York, with commissioner March presiding.  
Commission's statement of action on rules released October 30, 1929.

Thirteen rules, of business practice adopted by the industry were acted on by the commission. Those applying to unfair methods, of competition and affirmatively approved by the commission (Group

I) are divided into groups of "Rules on behalf of jobbers" and "Rules on behalf of manufacturers."

Jobbers' rules cover such practices as interference with contract, secret rebates, unlawful discrimination in price selling below cost to injure a competitor, and substitution of products with intent to deceive purchasers.

One rule condemns the practice of "alleged barber and beauty supply houses" selling at and below cost, or even giving away without charge, merchandise containing specially denatured alcohol, to barbers and to so-called "cover-up" barber and beauty supply houses, on condition that they sign a receipt for a larger quantity of merchandise than actually received, "with the purpose in view of impressing the Federal Government that large quantities of alcohol are required for manufacturing purposes, and then diverting this alcohol to beverage purposes and relying for their profits on such illicit sale of alcohol."

Manufacturers' rules under Group I treat of such practices as false branding, secret rebates, and unlawful price discrimination as between purchasers of like amount and conditions in the same territory.

Rules accepted by the commission as expressions of the trade (Group II) are also divided into jobbers' and manufacturers' groups. The jobbers' rules apply to such subjects as definition of a qualified distributor of beauty and barber supplies, current price lists, and detail orders. Group II rules referring to the manufacturer cover definition of a qualified manufacturer of beauty and barber supplies, "free goods," and proper marking of electrical supplies or equipment by the manufacturer thereof.

One rule provides that--

Circulation by certain individual dealers and so-called distributors of broad-sides, listing nationally advertised articles which have established a well-known price at greatly reduced prices and purporting to be able to supply such articles at such prices and not being able to do so, is condemned by the industry.

#### **CHEESE ASSEMBLERS' INDUSTRY**

Conference held June 7, 1929, in Chicago, Chairman McCulloch presiding, assisted by Assistant Director McCorkle. John D Jones, Milwaukee, elected secretary of the conference.

Commission's statement of action on rules released July 31, 1929.

Between 75 and 80 per cent of the assembling branch of the cheese industry of the North Central States were present or represented.

Of the 7 rules of business practice adopted at the conference 5 were affirmatively approved and designated Group I, the other 2 accepted as expressions of the trade and marked Group II. Minor amendments were made by the commission.

The rules in Group I are directed against commercial bribery; failure to observe grading regulations; disparagement of a competitor; secret rebates through excess transportation charges, and unfair practices that tend to destroy buying and selling by grade.

Group II rules provide that each assembler shall require each individual cheese maker, factory operator, agent, or owner to furnish to the assembler a written guaranty that his product complies with Federal and State laws defining cheese; that a uniform form of guaranty be devised; that each assembler of cheese shall require that



cheese purchased shall be accurately identified in accordance with the law, and that no cheese assembler or purchaser shall accept cheese not contained in a clean, sanitary box or container.

#### **COTTONSEED-OIL MILLS INDUSTRY**

Conference held July 24, 1928, in Memphis, Commissioner McCulloch presiding, assisted by Director Flannery. George H. Bennett elected secretary of conference.  
Commission's statement of action on rules released October 8, 1928.

It was estimated on the basis of volume that approximately 95 per cent of the industry, covering 14 Southern States, was represented.

Group I rules, applicable to unfair methods of competition, related to discrimination in prices paid for cottonseed, and in prices charged for the products thereof, when the effect may be to substantially lessen competition or tend to create monopoly; the price paid for cottonseed or charged for the products thereof as a matter of individual judgment to be determined by each unit concerned; payments of commissions, bonuses, rebates, subsidies, confidential prices; sale of products not plainly and accurately described or branded in compliance with legal and trade definitions.

Rule 5, which was later reconsidered and on May 27, 1929, rescinded by the commission, formerly read as follows:

That the clandestine violation of any of said resolutions, those accepted by the Federal Trade Commission merely as expressions of the industry as well as those approved by said commission, shall be deemed unfair methods of competition.

Group II rules, accepted as expressions of the trade, related to proper carrying out of contracts; postdating or predating contracts or entering into them without authorization; paying and settling for cottonseed on a basis of quality, cleanliness, and moisture contained; storing or receiving cottonseed on call for the account, of others; buying cottonseed in carload quantities except on weights and quality at milling destination; brokerage and who should pay it; excessive commissions to seed agents for the purchase of seeds; a uniform purchase contract and account sales form.

Rule 7 of Group II provided that any contract postdated or pre-dated, or entered into without authorization and definite commitment at the time it is made by both parties thereto is an unfair method of Competition. To this rule the commission attached a note as follows:

This rule is construed by the commission to condemn predating of contracts for purchase of seed or sale of products except to conform to a bona fide agreement for purchase or sale on the predate. To that extent and with that interpretation the rule is accepted by the commission as an expression of the industry.

#### **CUT-STONE INDUSTRY**

Conference held May 3, 1929, in Chicago, Commissioner Ferguson, presiding, assisted by Director Flannery. A. J. Burrage elected secretary of conference.  
Commission's statement of action on rules released July 8, 1929.

Rules adopted by the industry and affirmatively approved by the commission and placed in Group I relate to subjects as follows :

Inducing breach of contract; misleading marking or billing; payment of secret rebates, refunds, credits or unearned discounts; discrimination in price between different purchasers where the effect may be to substantially lessen competition or create monopoly; furnishing or selling either block, sawed, or cut stone at or below cost for the purpose of injuring a competitor and with the effect of lessening competition.

Group II rules concerned changes in the amount of bids, methods of estimating, so that all competitors shall bid on equal footing; and uniform cost system; making the terms of sale a part of the published price schedules or contracts; circulating price schedules to the trade; handling all disputes in a fair and reasonable manner; uniform proposal contract form; definitions of quarrymen, quarrymen cut-stone contractors and cut-stone contractors; and permission for officers of the International Cut Stone Contractors' and Quarrymen's Association (Inc.) to confer with the Federal Trade Commission at any time it desires a conference in regard to these matters.

#### **FACE-BRICK INDUSTRY**

Conference held March 14, 1929, in Washington, Commissioner Humphrey presiding, assisted by Director Flannery. George S. Eaton elected secretary of the conference; John H. Donahue, assistant secretary.

Commission's statement of action on rules released October 7, 1929.

Nine rules of the face-brick industry affirmatively approved cover practices relating to such unfair methods of competition as:

Price discrimination; secret rebates; interference with contracts; selling below cost for the purpose of injuring a competitor or lessening competition; use of misleading trade names, numbers, or marks; shipment of face brick not conforming to samples previously submitted; disparaging competitors' products by use of misleading technical terms; showing a prospective buyer a building and representing that the face brick used therein were made by a manufacturer whom he represents when such is not the case; and, payment of secret commissions.

Eighteen rules cover other practices condemned by the industry and accepted by the commission as expressions of the trade, among which are the following:

Lump-sum bids; making of bids with condition that acceptance is contingent on acceptance of a bid on a commodity other than face brick; payment of commissions secretly or openly for certain purposes; bidding on contracts at a price based on acceptance of securities of doubtful value; sale of inferior face brick at a price appropriate for such product with the understanding that a product of superior quality selling at a higher price will be delivered; shipment of face brick on consignment; solicitation by a manufacturer of an order for face brick with knowledge that a signed order from the one in authority has previously been given a competitor.

Four resolutions adopted by the industry were rejected by the commission while two other resolutions adopted by the industry for creating and dealing with a trade relations committee of the industry were not accepted by the commission. However, the commission announced it had no objection to the industry's having such a Committee.

**FERTILIZER INDUSTRY**

Conference held January 29, 1929, in Washington, Chairman McCulloch presiding, assisted by Assistant Director Van Fleet. Charles J. Brand elected secretary of conference.

Commission's statement of action on rules released June 12, 1929.

It was estimated that about 75 per cent of the fertilizer industry, on a basis of tonnage, was represented at the conference. Delegates present represented (1) producers of raw materials such as phosphate rock, sulphuric acid, nitrogen compounds; (2) importers of these materials; (3) manufacturers of superphosphate; (4) manufacturers and mixers of complete fertilizers.

The following rules, with amendments, were affirmatively approved by the commission:

**GROUP I**

**RULE 1. *Sales below cost.*--Resolved,** That the sale or consignment of goods below cost for the purpose and with the intent of injuring a competitor and with the effect of lessening competition is an unfair trade practice.

**RULE 2. *Rebates.*--Resolved,** That the granting of secret rebates, irrespective of the form they may assume, constitutes unfair trade practices and that the following practice, among others, violates this principle and therefore is an unfair trade practice:

- (a) Billing of goods at prices which do not reflect actual returns to the seller or consignor.
- (b) Providing truck service without adequate charge for it, or reimbursing the dealer, purchaser, consignee, or agent for the cost of trucking if reimbursement is not provided for in the manufacturer's price list.
- (c) Selling or consigning chemicals and materials with special concessions or at reduced prices, given to induce the buyer or consignee to purchase mixed fertilizer and/or other fertilizer materials.
- (d) Failure to enforce in good faith the terms of contracts previously made for the sale of fertilizer. For example:
  - (1) Selling on terms that require the payment of sight draft on presentation of bill of lading (S. D. B. L.) and then waiving the obligation to pay cash before documents or goods are delivered, thus deferring the payment of the cash to some future date.
  - (2) Selling and delivering goods on time, consignment, or open bill of lading terms on S. D. B. L. price, or waiving earned interest.
- (e) Furnishing special containers, preparing special formulas for individual buyers or consignees, or using special ingredients in standard formulas, without adequate charge for the cost of such containers, formulas, or special ingredients, as an inducement to the making of a contract and/or sale.
- (f) Making special allowances to buyers or consignees under the guise of advertising expense or giving any other form of gratuity.
- (g) Adopting selling methods that promote secret rebates and concessions, such as :
  - (1) Employing a buyer or consignee or his agent or anyone employed by or connected with a buyer or consignee with the purpose, design, and effect of influencing the business of such customer.
  - (2) Carrying on books by seller or consignor, as delinquent, balances due by solvent customer, with no intention of requiring ultimate payment.
- (h) Enabling the purchaser or consignee to obtain fertilizer apparently on cash terms but in fact on credit extended to him by or through the manufacturer, as, for example : A transaction covered by a sight draft and bill of lading under which the purchaser or consignee is made to appear as honoring documents upon presentation by payment with his own funds, when in fact the cash involved was obtained in whole or in part upon a negotiable instrument (usually discounted at a bank) bearing the indorsement of the manufacturer; or a transaction by which the manufacturer, although he does not actually indorse the obligation renders himself legally or morally responsible. for its payment if the purchaser or consignee should fail to meet his obligation to the bank at maturity.

(I) Refunding to the buyer or consignee, either directly or indirectly, any part of the purchase price on account of goods accepted and/or settled for by the buyer or consignees under the terms of the contract. This practice is commonly referred to as "retroactive settlement."

(NOTE BY THE COMMISSION.--SUBDIVISIONS (a), (b), (c), (d), (e), (f), (g), (h), and (I) are hereby interpreted as being controlled by the preceding clause relating to secret rebates and as specification of methods of secret rebating. With that interpretation these subdivisions are approved.)

RULE 3. *Defamation of competitor or disparagement of his goods.*--*Resolved*, That the defamation of a competitor in any manner, either by imputing to him dishonorable conduct, inability to perform contracts, or questionable credit standing, or false disparagement of the grade or quality of his goods is an unfair trade practice.

### GROCERY INDUSTRY

Conference held October 24, 1928, in Chicago, Commissioner Hunt presiding, assisted by Director Flannery. M. J. Bloch elected Secretary of conference. Commission's statement of action on rules released January 16, 1929.

Due to the enormous extent of the grocery industry and the differences of opinion on complex questions, this conference was arranged for in a manner different than usual.

Leading national associations of manufacturers, jobbers, whole-sale dealers, retail dealers, and chain-store operators were invited to designate one member each and the attorney for each association to serve as members of a committee to assist in arranging a program for the conference and to draft tentative resolutions to be presented for discussion.

Seven such associations complied, and the value of the preliminary discussions can not be overestimated.

More than 700 persons attended. Eighty-five per cent of the brokers, 85 per cent of the wholesale grocers, and 80 per cent of the retailers; based on volume, were represented through associations and in person. No estimate could readily be obtained of the specialty manufacturers represented by associations and individuals and the chain stores did not actively participate, but a representative of the newly organized chain store organization explained that this was because of the newness of the organization.

Resolutions appearing under Group I and affirmatively approved by the commission were intended to prohibit--

Secret rebates, secret concessions, or secret allowances of any kind by requiring that terms of sale shall be open and strictly adhered to, based on the theory of price discrimination; giving of premiums involving elements of lottery, misrepresentation, or fraud; commercial bribery; false, untrue, misleading, or deceptive advertisements or other descriptive matter; use of deceptively slack-filled or deceptively shaped containers; joint trade action purposed unjustly to exclude any manufacturer, merchant, or product from a market, or unjustly to discriminate against any manufacturer, merchant, or product in a market, by whatever means, and selling below cost for the purpose of injuring a competitor.

Resolutions appearing under Group II were accepted by the commission as expressions of the trade, and dealt with--

Uneconomic or misleading selling prices; the abuse of buying power to force unjust terms of purchase or sale; compelling the purchase of a group of products as a condition to the purchase of one or more of

them; failure to fill orders accepted: failure to accept delivery of orders which have been placed; abuse of factory drop-shipment practices; deviation from original agreement with

respect to discount; free deals; commercial bribery; substitution by a wholesaler or retailer of another product for product ordered; and diversion of brokerage.

One of the resolutions in Group II is intended to provide for making the conference a continuing organization to act for the progressive elimination from the grocery industry of unfair and uneconomic trade practices and or creation of an executive committee to aid in this purpose.

The second paragraph of former resolution 5, as adopted by the industry, was rejected by the commission, which substituted wording in lieu thereof, as shown under rule 7, Group I. That portion of the rule, as originally adopted by the industry, reads as follows:

*Resolved*, That selling an article at or below delivered cost, except on special occasions for recognized economic reasons, is an unfair method of business.

Rule 7, Group I, reads as follows:

Resolved, That the selling of goods below cost for the purpose of injuring a competitor and with the effect of lessening competition is an unfair trade practice.

With reference to former resolution 4, as adopted by the industry, the commission divided this resolution, one part being placed in Group I appearing as rule 3' and the other part under Group II and appearing as rule 16. Rule 6 (formerly resolutions 15 and 16) was recast.

The resolutions are largely confined to the expression of broad, general principles, the minute details to be worked out in the light of actual experience with their operation.

#### GYPSUM INDUSTRY

Conference held March 28 and 29, 1929, in New York City, Commissioner Humphrey presiding, assisted by Director Flannery. William J. Fitzgerald elected secretary of conference.

Commission's statement of action on rules released June 10, 1929.

Twenty-one rules of business practice adopted by the gypsum industry at its conference were accepted by the commission, 13 having been affirmatively approved and designated Group I as ap-plying to unfair methods of competition while the remaining 8 were accepted in Group II as expressions of the industry.

On a basis of tonnage, 98 per cent of the industry was present or represented at the conference.

Group I rules relate to such subjects as commercial bribery; branding; inducing breach of contract; sale of certain products without profit for the purpose of injuring a competitor, or with the effect of lessening competition; defamation of a competitor; fraud and misrepresentation; selling goods below cost; threats of suit for patent or trade-mark infringement; enticement of employees; imitation of trade-marks and trade names; discrimination in price and terms under section 2 of the Clayton Act and rebates.

Group II rules concern the introduction of sales by other products; commercial bribery; sales without mutuality; transit shipments; pooled and combination cars; terms of sale; definition of the term "cost"; and notification by owner of a patent or trademark to the alleged infringer before proceeding against his customers.

**JEWELRY INDUSTRY**

Conference held June 5, 1929, in Chicago, Commissioner March presiding, assisted by Director Flannery; George A. Fernley elected secretary of conference. Commission's statement of action on rules released October 28, 1929.

Forty-one rules of business practice were adopted by the jewelry industry and acted on by the commission. This is the largest number of rules ever adopted at a trade-practice conference.

Seventeen rules were affirmatively approved by the commission as applying to unfair methods of competition (Group I) while the remaining 24 were accepted as expressions of the industry (Group II).

The rules applying to unfair methods of competition covered the branding and sale of products of the jewelry industry, proper labeling of imitations, and such practices as payment of secret rebates, lessening competition by selling goods below cost, price discrimination, interference with contracts, commercial bribery, and misrepresentation.

Typical of the Group I rules pertaining to special features of the jewelry trade is rule 3, in which it is declared that--

To describe any diamond as "perfect" which discloses flaws, cracks, carbon spots, clouds, cloudy texture or blemishes of any sort when examined by a normal eye under an ordinary diamond loupe is an unfair trade practice.

Rules in Group II accepted as expressions of the trade deal with uneconomic or unethical practices said to be prevalent in the industry, referring to proper descriptions of jewels, also to sales policies, price problems, shipping, orders, deliveries, and contracts. One of these rules (rule 29) provides that--

The use of his power of appointment of watch inspector by a general watch Inspector for railroads to force dealers to buy their goods of him, and the furnishing of railroad passes by a general watch inspector to influence dealers to buy their goods of him, is condemned by the industry.

Five rules adopted at the conference were rejected by the commission.

A rule creating and dealing with a committee of the industry "to arrange for conferences of manufacturers of imitation ivory, imitation-leather goods, gold-plated and gold-filled jewelry for the purpose of drawing up proper rules and definitions" was not accepted, having been inappropriate as a trade-practice rule. The commission, however, has no objection to the industry having such a committee.

**KNIT-UNDERWEAR INDUSTRY**

Conference held November 1, 1928, in Washington, former Commissioner Abram F. Myers presiding, assisted by Assistant Director Van Fleet. Roy A. Cheney acted as secretary of the conference.

Commission's statement of action on rules released March 9, 1929.

Seventeen manufacturers attended, and seven firms were represented by proxy. There were also in attendance representatives of the following associations : The Associated Knit Underwear Manufacturers of America, the National Dry Goods



Association, the National Association of Retail Clothiers and Furnishers, the National

Association of Hosiery and Underwear Manufacturers, and the National Better Business Bureau. In addition there were representatives of the Bureau of Standards.

The following rules of business conduct adopted at the conference in resolution form are those affirmatively approved by the commission, designated Group I, and those accepted by the commission as expressions of the trade, Group II:

#### GROUP I

RULE 1. *Resolved*, That the word "wool" shall not be used in any way in the labeling, advertising, merchandising, and selling of knit underwear unless the wool content thereof is distributed throughout the body fabric.

RULE 2. *Resolved*, That if mention of fiber content of trimmings, bindings, and adornments is made, then it shall be accurately stated as applying to such trimmings, bindings, and adornments.

#### GROUP II

RULE 3. *Resolved*, That the testing procedure for the fiber content shall be that recommended by the National Bureau of Standards.

### KRAFT-PAPER INDUSTRY

Conference held June 28, 1929, in Washington, Commissioner Humphrey presiding, assisted by Assistant Directors McCorkle and Van, Fleet. L. Bittner, New York, elected secretary of the conference.

Commission's statement of action on rules released October 9, 1929.

Nine rules of the kraft-paper industry were affirmatively approved as covering unfair methods of competition, while eight rules covering other practices condemned by the industry were accepted as expressions of the trade.

A resolution adopted by the industry to the effect that a permanent committee of the trade be formed to investigate violations of these rules from time to time was not accepted by the commission, although the commission has no objection to the association having such a committee. This resolution was considered by the commission inappropriate as a trade practice rule.

Rules affirmatively approved concern such subjects as: Inducing breach of contract; defamation of a competitor; disparagement of a competitor's goods; misrepresentation of kraft paper as to weight and other qualities; selling below cost; enticement of employees of a competitor; discrimination in price; and making false reports of capacity, production, sales, orders, or shipments.

Rules accepted as expressions of the trade apply to such subjects as sales f. o. b., guarantee against reduction in seller's price, standard specifications, price schedules, and secret violations of rules.

### LIME INDUSTRY

Conference held June 27, 1929, in Washington, Commissioner Humphrey presiding, assisted by Messrs. Flannery and Van Fleet. Approximately 70 per cent of the industry on a tonnage basis represented. W. V. Brumbaugh named secretary of conference.

Commission's statement of action on rules released October 25, 1929.

As acted upon by the commission there are 18 rules of the lime industry, 11 having been affirmatively approved as covering unfair

methods of competition, the remaining 7 accepted as expressions of the trade.

Rules affirmatively approved relate to such practices as price discrimination; secret rebates; interference with contracts; selling below cost; defamation of a competitor; violation of an act of Congress entitled "An act to standardize lime barrels"; selling lime in used barrels bearing the label of a producer or dealer other than the one producing or selling it; deception of customers as to quantity and other conditions; simulation of trade-marks, trade names, and the like.

Rules accepted as expressions of the trade concern such subjects as deviation from established practices, uniform methods of cost finding, definition of a jobber or distributor, and a trade relations committee of the industry.

#### **METAL-LATH INDUSTRY**

Conference held June 27, 1929, in Washington, Commissioner Humphrey presiding, assisted by Messrs. Flannery and Van Fleet. Wharton Clay elected secretary of the conference.

Commission has not acted on the industry's rules as the annual report goes to press.

Rules of business practice were adopted by the metal-lath industry after consideration of such subjects as among others, inducing breach of contract, misbranding, secret rebates, definition of a qualified manufacturer, sales below cost, guarantee against decline or advance in prices, blanket contracts, threats of suit for patent or trade-mark infringement, reasonable differentials, published prices, cost accounting, commercial bribery, dumping, arbitration, and price discrimination.

The resolutions adopted were submitted to the commission for consideration and action.

#### **NAVAL-STORES INDUSTRY**

Conference held June 11, 1929, in Washington, Commissioner Ferguson presiding, assisted by Messrs. Flannery and McCorkle J. E Lockwood elected secretary of the conference.

Commission has not acted on the industry's rules as the annual report goes to press.

The naval-stores industry, steam solvent class, consists of producers of steam-distilled wood turpentine, steam-distilled pine oil, wood, rosin, and other naval-stores products produced by the "steam and solvent process" from pine woods obtained from cut-over timber lands in the South.

Rules of business practice were adopted at the conference after consideration of such subjects as, among others, price discrimination breach of contract, misrepresentation, secret rebates, selling at old prices following price changes, price protection, distribution of price lists, and appointment of authorized distributors and agents.

The resolutions adopted were submitted to the commission for action thereon.

**PAINT, VARNISH, LACQUER, AND ALLIED INDUSTRIES**

Conference held August 1, 1928, in Atlantic City, Commissioner Ferguson presiding, assisted by Director Flannery. George B. Heckel elected secretary of conference.

Commission's statement of action on rules released October 29, 1928.

Approximately 60 per cent of the paint, varnish, and lacquer industry, based on volume, was present.

Resolutions adopted at the Conference were divided into two classes. Those relating to business conduct were designated as rules 1, 2, and 3, and affirmatively approved by the commission. Those relating to committee work and which request a course of action by the commission were designated A, B, and C, and accepted by the Commission as expressions of the trade.

The resolutions embraced in the first group relate to commercial bribery, false advertising, and misbranding. The resolutions contained in the second group relate to the establishment of a committee to cooperate with the commission, and to the prosecution of pending investigations involving commercial bribery.

**PAPER-BOARD INDUSTRIES**

Conference held November 3, 1928, in Chicago, reconvened in New York, November 23, 1928, former Commissioner Abram F. Myers presiding, assisted by Assistant Director Van Fleet. H. S. Adler acted as secretary of the conference.

Commission's statement of action on rules released February 19, 1929.

No agreement could be reached at the Chicago meeting on rules 5 and 9 relating, respectively, to price discrimination and sales below cost, so additional time was requested for further consideration, and the meeting was adjourned to New York. All other rules were unanimously adopted at the Chicago meeting.

It was agreed that all rules should apply to all manufacturers of corrugated, solid fiber and folding boxes, as well as to manufacturers of any and all paper or paper board used in the manufacture of such boxes and their interior parts.

Rules affirmatively approved apply to such subjects as secret rebates interference with contracts, defamation suits for patent or trade-mark of competitors threats of infringements, price discrimination, false branding, false certification, underbidding by offering inferior products, sales below cost, and observance of resolutions.

Rules accepted as expressions of the industry refer to sales without mutuality, dumping in remote markets, overruns and under-runs, free warehousing, cost accounting and continuation of the conference when necessary.

Regarding rule 9 ("The selling of goods below cost except to meet a price offered by a competitor, is condemned as unfair competition"), the commission made the following note:

Sales below cost, if persistently made, inevitably result in bankruptcy of the seller. If only occasionally made, such sales may result in price discrimination, in that an under cost price to one buyer is hoped to

be offset by too high a price to another buyer. Sales below cost are sales which fail to take into account every item which should enter into the cost of the product.

A resolution regarding the circulation of prices adopted by the industry was rejected by the Commission for the reason that in the present state of the law the commission can not receive a resolution for circulation of prices which is not confined to past transactions.

There were present at the conference manufacturers of paper board representing a total of 65 per cent of the tonnage of the industry, manufacturers of corrugated and solid fiber boxes representing 73 per cent in tonnage, and manufacturers of folding boxes representing 40 per cent. The 40 per cent showing for the folding box group was said to be satisfactory, because this group comprises a large number of small plants scattered throughout the country, the aggregate volume of which is large, although the individual tonnage of each is small.

#### **PETROLEUM AND PETROLEUM PRODUCTS INDUSTRY**

Conference held February 11, 1929, in St. Louis, Chairman McCulloch presiding, assisted by Director Flannery. Paul E Hadlick elected secretary of the conference. Commission's statement of action on rules released July 25, 1929.

With more than 95 per cent of the petroleum refining industry of the United States present or represented, this conference was one of the largest held during the year.

Twenty-one rules of business practice as adopted at the conference were later acted on by the commission, 7 having been affirmatively approved and designated Group I; 14 accepted as expressions of the trade and placed in Group II.

Rule 1, Group I, declares in part that "The practice of loaning or leasing gasoline pumps, tanks, and other equipment is unsound and uneconomical, and should be discontinued at the earliest possible moment, consistent with existing conditions."

Other Group I rules refer to acquisition of bona fide leases by refining companies, wholesalers, distributors, and jobbers; the provisions that no company shall paint over any sign or colors of another company until it has communicated with the company whose signs or colors are involved; breach of contract; proper marking of all above-ground equipment for refined products; lotteries, prizes, games of chance; and selling refined petroleum products below cost for the purpose of injuring a competitor, and with the effect of lessening competition.

Rule 8, first in Group II, reads:

On account of the special nature of service required in supplying petroleum products to airports, no dispensing or storage equipment of any kind shall be loaned or otherwise furnished to airport operators or resellers of petroleum products except at full cost, including cost of equipment and storage installation.

Other Group II rules relate to the extension of credit to the borrower or lessee for installation cost; construction by refiners, wholesalers, distributors, or jobbers for retailers of such equipment as driveways, canopies, greasing pits; loaning of equipment to tank-car buyers and distributors; paying of rentals by refiners, distributors, and jobbers for privilege of installing pumps and tanks or for displaying advertising on premises where refined products are sold.

Other Group II rules refer to refiners, distributors, jobbers, and wholesalers renting or purchasing delivery equipment from consumers owning service and filling stations or sites for the same, posting prices of gasoline and kerosene at each point from which they make delivery. One rule provides that gasoline shall not be sold from tank wagons or trucks to other motor vehicles except in emergency case. Another is to the effect that no oil or other thing of value shall be given away, or special inducement granted, on opening days, special sales days, or other occasions.

“The practice of making deliveries of gasoline at refineries or wholesale plants into tank wagons or trucks operated by or for the purchasers thereof is discouraged,” according to rule 18.

Rule 19 provides for the sale and redemption at face value of coupon books or other scrip.

Rule 20 declares that no adjustments, allowances, credits, or refunds shall be given to any buyer on deliveries already made after a change in the posted price.

Rule 21 defines the terms “consumer,” “refiner,” “jobber” “distributor” or “wholesaler,” “retail dealer,” and “commercial accounts.”

#### **PLUMBING AND HEATING INDUSTRY**

Conference held May 15, 1929, in Pittsburgh, Commissioner March presiding, assisted by Director Flannery. J. Kennedy Hanson elected secretary of the conference; W. R. McCollum and Frank S. Hanley, assistant secretaries.

Commission’s statement of action on rules released September 23, 1929.

Seven rules adopted by the plumbing and heating industry were affirmatively approved by the commission as applicable to unfair methods of competition, while five were accepted as expressions of the trade. Five rules proposed by the industry were rejected, while several others were amended. It was estimated that 80 per cent of the industry was present or represented at the conference.

Rules affirmatively approved apply to such practices as inducing breach of contract, misbranding, price discrimination, making small deliveries at quantity prices, false invoicing, and selling below cost, while rules accepted as expressions of the trade concern such subjects as cartage charges, unit price basis, cancellation of contracts, post-dating or predating of contracts, and equitable price adjustments.

#### **PLYWOOD INDUSTRY**

Conference held May 29, 1929, in Chicago, Commissioner March presiding, assisted by Assistant Director Van Fleet. M. Wulpi elected secretary of conference.

Commission’s statement of action on rules released November 5, 1929.

Seven rules of business practice adopted by the plywood industry were affirmatively approved by the Federal Trade Commission as condemning unfair methods of competition in violation of the law (Group I), while nine other rules presented by the industry were accepted as expressions of the trade (Group II).

One rule defines a qualified manufacturer of plywood as "one who manufactures regularly and solely for sale to consumers, wholesalers and distributors."

A qualified wholesale distributor is described as "one whose principal business is selling plywood to the consumer," and who "carries a well-selected stock of merchandise, buys in suitable quantities, warehouses a reserve stock for retailers or consumers within a radius of economical distribution and convenience of service, resells in proper units to the retailer or consumer as economically as possible, assumes the credit risk and such other obligations as are incident to the transportation, warehousing and distribution of plywood."

The plywood industry, in another rule, records its approval of the handling of disputes "in a fair and reasonable manner, coupled with a spirit of moderation and good will, and every effort should be made by the disputants themselves to arrive at an agreement." Arbitration is recommended in place of litigation.

Rules condemning unfair methods of competition apply to such practices as interference with contracts, misbranding, secret rebates, defamation of a competitor, discrimination in price, selling below cost, and misrepresentation of a jobber, retailer or distributor of plywood as a manufacturer.

Rules accepted as expressions of the trade cover such subjects as the definitions already mentioned, arbitration, uniform transportation charges, packing charges in relation to price, guarantee against advance or decline in price, reasonable differential in prices in several types of sales, published price schedules, and replacement of defective stock.

The rules were adopted by manufacturers and distributors of plywood representing about 78 per cent of the industry.

Following its action on the plywood industry's rules the commission reconsidered and modified rule 14, Group II, as originally acted, on. The rule now reads as follows:

The industry hereby records its approval of the practice of making the terms of sale a part of all published price schedules.

#### **PUBLISHERS OF PERIODICALS**

Conference held October 9, 1928, in New York City, Commissioner Humphrey presiding, assisted by Attorney Martin A. Morrison and Director Flannery. R. E. Rindfusz elected secretary of conference.

Commission's statement of action on rules released November 12, 1928

Practically the entire periodical-publishing field was represented in person or through associations.

The following resolution was unanimously adopted:

Whereas at this conference or trade practice for periodicals, held in response to the call of Hon. William E. Humphrey, chairman of the Federal Trade Commission, Chairman Humphrey has said in part, "The majority of the periodical publishers not only obey the law but often go far beyond what the law requires in selecting the advertisements they will publish. I do not believe there is an industry in America conducted by more honest, high-minded, public-spirited men and women than the publication industry.



I do not believe that any Industry in America has greater power for good. I believe that

the future greatness and security of the Nation rests to a greater extent upon the publishing Industry than probably any other": Be it

*Resolved*, That we express our sincere appreciation of such commendation, from so high an official and personal source, of the principles and conduct of the publishing industry; and

Whereas The record of the publishing Industry for many years past shows that the very great majority of such publishers have, of their own initiative, taken measures to eliminate fraudulent advertising from their columns, and have recommended every practicable suggestion to increase the efficiency of such measures; Be it

*Resolved*; That we recognize the fact that the National Better Business Bureau, an organization composed of and supported by the business of advertising, is the most competent agency of assistance to the business of advertising in preventing fraud in advertising and selling and that said bureau has expressed its willingness to cooperate in every way with publishers, in eliminating fraudulent advertising; be it further

*Resolved*, That we desire and will recommend every cooperation and assistance of the National Better Business Bureau and, said bureau having expressed its willingness and ability to do so, we request said bureau to advise periodical publishers generally, and, wherever deemed advisable, any governmental agency, whenever advertising, which is being published or is likely to be offered for publication, is established by said National Better Business Bureau to be fraudulent upon reasonable investigation and notice to the person complained of.

The National Better Business Bureau, by the foregoing resolution, was selected by the publishers as the machinery through which the industry would do its own policing of the periodical field. This, however, does not preclude anyone from reporting such violations directly to the commission, nor does it in any way affect the exercise of the commission's prerogative to cause applications for complaints to be filed on the commission's own initiative.

#### **RANGE BOILER INDUSTRY**

Conference held June 4, 1929, in Washington, Chairman McCulloch, presiding, assisted by Assistant Director Van Fleet. Allen Scaife elected secretary of conference.

Commission's statement of action on rules released July 29, 1929.

With 60 per cent of the industry on the basis of volume represented, the range boiler trade adopted 15 rules of business practice, five of which were later affirmatively approved by the commission as Group I rules applicable to unfair methods of competition. The commission accepted as expressions of the trade 10 other rules designated as Group II.

Willful interference with contracts or orders between a seller and purchaser of range boilers is the purport of Rule 1 in Group I. Other rules of this group relate to improper stenciling of working pressure or other misbranding so as to mislead purchasers with respect to quantity and other conditions; withholding from or inserting in the invoice facts which make the invoice a false record; discrimination in price; and sales below cost.

The Group II rules cover largely publicity for prices, and freight allowances; quantity prices on small deliveries to favorite buyers; selling of less than carload quantities at delivered carload prices making of contracts which do not expressly cover quantity specifications; selling range boilers under a guarantee against the advance or decline in price; postdating or predating contracts.

**REBUILT-TYPEWRITER INDUSTRY**

[Second conference]

Conference held August 22, 1928, In Cleveland, Chairman McCulloch presiding, assisted by Director Flannery.

Commission's statement of action on rules released November 10, 1928.

The chief accomplishment of the first conference, held February 27, 1920, was to define the term "rebuilt" as applied to typewriters, but the industry, according to the application for the second conference, considered that "The term 'rebuilt has been used very loosely to cover typewriters which have been repaired as well as those which have been entirely made over according to the highest standards.'" It was to correct this loose use of the term that the Second conference was desired.

In addition to typewriters, the resolutions adopted at the 1928 meeting were made applicable to adding machines, duplicating machines, bookkeeping machines, and calculating machines.

Chairman Edgar A. McCulloch, of the commission, presided at the conference, assisted by Director Flannery. The meeting was attended by members of the industry who conduct 50 percent of the volume of business and comprise about 5 per cent of the industry in numbers.

The following resolutions were unanimously adopted by the conference and, on October 31, 1928, affirmatively approved by the commission:

RULE 1. *Resolved*, That to sell, offer for sale, advertise, invoice, or otherwise describe typewriters, adding machines, duplicating machines, bookkeeping machines, or calculating machines as "rebuilt," unless such machines are rebuilt by having them dismantled, cleaned, completely refinished, with new transfers, completely renicked and assembled, with all imperfect type and defective working parts replaced with perfect type and perfect working parts, and then carefully adjusted and brought to the highest standard of rebuilding, is declared to be an unfair method of competition.

RULE 2. *Resolved*, That to sell, offer for sale, advertise, invoice, or otherwise describe typewriters, adding machines, duplicating machines, bookkeeping machines, or calculating machines as "overhauled," unless the same are refinished, with nickel and japan where needed, reassembled, with all imperfect parts replaced and carefully adjusted, is hereby declared to be an unfair trade practice.

**REINFORCING-STEEL INDUSTRY**

Conference held April 18, 1929, in Asheville, N. C., Commissioner Ferguson presiding, assisted by Assistant Director Van Fleet.

Commission's statement of action on rules released September 26, 1929.

Seventeen rules adopted by the reinforcing steel fabricating and distributing industry were accepted by the commission; 5 having been affirmatively approved as condemning unfair methods of competition and 12 accepted as expressions of the trade. Several changes were made and one rule was rejected by the commission.

Rules in Group I affirmatively approved concerned such practices as inducing breach of contract, misbranding, payment of secret rebates, discrimination in price, and commercial bribery.

Rules in Group II accepted as expressions of the trade applied to such subjects as a definition of the industry, publication of current

price lists, entering into contracts to secure a special price, accepted methods of bidding on contracts, arbitration, standard forms of contract for sales, terms of discount, making the acceptance of a separately priced item contingent upon acceptance of another such item, uniform cost finding, and provision that the conference be made a continuing organization.

Following its action on the reinforcing steel industry's rules the commission reconsidered and modified rule 8, Group II, as originally acted on. The rule now reads as follows:

The Industry approves the practice of each individual member of the industry independently publishing and circulating to the purchasing trade his own price lists.

#### **SCRAP IRON AND STEEL INDUSTRY**

Conference held May 23, 1929, in Pittsburgh, Commissioner Ferguson presiding, assisted by Director Flannery. Herman D. Moskowitz elected secretary of conference. Commission's statement of action on rules released July 27, 1929.

The scrap iron and steel dealers of the United States, whose business is to collect scrap iron and steel from industrial plants, country-sides, and railroads, and prepare it for consumption by the steel mills, adopted 12 rules of business practice, which were submitted to the commission. Six were affirmatively approved by the commission while the other six were accepted as expressions of the trade.

That scrap iron is a vital raw material for the steel industry may be gathered from the fact that last year the scrap-iron industry supplied more than 25,000,000 tons of scrap to the steel mills in their record production of 50,000,000 tons of steel ingots.

The average use of scrap iron by steel mills in the manufacture of steel is approximately 45 per cent scrap and 55 per cent pig iron and other raw materials.

Agencies engaged in gathering scrap iron and steel may be divided into three classes, namely, (1) peddlers (2) yard dealers, (3) brokers, who may be considered the wholesalers of the trade.

The trade practice conference was for the yard dealers and brokers.

The first rule affirmatively approved by the commission is as follows:

Delivery of an Inferior product against a contract to supply scrap Iron and steel according to certain specifications, by so arranging the shipment in the car that the Inferior product or products will not be readily discovered on surface inspection, the effect of which is to deceive the purchaser as to the grade of Scrap, is hereby condemned as an unfair method of competition, an unfair trade practice, and contrary to the public interest.

Other rules relate to defamation of a competitor, attempting to induce breach of contract, commercial bribery, use of fictitious bills of lading to secure advance of money or other valuable consideration, and circularizing the industry with price quotations containing misleading language.

Those accepted as expressions of the trade (Group II) pertain to failure of dealers or brokers to give credit for overweights, intentional failure to fulfill orders or contracts, willful over billing of shipments, arbitration of disputes among dealers and brokers, uniform cost system, and continuation of the conference as a permanent body

for suppression of unfair practices in the scrap iron and steel business.

## SPICE-GRINDING INDUSTRY

Conference held May 9, 1929, in New York, Commissioner March presiding, assisted by Director Flannery. H. F. Lee elected secretary of conference.  
Commission's statement of action on rules released July 5, 1929.

Grinders and packers of the spice industry representing what was estimated to be 80 per cent of the business were present at the conference.

Commissioner March, addressing the members, declared he believed nothing the Federal Trade Commission could do would be of more benefit to the people of the country than to hold trade-practice conferences and that the commission wanted to encourage every line of honest business, make business bigger and better, and eliminate dishonest practices in trade.

The following resolution was adopted at the conference and on June 25, 1929, affirmatively approved by the commission:

Whereas a practice known as "slack filling" has, from various causes, become prevalent in the spice industry; and

Whereas the grocery industry as a whole has condemned this practice in a resolution passed at the Grocery Trade Practice Conference In Chicago last October; and

Whereas the American Spice Trade Association and the Industry as a whole is desirous of correcting this evil, the following resolutions are submitted

*Resolved*, That the use of deceptively slack-filled or deceptively shaped containers for ground spices is an unfair method of competition.

(a) That to pack 2 ounces of ground spice in a container of greater capacity than 145 cubic centimeters is slack filling and an unfair method of competition.

(b) That to pack 1 ½ ounces of ground spice in a container of greater capacity than 100 cubic centimeters is slack filling and an unfair method of competition.

(c) That to pack 1 ¼ ounces of ground spice in a container of greater capacity than 100 cubic centimeters is slack filling and an unfair method of competition.

(d) That to pack 1 ounce of ground spice in a container of greater capacity than 80 cubic centimeters is slack filling and an unfair method of competition.

(e) That to pack any quantity of ground spice in a container showing greater tolerance between container and contents than is specified for the weights and container capacities especially provided for in these resolutions is slack filling and an unfair method of competition.

(f) That the ground spices, specially covered shall be: Peppers of all kinds, including paprika, ginger, cinnamon, cloves, allspice (pimento), nutmeg, mace, turmeric, mustard, or a mixture of any two or more of them, but excluding herbs; be it further

*Resolved*, That these resolutions shall become effective six months after having been approved by the Federal Trade Commission.

## STEEL OFFICE FURNITURE INDUSTRY

Conference held April 13, 1929, in Washington, D.C., Chairman McCulloch presiding, assisted by Assistant Director Van Fleet. J. B. M. Phillips elected secretary of conference.

Commission's statement of action on rules released July 25, 1929.

It was with a view to correcting a competitive situation in the steel office furniture industry giving rise to discrimination in prices charged for the furniture, an to discrimination in prices paid and allowances made for used office furniture and to other unfair methods of competition, that the industry held its trade-practice confer-

ence with the commission. It was estimated that more than 80 per cent in volume of business and 65 per cent in numbers were represented.

Fifteen rules of business practice adopted by the industry were divided by the commission in Group I containing six rules, and Group II covering the other nine rules.

Group I rules relate to discrimination in prices; publication of discounts and terms allowed to exclusive agents and nonexclusive dealers, prices charged and terms allowed to large quantity consumers, and prices and terms applicable to the purchase of definite quantities of steel office furniture when placed in one order and moved as one shipment; publication of prices or allowances made as changes take place; secret rebates, bonuses; commercial bribery; interference with contracts; inducing officers, agents, salesmen, or employees of any competitor to violate their contracts of employment; and selling with intention to deceive the purchaser.

Group II rules concern special concessions in prices; special quantity prices; relation of transportation charges to prices; guarantee against advance or decline in prices; cancellation of contracts; offering goods on consignment, or other departures from the accustomed methods of selling; postdating and predating contracts; and making the terms of sale a part of all published price lists to the retail trade.

#### **UPHOLSTERY TEXTILE INDUSTRY**

Conference held May 6, 1929, in Philadelphia, Commissioner Hunt presiding, assisted by Director Flannery. W. H. Rollinson, New York, elected secretary of conference.

Commission's statement of action on rules released July 22, 1929.

As finally acted upon by the commission, rules adopted by the upholstery textile industry are placed, six in Group I, affirmatively approved, and six in Group II, accepted as expressions of the trade.

Among practices covered by Group I rules are: Secret rebates, concessions, and allowances; price discrimination; misbranding; misrepresentation of goods; selling goods below cost; and false invoicing.

Group II rules cover such subjects as: Terms of sale, arbitration, piracy of designs, minimum standards and special discounts on samples.

The last rule in Group II provides that this trade practice conference "be a continuing organization to act for the progressive elimination of unfair and uneconomic trade practices from the upholstery textile trade."

#### **WAXED-PAPER INDUSTRY**

[Second conference]

Conference held June 18, 1929, in Washington, Commissioner March presiding, assisted by Assistant Director McCorkle. Paul S. Hanway, New York, elected secretary of the conference.

Commission's statement of action on rules released November 2, 1929.

The second conference of the waxed-paper industry was called for considering such revisions as might be necessary in the 14 rules

adopted at the first conference held a year previously in Washington. Practical experience in the industry had raised questions as to operation of the rules.

However, the industry, after due consideration at the second conference, decided there was no sufficient reason for revising the previously adopted rules and these were confirmed.

One additional rule was adopted, and designated by the commission a Group II rule. It is as follows:

The sale of waxed paper, in violation of any of the rules adopted by the industry under auspices of the Federal Trade Commission, under the subterfuge that the seller is required to do so by a contract antedating the adoption of said rules, when in fact no valid and enforceable contract or agreement antedating the adoption of the rules exists, results in fraud and discrimination between purchasers, and is condemned by the industry.

Among practices covered by the Group I rules are breach of contract, imitation of trade-marks, defamation of a competitor, use of inferior materials, accepting orders in large quantities, but shipping in small quantities, deviation from standards, and selling below cost.

The original Group II rules apply to such subjects as standard form of contract, furnishing etchings and plates without direct charge based on actual cost, quotation of uniform prices by a manufacturer regardless of ink coverage, and sales f. o. b.

#### **WOODWORKING-MACHINERY INDUSTRY**

Conference held December 12, 1928, in Chicago, Commissioner Ferguson, presiding, assisted by Director Flannery. Fred A. Collinge elected secretary of conference.

Commission's statement of action on rules released February 11, 1929.

Eight rules adopted by the woodworking-machinery industry at its conference were affirmatively approved by the commission as applying to unfair methods of competition, while six were accepted as expressions of the trade.

Rules appearing under Group I concern such practices as inducing breach of contract, false statements concerning a manufacturer's own product, or concerning a competitor's product; secret rebates; price discrimination; adherence to published prices; sale of a new machine as a repossessed or rebuilt machine; paying commissions to employees of customers for the purpose of inducing sales.

Rules in Group II accepted as expressions of the trade have to do with such practices as granting of either selling commissions or dealer's discounts to other than an established dealer; confining sales to f. o. b. factory; regarding as separate transactions the disposition of an old machine and sale of a new machine; guaranty against advance or decline in price; terms of sale; and interference with contract.

The last paragraph of rule 11, Group II, as adopted by the industry, was rejected by the commission. That portion of the rule, as originally adopted by the industry, reads as follows:

The industry further agrees that no price in excess of its fair market value shall be paid or allowed for any used machine thus offered for sale by the prospective customer for a new machine.

Rule 13, as adopted by the industry, was rejected by the commission, with the



direction that the industry be advised that the

commission, in the present state of the law, can not receive a resolution of the industry for the circulation of prices which is not confined to past transactions. The resolution, as adopted by the industry, reads as follows:

The industry hereby records its approval of the practice of distributing and circulating to the entire industry published current price lists, including all notices of advance or decline in prices made by any individual manufacturer, either by an Individual manufacturer or by the association group he may be identified with.

#### **WOOLENS AND TRIMMINGS INDUSTRY**

Conference held April 2, 1929, in New York City, Commissioner Hunt presiding, assisted by Director Flannery. Sumner Clement elected secretary of conference.  
Commission's statement of action on rules released July 10, 1929.

Seventy-five per cent of the trimmings industry and a safe majority of the woolens industry were represented at the conference.

Action was taken by the commission on 14 rules adopted at the conference. An application of the industry for inclusion of an additional resolution on terms of delivery and collection, was denied by the commission.

As finally acted upon, seven of the rules were placed under Group I, affirmatively approved, indicating that they relate to practices having to do with possible violations of the law. The remaining seven rules were placed in Group II and accepted by the commission as expressions of the trade.

Among practices covered by Group I rules are: Secret rebates, concessions, and allowances; price discrimination; inducing breach of contract; selling goods below cost; commercial bribery; defamation of a competitor; enticement of competitors' employees.

Among subjects included under Group II are: Terms of sale, special discounts, misleading selling prices, free samples, deliveries on consignment, and making the conference a continuing organization.

## **SPECIAL BOARD OF INVESTIGATION**

False and misleading advertising published in newspapers and periodicals is being investigated by the commission's newest subdivision, the special board of investigation, created by order of the commission, May 6, 1929. Three of the commission's attorneys constitute the board.

The board was given general power to take jurisdiction over all matters that may be referred to it, to make investigations, hold informal hearings, and make reports and recommendations to the commission.

Hearings before the board are informal and for development of information needed by the commission prior to issuance of formal complaint. The commission does not make its cases public prior to issuance of complaint.

Prior to creation of the board a large number of applications for complaints were filed charging publication of false and misleading advertisements in magazines, newspapers, and other publications, resulting in an order for the issuance of complaints against numerous advertisers in many magazines, newspapers, and other publications.

In the proper prosecution of such complaints the commission deemed it advisable to join the advertising agencies and the publisher involved in each case as correspondents with the advertiser. To give to publishers and advertising agencies the opportunity and option to stipulate to abide by the action of the commission without becoming or being made respondents to complaints, was one reason for creation of the new tribunal.

Many informal hearings were had, and the publishers and advertising agencies uniformly elected to abide the action of the commission, without becoming or being made parties respondent to the commission's complaints.

As an aid to the immediate correction of the evils complained of, and to facilitate the elimination of the objectionable matter against which such complaints had been ordered to issue, the publishers and advertising agencies requested that the advertisers be given the option of like informal hearings, to be granted on their petitions therefor.

The commission gave to the special board discretionary power into grant an informal hearing, upon his petition, to any advertiser against whom a complaint has been ordered to be issued. Petitions are being filed and granted, with the result that a hearing is usually participated in by the advertiser and the agency that carries his account and assists in the preparation of his advertising copy.

Many advertisers and their advertising agencies are engaged in so modifying their advertising copy as to eliminate the matter to be charged as unlawful and unfair in such complaints.



In any case, the special board, if the advertiser, agency, and publisher so elect, prepares tentative stipulations against future use of the objectionable matter, causes them to be executed by the proposed respondents, and submits them for such action as the commission shall deem best in the premises.

In every case in which the special board shall be compelled to report that the advertiser, his agency and the publisher have so elected complaints will issue under such former orders therefor and proceed to service, issue, trial, finding, and final order.

## **CHIEF EXAMINER**

### **OUTLINE OF PROCEDURE**

The chief examiner supervises all legal investigating work of the commission. Most of this is investigation of applications for complaints preliminary to the correction of unfair methods of competition under the laws administered by the commission. To this division are also referred special inquiries, primarily of a legal nature, which the commission may be directed to do by the President, either House of Congress, or the Attorney General.

Investigations preliminary to the possible issuance of complaints originate in several ways, i.e., by the direction of the commission, by information obtained in other investigations, and in the great majority of cases by direct application to the commission from competitors or the public, which may be affected by alleged unfair practices.

No formality is required in making an application for a complaint, a letter setting forth the facts in detail being sufficient, but it should be accompanied by all evidence in possession of the complaining party in support of the charges made. Such matters, however, may be discussed with the chief examiner or the attorney in of a branch office of the commission prior to or at the time of filing.

When an application is received, the jurisdictional elements, such as interstate commerce, methods of competition involved, and public interest, are considered. In many cases it is necessary to supplement the data submitted by correspondence or by a preliminary investigation before deciding whether to docket an "application for the issuance of complaint. A smaller percentage of the total inquiries received are now docketed than formerly.

After an application is docketed it is assigned by the chief examiner to an examining attorney or a branch office for investigation. It is the duty of either to obtain all the facts regarding the matter from both the applicant and the respondent. Without disclosing the name of the applicant, the party complained against is approached, advised of the charges, and requested to submit such evidence as it desires in defense or explanation of its position. The examining attorney, after developing the facts from all available sources, summarizes the evidence in a final report, reviewing the law applicable thereto, and making a recommendation as to action. The entire record is then reviewed by the chief examiner, and, if it appears to be complete, is submitted with recommendation to the commission's board of review or the commissioners for their consideration.

The chief examiner also conducts, by direction of the commission or upon requests of other units, supplemental investigation of applications for complaints, of formal

complaints where additional

information is desired by the chief counsel, or suspected violations of the commission's orders to cease and desist. This includes the alleged violation of stipulations to cease from unfair practices entered into between respondents and the commission and the violation of resolutions subscribed to at trade practice conferences.

Tables showing the number of matters handled by this division will be found on pages 114 and 115. During the year a total of 1,469 preliminary inquires were instituted. Of this number 384 were docketed as formal applications for complaints. The total number of applications for complaints docketed for the year ending June 30, 1929, was 679, which is the largest number docketed in any single year with the exception of 1920.

The investigating work of the commission is carried on from its main office at Washington, D C., through its four branch offices located at 45 Broadway, New York City; 608 South Dearborn Street, Chicago 544 Market Street, San Francisco; and 431 Lyon Building Seattle. Business men may confer at these places with qualified representatives of the commission regarding cases and with reference to rulings made by the commission.

#### TIME AND MONEY SAVED BY EXPEDITION OF WORK

Time and money both of the business community and the commission itself are being saved in large measure through expedition of the work of the chief examiner's division, of which striking illustrations may be seen in the statement appearing on page 59. A special effort has been made to eliminate from the active calendar applications of long standing.

That this work is being expedited is apparent from the fact that since 1927 there has been a steady decrease in the number of applications pending more than six months and the average length of time each docketed application has been on the calendar.

In the following table are presented statistics showing a decrease in both the number of old applications on hand and the average length of time all pending applications have been on the calendar, as of certain dates from February 15, 1927, to June 15, 1929. Eighty-four applications had been on hand six months or more February 15, 1927, and the average age of all docketed applications was 10 months. Two years later only 61 docketed applications had been pending more than six months, and the average period which all applications had been pending had been reduced a most 50 per cent. On June 15, 1929, only 49 applications had been pending six months, and the average age of all applications was but 5 months and 13 days.



*Statement showing number of docketed applications on hand and average length of time all docketed applications were on hand at specified periods, February 15, 1927, to June 15, 1929*

Date	Docketed applications on hand 6 months or more	Average length of time all docketed applications on hand		Date	Docketed applications on hand 6 months or more	Average length of time all docketed applications on hand	
		Months	Days			Months	Days
1927				1928--Continued			
Feb. 15	84	10		June 15	86	8	13
Apr. 15	70	7	21	Aug. 15	78	7	26
June 15	74	7	21	Oct. 15	70	7	21
Aug. 15	74	7	25	Dec. 15	66	6	15
Oct. 15	85	7	29	1929			
Dec. 15	101	8	26	Feb. 15	61	5	21
1928				Apr. 15	62	5	17
Feb. 15	97	9	16	June 15	49	5	13
Apr. 15	95	8	26				

With only a small increase in the force, it is believed the legal investigating work of the commission could be put on a current basis. The progress already made in this direction is noticeable. Expedition of the preliminary inquiries saves the time of the commission and thus enables the force to devote more time to the important inquiries of wide scope. It also results in more prompt action being taken in the applications which are docketed.

#### CLAYTON ACT ENFORCEMENT MADE DIFFICULT

The commission has concurrent jurisdiction with the Department of Justice in the enforcement of sections 2, 3, 7, and 8 of the Clayton Act. Effective enforcement of section 7 has been most difficult, and in its annual report for the years ending June 30, 1927, and June 30 1928, the commission directed attention to the decisions of the United States Supreme Court in the cases against Western Meat Co., Swift & Co., and Thatcher Manufacturing Co., construing this act (272 U. S. 554). In this decision the order of the commission against Western Meat Co., including prohibition of the acquisition of the physical assets of the Nevada Packing Co., through ownership of the illegally acquired stock, was affirmed. In the case of Swift & Co. and Thatcher Manufacturing Co., however, by a 5-to-4 vote, the court set aside the commission's orders on the ground that the statute conferred no authority upon the commission to order a dispossession of physical assets, although obtained as a result of an illegal acquisition of stock. In these two cases the acquisition of the physical properties was consummated before the commission filed its complaints, while in the case against Western Meat Co. the physical property had not been acquired at the time final order was issued. The result is that a corporation may purchase the stock of a competitor in violation of section 7, and if it can use the stock thus acquired to complete the acquisition of the physical assets of the corporation before the commission files

complaint, then the situation is beyond the corrective power of the commission.

In such cases complaints now issue immediately upon completion of the preliminary inquiry and before a hearing by the board of review. However, considerable time is necessary in making the preliminary inquiry, and, so far as the commission is concerned, the effectiveness of the act has been materially lessened by the decisions referred to above.

Since these decisions there have been noted a number of cases where the jurisdiction of the commission has been defeated by the corporation having acquired the capital stock of another company, and then converting the assets of the acquired company either before the preliminary inquiry was completed or before the question as to whether the facts warranted action under section 7 had been considered.

### INQUIRIES INTO STOCK ACQUISITIONS

During the year 228 preliminary inquiries were instituted which involved stock acquisition and merger of corporations; 43 such inquiries were pending at the beginning of the year and 71 at the close of the year, so that 196 matters were disposed of. Of this number, 50 per cent involved acquisition of assets, so did not fall within the provisions of the act; 49 inquiries were filed without action because of lack of competition, either because of the territory served or that the products involved were not competitive; 18 were filed because only intrastate sales were involved; and 30 inquiries were filed because the mergers were not consummated. As a result, less than a half dozen of the inquiries were believed to constitute a violation of the law.

In the larger number of matters investigated involving the acquisition of assets, the acquisition was accomplished through the issuance of stock therefor by the acquiring corporation or subsidiary thereof. With but few exceptions, no cash consideration was involved. Under the terms of the more common agreements the acquired company agrees to transfer its assets to the acquiring corporation in exchange for the capital stock of such corporation. The usual terms of these more common agreements also provide for the deposit with a depository of the respective capital stocks of the acquired and acquiring corporations. Exchange of the stocks is effected through the depository following transfer of assets. Subsequent steps often involve the dissolution of the acquired corporation and cancellation of its stock. The usual consideration for assets is an issue of capital stock.

During the year the commission's attention has been directed to a number of consolidations and combinations involving noncompeting products. Two or three of the largest involved concerns engaged in a nation-wide business in food products. Some of these inquiries are still pending. However, most of these consolidations and acquisitions were of corporations engaged in the distribution of allied but noncompetitive products. Preliminary inquiry disclosed that the commission could take no corrective action under the Clay-ton Act even though the consolidation was effected through the acquisition or exchange of capital stock. The trend toward consolidation of integrated industries was very pronounced at the close of the year.

**SPECIAL INVESTIGATION--NEWSPRINT PAPER**

*Newsprint paper.*--On February 27, 1929, the following resolution introduced by Senator Schall was adopted by the United States Senate:

*Resolved,* That the Federal Trade Commission is requested to make an Investigation upon the question of whether any of the practices of the manufacturers and distributors of newsprint paper tend to create a monopoly In the supplying of newsprint paper to publishers of small daily and weekly news papers or constitute a violation of the antitrust laws, and to report to the Senate as soon as practicable the results of such investigation together with its recommendations, if any, for necessary legislation.

The above inquiry was assigned to the chief examiner's division and the investigation is now in progress. Special attention is being given to the question as to whether the small daily or weekly news-papers are being discriminated against in the purchase of paper.

## **TRIAL EXAMINERS' DIVISION**

### **OUTLINE OF PROCEDURE**

The trial examiners' division, established by the commission December 1, 1925, functions under direct supervision of the commission. Duties of this division are subdivided as follows: (1) Presiding at the trial of formal complaints issued by the commission and (2) settlement of application for complaint by stipulation.

The foregoing duties will be considered under the captions "Complaint" and "Stipulation."

### **COMPLAINT**

Under the procedure adopted by the commission, a trial examiner presides at the trial of all formal cases, and in the conduct of such proceedings rules on all motions of counsel and the admissibility of evidence and continues the hearing as necessity may require. At the close of a proceeding the trial examiner makes up the record and prepares a report upon the facts, which report he serves upon counsel for the commission and attorney for the respondent. The report, with exceptions taken thereto by counsel for the commission and attorney for the respondent is the basis for argument at the final hearing before the commission.

### **STIPULATION**

In addition to presiding at hearings in formal cases, the trial examiners' division is also charged by the commission with settlement of applications for complaint by stipulation, except in cases where the practice is so fraudulent or so vicious that protection of the public demands the regular procedure of complaint.

This division of the commission affords an agency to administer the commission's present policy providing for settlement of certain informal cases by stipulation.

The stipulation procedure provides an opportunity for the respondent to enter into a stipulation of the facts and voluntarily agree to cease and desist forever from the alleged unfair methods set forth therein. Such stipulation is subject to the final review and approval of the commission.

That thousands of dollars are saved for American business men each year through the Federal Trade Commission's stipulation procedure can not be proved here by production of a dollars and cents chart because to obtain such statistics would be difficult and expensive.

But when considering the sheer number and volume of cases disposed of by this method yearly it becomes obvious that countless

time and money that would otherwise be spent in litigation is being saved.

Not only that, but administration of the stipulation procedure is notably expediting the work of the Federal Trade Commission.

The procedure is simple. A potential respondent decides he would rather quit the practice of which complaint is made than go through with trial of a formal complaint. If the commission approves such course, he signs an agreement to "cease and desist forever" from the unfair practice with the understanding that should he ever resume it the facts as stipulated may be used in evidence against him in the trial of a complaint which the commission may issue.

However, not every potential respondent has the opportunity of entering into a stipulation. Whether a case shall be stipulated or not is entirely within the discretion of the commission. If the practice charged is a flagrant violation of the law or is notoriously fraudulent or if for any other reason the commission deems that the case should be tried in the formal way, then the stipulation procedure is not for the person, firm, or corporation involved.

The facts in each stipulation are made public to show methods of competition condemned by the commission as unfair, for the guidance of industry and protection of the public. However, names of the respondents signing the agreements are carefully deleted from the publicity. This is a protection granted signers on the premise that the stipulation, not having reached the status of a formal complaint, should not be made a public proceeding.

#### **PUBLICITY FOR STIPULATIONS BENEFITS INDUSTRY**

Publicity regarding stipulations is especially valuable to other members of an industry to which a signer of such an agreement belongs. With this in mind the commission, in releasing for publication the facts surrounding a given stipulation, places the name of the commodity or industry involved at top in conspicuous letters so that trade paper representatives, trade association secretaries, and other members of the industries concerned may make note thereof.

Commodities mentioned in stipulations are of an infinite variety. Taken at random there would be such a list as follows: Hats ,shoes, suit goods, cotton pile fabrics, tombstones, perfumes, cigars, automobile accessories, malt extracts, hollow ware, Indian blankets, electrotherapeutical instruments, horseshoes, radio cabinets, sea food, and tooth paste.

Out of the numerous unfair trade practices covered by stipulations three may be mentioned as conspicuous because of their repetition in the proceedings. These are:

Use of the words "factory" or "mills" by selling or distributing organizations which own or operate no factories or mills but desire to create the impression that they sell directly from factory to consumer.

Designation of sirups or concentrates used in the manufacture of so-called soft drinks as "grape," "peach," "cherry," "strawberry," or by other names of actual fruits when they are not composed in whole and sometimes not even in part of such actual juices or fruits.

Labeling as "U. S. Army" shoes not made under contract with the Government, the purpose being to

give an impression of the quality usually characterizing goods purchased by the Government.

Obviously, this service is protecting the American consumer from these series of smaller frauds, which, in the aggregate, are an important consideration.

The commission believes that if a beverage sold at soda fountains or elsewhere does not contain the actual fruit or juice of same, as advertised, the public should be informed of what it is buying.

Likewise, if a jobber heralds himself as a manufacturer offering factory prices directly to the consumer, he is unfairly competing with actual manufacturers who really offer such prices.

To advertise a shoe as a "U. S. Army" shoe will create in the minds of citizens, especially men who were once in the service, a definite idea of quality. Whether or not that quality is present, the commission holds that to advertise such merchandise as "U.S. Army" shoes when not actually manufactured on contract or specification of the Government is wrong.

During the short period in which the stipulation rule has been in effect 404 separate respondents have entered into stipulations of facts with agreements to abandon the unfair methods of competition and cease and desist forever from the said practices in interstate commerce.

A Summary of all stipulation proceedings made public in the fiscal year of 1928-29 may be found on page 217.

#### **STIPULATIONS SAVE TIME AND MONEY**

The policy of the commission affording respondents an opportunity of disposing of certain cases by stipulation has resulted in a substantial saving in time and money to the Government, as well as to the respondents, and at the same time has eliminated numerous unfair methods and practices from the channels of interstate trade.

From an estimate made by the commission it was determined that the average cost of procedure by complaint, involving the taking of testimony, reporting, and trial, is about \$2,500, while the cost of settling application for complaint by stipulation--thus avoiding a complaint--is less than \$500 a case. The immediate cessation of the unfair practice, however, is of greater importance than the monetary saving involved.



## ECONOMIC DIVISION

The economic division conducts general inquiries for the commission as directed by the President, by either House of Congress, or by the commission itself.

Such inquiries are distinguished from legal or quasi-legal proceedings against specific acts or practices of particular enterprises, which are naturally handled by the legal division. The occasion for an inquiry into conditions and practices in an entire industry especially can seldom be justifiably expressed as a specific complaint and allegation of wrong doing against designated persons. And even with respect to a more specific group or particular corporation the questions raised may be less definite and not wholly with reference to alleged wrong doing.

Yet the Congress and the public may be dissatisfied with conditions in some trade or industry and may reasonably demand investigation. The result in any case of general inquiry may be expected to be better information of Congress and the public. There may or may not be disclosed the need of administrative action or legislation to check unjustifiable restraint of trade or to correct other abuses.

The results of this division's inquiries hitherto published constitute a valuable source of information regarding conditions and practices in many branches of industry in the United States, and in specific instances have led to legislative action by Congress.

During the fiscal year ended June 30, 1929, inquiries relating to the subjects indicated below received attention from the economic division. Some were completed and reports thereof published within the fiscal year. Such were the report on Open-Price Trade Associations (which incorporated, also, the report on lumber trade associations), and Part I of the report on Resale Price Maintenance. These volumes were Ordered printed by the Senate and House, respectively. A brief report on Du Pont investments was also completed. The report on Competition and Profits in Bread and Flour, although transmitted to the Senate in the previous fiscal year, became available for distribution in printed form in the fall of 1928.

Inquiries conducted during the year are listed as follows:

*Power and gas utilities*--Inquiry directed by Senate Resolution 83 (70th Cong., 1st sess.), February 13 (calendar day, February 15), 1928.

*Chain stores*--Inquiry directed by Senate Resolution 224 (70th Cong., 1st sess.), May 3 (calendar day, May 12), 1928.

*Open price associations*--Inquiry directed by Senate Resolution 28 (69th Cong., special sess.), March 17, 1925.

*Lumber trade associations*--Inquiry directed by the commission January 4, 1926.

*Resale price maintenance*--Inquiry directed by the commission July 25, 1927.

*Price bases*--Inquiry directed by the commission July 27, 1927.

*Blue sky securities*--Inquiry directed by the commission July 27, 1927.

*Du Pont investments*--Inquiry directed by the commission July 29, 1927.

*Bread and flour*--Inquiry directed by Senate Resolution 163 (68th Cong., 1st sess.), February 16, 1924.

### ELECTRIC AND GAS UTILITIES

The inquiry into the electric and gas utility industries, directed by Senate Resolution 83, Seventieth Congress, first session, adopted February 15, 1928, was undertaken promptly. In planning the work on this inquiry the commission directed that the financial phases should be investigated by the chief economist and that the publicity methods employed by the electric and gas industries and the question as to attempts to influence the elections of United States Senators should be inquired into by the chief counsel.

The commission's comprehensive report forms, Report of Utility Corporations, were received from the Government Printing Office in September, 1928. The data called for in these report forms include the facts called for in Senate Resolution 83, in so far as they can be secured through schedule returns, upon the following: (1) The growth of capital assets and capital liabilities of holding companies, operations of management and service groups, including their public utility and nonpublic utility subsidiaries, and of independent operating companies doing an interstate or international business; (2) the methods of issuing, the price realized, and the commissions, bonuses, and fees received or paid by such companies with respect to the various issues of securities made by them; (3) the services furnished to electric and gas public utility companies, by holding, management, and service companies, including the fees, commissions, bonuses, or other charges made therefor, and their earnings and expenses in connection therewith; (4) the intercompany relationships among holding companies, managing or service companies, and financial, engineering, construction, and electric and gas operating companies; and (5) political campaign contributions and the expenditure of funds to be used to influence or control public opinion with respect to municipal or public ownership of electric power or gas enterprises.

### REPORT FORMS SENT TO 2,500 FIRMS

Report forms were sent to about 2,500 companies. Great difficulty has been experienced in receiving reasonably prompt and complete returns to these questionnaires. While a few companies made returns before the date requested by the commission, and numerous others, both large and small, apparently as promptly possible, there were many important companies which, up to June 30, 1929 (or about nine months after the report forms were sent to them), submitted no returns at all or whose answers were quite incomplete and inadequate. Up to June 30 approximately 10 per cent of the number of electric and gas companies to which report forms were sent had completed and forwarded them to the commission, but the proportion of the industry covered, considering the importance of the companies, was much larger.

During the past year the commission's accountants examined the books of account of a number of the larger holding, service, management, and construction companies, including some of their larger electric and gas operating companies. This examination included a detailed analysis of the investment accounts, the capital accounts, all other pertinent asset and liability accounts, earning and expense accounts, and surplus and reserve accounts. Field work on the relations between utility companies and service organizations was completed at the offices of several of the more important manage-

ment groups.

With respect to some important questions, the progress of this part of the inquiry has been seriously delayed by certain companies, with the result of greatly increasing the cost of the investigation.<sup>1</sup>

At the close of the year summaries to be used in connection with public hearings were being prepared on the growth of capital assets and capital liabilities, on the issuance and purchase of securities, and on service fees and expenses of holding and management groups.

### **CHAIN STORES**

On May 3, 1928, the Senate, by Resolution 224, directed the commission to make an investigation of the chain Store system of marketing and distribution. Under the terms of this comprehensive resolution the commission is ordered to ascertain and report (1) the advantages and disadvantages of chain store distribution in comparison with those of other types of distribution as shown by prices, costs, profits and margins, quality of goods, and service rendered by chain stores and other distributors, or resulting from integration, managerial efficiency, low overhead, or other similar causes; (2) the parts played in the growth of chains by actual savings in costs of management and operation and by quantity prices available only to chain stores, and whether or not such quantity prices constitute a violation of any existing laws; (3) the extent to which consolidations of chain stores have been effected in violation of the antitrust laws and are susceptible to regulation under present laws; and (4) the extent to which the chain store movement has tended to create a monopoly or concentration of control in either local or national distribution. The commission is also directed to recommend any needed legislation in respect to the regulation of both chain-store distribution and quantity prices available only to chain stores

### **INQUIRY CARRIED ON DESPITE HANDICAPS**

Owing to the pressure of work in other inquiries and a limited staff and funds, it was impracticable to assign an adequate number of people to this investigation until some months after the pass age of the resolution. Despite these handicaps, the inquiry was well under way at the close of the fiscal year.

The terms of the resolution involve an investigation of the comparative merits of chain and independent store methods of distribution. The inquiry therefore required careful planning, which necessitated an extensive advance analysis of the problems involved. A large amount of office time was used particularly in planning and organizing the work on the comparative buying and selling prices of chain and independent stores.

Most of the routine office work done on the inquiry during the fiscal year as in connection with obtaining returns from various types of distributors covering the principal features of their businesses. This necessitated the preparation of three sets of detailed schedules designed, respectively, as for chain stores, for wholesalers,

1 The details of a suit brought by the commission to compel a large holding company to produce certain records pertinent to the investigation may be found on pp.27 and 108.

and for retailers other than chains, and of mailing lists aggregating well over a hundred thousand names. The schedules for both wholesalers and chain stores were mailed out during the year, but financial considerations delayed the printing of the retail schedule until after the close of the fiscal year. Most of the follow-up work necessary either to procuring or correcting schedule returns was completed for wholesale dealers during the year, but the greater part of this task for chain stores still remained to be done. While a few men were in the field for several months, most of the field work except for one or two phases of the inquiry was of the preliminary and informative character necessary to the planning of the work and the preparation of schedules. The organization and operating methods of several leading chains, however, were given intensive study by the field men, and considerable attention was also devoted to discounts allowed chain stores.

### OPEN PRICE ASSOCIATIONS

The commission's report on Open Price Trade Associations was transmitted to the Senate February 13, 1929. It was printed and ready for distribution in April.

This 500-page volume deals primarily with a particular, though varied, type of trade association. But, with reference to needed perspective in relation to the activities of open-price associations, and in compliance with the direction of the Senate resolution—which specifically requires the consideration of activities other than the denoted activity of this class of associations—much attention is paid to trade-association work in general. The emphasis, however, is principally upon the reporting of prices and closely related trade-statistical activities. No important difference between open-associations, and other associations, especially the closely related class reporting trade statistics but not prices, was found. The report contains chapters on the cost work of trade associations and upon their miscellaneous activities. Consideration is given to the legal status, as well as economic effects, of the various activities of open-price and other trade associations.

The contribution of this report to correct judgment of the economic and legal status of trade associations general is probably of more interest to the public than information relating to the specific topic of open-price associations. Even in considering legally questionable activities and policies, discussion may properly be more concerned with what is economically desirable than with possibilities of illegality, at least where there is a duty to consider what the law ought to be, as well as what the law is.

Perhaps the conclusion from the study made in this report that of most practical significance is that certain trade-association activities that have not even an indirect relation to price information—the activities referred to, of course, varying in nature according to the needs of the industry—are of great general importance. Trade associations can not be dismissed as mere price-fixing institutions, even if they are frequently just that. As regards trade statistical and price information services, the fundamental principle is that information is never, as such, of a nature illegally to restrain

or coerce anyone. It may, however, by manipulation, and especially by restriction of its availability, be made an instrument of illegal restraint of trade. Associations of competitors, moreover, are always subject to the temptation to deal "realistically" with competitive facts instead of ethically with competitive methods.

The commission's recommendations do not suggest any fundamental changes involving legislation, yet do point out the need of clarification of the law with regard to specific identification of prices and statistical data pertaining to individual members; also the desirability of provision for regular reports by trade associations to be filed with some Government bureau, such that continuous information about the activities of such organizations will be at hand for reference as occasion may arise; and the desirability that the compulsory powers of the Census Bureau to obtain statistical returns be extended in the interest of better trade statistics.

### **LUMBER TRADE ASSOCIATIONS**

Closely connected with the open-price associations inquiry is that into lumber trade associations. This inquiry was initiated by the commission. It was intended to bring down to date previous surveys of the activities of five specific lumber associations operating in the South and West. The work was completed early in the year under review, and the results are included as a chapter of the report on open-price associations, because of the similar subject matter of the two inquiries.

### **RESALE PRICE MAINTENANCE**

An inquiry of broad scope respecting the subject of resale price maintenance was undertaken in accordance with a resolution adopted July 25, 1927, by the commission acting on its own initiative under its general powers as outlined in section 6 of its organic act. In January 1929; the commission transmitted Part I of its report on Resale Price Maintenance to the Congress. This was promptly printed and made accessible to the general public.

This volume covers only a part of the field of the inquiry, namely, the legal status of price maintenance and the general experience and opinions of interested business classes and of consumers. The results of further work upon quantitative or statistical measures of actual business experience in handling trade-marked or otherwise identified products, and upon the relationship of resale price maintenance to different types of products and methods of distribution, will be dealt with in Part II of the report.

As regards the legal situation and the principles involved, the report traces briefly the steps by which attempts by manufacturers to fix by contract the resale prices of their identified products have come in this country to be held illegal as restraints of trade. In some foreign countries such powers of price fixing and control are permitted, and this is consistent with their industrial and trade policies. Proposed legislation would give American manufacturers the right, if they choose to use it, fixing and maintaining resale prices for their identified products.

### CONSUMERS AND OTHERS OFFER OPINIONS

The effort was made to secure by the use of questionnaires expressions of opinion from consumers, professional men, retailers, wholesalers, and manufacturers as to whether they favored extension of the right of price maintenance by manufacturers. The replies showed that consumers, on the whole, are against resale price maintenance by a large majority, and the professional classes are against it by a smaller majority. Retailers, on the other hand, are for it by a large majority, although chain and department stores are decisively opposed. Manufacturers, particularly those making widely advertised trade-marked goods, are decisively for it, and wholesalers are more strongly for it than any other group. On the whole, the consensus of public opinion appears to be quite evenly divided on the subject.

The report points out further that the power to fix resale prices means the power to control the prices of goods that are no longer owned. Such restriction of trade may have a specific and well-defined purpose and might be allowed by appropriate changes in the law if found to be in the public interest, as has been done in some foreign countries where the legal conception of public interest differs from that now prevailing in the United States. In this country the control of the price at which a manufactured product is sold to the ultimate consumer can often, however, be completely effected under present law (1) through establishing retail outlets that are owned and operated as manufacturers' branch establishments, (2) through placing goods in the hands of independent retailers for sale on consignment, or (3) through some other device utilizing the agency type of contractual relation. But in many lines of business these methods are not regarded as practical. \* \* \*

Under resale price maintenance the margin allowed to the retailer would still be a competitive matter to a large extent, but a matter of competition, obviously, among manufacturers and not among dealers. Thus dealer price competition would largely be eliminated; that is, the dealers would have nothing to say regarding the margin taken for handling price-maintained goods, but would act in this matter substantially as agents of the manufacturer. In such a position, it is alleged, they should be protected, eventually, especially through the right of returning unsold stocks at purchase cost and in the matter of equal treatment of dealers as to margins.

The fixing of resale prices by an individual manufacturer does not amount to concerted and general price fixing by manufacturers, though this is feared by some, but it necessarily restricts the scope of dealer competition. It is claimed, therefore, that the interest of the consuming public would also need some safeguard with respect to such prices. This general point of view finds frequent expression in answers to the questionnaires discussed in this report.

The subject of resale price maintenance can be viewed in its true light only as a part of a much larger situation; that is, in relation to efficiency and economy in the whole scheme of distribution. The cost of distribution—the margin between producer and consumer—is at present alleged to be unduly wide, especially on staple articles. Tills proposition is not exact or even quantitative in its terms, and can not be made as a positive and definite statement without extensive analysis of the concrete facts in statistical form. Without waiting for that, however, the question is raised by some whether encouragement should be given to any tendency to increase the margin in question. It is contended by those opposed to the plan that resale price maintenance, not subject to authoritative control by governmental or other impartial agency, might easily cause a widening of trade margins, which are alleged to be often too wide already.

Part I of the report goes no further than to call attention to the general nature of the question and the opinions expressed regarding resale price maintenance by certain interested groups. Conclu-



sions and recommendations are properly reserved until the completion of the inquiry.

### **GEOGRAPHIC BASES OF PRICE MAKING**

This inquiry, initiated on the commission's own motion, was undertaken because of the importance which the problem of commodity distribution has in present-day economy and because of the potential influence of any method of determining price on the distribution system. The inquiry is seeking in particular to develop the various methods of differentiating prices with respect to location, including f. o. b. mill, delivered, and single and multiple basing-point methods; to discover the reasons for their adoption and the purposes to be served by them; and to determine their effects, actual and potential, upon prices and competitive conditions.

The work on this inquiry, which previously had been largely with trade associations and industries generally, has through the past year been confined more to a few specific industries from which price-making information has been obtained by oral inquiry and by transcribing invoice records in the offices of dealers and manufacturers. This information is being assembled and made ready for further study.

Owing to the prior claims of other investigations the staff assigned to this inquiry has been relatively small and the work has been frequently interrupted; for these reasons progress has necessarily been slow.

### **BLUE-SKY SECURITIES**

On July 27, 1927, the commission directed the chief economist to inquire into the practices of selling so-called blue-sky securities; the legislative, administrative, and other methods employed to abate the evil and the results thereof; and to report thereupon to the commission.

At the close of the fiscal year a revised draft of the report was nearly completed, covering the methods of blue-sky vendors; the anti blue-sky activities of private organizations and of State and Federal Governments; opinions and arguments regarding proposed Federal blue-sky legislation; and the legislative and other methods employed in other countries to control this evil.

### **DU PONT INVESTMENTS**

On July 29, 1927, the commission directed an inquiry into the acquisition of stock of the United States Steel Corporation and into the relationships, direct and indirect, among the United States Steel Corporation, the General Motors Corporation, and the E. I. du Pont de Nemours Co. This inquiry was completed and the report submitted to the commission shortly after the close of the fiscal year ended June 30, 1928.

### **BREAD AND FLOUR**

In response to Senate Resolution 163, Sixty-eighth Congress, first session, directing the commission to investigate the production, distribution, transportation, and sale of

bread, flour, and grain, there

was transmitted to the Senate, January 11, 1928, a report dealing with the various aspects of the inquiry called for by the resolution, but lacking certain facts in regard to competitive conditions in flour milling, owing to the refusal of the Millers National Federation to furnish the commission with certain requested information. The commission does not consider the report on the Senate resolution complete without this information and it is expected that a supplementary report will be issued when decision has been reached in certain legal proceedings now under way to determine its right to this information. The report submitted, entitled "Competition and Profits in Bread and Flour," was printed by order of the Senate.

#### **COOPERATION WITH THE LEGAL STAFF**

From time to time employees of the economic division are assigned to do economic and statistical work in connection with cases handled by the legal division. Several temporary assignments of this nature were made during the year.

## **CHIEF COUNSEL**

### **OUTLINE OF PROCEDURE**

The chief counsel is legal adviser to the commission and is charged with the duty of supervising preparation of complaints and other legal process directed by the commission, the prosecution and defense of all cases before the commission and in the courts, and the work of the export-trade section. He is also specifically charged at present with the duty of conducting the public hearings and certain other phases of the public-utilities investigation under Senate Resolution 83.

### **ISSUANCE OF A COMPLAINT**

It is only after the most careful scrutiny of the record that the commission issues a complaint. The commission must have, in the language of the statute, reason to believe that the law has been violated and that the public interest is involved before complaint issues. The complaint is the statutory means provided to bring before the commission a party charged with violation of laws within its jurisdiction. Unlike the preliminary inquiries and applications for complaint, which are held strictly confidential, the complaint and answer are a public record, and with the issuance of a complaint there is set up the formal docket, which, unless otherwise specifically directed by the commission, is open for public inspection after the complaint has been served upon the respondent.

A complaint is issued in the name of the commission in the public interest. It names a respondent and charges a violation of law, with a statement of the charges. The party first complaining to the commission is not a party to the complaint when issued by the commission; nor does the complaint seek to adjust matters between parties. It is to prevent unfair methods of competition for the protection of the public.

### **ANSWER TO A COMPLAINT**

The commission's rules of practice and procedure provide--

(1) In case of desire to contest the proceeding the respondent shall, within such time as the commission shall allow (not less than 30 days from the service of the complaint) file with the commission an answer to the complaint. Such answer shall contain a short and simple 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, such statement operating as a denial. Any allegation of the complaint not specially denied in the answer, unless respondent shall state in the answer that

respondent is without knowledge, shall be deemed to be admitted to be true and may be so found by the commission.

(2) In case 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 refrains from contesting the proceeding or that respondent consents that the commission may make, enter, and serve upon respondent an order to cease and desist from the violations of the law alleged in the complaint, or that respondent admits all the allegations of the complaint to be true. Any such answer shall be deemed to be an admission of all the allegations of the complaint and to authorize the commission to find such allegations to be true.

(3) Failure of the respondent to appear or to file answer within the time as above provided for shall be deemed to be an admission of all allegations of the complaint and to authorize the commission to find them to be true and to waive hearing on the charges set forth in the complaint.

### TRIAL OF A CASE

After complaints are issued the chief counsel is charged with the trial or other proper disposition of all cases. In a contested case the matter is set down for the taking of testimony before a trial examiner upon due notice to all parties respondent. After the taking of testimony and the submission of evidence on behalf of the commission, in support of the complaint, and on behalf of the respondent, the trial examiner prepares a report of the facts for the information of the commission, counsel for the commission, and counsel for the respondent. The trial examiner's report is informative only and is not binding on the commission.

Within a stated time after receipt of the trial examiner's report briefs are filed and then the case comes on for final argument before the full commission. Thereafter the commission reaches a decision either sustaining the charges of the complaint or dismissing the complaint. If the complaint is sustained, the commission makes a report in which it states its findings as to the facts and conclusion that the law has been violated, and thereupon an order is issued requiring the respondent to cease and desist from such practices. If the complaint is dismissed, an order of dismissal is entered.

Respondents against whom orders to cease and desist have been directed are required within a specified time, usually 60 days, to report in writing the manner in which they are complying with the provisions of the commission's order. If a respondent fails or neglects to obey the order while it is in effect, the commission may apply to a United States circuit court of appeals for enforcement thereof. Respondents may likewise apply to a United States circuit court of appeals for review of the commission's orders. Either party may apply for certiorari to the Supreme Court of the United States, which, if granted, brings the case before it for final determination.

All court proceedings are supervised by the chief counsel through the assistant chief counsel in charge of appellate work.

**SUMMARY OF WORK, 1929**

The work of the export-trade section is reported at pages 114 and 122. That of the public-utilities investigation is described at page 26. The volume of other work of the chief counsel's office is concisely expressed in the statistical tables to be found on pages 115 to 121 of this report. Complete synopses of complaints disposed of by orders of dismissal or orders to cease and desist entered during the year and all cases pending at its close will be found in Exhibits 8 and 9, pages 168 to 217.

**CHARACTER OF COMPLAINTS**

In the course of the performance of its duties the commission is called upon to protect the public from unfair and monopolistic business practices.

All but 5 of the 148 complaints issued during the year charged unfair methods of competition violative of section 5 of the Federal Trade Commission act. Violations of section 7 of the Clayton Act by acquisition of capital stock of competing concerns were charged in four complaints. There was one complaint charging violation of section 3 of the Clayton Act (tying contracts). This complaint also includes a charge of violation of section 5 of the Federal Trade Commission act. No complaints under section 2 of the Clayton Act (price discrimination) and section 8 of the Clayton Act (interlocking directors) were issued during the fiscal year.

Herewith are presented brief summaries of the charges contained in a few of the complaints issued by the commission during the fiscal year. These complaints are fairly representative.<sup>1</sup>

*Acquisition of capital stock of competitors Violation of section 7 of the Clayton Act.*-Four complaints were issued by the commission charging violations of section 7 of the Clayton Act.

In one of these, it was charged that a holding corporation acquired 98 per cent of the issued capital stock of an anthracite coal mining corporation and 100 per cent of the issued capital stock of a competing anthracite coal mining corporation, with the alleged effect of lessening competition between the two. In another complaint it was charge that a holding corporation acquired all of the issued capital stock of a baking corporation which directly and through subsidiaries has plants in various cities, and all of the issued capital stock of a competing baking corporation which directly and through subsidiaries has bakeries in various cities, with the alleged effect of lessening competition between the two acquired corporations, of restraining commerce in certain sections, and with the alleged effect of tending to create a monopoly. In another complaint the commission charged that a holding corporation acquired a majority of the capital stock of two corporations engaged in the business of rolling and fabricating steel sheets, with the alleged effect of lessening competition between the acquired corporations, while in the last of the complaints issued by the commission, a corporation engaged in manufacturing working gar-

<sup>1</sup> Attention is especially invited to the fact that most of these complaints are pending, and consequently

the commission has reached no determination as to whether the law has been violated as charged therein.

ments was charged with acquiring all of the issued capital stock of a competitor, with the alleged effect of substantially lessening competition between the two corporations, of restraining commerce in working garments, and of tending to create in the acquiring corporation a monopoly of working garments.

*Tying and exclusive contracts--Violation of section 3 of the Clayton Act and section 5 of the Federal Trade Commission act, and resale price maintenance--Violation of section 5 of the Federal Trade Commission act.*-Complaint was brought March 14, 1929, against a manufacturer of cane, corn, and blended sirups, having a dominant position in this line for a portion of the country and against a corporate sales agency, its subsidiary, charging that respondents had adopted a so-called "100 per cent policy," thereby obtaining dealers acting as outlets for respondents' sirups exclusively and with an understanding that such dealers would refuse to handle the products of competing manufacturers and distributors.

It is charged that in order to make good respondents' described policy they have extended sales cooperation of an important, if not essential, character to such customers only as have maintained the 100 per cent policy and have threatened to deny and actually have denied the same to certain customers who have refused or failed to maintain the said 100 per cent policy, and have given special consideration in other respects to concerns adhering to that policy.

It is further alleged that respondents have purchased the products of other concerns competing with respondents, and have unfairly resold them below cost. These methods, it is charged, have constrained customers to refuse to deal in merchandise competing with that of respondents, have closed certain outlets for competing goods, have deprived retailers of the benefit of free competition among manufacturers and wholesale dealers in the line of merchandise described, and have deprived the public of the benefits of free and unobstructed competition and in some localities have created a monopoly for respondents' products with a tendency toward the same end in other localities, all in contravention of both section 3 of the Clayton Act and section 5 of the Federal Trade Commission act.

The same respondents are charged with having adopted and maintained since the fall of 1924 a policy of resale price maintenance under which they have established and made known to the trade certain uniform minimum wholesale and retail prices at which dealers handling their products shall resell the same.

In furtherance of this price maintenance policy, it is charged that respondents have declared that they will not engage in sales cooperation, above described, with such wholesale dealers as have declined or failed to maintain the said resale prices, have obtained information through their organizations as to the failure of their customers to observe these resale prices, have secured assurances from dealers that they would maintain respondents' resale prices, and have obtained the actual cooperation of their customers in the maintenance of prices, on occasion declining to sell their products to whole-sale dealers who have failed to abide by the prices set by respondents.

The alleged effect is the lessening of competition among dealers and the deprivation of the public of the benefits of the free play of competition in price, in violation of



section 5 of the Federal Trade Commission act.

*Misdescription of lumber--Violation of section 5 of Federal Trade Commission act.--*Fifty complaints were issued May 23, 1929, against manufacturers of western yellow pine, known botanically as *Pinus ponderosa*, situated in the region extending from southern Oregon to Arizona, on the ground that they wrongfully designate their products as "white pine" with the addition of the words "California," "western," and similar designations.

It is further alleged that the lumber made from this variety of pine is, in certain qualities for purposes for which white pine is best adapted, inferior to that made from genuine white pine, and that this misdescription results in confusion in the minds of jobbers, dealers, architects, and contractors, and the general public. It so results, according to the complaints, that western yellow pine lumber is purchased in lieu of that made from genuine white pine and is used for purposes for which it is inferior, particularly in cases where there is exposure to weather conditions. It is alleged further that this mis-description results in market detriment to the manufacturers of genuine white-pine lumber.

The 50 complaints are identical except as to formal matters of organization, incorporation or copartnership, principal place of business and the like. Answers had not generally been filed at the close of the fiscal year.

*Resale price maintenance--Violation of section 6 of the Federal Trade Commission act.--*A representative complaint on this subject is the one issued by the commission May 9, 1929, in which a manufacturer of a proprietary medicine was charged with practicing unfair methods of competition by enforcing a merchandising system of established uniform prices and maintaining specified uniform prices at which its product shall be resold by wholesalers to retail dealers and by retail dealers to the consuming public throughout the country.

In order to enforce said system and prevent sales at less than the resale prices so designated by respondent, it is alleged that respondent employed the following means among others:

Established uniform prices at which wholesalers shall sell the product to retail dealers; established uniform prices at which retail dealers shall resell said product to the consuming public; entered into agreement and understandings with wholesalers to the effect that they will not sell said product for less than the established wholesale price designated by the respondent; entered into agreements and understandings with retail dealers to the effect that said product will not be resold to the consuming public for less than the retail price designated by respondent.

It is also alleged in the complaint that the effect of these practices is to suppress competition, to prevent dealers from reducing the price of the said product as they may desire and to deprive the consuming public of those advantages which they would obtain from the natural and unobstructed flow of commerce in said product under conditions of free competition.<sup>2</sup>

*Misrepresentation of cyclopedias or books of reference--Violation of section 5 of the Federal Trade Commission act.--*During the year five complaints and two amended complaints were issued by the

<sup>2</sup> The commission on June 27, 1929 issued findings as to the facts and order to cease and desist.

commission against publishers or distributors of cyclopedias or works of reference, charging them with unfair methods of competition in advertising and selling their references works, cyclopedias or extensions of same by falsely or misleadingly representing that the said works or cyclopedias are:

(a) New or completely or lately compiled or revised when they are merely reproductions or reprints of old cyclopedias; (b) being sold at prices far below the usual and customary selling prices or to a restricted and limited list of subscribers, when the alleged usual and customary prices were fictitious and grossly exaggerated and far in excess of the prices at which the works are actually offered and at which respondents expect and intend to sell the same, and when there is no restriction or limit applicable to the purchasers thereof; (c) contributed to, compiled, revised, or reviewed by many well-known educators, public officials, writers, scientists, and statesmen, when such is not the fact; (d) being given away as a special introductory offer or as a premium to a limited number of subscribers or that the only charge is for an extension service keeping the works up to date, when the full and regular price is charged to all the purchasing public. Also falsely and misleadingly representing: (e) that certain persons, particularly school superintendents or boards of education, have indorsed the cyclopedias or recommended their purchase by school teachers when such is not the fact, or that said recommendations or testimonials or endorsements, which had been secured by trickery or fraud, were bona fide; (f) that the contracts or subscriptions signed by subscribers were receipts for sets of cyclopedias which were to be given to subscribers in return for their indorsements or testimonials; (g) that certain corporations or agencies to whom the subscriptions or contracts of subscribers were assigned were bona fide-purchasers for value without notice and that suits would be instituted or other action taken against subscribers if they failed to pay the amounts set out in the contracts of purchase or subscriptions; (h) that the contracts of purchase submitted for their signatures to the subscribers were merely for the purpose of securing subscribers' names and addresses so that the books or publications might be delivered to them, when they were actually contracts of purchase; (I) that the binding, paper, and materials of the books and cyclopedias were of leather or other material of higher quality than actually possessed, or that the contents of the said cyclopedias were of such a nature as to make them especially valuable or desirable to the prospective purchaser when such was not the fact; (j) that the cyclopedias were new and lately compiled books of reference under a particular title or name, when the same work had been on the market for many years under a different name or title, thus causing the purchase of said works under the belief that they were original works of reference.

The complaints charge that such practices are unfair methods of competition because the purchasers of said cyclopedias or books of reference are induced to make purchases of same through the fraud and deception of respondents.

In their answers to the complaints the respondents make a general denial of the allegations or deny that their practices are in violation of law as charged.

*Misrepresentation of paints and roof coating-Violation of section 6 of the Federal Trade Commission act.*--During the year there were four complaints issued by the commission against certain manufacturers or distributors of paints and roof coating, charging them with unfair methods of competition in causing the paints manufactured or distributed by them to be represented to dealers and through them to the consuming public, or directly to the consuming public, in some or all of the following ways: By branding, representing, or designating as "White Lead" paints which are not composed in whole or in greater part of lead carbonate or lead sulphate, but which are composed principally of barium sulphate and siliceous matter and other inert ingredients.

The complaints further allege that the paint products of respondents, while similar in general appearance of color, consistency, and commercial packing to white lead, are inferior in quality to white lead, containing various percentages of inert ingredients such as barium sulphate, siliceous matter, and calcium carbonate; that respondents also distributed directly or indirectly to the consuming public a paint material in paste form denominated, described, and branded by them as "Zinc Lead," the pigment of which is not composed in whole or in greater proportion of zinc or lead carbonate or lead sulphate or a mixture thereof, but consists principally, predominantly, and in greater proportion of barium sulphate and similar inert materials to the approximate extent of at least 80 per cent, and that the said paint material branded "Zinc Lead" is inferior to zinc lead as understood by the trade and purchasing in quality public; that respondents represent themselves in the sale and distribution of their products as manufacturers and not as middlemen, and that because of said fact and other business facilities represent that they are able to and do sell to their customers paint of a better quality and at less price than their competitors, and that they sell and distribute their paint direct from factory to user without the intervention of middlemen or jobbers, wholesalers, or retailers, and that the prices at which they sell their paint are manufacturers' prices and do not include costs, profits, or other charges of middlemen, wherefore the said prices are lower than the prices at which paint of the same quality can be purchased from competitors; When in truth and in fact respondents are not manufacturers nor do they own or operate a paint factory or other facilities, and the prices at which they sell their paints are not manufacturers' prices but are dealers' prices; that respondents' outside house paints are represented as composed wholly or principally of the best grade of white lead, zinc oxide, and linseed oil of the highest grade and not to contain any barium sulphate, siliceous matter, calcium carbonate, or other inert material whereas in truth and in fact respondents' said outside house paints do not consist wholly or principally of white lead, zinc oxide, and linseed oil, nor are said products of the highest grade but they are inferior in quality to paints composed wholly or principally of white lead, zinc oxide, and linseed oil, or to white lead and linseed oil paints, and that considerable percentages of the liquid portion of respondents' paints are not linseed oil; that respondents' roof coating denominated by it as "Asbesto-Ruf" is represented as

containing gilsonite in substantial proportions and not to contain any coal tar or other tar, and that when applied to roofs it will endure and cause said roofs to become and remain waterproof for a period of 10 years, whereas in truth and in fact said roof coating branded and denominated as "Asbesto-Ruf" does not contain gilsonite in any substantial proportion, does contain coal tar or other tar, and when applied to roofs will not endure or cause said roofs to become and remain waterproof for a period of more than 5 years.

The complaints charge that such practices are unfair methods of competition because they induce the public to purchase the said paints and roof coating through the aforesaid fraud and deception.

Respondents (except one, who failed to file an answer) make a general denial of the allegations of the complaints in their answers, or deny that their practices are in violation of law as charged.

*Misrepresentation of nature of business--Violation of section 5 of Federal Trade Commission act.*--Complaints were issued during the year against nine concerns that buy various lots and grades of flour, mix or blend them, and sell such mixtures or blends under trade names in which appear the word "Mill, " "Mills," "Millers, " or "Milling." The literature and circulars used by many of the concerns contain the phrase "Manufacturers of High Grade Flour. " The complaints charge that these concerns thus represent to purchasers that they grind the wheat into the flour which they offer for sale and sell. Respondents filed answers denying the charges.

*Intimidation of competitors and customers of competitors--Violation of section 6 of the Federal Trade Commission act.*--A complaint was issued against four china companies charging that with the intent, purpose, and effect of stifling and suppressing competition in the manufacture and sale of earthenware, chinaware, porcelain-ware, and pottery, they filed an application for a patent upon a ware which had been long known, made, and sold by the trade, as respondents well knew, and then used the fact that such application for patent had been filed to intimidate competitors and customers of competitors and prevent their manufacturing and selling; such ware. Respondents filed answers denying such charges.

*Passing off--Violation of section 6 of Federal Trade Commission act.*--Complaint was issued against a pottery concern charging it with simulating the name and trademark of a long-established and well-known pottery concern whose product had acquired a good reputation and for which there was a large demand because of the quality of materials used and the care and skill put into the manufacture of the product. Respondent filed answer denying the charges.

#### **ORDERS TO CEASE AND DESIST**

The final expression of the commission in a case where it finds respondent to have violated the law, as alleged, is an order upon such respondent to cease and desist from the particular practices alleged in the complaint. The commission during the year here reported upon issued orders to cease and desist in 67 cases. All of these orders covered violations of section 5 of the Federal Trade Commission act relating to unfair

methods of competition. As in past years, respondents upon whom the commission served orders to

cease and desist have in a great many cases accepted their terms and filed reports with the commission signifying compliance therewith.

The orders to cease and desist issued during the year are as follows:

*Orders to cease and desist during year*

[For details see Exhibit 8, p. 168]

Respondent	Location	Method of competition
Automatic Burner Corporation, et al.	Chicago, Ill	False and misleading advertising.
Berkey & Gay Furniture Co. and 24 others Petitions for review of these orders have been filed in the circuit court of appeals for the sixth circuit.	Grand Rapids, Mich.	Selling or offering for sale in interstate commerce furniture made with broad or flat parts of mahogany or walnut, as the case may be, which have been veneered on other different wood or woods unless such furniture be described, labeled or designated as "veneered," using the word "mahogany" or the word "walnut" in advertisements, catalogues, price lists, invoices, or otherwise in connection with the sale or offering for sale in interstate commerce of furniture made with broad or flat parts of mahogany or walnut, as the case may be, which have been veneered on other different wood or woods, unless accompanied by the word or term "veneered."
Bernard-Hewitt & Co.	Chicago, Ill	False and misleading statements in connection with the sale of merchandise; misleading use of the words "silk," "wool," "satin," "pongee," etc.
Bernstein (Inc.) Samuel E.	New York, NY	Misbranding of silverware; misleading use of the word "English."
Bowey's (Inc.)	Chicago, Ill	False and misleading representations in connection with the sale of beverages.
Breakstone, Samuel Petition for review of this order has been filed in the circuit court of appeals for the seventh circuit.	do	Misbranding; simulation of goods; passing off goods as and for those of another; false and misleading representations.
Calumet Baking Powder Co	do	Making a certain test with respondent's product in comparison with competing products; false comparisons of competing products false representations.
Chester Hair Works	Chester, Pa	Misbranding; false use of the word "hair."
Chicago Correspondence School of Music (Inc.), et al	Chicago, Ill	False and misleading advertising in connection with sale of courses of instruction; sales plan in which seller's usual price is falsely represented as a special or reduced price.
Columbia Pants Manufacturing	Baltimore, Md	Falsely claiming to be a manufacturer; false representations; misleading use of the words "union made."
Farley Harvey Co	Boston, Mass	Branding of a fabric composed of cotton and silk; misleading use of words "silk chiffon" and "chiffon."
Pinkelstein, Hyman	New York, N.Y	Misbranding shirts; misleading use of words "English broadcloth," "imported English broadcloth."
Fluegelman & Co. (Inc.) Petition for review of this order has been filed in the circuit court of appeals for the second circuit.	do	Misbranding of cotton goods.
Globo-specialty Co	Chicago, Ill	Misbranding; misleading use of the words "crystal-onyx" and "onyx."
Hoboken White Lead & Color Works (Inc.)	Hoboken, N. J.	Misbranding paint; misleading use of words "white lead" and "lead zinc."
Hoosier Manufacturing Co	Indianapolis, Ind	Misbranding soap; false and misleading advertising.
Jacobs, Leon E & Bro	New York, N. Y	Misbranding shirts; misleading use of words "English broadcloth," "Imported English broadcloth."
Jefferson Furniture Manufacturing Co.	Birmingham, Ala	Falsely claiming to be a manufacturer; false and misleading advertising; falsely claiming to sell at wholesale prices.
Johnson & Johnson Kirk, James S. & Co Petition for review of this order has been filed in the circuit court of appeals for	New Brunswick, N. Chicago, Ill	Resale price maintenance; restraint of competition. Misbranding soap; the use of the words "castile" and "olive" in connection with the sale of soap, the oil or fatty composition of which is not wholly derived from olives.

the seventh circuit.



*Orders to cease and desist during year--Continued*

Respondent	Location	Method of competition
Kohlberg, Alfred (Inc) (Similar orders were issued against three other concerns.)	New York, N. Y	Misbranding and false advertising; selling lace not made in Ireland as Irish lace.
Light House Rug Co., (Inc.) Petition for review of this order has been filed in the circuit court of appeals for the seventh circuit.	Chicago, Ill	False and misleading representations; misrepresenting origin and makers of goods; misleading use of the word "light house."
Maid-Rite Dress Co	Philadelphia, Pa	Misbranding and false advertising; misleading use of words "satin," "pongee," "charmeuse," "wool," and "flannel."
Marsay school of Beauty Culture, et al.	Chicago, Ill	False and misleading advertising in connection with sale of course of instruction in beauty culture.
Maryland Pharmaceutical Co	Baltimore, Md	Resale price maintenance; restraint of competition.
Masland Duraleather Co Petition for review of this order was med in the circuit court of appeal for the third circuit. The case has been argued but not decided.	Philadelphia, Pa	Using the word "Duraleather"; misbranding.
Non-Plate Engraving Co.(Inc)	New York, N. Y	Using the word "engraving" or "engraved"; false and misleading representations.
Ohio Leather Co Petition for review of this order has been filed in the circuit court of appeals for the sixth circuit.	Girard, Ohio	Misbranding; false branding and labeling of leather.
Plateless Engraving Co	New York, N. Y	Using the word "engraving" or " engraved"; false and misleading representations.
Raladam Co Petition for review of this order has been filed in the circuit court of appeals for the sixth circuit.	Detroit, Mich	False and misleading representations.
Ray Laboratories	Chicago, Ill.	False and misleading statements in connection with the sale of a hair dye
Regent Tailors (Inc.), et al	do	Misrepresentation concerning trade status improper use of the word "mill" or "mills."
Restoral Co	do	False and misleading statements in connection with the sale of a hair dye.
Rubinow Edge Tool Works	Newark, NJ	Misbranding steel; using the word "steel" or the words "cast steel" to describe articles not in fact composed of steel.
Scott & Bowne	Bloomfield, NJ	Resale price maintenance; restraint of competition.
Sethness Co	Chicago, Ill	False and misleading representations in connection with the sale of beverages.
University of Applied	do.	Sales plan in which seller's usual price is falsely represented as a special reduced price; false and misleading advertising; misleading use of the word "university."
West Coast Theatres (Inc.), et al.	Los Angeles, Calif	Combination in restraint of trade; interference with freedom to purchase or lease films.
Do	do	Do.

**REPRESENTATIVE CASES RESULTING IN ORDERS**

A number of representative cases resulting in orders to cease and desist issued during the fiscal year are described below:

*"Correspondence school cases"--Violation of section 5 of the Federal Trade Commission act--Chicago Correspondence School of Music.--Respondent, an Illinois*

corporation engaged in teaching music by correspondence, and, incidental to the course of instruction, furnishing to the student a musical instrument, Was ordered to cease and desist from (1) representing that the price at which its course was offered to the public was a reduced or special price when such was not the fact, and (2) representing that the musical instrument was furnished free to the student when the price of such instrument was included in the price specified for the course of instruction.

Marsay School of Beauty Culture.--Respondent is an Illinois corporation engaged in the business of conducting a correspondence school at Chicago and furnishing by mail instruction in beauty culture.

The statutes of the State of Illinois and those of 19 other States of the United States provide that it shall be unlawful for any person to practice or attempt to practice beauty culture without a certificate of registration as a registered beauty culturist issued by constituted authority upon an examination of the applicant, and that it shall be unlawful for any person to serve or attempt to serve as an apprentice under a registered beauty culturist without a certificate of registration as a registered apprentice, issued upon examination. Such laws further provide that no registered apprentice may independently practice beauty culture, but such registered apprentice may, under the immediate personal supervision of a registered beauty culturist, assist a registered beauty culturist in the practice of beauty culture.. Such laws further provide that no person is qualified to receive a certificate of registration as a registered beauty culturist who has not. studied beauty culture for one year as a registered apprentice under a beauty Culturist registered under the laws of the State, or who has not graduated from an approved resident school of beauty culture, having a minimum requirement of a course of study consisting of not less than 625 hours.

After a full hearing the commission issued its order requiring the respondent to cease and desist from (1) representing that the course of instruction furnished by respondent enables the graduate to be an expert beauty culturist or an expert operator or using any equivalent terms in describing the qualifications of graduates of its school; (2) making exaggerated statements as to the earnings or profits to be derived by a graduate of the school; (3) representing to persons residing in States having laws regulating the practice of beauty culture that its graduates can, by reason of such graduation, become entitled to practice beauty culture; (4) representing to prospective pupils residing in States having regulatory laws that such pupils may practice beauty culture or give treatments in beauty culture while studying the course; and (5) from representing that persons who are not in fact graduates of the school are such graduates.

*T. G. Cooke.*--Respondent conducted a correspondence school fox. the teaching of finger printing under the trade name of "University of Applied Science." The commission's order requires him to cease and desist from misrepresenting the usual price of his course of instruction and also that he cease and desist from using the trade name University of Applied Science or representing in any manner that his business is that of a university.

*I. J. Rosenbloom and Jake A. Albin, doing business as the Restoral Co., and Marion Butler Kirtland and Roy M. Kirtland, doing business as Ray Laboratories.*--The facts in the above two cases are identical. The respondents were severally engaged in selling and distributing a preparation represented to be not a dye but a tonic effective for the restoration of the original color to gray hair and the promotion of the growth of hair. The preparation was found by the commission to be nothing but a hair dye, and an order was issued in each case requiring the respondent to cease and desist from repre-

senting that the preparation was a tonic and would promote the growth of the hair or stop hair from falling out or that it was a remedy for dandruff, and other false and exaggerated statements of like character.

*Baking Powder--Calumet Baking Powder Co.*--The baking powder manufactured and sold by respondent contains fifteen one-hundredths of 1 per cent by weight of dried white of egg which ingredient adds nothing to the leavening efficiency or power of the baking powder, but simply operates, when water is applied to the baking powder, to retard the escape of the carbon dioxide gas produced.

It has been the practice of the respondent, as found by the commission, to make through its salesmen and demonstrators demonstrations of its baking powder in comparison with baking powders of its competitors. When such a test is made the salesmen and representatives of respondent are instructed to state and do state that the tests show the comparative gas strength or leavening efficiency of respondent's powder and the competing powders and that as the foam mixture rises and remains sustained in the testing glass so will the cakes or other baked products rise in the oven and be light and palatable. As a matter of fact the extent to which said foam mixture rises in the so-called cold water-glass test is not indicative of the comparative leavening strength of the powders so tested, and the statements expressly or impliedly made by respondent's salesmen to that effect are deceptive and misleading.

The order made in this case after large amount of testimony had been taken covering many sections of the United States requires the respondent to cease and desist (1) from making the water-glass test described and set out in the findings of fact herein with Calumet baking powder in comparison with any other baking powder; (2) from making the aforesaid water-glass test with another manufacturer's baking powder or suggesting that such test be made with another manufacturer's baking powder; (3) from making any assertion, claim, or statement that the aforesaid water-glass test in any way demonstrates or determines the carbon dioxide gas strength or leavening efficiency of any baking powder; (4) from making any assertion, claim, or statement that doughs or batters or like mixtures in which baking powders are used will function in the baking as the foam mixtures function in the aforesaid water-glass test.

*Resale price maintenance--Violation of section 5 of the Federal Trade Commission act.*--A complaint was issued by the commission against Scott & Bowne, a New Jersey corporation, manufacturers of "Scott's Emulsion" and other medicines. The respondent was charged with requiring the wholesalers to which it sold to maintain suggested resale prices. It was alleged that those wholesalers who did not maintain such prices were removed from respondent's list of wholesalers, and so forced to buy respondent's products at the usual price to retailers, the distributors so cut off not being reinstated until satisfactory assurances were received from them to the effect that the suggested minimum prices would be maintained.

Testimony was taken, brief submitted, and oral argument heard by the commission which thereupon held these allegations proved, and

on July 26, 1928, an order was entered directing the respondent to cease and desist (1) from seeking or securing or entering into contracts, agreements or understandings with customers or prospective customers that they will maintain the resale price specified by respondent; (2) procuring, either directly or indirectly, from its customers promises or assurances that the prices specified by respondent will be observed by such customers; (3) from directly or indirectly, as a part of any plan or policy, requiring or exacting from those wholesalers or distributors who fail or refuse to adopt, follow, or abide by respondent's suggested resale prices, higher prices than those at which respondent sells generally to its wholesalers or distributors.

*Moving picture industry--Monopoly and restraint of trade-Unfair practices--Violation of section of the Federal Trade Commission act.--*Two complaints were issued by the commission against West Coast Theatres (Inc.), West Coast Theatres (Inc.), of Northern California, various allied and subsidiary companies, and certain individuals, engaged in operating motion-picture theaters through-out the State of California, charging them with restraint of trade and an attempt to monopolize the business by unfair methods of competition.

It was charged that respondents had combined and cooperated among themselves for the purpose of (1) hindering, restraining, and preventing producers and distributors of motion-picture films in other States from leasing and shipping their films into California and delivering them to competitors of respondents, and (2) restraining and preventing competition among respondents and other exhibitors in California in negotiating for and leasing films to be shipped from other States and released to exhibitors in California. The complaint alleged that these results were accomplished by means of various unfair acts and practices against competing theater owners.

After extensive hearings, in which more than 2,300 pages of oral testimony and 150 documentary exhibits were received in evidence, the commission made its findings of fact and issued an order against all the respondents, except Herbert L. Rothchild Entertainment (Inc.) and Principal Pictures Corporation, directing them to cease and desist from combining, agreeing, or cooperating among themselves or with others to (1) induce, persuade, coerce, or compel producers and/or distributors of motion-picture films to refuse to lease films in interstate commerce to competitors of respondents, by threats of refusal to purchase or lease films, or a particular film, for all or part of the theaters owned by respondents, or any of them; (2) through control by respondents of the distribution of motion-picture films of a producer or producers, to refuse to lease in interstate commerce to competitors of respondents motion-picture films, or a particular film; (3) hinder, obstruct, or prevent producers and/or distributors of motion-picture films from selling or leasing any film or films in interstate commerce to a competitor or competitors of respondents by intimidation, coercion withdrawal or threatened withdrawal of patronage, or by promises or agreements to increase the patronage of respondents; (4) hinder, obstruct, or prevent exhibitors from freely purchasing or leasing motion-picture films in interstate commerce, or from freely competing with respondents in the purchase

or lease of films in interstate commerce, by communicating directly or indirectly with any producer and/or distributor of motion-picture films, or any agent or representative thereof, for the purpose of inducing, persuading, coercing or compelling said producers and/or distributors not to sell or lease films to such exhibitors; (5) hinder, obstruct, or prevent a competitor or competitors from securing a supply of films in interstate commerce for their theaters by leasing a larger number of films for the theaters of respondents than can be shown in said theaters.

*Veneered furniture cases--Violation of section 6 of the Federal Trade Commission act.*--Orders to cease and desist were issued against 26 furniture manufacturing firms in proceedings in which they were charged with describing veneered furniture as mahogany or walnut. The orders issued by the commission on September 25, 1928, directed the respondents to cease and desist from selling furniture made with broad or flat parts of mahogany or Walnut veneered on other different woods unless the furniture be described, labeled, or designated as "veneered," and from using the word "mahogany" or the word "walnut" in connection with the sale of furniture made with broad or flat parts of mahogany or walnut veneered on other different woods, unless the words "mahogany" or "walnut" be accompanied by the term "veneered."

*Synthetic soft drink cases--Violation of section 5 of the Federal Trade Commission act.*--There were two orders to cease and desist issued during the year in this class of cases, where respondents were charged, in complaints issued by the commission, with applying names of fruits or fruit juices to flavors, concentrates, and soft drinks which were not made entirely from the fruit or fruit juice indicated by the name. In one of these orders respondent was required to cease and desist from using words signifying a fruit or fruit juice as the name for beverages, concentrates, or sirups not composed of the fruits or juices indicated, unless the words designating the product be immediately preceded by the words "imitation" and followed by the words, "artificially colored," all printed in the same sized type, and from using words indicating fruits or fruit juices in connection with its beverage flavors; unless the designating words be immediately preceded by the word "imitation" and followed by the word "flavor" and by the words "artificially colored," all printed in the same sized type.

In the other case respondent was ordered to cease and desist from using the names of fruits or fruit juices in connection with its beverage flavors not composed of the fruit or fruit juice indicated by the name, unless the designating words be immediately preceded by the word "imitation," followed by the word "flavor" and by the words "artificially colored," all printed in the same sized type.

In both of these cases the orders forbade as well the use of pictorial illustrations of the fruits or fruit juices indicated by the names.

*Misbranding--Irish lace--Violation of section 5 of Federal Trade Commission act.*--Cease and desist order's were issued in four cases involving importers of lace. The lace in question was made in and imported from China, and was sold in this country as "Irish lace," "Irish Insertion Shanghai," "Swatow Irish," or "Siccawei Irish." Other words were sometimes used to describe the lace, and in some

instances, as above, the name of a Chinese locality was added to the word "Irish."

The lace was handmade and closely simulated the well known Irish patterns. The words "Made in China" were on the cards on which the lace was wound.

The orders directed the respondent to cease and desist from using the word "Irish," or any other word suggestive of Ireland to describe lace made in China to be sold in commerce in the United States.

The respondents in the several cases were Shanghai Lace Corporation; Alfred Kohlberg (Inc.); Abraham D. Sutton, David Sutton, and Selim Sutton, trading as A. D. Sutton & Sons; Abraham Lian; George Mabarak, Roger Lian, William Lian, Michael Mabarak, Joseph Mabarak, John Mabarak, and Sahib Lian, formerly doing business as Lian & Mabarak. At the time the order was entered in the latter case, the old partnership had dissolved, and the Lians were doing business as Lian Bros., and the Mabaraks as Mabarak Bros.

*Misbranding--Violation of section 5 of Federal Trade Commission act.*--On February 11, 1929, a cease and desist order was entered against Leon E. Jacobs and Norris Jacobs, copartners trading as Leon E Jacobs & Bro. Respondents had been purchasing cotton fabrics from American mills and causing the fabrics to be made into men's shirts which respondents sold to retail dealers. Upon the shirts so sold were labels bearing the words "Imported Knox English Broadcloth" or "English Broadcloth."

The order directed respondents to cease and desist from using the words "English Broadcloth" or "Imported English Broadcloth," as a label in connection with the advertising or sale of shirts or other garments, unless such garments be made from broadcloth made in and imported from England.

On February 16, 1929, a similar order was entered against Hyman Finkelstein, an individual, directing him to cease and desist from the same practice.

*Mail order cases--Violation of section 5 of the Federal Trade Commission act.*--Orders were issued by the commission December 11, 1928, directing Bernard Hewitt & Co., a corporation, to cease and desist from using unfair methods of competition in its mail-order business. It was directed to stop using the words, "Silk," "Satin," "Pongee," "Cotton Pongee," "Tussah Silk," "Art Silk," "New Silk," "Silkoline," "Silk Faille Poplin," "French Rayon Art Silk," "Mercerized Pongee," "Silk Bengaline," or "Neutrisilk" to describe articles or fabrics composed entirely of materials other than silk.

It was further directed not to use the word "silk" alone or in combination with other words to describe articles or fabrics composed in part of silk and in part of other materials unless the word "silk" is accompanied by a word or words equally conspicuous, clearly indicating that the articles or fabrics are not all silk.

The respondent was also forbidden to use the words "wool," or "wool mixed" to describe articles or fabrics composed wholly of materials other than wool, and is required to use words equally conspicuous with the word "wool" to indicate that the articles or fabrics are not all wool when that is the case.

The respondent was further directed not to use the words "Alligator Dress, Oxford," "Fine Grade Tan Alligator Leather," or "Alligator" to describe articles not made from alligator skin, and not to use the words, "Silverine" or "Nickel Silverine" to describe watches composed wholly of a material other than silver.

Another order entered on May 27, 1929, against Sam Rheingold, an individual trading as Maid-Rite Dress Co. covered similar silk or wool descriptions of dresses to be sold by mail, and in addition directed the respondent to cease advertising price reductions when in fact there was no bona fide reduction in price.

*Misrepresentation---Obesity cure--Violation of section 5 of the Federal Trade Commission act.*--A cease and desist order was entered April 13, 1929, directed against the Raladam Co. This respondent causes to be manufactured "Marmola Prescription Tablets," which it sells to wholesale druggists, who in turn sell to the retailers who dispense the product to the consuming public. The tablets are advertised in magazines and other publications as a safe-and effective means of removing excess flesh from the body.

The respondent was directed to cease and desist from (1) representing that "Marmola" is a scientific and accurate method for treating obesity, (2) representing that the formula from which "Marmola" is made is a scientific formula, (3) representing that "Marmola" is the result of scientific research, (4) representing that "Marmola" can be taken without the advice and direction of a competent medical authority as a safe and harmless remedy in the treatment of obesity, (5) representing that "Marmola" can be taken without harmful result to physical health without the advice and direction of competent medical authority, (6) representing "Marmola" as a remedy for the treatment of obesity unless such representation is accompanied by a statement that "Marmola" can not be taken with safety to physical health except under the direction and advice of competent medical authority.

*Paint.*--In the matter of Hoboken White Lead & Color Works (Inc.), an order was issued requiring the respondent to discontinue using the words "White Lead" as descriptive of a material containing less than 50 per cent white lead, lead carbonate or lead sulphate. The order further required the discontinuance of the words "Zinc Lead" as descriptive of a material when the product so described was not in fact wholly composed of zinc in combination with lead carbonate or lead sulphate.

### METHODS OF COMPETITION CONDEMNED

The following list shows unfair methods of competition and Clay-ton Act violations which have from time to time been condemned by the commission and prohibited by orders to cease and desist:

Misbranding of fabrics and other commodities respecting the materials or ingredients of which they are composed, their quality, origin, or source.

Adulteration of commodities, misrepresenting them as pure, or selling them under such names and circumstances that the purchaser would be misled into believing them to be pure.

Bribery of buyers or other employees of customers and prospective customers to secure new customers or induce continuation of patronage.

Making unduly large contributions of money to associations of customers.

Procuring the business of trade secrets of competitors by espionage, by bribing their employees, or by



similar means.

Procuring breach of competitors contracts for the sale of products by misrepresentation or by other means.

Inducing employees of competitors to violate their contracts or enticing any employees of competitors in such members or under such circumstances as to hamper or embarrass them in business

Making false or disparaging statements respecting competitors products, their business, financial credit, etc.

The use of false or misleading advertisements.

Making vague and indefinite threats of patent infringement suits against the trade generally, the threats being couched in such general language as not to convey a clear idea of the rights alleged to be infringed, but, nevertheless, causing uneasiness and fear in the trade.

Widespread threats to the trade of suits for patent infringement arising from the sale of alleged infringing products of competitors, such threats not being made in good faith but for the purpose of intimidating the trade.

False claims to patent, trade-mark, or other rights or misrepresenting the scope thereof; appropriating and using trade-marks wrongfully.

Intimidation for the purpose of accomplishing enforced dealing by falsely charging disloyalty to the Government.

Tampering with and misadjusting the machines sold by competitors for the purpose of discrediting them with purchaser.

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

Passing off of products, facilities, or business of one manufacturer or dealer for those of another by imitation of product, dress of goods, or by simulation or appropriation of advertising or of corporate or trade names, or of places of business, and passing off by a manufacturer of an inferior product for a superior product theretofore made, advertised, and sold by him.

Unauthorized appropriation of the results of a competitor's ingenuity, labor, and expense, thereby avoiding costs otherwise necessarily involved in production.

Preventing competitors from procuring advertising space in newspapers or periodicals by misrepresenting their standing or other misrepresentation calculated to prejudice advertising mediums against them.

Misrepresentation in the sale of stock of corporations.

### **SELLING REBUILT MACHINES AS NEW PRODUCTS**

Selling rebuilt machines of various descriptions, rebuilt automobile tires, and old motion-picture films slightly changed and renamed as and for new products.

Harassing competitors by requests, not in good faith, for estimates on hills of goods, for catalogues, etc.

Giving away of goods in large quantities to hamper and embarrass small competitors and selling goods at cost to accomplish the same purpose.

Sales of goods at cost, coupled with statements misleading the public into the belief that they are sold at a profit.

Bidding up the prices of raw materials to a profit where the business is unprofitable for the purpose of driving out financially weaker Competitors.

The use by monopolistic concerns of concealed subsidiaries for carrying on their business, such concerns being held out as not connected with the controlling company.

Intentional appropriation or converting to one's own use of raw materials of competitors by diverting shipments.

Giving and offering to give premiums of unequal value, the particular premiums received to be determined by hot or chance, thus in effect setting up a lottery.

Schemes and devices for compelling wholesalers and retailers to maintain resale prices on products fixed by the manufacturer.

Combinations of competitors to enhance prices, maintain prices, bring about substantial uniformity in prices, or to divide territory or business, or to put a competitor out of business, or to close a market to competitors.

Acquiring stock of another corporation or corporations where the effect may be to substantially lessen competition, restrain commerce, or tend to create a monopoly.

### USE OF VARIOUS SCHEMES TO DEFRAUD THE CUSTOMER

Various Schemes to create the impression In the mind of the prospective customer that he is being offered an opportunity to make a purchase under unusually favorable conditions when such is not the Case, such as

(1) Sales plans in Which the seller's usual price is falsely represented as a Special reduced price made available on some pretext for a limited time or to a limited class only.

(2) The use of the "free" goods or service device to create the false impression that Something is actually being thrown in without charge, when, as a matter of fact, fully covered by the amount exacted in the transaction taken as a whole.

(3) Sales of goods in combination lots only with abnormally low figures assigned to staples, the prices of which are well known and correspondingly highly compensating prices assigned to staples, the cost of which is not well known.

(4) Sale of ordinary commercial merchandise at usual prices and profits as pretended Government war surplus offered at a bargain.

(5) Use of misleading trade names calculated to create the impression that a dealer is a manufacturer selling directly to the consumer with corresponding savings.

(6) Plans ostensibly based on chance or services to be rendered by the prospective customer whereby he may be able to secure goods contracted for at particularly low prices or without completing all the payments undertaken by him, when, as a matter of fact, such plans are not carried out as represented and are a mere lure to secure his business.

(7) Use of pretended exaggerated retail prices in connection with or upon the containers of commodities intended to be sold as bargains at lower figures.

(8) Falsely claiming forced sale of stock, with resulting forced price concessions, when, as a matter of fact, inferior goods are mingled with the customary stock.

Seeking to cut off and hamper competitors in marketing their products through destroying or removing their Sales display and advertising mediums.

Discriminating in price, with the effect of substantially lessening competition.

Subsidizing public officials or employees through employing them or their relatives under Such circumstances as to enlist their interests in situations in which they will be called upon by virtue of their official position to act officially, making unauthorized changes in proposed municipal bond issues, corrupting public officials or employees and forging their signatures, and using numerous other grossly fraudulent, coercive, and oppressive practices in dealing with small municipalities.

Suggesting to prospective customers the use of specific, unfair, and dishonorable practices directed at competitors of the seller.

### STANDARD CONTAINERS FOR LESS THAN STANDARD WEIGHTS

Imitating or using standard containers customarily associated in the mind of the general purchasing public with standard weights of the product therein contained, to sell to said public such commodity in weights less than the aforementioned standard weights.

Concealing business identity in connection with the marketing of one's product, or misrepresenting the seller's relation to others, e. g., claiming falsely to be the agent or employee of some other concern, or failing to disclose the termination of such a relationship in soliciting customers of such concern, etc.

Misrepresenting in various ways the advantages to the prospective customer of dealing with the seller, such as--

(1) Seller's alleged advantages of location or size.

(2) False claims of being the authorized distributor of some concern.

(3) Alleged indorsement of the concern or product by the Government or by nationally known businesses.

(4) False claim by a dealer in domestic products of being an importer, or by a dealer of being a manufacturer, or by a manufacturer of some product, of being also the manufacturer of the raw material entering into said product.

(5) False claim of "no extra charge for credit."

(6) Being manufacturer's representative and outlet for surplus stock sold at a sacrifice, etc.

Tying or exclusive contracts, leases, or dealings in which, in consideration of the granting of certain rebates or refunds to the customer, or the right to use certain patented equipment, etc., the customer binds himself to deal only in the products of the seller or lessor.

Showing and selling prospective customers articles not conforming to those advertised, in response to inquiries, without so stating.

Direct misrepresentation of the composition, nature, or qualities of the product offered and sold.

Use by business concerns associated as trade organizations or otherwise of methods which result or are calculated to result in the observance of uniform prices or practices for the products dealt in by them with consequent restraint or elimination of competition, such as use of various kinds of so-called standard cost systems, price lists or guides, exchange of trade information, etc.

Securing business through undertakings not carried out and through dis-honest and oppressive devices calculated to entrap and coerce the customer or prospective customer, such as:

(1) Securing prospective customer's signature by deceit to a contract and promissory note represented as simply an order on approval, securing agents to distribute the seller's products through promising to refund the money paid by them should the product prove unsatisfactory, and through other undertakings not carried out.

(2) Securing business by advertising a "free trial" offer proposition, when, as a matter of fact, only a "money back" opportunity is offered the prospective customer, etc.

#### **UNDESERVED VALUES THROUGH MISLEADING NAMES**

Giving products misleading names so as to give them a value to the purchasing public or to a part thereof which they would not otherwise possess, such as

(1) Names implying falsely that the particular products so named were made for the Government or in accordance with its specifications and (of corresponding quality, or are connected with it in some way, or in some way have been passed upon, inspected, underwritten, or indorsed by it.

(2) That they are composed in whole or in part of ingredients or materials respectively contained only to a limited extent or not at all.

(3) That they were made in or came from some locality famous for the quality of such products.

(4) That they were made by some well and favorably known process, when, as a matter of fact, only made in imitation of and by a substitute for such process.

(5) That they have been inspected, passed, or approved after meeting the tests of some official organization charged with the duty of making such tests expertly and disinterestedly or giving such approval.

(6) That they were made under conditions or circumstances considered of importance by a substantial fraction of the general purchasing public, etc.

Interfering with established methods of securing supplies in different businesses in order to hamper or obstruct competitors in securing their supplies.

## COURT CASES

Application may be made by the Commission to the United States Circuit Courts of Appeals to enforce its order to cease and desist, or the respondent may petition the court to have the order modified or set aside. The number of court proceedings in which the commission has been involved during the year, as well as a cumulative showing of this work throughout the commission's life, will be found in the statistical tables on pages 114 to 121 of this report. From these it will be noted that the commission has issued 924 orders to cease and desist, and petitions to review these orders have been filed in only 110 cases. The United States Circuit Courts of Appeals decided 32 of these cases in favor of the commission and 36 against. In five of these cases the commission was sustained by the Supreme Court of the United States.

Since its creation the commission has applied to the United States Circuit Courts of Appeals for enforcement of its orders to cease and desist in a total of 20 cases; of these, 7 have been decided in favor of, and none against the commission; 6 are still pending; and in 4 cases the applications for enforcement have been withdrawn.

The pages immediately following contain brief descriptions of cases pending in the courts during the year.

### **CASES IN THE UNITED STATES CIRCUIT COURTS OF APPEALS ARISING UNDER SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT , AND SECTION 7 OF THE CLAYTON ACT**

#### **CASES INSTITUTED SINCE JULY 1, 1928**

The cases below appear in the order in which proceedings were instituted in the courts:

*Paramount Famous-Lasky Corporation.*--The commission, on July 9, 1927, entered its order to cease and desist in this proceeding, which, briefly, was directed against a conspiracy in restraint of trade in the business of producing, distributing, and exhibiting motion-picture films, against the practice of "block booking" of motion-picture films, and the acquisition of theater buildings for the purpose of intimidating or coercing exhibitors of motion-picture films to lease and exhibit films produced by respondents.

The respondents having failed and neglected to obey the order, the commission, on August 1, 1928, filed with the Circuit Court of Appeals for the Second Circuit (New York City) its application for enforcement.

The case now awaits printing of the transcript, briefing, and argument. Considerable time has been devoted to negotiations looking to a reduction of the record (one of the largest ever before the commission) before printing.

*James J. Bradley & Co.*--The commission, on September 7, 1928, filed with the Circuit Court of Appeals for the Second Circuit an application for the enforcement of its order in this case. The finding was to the effect that the company labeled and stamped one of



its soaps with the words “English Tub Soap,” “Hanson-Jenks, Limited, London-New York,” and “James J. Bradley & Company, sole agent, U. S. and Canada,” all of which had the tendency and capacity to and did in fact mislead retailers and consumers into the belief that this soap was manufactured in England, when, in fact, it was produced entirely in this country.

The case was argued March 6-7, 1929, and the court on March 18, 1929, in a per curiam opinion (31 F. (2d) 569) affirmed the commission’s order, stating that “an order of this court will be entered perpetually enjoining James J. Bradley in the terms of said order to cease and desist.”

*Light House Rug Co.*--The respondent of this name, all Illinois corporation, on October 8, 1928, filed a petition with the Circuit Court of Appeals for the Seventh Circuit for review of the commission’s order, entered July 24, 1928. The commission, briefly, found this respondent was advertising and selling rugs made on power looms as and for rugs made on hand looms by the personnel of The Chicago Light House, an institution employing blind people. The company was directed to cease and desist from this practice.

On April 2, 1929, the commission filed its answer in the nature of cross bill and on April 22 the company replied to this answer.

After briefing, the case was argued October 1, 1929, and decided October 25, 1929, in favor of the commission (not yet reported). Among other things, the court said:

In this situation it is obvious that the finding of the commission as to the secondary meaning of the word “Lighthouse” has substantial support in the evidence before the commission and under the statute and the Supreme Court’s interpretation is conclusive upon this court.

\* \* \* \* \*

The record discloses that agents of petitioner and of its dealers, soliciting purchases of rugs in various districts likewise supplied by institutions for the blind, repeatedly misrepresented that the rugs made by petitioner were made by the blind; \* \* \* that in New York, Duluth, Milwaukee, Minneapolis, and elsewhere, purchasers of rugs were repeatedly confused as to “Light-house” rugs sold by petitioner, in that they purchased rugs upon such representations as created the impressions and beliefs that they were buying the product of the blind made at “Lighthouses” for the blind maintained at various places. These latter institutions, in attempting to sell their rugs, frequently lost their sales because people solicited had previously purchased petitioner’s rugs upon the belief that they were the products of the charitable “Lighthouses” of Duluth, Milwaukee, New York, Chicago, or elsewhere. \* \* \*

There was other and substantial evidence of confusion, deception and unfair competition, to such an extent that the finding of the commission is amply supported thereby and is therefore conclusive upon this court.

*Samuel Breakstone.*--On October 9, 1928, this respondent, an individual with principal office and place of business in Chicago, and engaged in the business of selling automobile parts, supplies, and accessories, filed with the Circuit Court of Appeals for the Seventh Circuit a petition praying that the commission’s order be set aside. The practices against which the order was directed may be summarized as follows: Respondent, in 1925, purchased in the open market certain spark plug cores manufactured by the A C Spark Plug Co., one of its competitors, for the United States Government lug and subsequently sold by the latter as surplus war material. These

cores bore the symbol "A C," were intended for use in airplane motors,



and would not function properly in automobile motors. After purchasing the cores in question, respondent mounted them in shells not made by or for the A C Spark Plug Co., in such a way that the symbol "A C " was conspicuously displayed in the place where the manufacturers of spark plugs, including the A C Spark Plug Co., cause their trade marks or distinguishing symbols to be affixed-and sold them to wholesalers, retailers, and the purchasing public throughout the United States without disclosing that they were not, in fact, genuine "A C" automobile spark plugs.

The case now awaits printing of the transcripts, briefing and argument. Considerable effort has been made in the direction of putting the record in narrative form before printing.

*Doctor Abbott E Kay.*--The commission, October 9, 1928 filed with the seventh circuit an application for the enforcement of its order in this case. Its findings were to the effect that the product sold by respondent was not radium and contained no radium or radioactive properties, as known to the scientific or commercial world. The order directed Kay to cease and desist from further, in any manner whatsoever, (1) selling or offering for sale or advertising as and for radium or as containing radium, or possessing radio-active properties, the product heretofore sold and advertised as and for radium by respondent; (2) applying, employing, or using descriptively the word "radium" or any compound thereof implying radioactivity in connection with the sale, offering for sale, or advertising of the product heretofore sold and advertised as and for radium by respondent; (3) making or causing to be made in advertising matter or otherwise representations, statements, or assertions that the product heretofore sold and advertised by respondent is radium, or that said product contains radium; (4) making or causing to be made any false statement, claim, or representation of similar import or effect in connection with the sale of any other product or substance.

Argument was had on April 18, 1929, and the court, September 18, 1929, affirmed the commission's order, saying, in part (decision not yet reported):

The Government Bureau of Standards was furnished with Several samples of the product which the respondent Kay had sent to various persons in various States, under the "escrow plan," or for other purposes, and subjected such specimens to the Scientific tests to which that Bureau was accustomed to subject specimens of radium for determining their genuineness. None of such samples of the Kay product responded to the radium tests so applied. One other test was applied to a sample of Dr. Kay's product, outside the Bureau of Standards, and the testimony indicates that the sample failed to respond to such test. Such failure in all instances, the testimony amply shows, Indicated that none of the samples of the Kay product had any appreciable radioactivity.

\* \* \* \* \*

The evidence does not disclose how extensive a business respondent has done, but it is apparent that he has been, and is engaged In, advertising and distributing his product in interstate commerce. Radium is used largely for the treatment of disease, and especially cancer, and it can hardly be gainsaid that any misrepresentation with respect to the Identity of respondent's product is a matter of public interest with which the Commission is, by section 5 of the Trade Com mission act, empowered to deal.

*Grand Rapids furniture cases.*--On November 16, 1928, 25 furniture manufacturers, located in Grand Rapids, Mich., filed with the Circuit Court of Appeals for the Sixth Circuit (Cincinnati) petitions praying that the order issued against them by the commission on

September 25, 1928, be set aside and held for naught. The order in question directed the several respondents to cease and desist from (1) selling or offering for sale in interstate commerce furniture made with broad or flat parts of mahogany, or walnut, as the case may be, which have been veneered on other different wood or woods, unless such furniture be described, labeled or designated as "veneered"; (2) using the word "mahogany" or the word "walnut" in advertisements, catalogs, price lists, invoices, or otherwise in connection with the sale or offering for sale in interstate commerce of furniture made with broad or flat parts of mahogany, or walnut, as the case may be, which have been veneered on other different wood or woods, unless accompanied by the word or term "veneered."

On December 11, the several respondents filed supplemental petitions, setting forth more in detail their objections to the commission's order. Subsequent developments have been (a) the negotiation of a stipulation which will materially reduce the size of the record to be printed, and (b) the filing of answers in the nature of cross bills, by the commission and replies thereto by respondents. The next steps are the printing of the record, briefing, and argument.

*Chipman Knitting Mills.*--The concern of this name, on November 26, 1928, filed with the Circuit Court of Appeals for the Third Circuit its petition to review and set aside the commission's order, which directed it to cease and desist from directly or indirectly (1) using the word "fashioned," either by itself or in conjunction with any other word or words, as a name for or to describe a stocking, unless said stocking is shaped in the knitting by the process known as "narrowing" or "widening," which involves the transfer of loops or stitches from one needle to another and the dropping or adding of needles in the knitting operation; (2) using the word "fashioned," either by itself or in conjunction with any other word or words, as a name for, or to describe, a stocking only part of which is actually shaped in the knitting by the process known as "narrowing" or "widening," which involves the transfer of loops or stitches from one needle to another and the dropping or adding of needles in the knitting operation, unless said word "fashioned" is qualified or limited in such a way as to apply specifically to the part of the stocking thus shaped; (3) using the word "fashioned," either by itself or in conjunction with the word "form," as a name for, or in advertising, labeling and selling, a stocking the leg and heel of which is knitted on a circular knitting machine with the ankle shaped by cutting out a portion of the material, and the instep, so e an toe shaped in the knitting on a Cotton Patent type "footer" machine by the process known as "narrowing," unless said word "fashioned" is qualified or limited in such a way that it applies specifically to the foot of said stocking; (4) using the term "Form Fashioned" as a name and/or label for a stocking which closely simulates in outward appearance and characteristics a full fashioned stocking, but which in fact is not a full fashioned stocking; (5) using the term "Form Fashioned" as a name and/or label for a stocking which closely simulates a full fashioned stocking" in that it has a full fashioned foot, a seam up the back, most of which is imitation, imitation "fashion marks" at the back of the calf on each side of the seam, and under the knee, and a heel knitted on

a circular knitting machine and cut to shape, which heel closely resembles a full fashioned heel.

The commission, on May 9, filed its answer in the nature of cross bill, and the company, on June 1, replied to this answer. The case now awaits printing of the transcript, briefing, and argument.

*Louis Leavitt.*--On December 12, 1928, the commission filed with the second circuit its petition setting forth instances of disobedience of the order originally entered by it and later affirmed by the court, and asking that Leavitt be ordered to show cause why he should not be adjudged in contempt. The findings made by the commission in this case were to the effect that Leavitt advertised and sold as "Gold Seal Combination White Lead" a product containing less than 1 per cent of white lead.

After hearing, the court, on January 17, 1929, fined Leavitt \$500 for contempt. It is interesting to note that this was the first time any court had enforced an order of the commission by punishment for disobedience thereof, after entry of decree of affirmance by the court.

*James S. Kirk & Co.*--The corporation of this name, on January 12, 1929, filed with the Circuit Court of Appeals for the Seventh Circuit its petition to review and set aside the commission's order in this case, which, among other things, directed it to cease and desist from the use of the word "Castile," and the words "Olive Oil Soap," either alone or in conjunction or in association with any other word or words, which are the name of, or are descriptive or suggestive of, an oil or fat, in labeling, branding, or otherwise describing soap offered for sale or sold in commerce, the oil or fatty composition of which is not wholly derived from olives.

The record is now being put into narrative form, preparatory to printing.

*Good Grape Co.*--On February 1, 1929, the commission filed, with the Circuit Court of Appeals for the Sixth Circuit, an application for the enforcement of its order directed against this company. The findings were to the effect that this concern was engaged in the manufacture of a concentrate or sirup called by it "Good Grape Concentrate," and in the sale of the same in interstate commerce to bottling plants, for use in the manufacture and subsequent sale to retailers and consumers of a beverage known as "Good Grape"; and that the company, by extensive advertising, represents to the purchasing public that this beverage is the juice of the natural fruit of the vine, when, as a matter of fact, it is an imitation grape product artificially colored and flavored. The order directed the company to cease and desist from this practice.

The company filed answer to the commission's application on April 29.

It alleged, among other things, that the commission's order was not in conformity with orders theretofore issued in similar cases; that its product was made under a new formula designed to meet the requirements of the commission's original order, and that it had been denied opportunity to make a showing as to this fact; and that the whole matter was under the jurisdiction of the Secretary of Agriculture and not the Federal Trade Commission. The case was argued on November 13, 1929.

*Masland Duraleather Co.*--This company, on March 28, 1929, filed with the Circuit Court of Appeals for the Third Circuit its petition to review and set aside the commission's order, entered March 2, 1929. The order in question directed the company to cease and desist, in connection with the advertising, offering for sale, and sale, in interstate commerce, of the product "Duraleather," or any imitation or artificial leather or substitute for leather (1) from using the term "Duraleather" as a trade name, brand, stamp, or label for such products; (2) from using the term "Duraleather" on letterheads, envelopes, invoices, signs, in circulars, catalogues, magazines, newspapers, or otherwise to designate or describe such products; and (3) from using the word "leather" or any other word or combination of words in such manner as to import or imply that such products are real leather.

Subsequent developments have been the printing of the transcript, the filing of a cross bill by the commission and the company's answer thereto, the filing of briefs by both parties, argument on June 5, 1929, and decision on September 18, 1929, in favor of the commission (34 F. (2d) 733). The court, in the course of its opinion, said:

"Duraleather" is a coined word. "Dura" admittedly is an abbreviation of the word "durable," and the word thus composed can be given no other meaning than "Durable leather." So read and considered it is an assertion that the product marked, advertised, and sold as "Duraleather" consists of leather. By putting this Imitation product bearing a false name into the channels of trade, whatever may have been the petitioners' motive in so doing, they furnished their customers and those dealing with them the means to misrepresent that the goods made from that product were made of leather, and when such a false trade name is subsequently associated with the sale of goods made from such product, the petitioners can not escape legal responsibility by disclaiming any intention to deceive or by showing that those with whom they dealt directly--first purchasers of the product--well knew that it was but an imitation or substitute for the genuine article.

*Ohio Leather Co.*--Petition to review and set aside the commission's order in this case was filed with the Court of Appeals for the Sixth Circuit on April 2, 1929. Briefly, the findings were to the effect that the company was advertising and selling, in interstate commerce, leather made from calfskins, under the trade-name of "Kaffor Kid." The order directed the company, in connection with the advertising and sale of leather made from calfskins, or other leather not made from kid or goatskins, to cease and desist (1) from using the word "Kid" alone or in combination with the word "Kaffor," or other word or words, as a trade or brand name for or as descriptive of any such leather; (2) from using the word "Kid" alone or in combination with the word "Kaffor," or other word or words, on labels, letterheads, envelopes, or in the advertising or other designation or description of any such leather.

The record has been printed, and the commission has filed an answer in the nature of cross bill, to which the petitioner has replied. On June 5 the court denied the petitioner's application or motion to have the report of the commission's trial examiner made a part of the record. Briefs have been filed, and the case now awaits argument.

*Alfred Kohlberg (Inc.)*--Another petition for review filed during April was that by the New York corporation of this name. The court was the second circuit and the petition was docketed

April 19, 1929. The order in question directed the corporation, and its officers, agents, representatives, servants, and employees to cease and desist (1) from selling, advertising, or offering for sale in commerce among the several States of the United States lace made in China or elsewhere than in Ireland under the titles names or designations "Chinese Irish Lace," "Irish Crochet Lace," "Siccawei Irish Crochet," "Swataw Irish Crochet," "Swataw Irish Picot," "Siccawei Irish Picot" and "Shanghai Irish Picot"; (2) from selling, advertising, or offering for sale in commerce among the several States of the United States lace made in China or elsewhere than in Ireland under a title, name, or designation which includes the word "Irish" or any other title, name, or designation suggestive of Ireland as the place of manufacture of such lace.

Before the record had been printed, and after the commission had filed its answer in the nature of cross bill, a stipulation was entered into, at the instance of the petitioner, providing for the withdrawal of the petition for review and of the commission's answer, without prejudice to further proceedings by the commission for the enforcement of its order. Prior to the negotiation of the stipulation, the petitioner filed with the commission a report in writing showing compliance with the order. The order discontinuing, the proceeding was signed by the court on July 3, 1929.

*Raladam Co.*--This company, on May 16, filed with the sixth circuit (Cincinnati) its petition to review and set aside the commission's order.

The findings were to the effect that the company was selling thyroid "obesity cure" tablets (under the name "Marmola Prescription Tablets") as safe, effective, and dependable in use, when the present knowledge of thyroid as a remedial agent does not justify such representations. The order directed the cessation of such practices.

The case now awaits briefing and argument.

*N. Fluegelman & Co. (Inc.)*--The commission's order in this case directed this concern, a New York corporation, and its officers, agents, servants, and employees, to cease and desist, directly or indirectly, from using the word "Satinmaid," or any word or words, or combination of words, embracing the word "satin," as a trade name for, or to describe or designate a cotton fabric offered for sale or sold in interstate commerce. It was entered on April 2, 1929.

The company, on June 4, petitioned the second circuit (New York City) to have the order reviewed and set aside. The commission, August 19, filed its answer in the nature of a cross bill, which the petitioner answered September 7, 1929. On October 24, 1929, the court granted permission to the Rayon Institute of America to file brief amicus curiae. The next steps will be the filing of briefs and argument.

*L.F. Cassoff*--On October 15, 1929, the commission instituted a proceeding for the enforcement of its order in this case, the application being filed with the second circuit. The order in question directed Cassoff, an individual doing business under the names and styles of Central Paint & Varnish Works and Central Shellac Works, to cease and desist (1) from directly or indirectly employing or using on labels or as brands for varnish not composed wholly 100 per cent of

shellac gum cut in alcohol or on the containers in which the varnish is delivered to customers the words "Orange Shellac," "White Shellac," or the word "Shellac" alone or in combination with any other word or words unless accompanied by a word or words clearly and distinctly indicating that such product contains other substances, ingredients, or gums than shellac gum, and by a word or words clearly and distinctly setting forth the substances, ingredients, or gum of which the varnish is composed with the percentages of all such substances, ingredients, or gums therein used clearly stated upon the label, brand, or upon the containers (e. g., "Shellac Substitute" or "Imitation Shellac," to be followed by a statement setting forth percentages of ingredients or gums therein used). (2) From using or displaying in circulars or advertising matter used in connection with the sale of its products in interstate commerce, except when such products contain 100 per cent shellac gum cut in alcohol, or on the containers in which the varnish is delivered to customers the words "Orange Shellac," "White Shellac," or the word "Shellac" alone or in combination with any other word or words unless accompanied by a word or words clearly and distinctly indicating that such product contains other substances, ingredients, or gum than shellac gum, and by a word or words clearly and distinctly setting forth the substances, ingredients, or gum of which the varnish is composed with the percentages of all such substances, ingredients, or gums therein used clearly stated upon the label, brand, or upon the containers (e. g., "Shellac Substitute" or "Imitation Shellac," to be followed by a statement setting forth percentages of ingredients or gums therein used).

#### **CASES INSTITUTED PRIOR TO JULY 1, 1928**

The cases described below are those which remained on the commission's appellate docket at the beginning of the fiscal year 1929, and in connection with most of which some action was taken during the year. They, too, are listed in the order in which they were instituted in the courts.

*Western Meat Co.*--This case, which relates to acquisition of stock in violation of section 7 of the Clayton Act, has been discussed at length in previous reports. Briefly, the commission's order directed the company to so divest itself of all capital stock of the Nevada Packing Co., a competing corporation, as to include in such divestment the latter company's plant and all property necessary to the conduct and operation thereof as a complete, going packing plant and organization, and so as to neither directly nor indirectly stock of retain any of the fruits of the acquisition of the capital said Nevada Packing Co. The company, on July 27 1923, petitioned the circuit court of appeals of the ninth circuit (San Francisco)- to set aside the order. This court held that the order went beyond the commission's authority and directed that it be modified by eliminating the injunction against the acquisition by the Western Meat Co. of the plant and property of the Nevada Packing Co. (4 Fed. (2)- 223.) The Supreme Court of the United States, however, took the position that the commission's order must be construed with regard to the existing circumstances; that divest-

ment of stock must be actual and complete and could not be effected as counsel for respondent admitted was intended, by using the control resulting therefrom to secure title to the possessions of the Nevada Packing Co., and then to dissolve it; that, properly understood, the order was within the commission's authority and that the court below erred in directing the elimination therefrom of the injunction referred to. (272 U.S. 554.) The final decree of the court of appeals based on the mandate of the Supreme Court, allowed the Western Meat Co. six months, or until November 2, 1927, to submit to the commission a report showing how its order had been carried out. Other extensions allowed the company until September 15, 1928, for filing its report.

On September 15, 1928, the meat company filed a report as to its compliance with the court's decree. This report recited that the meat company had brought an action against the Nevada Packing Co. for a debt amounting to \$275,000 and interest, alleged to be due the meat company from the packing company. It was further recited that a judgment was taken by default and that the meat company had caused execution to issue to satisfy the judgment, and that upon a sale under such execution the meat company had bid in substantially all of the physical assets of the Nevada Packing Co. in satisfaction of such judgment. It was further recited that the meat company had, after its acquisition of the physical assets in this manner, sold the stock, which at that time was based upon the bills and accounts receivable due the Nevada Packing Co., and some \$6,000 in cash. The commission being of the opinion that the report filed did not show a compliance with the decree of the court of appeals, in March, 1929, instituted a proceeding in the court of appeals in which the commission prayed for the restoration to the Nevada Packing Co. of the physical assets acquired on execution sale by the meat company and the restoration of the stock to the meat company, which it had sold or transferred, and all other orders necessary to the enforcement of the decree. On June 24, 1929, the court of appeals approved the final report of the meat company and overruled the commission's objections thereto and denied, all of the relief prayed for by the commission. (33 F. (2d) 824.)- On September 3, 1929, the commission filed its petition in the Supreme Court of the United States for a writ of certiorari to review the action of the court of appeals. This was granted October 21, 1929.

*The Shade Shop case--Appropriation and simulation of trade name.--*This is a District of Columbia case. Alfred Klesner, doing business under the name and style of "Shade Shop, Hooper & Klesner," was charged by the commission with a violation of section 5 of the Federal Trade Commission act, in that he had appropriated and simulated the trade name "The Shade Shop" adopted by one W. Stokes Sammons in connection with his business of manufacturing and selling window shades. Sammons had been engaged exclusively in the business since 1901.

The commission's order prohibited Klesner, his servants, agents, and employees from using the words "Shade Shop" standing alone or in conjunction with other words as an identification of the business conducted by him, in any manner of advertisement, signs, stationery, telephone or business directories, trade lists, or otherwise.

The respondent having refused to comply with the order, the commission, on May 13, 1924, filed in the Court of Appeals for the District of Columbia its petition for enforcement.

After briefs and argument the court, without considering the merits of the case, held that it was without jurisdiction and dismissed the petition. (6 F. (2d) 701.) This was on June 1, 1925. The commission applied to the Supreme Court of the United States for a writ of certiorari, which was granted, and the Supreme Court, after hearing, reversed the judgment of the court of appeals and remanded the cause for further proceedings--concluding that the words "Circuit Court of Appeals of the United States" in the Trade Commission act included the Court of Appeals of the District of Columbia as the appellate tribunal to be charged with the duty in the District. (274 U. S. 145.) After the decision of the Supreme Court (April 18, 1927) the case was twice reargued in the lower court and on April 2, 1928, that tribunal dismissed the commission's petition for enforcement on the ground that the name "Shade Shop," as used by the respondent, was a generic term and merely descriptive of the business carried, on by him, and that therefore the prior and exclusive use of this term by another concern engaged in the window shade business was not such as to be entitled to legal protection. (25 F. (2d) 524.) The commission petitioned for a writ of certiorari on August 15, 1928, and this was granted October 22, 1928. The case was argued April 10, 1929, and decided October 14, 1929. (50 S. Ct. 1, 74 L. ed. 13.) While the judgment of the court of appeals was affirmed, this was done, in the language of Mr. Justice Brandeis, "not on the merits, but upon the ground that the filing of the complaint before the commission was not in the public interest," the court holding that the unfair competition complained of in this case arose out of a controversy "essentially private" in its nature. In discussing the matter of public interest, the court said:

In determining whether a proposed proceeding will be in the public interest the commission exercises a broad discretion. But the mere fact that it is to the interest of the community that private rights shall be respected is not enough to support a finding of public interest. To justify filing a complaint the public interest must be specific and substantial. Often it is so, because the unfair method employed threatens the existence of present or potential competition. Sometimes, because the unfair method is being employed under circumstances which involve flagrant oppression of the weak by the strong. Sometimes, because, although the aggregate of the loss entailed may be so serious and widespread as to make the matter one of public consequence, no private suit would be brought to stop the unfair conduct, since the loss to each of the individuals affected is too small to warrant it.

*The Proctor & Gamble Co. case*--False advertising and misbranding of soap.--The Proctor & Gamble Co. manufactures soap, some of which it advertises and sells as "P. & G White Naphtha Soap." The commission alleged that at the time such soap was sold to the consuming public it contained no naphtha nor any petroleum distillate in any amount sufficient to be effective as a cleansing ingredient.

After hearing, the Commission ordered the company to cease using the word "naphtha" as a brand name for any soap or soap products when such commodities at the time of their sale to the consuming public contained kerosene and no other



petroleum distillate, or no naphtha, or naphtha in an amount of 1 per cent or less by weight.

The company, on August 28, 1924 petitioned the Circuit Court of Appeals for the Sixth Circuit to review the commission's order. On January 5, 1926, the court rendered its decision, sustaining the first section of the order, prohibiting the use of the word "naphtha" as a designation for a kerosene ingredient of soap. It, however, vacated the remaining part of the order, which prohibited the use of the word "naphtha" on soap containing not more than 1 per cent of naphtha (a volatile ingredient) at the time of sale to the consumer, indicating that the order should have been directed to the naphtha content to be placed in the soap at the time of manufacture. The decision left the commission free to enter such further order with respect to the amount of naphtha which should be placed in the soap at the time of manufacture as investigation should determine to be necessary. (11 F. (2d) 47.) Thereafter both parties filed petitions for rehearing, which were denied on April 7, 1926. The Proctor & Gamble Co. then filed a petition in the Supreme Court of the United States for certiorari, to which the commission filed a cross petition likewise praying for certiorari because, among other things, it was its contention that the regulation of the amount of naphtha to be placed in the product at the time of manufacture, as the circuit court of appeals indicated, was not for the Federal Government to determine.

The Supreme Court denied these petitions on October 25, 1926 (273 U. S. 717, 718). Subsequently extensive investigation has been conducted by the commission to determine the amount of naphtha necessary to put in the soap at the time of manufacture so that there will be more than 1 per cent in the product when it is marketed in the usual time as shown by experience. The results of this investigation were carefully considered by the commission, and the latter, on January 4, 1929, served upon the company its supplemental order to cease and desist, by the terms of which it was forbidden from (1) using the word "naphtha," or its equivalent, in the brand name, or in describing in advertising or in otherwise offering for sale, of soap products in the form of powder or chips offered for sale or sold by respondent; (2) using the word "naphtha," or its equivalent, in the brand name, or in describing in advertising or in otherwise offering for sale, of its "P. & G The White Naphtha Soap" as constituted and made under the same general formula as the soap from which samples were selected and submitted by respondents to the commission for analysis on or about February 9, 1928, made into bars or cakes for household use offered for sale or sold by respondents, unless such soap has had incorporated therein, at the time of manufacture, a quantity of naphtha equal to or in excess of 1.25 per cent by weight thereof.

The company filed a report of compliance on February 5, 1929, which was approved by the commission.

*The B. Paul (Paul Balme) case--Simulation of trade name and dress of goods.--*The commission, on June 17, 1927, filed with the Circuit Court of Appeals for the Second Circuit (New York City) an application for the enforcement of its order entered April 14, 1922, against Paul Balme, trading under the name and style of B. Paul, by which the respondent was directed to cease and desist from (1) certain practices which tended

to confuse and mislead the

public into believing that the henna hair dye manufactured by it was the one and the same as that of a competitor, viz, the use of the trade name "Henna D'Oreal," in imitation of a competitor's "L'Oreal Henne"; the packing of its product in containers similar in size, shape, and color to those used by a competitor; by the simulation of labels on said, containers; and (2) certain false and misleading advertising.

After briefs and argument, the court, on January 9, 1928, unanimously affirmed the validity of the commission's order (23 F. (2d) 615), saying:

The order of the Federal Trade Commission adjudging the respondent guilty of unfair competition is affirmed; the question of the present violation of section 5, for which enforcement is asked by the petition to this court, is referred to the Federal Trade Commission, with opportunity for the respondent to answer and submit proof, and with directions to the commission to report its conclusions to this court.

The decision, rendered as it was in connection with the commission's first application for enforcement coming on for hearing before the second circuit, is important from the standpoint of practice. The court took a position directly contrary to that of the seventh circuit in the Standard Education Society case (14 F. (2d) 947) saying:

Manifestly, it is very apparent that the question of violation of the commission's order would not be involved until a valid order was recognized by this court after having acquired jurisdiction. Therefore, we must first examine the proceeding before the commission and determine whether there has been a violation of the law. Until then no good purpose can be served by determining disputed questions of fact as to a violation of the order.

After the respondent Balme had answered, he applied to the Supreme Court of the United States for a writ of certiorari. This, however, was denied on May 21, 1928 (277 U. S. 598). During July and August, 1928, testimony was taken before an examiner of the commission at New York City and Philadelphia with reference to violations of the order. Thereafter the matter was briefed and argued before the commission, and, on April 19, 1929, the commission filed with the court its conclusion that the respondent had literally complied with paragraph 5 of the order to cease and desist, in so far as the same related to lettering; and that respondent's present container for its hair dye was not so similar to that used by its competitor as to confuse and mislead the public. The respondent thereupon petitioned the court to affirm the conclusion of the commission and dismiss its application for enforcement. After argument the court, on May 16, 1929, without opinion, entered its order denying respondent's motion (the court's prior affirmance of the commission's findings and order thus standing), also denying the commission's motion for a decree of enforcement.

*Indiana Quartered Oak Co.--Misrepresentation in the sale of wood in violation of section 5.*--The commission's order in this, a test case, directed the respondent, and its officers, directors, agents, employees, and successors, to cease and desist from advertising, describing, or otherwise designating or selling or offering for sale under the term "mahogany," "Philippine mahogany," or any other term of similar import, woods known under the common or trade names, "red lauan," "white lauan," "tanguale," "narra," "apitong," "bataan,"

“lamao” “orion,” “almon,” “batang,” “bagaac,” “batak,” and, “bala-chacan,” or any other wood, lumber, or wood products, unless such wood or lumber, or the wood from which such products are made, is derived from the trees of the mahogany or Meliaceae family.

By agreement, the company filed with the second circuit its petition to review and set aside the order on October 14, 1927. Briefs were filed, not only on behalf of the immediate parties but by the Philippine government, the National Better Business Bureau, the National Hardwood Lumber Association, and the National Association of Engine and Boat Manufacturers. The case was argued on the merits on April 19 and 20, 1928, and decided in favor of the commission on May 14, 1928, the court using the following language (26 F. (2d) 340):

It was the petitioner’s advertising of lauan and tanguile woods as “Philippine mahogany” that has worked deception upon the public. Purchasers from petitioner have relied upon its representations and have sold the products made from these Philippine woods as mahogany. Mahogany wood has had a long-established reputation; deception on the public in the sale of inferior woods which are not true mahogany (which deception reaches the ultimate purchaser, even though the intermediate customers knew that the woods were not mahogany) is an unfair method of competition in commerce under section 5 of the Trade Commission act.

\* \* \* \* \*

It was not necessary for the commission to establish intent to deceive the purchasing public. For the test of unfair competition was whether the natural and probable result of the use by the petitioner of such woods was deceptive to the ordinary purchaser and made him purchase that which he did not intend to buy.

On July 26, 1928, the company filed with the Supreme Court of the United States its petition for certiorari. This was denied October 15, 1928. (278 U.S. 623.) During June, 1929, the commission filed petitions for decrees affirming its orders to cease and desist and requiring obedience thereto, in cases involving the Kirschmann Hardwood Co., Robert Dollar Co., Hammond Lumber Co., and the Jones Hardwood Co., in the ninth circuit; the Powe Lumber Co., in the eighth circuit; and the Indiana Quartered Oak Co., in the second circuit. This action was based upon a stipulation between the commission and the companies named wherein it was agreed that if the order in any one of the cases should be affirmed, the commission might have decrees of affirmance and orders of enforcement in the others. As a result of the petitions, decrees of enforcement were entered in the Kirschmann, Dollar, and Hammond cases on June 17, 1929; in the Powe case on June 28; and in the Indiana case on October 7, 1929. The petition in the Jones case was withdrawn by the commission without prejudice, on June 24, investigation having disclosed that the company had gone out of business.

*Bayuk Cigars (Inc.)*.--Misbranding--False and misleading advertising.--This case was instituted by the corporation of this name, on February 15, 1928, by the filing of a petition to review and set aside the order issued, by the commission on February 8, 1928, directing it to cease and desist, in connection with the sale and distribution of cigars in interstate commerce, (1) from using the word “Havana,” or other word or words of similar import, alone or in conjunction with the word “ribbon,” or other word or words, as or in a brand name for or as descriptive of any such cigars which

are not composed entirely of tobacco grown on the island of Cuba; (2) from using the word "Mapacuba," or other word or words of similar import, as or in a brand name for or as descriptive of any such cigars which are not composed in whole or in part of tobacco grown on the island of Cuba; (3) from using the word "Mapacuba," or other word or words of similar import, as or in a brand name for or as descriptive of any such cigars which are composed in part only of tobacco grown on the island of Cuba, unless said word be immediately followed and accompanied by a word or words in letters equal or greater in size, visibility, and conspicuousness, clearly and unequivocally indicating or stating that such cigars are not composed wholly, but in part only, of tobacco grown on the island of Cuba; (4) from using a depiction simulating the flag, emblem, insignia, or coat of arms of the Republic of Cuba, map of Cuba, Cuban tobacco fields, city or harbor of Havana, Cuba, or depiction of similar import, in the advertising, branding, or labeling of any such cigars which are not composed in whole or in part of tobacco grown on the island of Cuba; (5) from using a depiction simulating the flag, emblem, insignia, or coat of arms of the Republic of Cuba, map of Cuba, Cuban tobacco fields, city or harbor of Havana, Cuba, or depiction of similar import in the advertising, branding, or labeling of any such cigars which are composed in part only of tobacco grown on the island of Cuba, unless such depiction be accompanied by word or words of equal or greater visibility and conspicuousness, clearly and unequivocally indicating or stating that such cigars are not composed wholly, but in part only, of tobacco grown on the island of Cuba; (6) from representing in any other manner whatsoever that any of said cigars contain or are composed in whole or in part of tobacco grown on the island of Cuba, when such is not true in fact.

After briefs had been filed, the case was argued before the third circuit (Philadelphia) on May 31, 1928. It still awaits decision.

*International Shoe Co.--Violation of section 7 Of the Clayton Act.--*On March 3, 1928, the corporation of this name filed in the Circuit Court of Appeals for the First Circuit (Boston) its petition to review and set aside the commission's order, entered on November 25, 1925, which, in brief, required the company to divest itself of all assets, property, etc., acquired by it from the W. H. McElwain Co. (a Massachusetts corporation, with principal office and place of business located at Boston), subsequent to the acquisition by the International Shoe Co. of the stock or share capital of the McElwain Co., and after the commission's complaint in this proceeding had been issued and served. The proceeding was under section 7 of the Clayton Act.

The commission's order required the company to submit, within 60 days, for consideration and approval--

a plan for the performance of this order in a manner which shall restore in harmony with the law the competitive conditions which existed with respect to the respondent and such assets, properties, rights, and privileges prior to the acquisition by International Shoe Co. of the stock or share capital of W.H. McElwain Co.

Numerous conferences between counsel for the company and the commission failed to produce a plan as required by the order, and the action referred to above was the

result.

On May 31, 1928, the company filed with the court its motion to have the commission's complaint adjudged insufficient in law and to have the order made pursuant thereto set aside. Both sides filed briefs, and the court, after argument on June 28, on the same day denied the motion. The case was argued on the merits October 4-5, 1928, and decided in favor of the commission on November 27, 1928. (29 F. (2d) 518.) The court, in the course of its opinion, said:

It is not seriously contended that any of the findings of fact of the commission are unsupported by the testimony. Petitioner merely seeks to induce this court to hold the commission wrong in its inferences from the facts, and on that ground alone to reverse the order. \* \* \* We find that the inferences of the commission are not only reasonably drawn from undisputed facts, but that no other inferences could reasonably be so drawn. \* \* \* To hold, as petitioners counsel ask this court to hold, that the commission was bound to draw the inference that the McElwain Co.'s financial condition was such that it would have ceased to be a competitor of the international in the shoe business, would be for the court *ultra vires* to substitute a highly speculative prophecy for the commissions fair and soundly grounded contrary inference.

The company petitioned the Supreme Court of the United States for a writ of certiorari; this was denied April 15, 1929 (279 U. S. 849); it subsequently filed a petition for rehearing, which was granted on May 20, 1929, the court at the same time reversing its former position and granting the writ of certiorari (279 U.S. 832).

*The American Snuff Co. case.*--On June 30, 1927, the commission entered its order directing this company to cease and desist from a number of practices found to be unfair methods of competition. The order contained the usual requirement that the corporation report within 60 days the manner and form of compliance therewith. In compliance with the latter requirement, the corporation made a report in which, while it denied the validity of the findings and order, it nevertheless assured the commission that it would not do any of the things prohibited, with one exception, namely, it declined to comply with paragraph 3 (a) of the order. This paragraph is set forth below, together with the closely related paragraph (b):

(3) *It is further ordered*, That the respondent, its officers, agents, representatives, servants, and employees. cease and desist from--

(a) Using the word "dental" and the depiction of a tooth. or either of them, alone or in connection with any other word or words, in the brand name or on the labels on the containers of any of Its snuff products, to represent, describe, or define such product, when Its said product contains no ingredient other than tobacco.

(b) Making, publishing, or circulating written or oral statements or representations in connection with the sale or distribution of any of its snuff products that such product will cure toothache, pyorrhea, bleeding gums, neuralgia, or other like maladies, when such product contains no ingredient other than tobacco.

The commission, accordingly, on March 17, 1928, filed with the Circuit Court of Appeals for the Third Circuit (at Philadelphia) its application for enforcement. On May 16 of that year the printed transcript of the record was filed with the court, and on the 23d of that month a stipulation was entered into fixing dates for the filing of briefs. Before briefs had been filed, however, the commission (on August 18, 1928) filed with the court a supplemental application for the enforcement of paragraphs 2 a, b, and c, and 3 b of its order, alleging that the American Snuff Co. was making, publishing, and circulating written and oral statements or representations



that the snuff products of its competitors are made of trash, inferior tobacco, cigar stubs, old tobacco chews, and tobacco stems; that they contain opium, copperas, glass, hair, dirt, or similar substances; that they will cause blindness and tuberculosis; that they will destroy the teeth, cause pyorrhea, bleeding gums, or other maladies; and other statements or representations of like import; and by making, publishing, and circulating written or oral statements or representations in connection with the sale and distribution of certain of its snuff products that such product will cure toothache, pyorrhea, bleeding gums, neuralgia, and other like maladies, when such product contains no ingredient other than tobacco.

The printing of the supplemental transcript, and the subsequent briefing and argument, was delayed for a number of months because of the exhaustion of the commission's printing appropriation. A new appropriation becoming available July 1, 1929, however, the record has been printed and filed, briefs filed, and the case argued on November 7, 1929.

*Grand Rapids Varnish Co.--Commercial bribery.*--The commission, on June 18, 1928, filed with the Circuit Court of Appeals for Sixth Circuit (Cincinnati) an application for the enforcement of its order in this case. This is one of the earlier proceedings instituted by the commission, and the order, originally entered on April 15, 1918, and subsequently modified, was directed against what is known as commercial bribery. By it the company, a Michigan corporation, and its agents, representatives, servants, and employees, were directed to cease and desist from directly or indirectly secretly giving, or offering to give, employees of its customers or prospective customers, or those of its competitors' customers or prospective customers, without the knowledge or consent of their employers, as an inducement to cause their employers to purchase or contract to purchase from the respondent, varnish and kindred products, or to influence such employers to refrain from dealing, or contracting to deal, with competitors of respondent, without other consideration therefor, money or anything of value.

On June 30, 1928, the court entered an order directing the company to file its answer to the commission's petition on or before October 2, 1928. This time was subsequently extended to October 12, 1928. On the latter date the respondent filed with the court a motion to dismiss the application for enforcement. The commission filed objections to this motion. Before hearing, however, the matter was, by stipulation of the parties, suspended. On June 4, 1929, after argument, respondent's motion was denied. On October 8, 1929, the court entered its decree affirming the commission's order, and requiring compliance therewith. The company consented to this method of disposing of the case.

#### **CASES ARISING UNDER SECTIONS 8 AND 9 OF THE FEDERAL TRADE COMMISSION ACT**

In addition to the review by the United States circuit courts of appeals of the commission's orders directed against "unfair methods of competition," issued under authority of section 5 of its organic act, and price discrimination, exclusive dealing contracts, stock acquisitions in competitive concerns, and interlocking directorates, authorized by section 11 of the Clayton Act, the former statute invests the

commission with power, among other things, to gather and compile information concerning and to investigate from time to time the organization, business, conduct, practices, and management of corporations engaged in interstate commerce (excepting banks and common carriers) and their relation to other corporations, individuals, associations, and partnerships; to require such corporations to file annual or special reports concerning their organization, business, etc.; and, 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. To facilitate the exercise of these powers the commission is authorized to apply to the Attorney General for the institution of mandamus proceedings.

A number of cases have arisen as a result of efforts to test the powers of the commission to compel the production of testimony or of powers of documents in investigations or to compel the filing of reports. The cases relating to the Claire Furnace Co., the Maynard Coal Co., the American Tobacco and Lorillard Cos., the Baltimore Grain Co. et al., and the Basic Products Co., which arose in this manner, were concluded prior to the beginning of the current fiscal year, and have been discussed at length in previous annual reports. Those relating to the Electric Bond and Share Co. and the Millers' National Federation (still pending) are discussed below, as are also certain proceedings in unfair competition cases, where respondents, through the medium of various extraordinary legal remedies, have sought to halt or influence the conduct of proceedings by the commission.

*Electric Bond & Share Co.*--The commission, on December 1, 1928, filed, in the District Court of the United States for the Southern District of New York, its application for an order requiring certain officers and employees of this company to produce certain records and answer certain questions incident to the investigation being conducted by the commission pursuant to Senate Resolution 83, directing the commission to investigate and report upon the financial and business structure of the electric power and gas industry, the policies and practices of holding companies and their affiliated companies, their alleged efforts to control public opinion on account of public or municipal ownership, and whether any of the conditions disclosed constituted a violation of the anti-trust laws. The objections raised by counsel for the company to administering the oath and interrogation of the witnesses put in issue the fundamental question of the commission's power to issue subpoenas in the investigation directed by the Senate, whether the Electric Bond & Share Co. was engaged in interstate commerce, and whether the attempt to subpoena the records was a violation of the constitutional prohibition of unreasonable search and seizure.

The case was argued before Judge Knox on February 16, 1929. The commission, on March 9, submitted a written offer of additional proof on the issues of fact it claimed were made by the application and answer. Briefs on behalf of the commission and respondents were filed on March 9 and 22, respectively; and the commission's reply brief on April 2.

The court, on July 18, 1929, handed down its opinion. (34 F. (2d) 828.) Briefly, the objections of the company to the commission's subpoenas duces tecum were sustained, and those that were

interposed to the pertinent and competent questions propounded to the individual witnesses by counsel for the commission were over-ruled. The court assumed that the company, in part, at least, was engaged in interstate commerce, saying, in this connection:

If respondents wish to contest the propriety of this assumption, the matter will have to go to a Master; or, If petitioner (Federal Trade Commission) wishes an adjudication to the effect. that the interstate business of the Electric Bond & Share Co. is so intimately associated and connected with interstate commerce that all the company's activities are subject to the jurisdiction of the . commission, a reference will be required to establish the fact.

By stipulation, the parties to the suit were given until December 16, 1929, to make application to the court for an order of reference to take testimony.

*Millers' National Federation case--Investigation by commission in response to resolution of the United States Senate.*--On February 16, 1924, the United States Senate, by resolution, directed the commission to investigate and report to the Senate, among other things, the extent and methods of price fixing, price maintenance, and price discrimination, in the flour and bread industries, developments in the direction of monopoly and concentration of control, and all evidence indicating the existence of agreements, conspiracies or combinations in these industries. In the course of the investigation the commission made inquiry with respect to the activities of the Millers' National Federation, a voluntary, unincorporated association, whose members produce approximately 65 per cent of the flour milled in the United States, as well as the activities of other milling associations and corporations engaged in the milling industry. Permission was requested of the Millers' National Federation to inspect certain papers, documents, and correspondence files, which permission was in part granted. As a result of the inspection of certain correspondence, the commission requested the federation to supply it with copies of certain designated letters, and further requested access, for the purpose of inspection, to minutes of meetings among members of the federation and other millers in various parts of the country and to letters passing between the federation and its members leading up to the adoption of a so-called code of ethics by the federation. The request was denied. The commission thereafter called a hearing in the investigation at Chicago, Ill., and served subpoenas upon the secretary of the federation requiring him to produce at the hearing certain letters specified by dates, names of the parties correspondent, and subject matter, which its representative had been permitted to inspect in the federation's offices. Subpoenas were also served upon the secretary requiring the production of minutes of the meetings among members of the federation and other millers above mentioned (inspection of which had been denied) and of the letters relating to the adoption of the code of ethics. The Washburn-Crosby Co., a member of the federation and the largest milling corporation in the United States, having also refused to permit the commission to inspect certain letters specified by dates, names of parties correspondent, and subject matter, as well as having declined to permit a statement of its business, made up from its books by representatives of the commission, to be taken from its offices

subpoenas *duces tecum* were served upon officers of the cor-

poration, requiring the production of the letters and of the statement, at a hearing to be held at Minneapolis, Minn.

On the day prior to the hearing set for Chicago, Ill., the Millers' National Federation on behalf of its members filed a petition in the Supreme Court of the District of Columbia praying for a temporary restraining order and a temporary injunction restraining the commission from taking any steps or instituting any proceedings to enforce the subpoenas or requiring the plaintiffs, or any of them, to produce the documents or letters required thereby. On the day of hearing set at Chicago the secretary of the federation, the officers of the Washburn-Crosby Co., and certain individuals connected with the federation through membership therein of corporations in which they were officers, did not appear as required by subpoenas ad testificandum, and on the morning of the same day temporary restraining order was issued by the Supreme Court of the District of Columbia as prayed for in the petition. A motion for temporary injunction was subsequently made. The commission answered the motion on the merits and moved to dismiss the petition on various grounds, among others, that the court was without jurisdiction to restrain the commission from proceeding with the hearing. Both motions were argued, and on September 22, 1926, the court rendered its decision granting the temporary injunction (decision not reported). From this an appeal was taken on December 10, 1926, to the Court of Appeals of the District of Columbia. Before hearing on this appeal was had, the commission, on March 30, 1927 petitioned the Supreme Court of the United States for certiorari, which was denied on April 25, 1927 (274 U.S. 743), thus the case to be heard on the appeal in the Court of Appeals of the District of Columbia.

After briefs and arguments, the Court of Appeals, on December 5, 1927, affirmed the decree of the Supreme Court of the District (23 F. (2d) 968), and remanded the case for further proceedings the court held that the opinion of the Supreme Court of the United States in the Claire Furnace Co. case was not controlling, that the present case must be determined upon principles not obtaining in that case, and that injunction would be to restrain the commission, should the court find, on a final determination of the case on its merits, that the commission had exceeded its jurisdiction. In short, its holding was that the Supreme Court of the District had jurisdiction to determine the matter. The commission, on December 12, 1927, filed a petition for rehearing, on the ground that the court had failed to decide the point of law which was the principal basis for the judgment below, and practically the sole ground assigned in the petition for special appeal on which the case was heard in the court of appeals-the court below holding that sections 6 and 9 of the Federal Trade Commission act did not confer any jurisdiction upon the commission to employ subpoenas in any investigation made under section 6 of the act, but that the statute conferred power upon the commission to employ authority subpoenas only in adversary proceedings conducted under authority of section 5. The petition for rehearing was denied on January 21, 1928. The commission filed answer to the amended bill of complaint on February 14. On March 23 the court granted the motion of the federation for leave to file supplemental bill of complaint, in which it was claimed that final decree should issue against the commission, on the ground that its investi-

gation had been completed, final report made to the Senate, and its authority thereby exhausted. The commission's answer to this supplemental bill was filed on April 4, 1928. Subsequent negotiations have resulted in the adoption of an agreed statement of the facts, in lieu of taking testimony, in the suit for permanent injunction, in the Supreme Court of the District of Columbia. The case now awaits briefing and argument.

*Macfadden publications.*--The commission's complaint charged the corporation of this name, which owns and controls the stock of other concerns engaged in publishing magazines, periodicals, etc., with representations that the subscription prices of its magazines had been lowered for certain periods when such was not the case. During the trial of the case, the corporation sought, by writ of mandamus, to compel the commission to issue subpoenas duces tecum directed to its competitors, ostensibly to show that they were following the same practices with which the corporation stood charged.

The Supreme Court of the District of Columbia, where the action was brought, on May 17, 1929, overruled the petitioner's demurrer to the commission's answer and return, discharged the rule to show cause, and denied the petition for the writ. The petitioner has appealed to the Court of Appeals of the District and the record has been printed and briefs file a in this court. The next step is oral argument.

*Royal Baking Powder case--Violation of section 5 of the Federal Trade Commission act.*--This company was charged, on complaint of the commission, with publishing false statements about the products of competitors, among which were (1) that competitors' baking powders contained alum and were therefore unfit for use in food; (2) that the alum contained in such powders is the astringent commonly sold in drug stores under the name of alum and chemically known as potassium aluminum sulphate; (3) that competitors' baking powders are poisonous, that they are made of ground-up cooking utensils, that they do not come within the pure-food laws, that they pucker up the stomach in the same manner that lump alum puckers up the mouth, and that they are made of the same substance used as a styptic after shaving. It was further charged that respondent had advertised anonymously to the same effect. Answer was filed, testimony taken, and briefs and oral argument presented to the commission. Thereafter, on March 23, 1926, the commission issued its order dismissing the proceedings. On the same day counsel for the commission filed a petition for reargument of the case before the commission, which petition was on said day granted. Notices of such dismissal and the granting of the petition for reargument were served upon the baking powder company simultaneously. Thereafter the case was reargued before the commission, upon which it vacated its order of dismissal entered March 23, 1926, and directed the reopening of the case solely for the taking of further testimony with respect to misleading advertising, anonymous advertising, and the circulation of erroneous extracts from the book *A Collation of Cakes*. The order expressly provided that no evidence be taken with respect to statement by the respondent relative to the deleteriousness of alum baking powder, and also confirmed the previous dismissal

with respect to the use by respondent of the slogan "No alum--no bitter taste," since the commission was of opinion that its use as before them in this case was not an unfair method of competition.

Thereupon, on October 22, 1926, the Royal Baking Powder Co. filed in the Supreme Court of the District of Columbia a petition for a writ of certiorari, the court causing such a writ to be issued and served upon the commission, commanding it to certify and transmit to that court the record and papers in the case before the commission, it being the contention of the company that the commission lost jurisdiction of the proceedings before it upon its entering the order of dismissal of March 23, 1926. On October 30, 1926, the commission moved the court to dismiss the petition and to quash the writ of certiorari, and on November 13, 1926, in addition to its motion to quash the writ of certiorari, the commission also filed a demurrer to the petition. Thereafter the matter was argued, briefs were filed, and on June 21, 1927, the court rendered its decision sustaining the commission's motion to quash the writ of certiorari on the ground of lack of jurisdiction in the court. (Not reported.) The court declined to pass upon the demurrer to the petition, offering at the election of the petitioner to transfer the matter to the equity side of the court. This was done; and the equity court on November 7, 1927, granted the commission's motion to dismiss the bill, saying (decision not reported): "From an examination of the decided cases bearing upon the questions presented herein the court is of opinion that, by the entry of the order of dismissal, on March 23, 1926, the commission did not exhaust its jurisdiction over the case pending before it; that its order reopening the case, as well as its subsequent orders in relation thereto, were administrative and procedural in character; and that the same are not subject to review by this court." Final decree was signed November 15, 1927, the court at the time taking occasion to discuss allowance of writ of supersedeas, applied for by the company. It said: "It is not here necessary to decide whether this court because of the limitation of the equity rule, *Supra*, is or is not vested with discretion to grant a supersedeas which shall operate as an injunction against the Federal Trade Commission pending the appeal; but in view of the fact that this court reached the conclusion herein that the several orders complained of were administrative and procedural and, as such not here properly subject to review, it is of opinion that it should not thus do indirectly. that which it had directly held it had no right or jurisdiction to do." The company noted, an appeal to the Court of Appeals of the District of Columbia and on March 22, 1928, filed the transcript of record with this court. The commission, on April 7, 1928, filed a motion to dismiss the appeal, on the ground that the transcript had not been filed within the time provided by the new rules of the court of appeals effective December 1, 1927. The motion, however, was denied. The printed transcript of record was filed on June 28, 1928. Briefs were subsequently filed, and the case argued April 2, 1929. On May 6, 1929, the decree of the Supreme Court was affirmed (32 F. (2d) 966).

The company petitioned the Supreme Court of the United States for writ of certiorari on July 6, 1929. The commission's brief in opposition was filed on August 21. The petition was denied.

October 21, 1929. The company petitioned for rehearing November 1; this was denied November 4, 1929.

*Royal Baking Powder Co.--Mandamus to compel commission to pass upon affidavits of prejudice against member of commission.*--In connection with a proceeding then pending before the commission against the company referred to, and before decision by the commission on a motion to dismiss the said complaint filed by the respondent company, the latter, on May 31 and June 4, 1928, filed in said cause certain petitions in the form of affidavits, in which it was charged that one of the members of the commission was so biased and prejudiced against the company as to be unable to give fair and impartial consideration to matters affecting said company, and in which suggestion was made that this commissioner would, on consideration of the facts, admit the impropriety of his continuing to sit in judgment in matters concerning the Royal Baking Powder Co. The petitions prayed that the commission take action to prevent further participation by this commissioner in deliberations or decisions in matters and proceedings coming before the commission in which the company was a party or, had an interest. On June 11, 1928, the commission entered an order overruling the motion to dismiss, and on June 28, 1928, a further order was entered postponing consideration of the petitions (in the form of affidavits of prejudice).. until the final hearing of the case. The company thereupon, on June 30, 1928, filed with the Supreme Court of the District of Columbia its petition praying that a rule issue requiring the commission to show cause why a writ of mandamus should not issue against it, requiring it, before any other or further action is taken in connection with the pending proceeding (Doc. 1499) or in any other matter in which the company is a party or has an interest, to pass upon and announce decision on the prayers in the petition in the form of affidavits of prejudice referred to. On July 16, 1928, the court granted the company 's motion to strike the commission's answer, with leave to the commission to file an amended answer. This was done on July 25, 1928. Further developments have been the denial of the motion to strike the amended answer, the issuance of a writ of prohibition directed to the commission, argument on the commission's motion to quash the writ of prohibition, and argument on the motion of the commission for prior determination of questions of law (demurrer). On May 17, 1929, the court sustained the commission's demurrer discharged the rule to show cause, dismissed the petition for writ mandamus, and granted the commission s motion to quash the petition for writ of prohibition, thus disposing of all the issues before it in favor of the commission.

The company has appealed to the Court of Appeals of the District of Columbia. The record has been printed, and the next steps are the filing of briefs and argument.



**TABLES SUMMARIZING WORK OF LEGAL DIVISION AND COURT  
PROCEEDINGS, 1915-1929**

TABLE 1.--*Preliminary inquiries*

	1915	1916	1917	1918	1919	1920	1921	1922
Pending beginning of year	0	4	12	32	19	29	61	68
Instituted during year	119	265	462	611	843	1,107	1,070	1,223
Total for disposition	119	269	474	643	862	1,136	1,131	1,291
Dismissed after investigation	3	123	289	292	298	351	500	731
Docketed as applications for complaints	112	134	153	332	535	724	563	413
Total disposition during year	115	257	442	624	833	1,075	1,063	1,144
Pending end of year	4	12	32	19	29	61	68	147

  

	1923	1924	1925	1926	1927	1928	1929
Pending beginning of year	147	102	191	176	298	328	224
Instituted during year	1,234	1,568	1,612	1,483	1,265	1,331	1,469
Total for disposition	1,381	1,670	1,803	1,659	1,563	1,659	1,693
Dismissed after investigation	897	1,157	1,270	1,075	942	1,153	1,649
Docketed as applications for complaints	382	322	357	286	293	282	384
Total disposition during year	1,279	1,479	1,627	1,361	1,235	1,435	1,433
Pending end of year	102	191	176	298	328	224	260

CUMULATIVE SUMMARY TO JUNE 30, 1929

Inquiries instituted	15,662
Dismissed after investigation	10,086
Docketed as applications for complaints	5,816
Total disposition	15,402
Pending June 30, 1929	260

TABLE 2.--*Export trade investigations*

	1922	1923	1924	1925	1926	1927	1928	1929
Pending beginning year	53	35	79	43	10	10	29	42
Instituted during year	10	79	16	11	52	54	68	20
Total for disposition	63	114	95	54	62	70	97	62
Disposition during year	28	35	52	44	40	41	55	22
Pending end of year	35	79	43	10	10	29	42	40

CUMULATIVE SUMMARY TO JUNE 30, 1929

Investigations instituted	363
Total disposition	323
Pending June 30, 1929	40

TABLE 3.--Applications for complaints

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924
Pending beginning of year	0	104	130	188	280	389	554	467	458	572
Applications docketed	112	134	153	332	535	724	426	382	416	377
Rescinded dismissals:										
Stipulated	0	0	0	0	0	0	0	0	0	1
Trade-practice acceptance	0	0	0	0	0	0	0	0	0	0
Others	0	0	0	0	0	0	0	5	6	4
Rescinded "To complaints"	0	0	0	0	0	0	0	0	0	0
Total for disposition	112	238	283	520	815	1,113	980	854	880	954
To complaints	0	3	16	80	125	220	150	104	121	143
Dismissals:										
Stipulated	0	0	0	0	0	0	0	0	0	3
Trade-practice acceptance	0	0	0	0	0	0	0	0	0	0
Others	8	105	79	160	301	339	357	292	187	243
Total disposition during year	8	108	95	240	426	559	513	396	308	389
Pending end of year	104	130	188	280	389	554	467	458	572	565
		1925	1926	1927	1928	1929				
Pending beginning of year		565	488	420	457	530				
Applications docketed		340	273	292	334	679				
Rescinded dismissals:										
Stipulated		1	1	0	2	2				
Trade-practice acceptance		0	0	0	0	1				
Others		3	4	0	0	0				
Rescinded "To complaints"		0	0	0	0	0				
Total for disposition		909	786	712	793	1,212				
To complaints		118	57	45	58	100				
Dismissals:										
Stipulated		5	102	80	68	118				
Trade-practice acceptance		0	2	3	19	17				
Others		298	185	127	118	134				
Total disposition during year		421	346	255	263	369				
Pending end of year		488	420	457	530	843				

## CUMULATIVE SUMMARY TO JUNE 30, 1929

Applications docketed		5,509
Rescinded dismissals:		
Stipulated		7
Trade practice acceptance		1
Others		<u>22</u>
Total rescinded dismissals		<u>30</u>
Total for disposition		5,539
To complaints		1,346
Dismissals:		
Stipulated		376
Trade practice acceptance		41
Others		<u>2,933</u>
Total dismissals		<u>3,350</u>
Total disposition		<u>4,696</u>
Pending June 30, 1929		843

TABLE 4.--Complaints

	1915	1916	1917	1918	1919	1920	1921	1922
Pending beginning of year	0	0	5	10	86	133	287	312
Complaints docketed	0	5	9	154	135	308	177	111
Rescinded orders to cease and desist:								
Contest	0	0	0	0	0	0	0	0
Consent	0	0	0	0	0	0	0	0
Default	0	0	0	0	0	0	0	0
Rescinded dismissals:								
Stipulated	0	0	0	0	0	0	0	0
Trade-practice acceptance	0	0	0	0	0	0	0	0
Others	0	0	0	0	0	0	1	0
Total for disposition	0	5	14	164	221	441	465	423
Complaints rescinded	0	0	0	0	0	0	0	0
Orders to cease and desist:								
Contest	0	0	3	71	75	110	116	74
Consent	0	0	0	0	0	0	0	17
Default	0	0	0	0	0	0	0	0
Dismissals:								
Stipulated	0	0	0	0	0	0	0	0
Trade-practice acceptance	0	0	0	0	0	0	0	0
Others	0	0	1	7	13	44	37	75
Total disposition during year	0	0	4	78	88	154	153	166
Pending end of year	0	5	10	86	133	287	312	257
	1923	1924	1925	1928	1927	1928	1929	
Pending beginning of year	257	232	264	220	152	147	136	
Complaints docketed	144	154	132	62	76	64	149	
Rescinded orders to cease and desist:								
Contest	0	4	0	0	0	1	0	
Consent	0	1	0	0	0	0	0	
Default	0	0	0	0	0	0	0	
Rescinded dismissals:								
Stipulated	0	0	0	0	0	0	0	
Trade-practice acceptance	0	0	0	0	0	0	0	
Others	1	1	0	0	1	0	0	
Total for disposition	402	392	396	282	229	212	285	
Complaints rescinded	0	0	0	0	0	0	0	
Orders to cease and desist:								
Contest	28	45	30	28	34	38	56	

Consent	54	47	43	16	18	8	7
Default	0	0	0	0	0	2	4
Dismissals:							
Stipulated	0	0	6	3	1	3	3
Trade-practice acceptance	0	0	0	0	5	5	1
Others	88	38	97	83	24	20	16
Total disposition during year	170	128	176	130	82	76	87
Pending end of year	232	264	220	152	147	136	198

## CUMULATIVE SUMMARY To JUNE 30, 1929

Complaints docketed		1,680	
Rescinded orders to cease and desist:			
Contest	5		
Consent	1		
Default	<u>0</u>		
Total rescinded orders to cease and desist		6	
Rescinded dismissals:			
Stipulated	0		
Trade practice acceptance	0		
Others	<u>4</u>		
Total rescinded dismissals		<u>4</u>	
Total for disposition			1,690
Orders to cease end desist:			
Contest	708		
Consent	210		
Default	<u>6</u>		
Total orders to cease and desist		924	
Dismissals:			
Stipulated	16		
Trade practice acceptance	11		
Others	<u>541</u>		
Total dismissals		<u>568</u>	
Total disposition			<u>1,492</u>
Pending June 30, 1929			198

## COURT PROCEEDINGS--ORDERS TO CEASE AND DESIST

TABLE 5.--*Petitions for review--lower courts*

	1919	1920	1921	1922	1923	1924	1925	1926	1927
1928 1929									
Pending beginning of year	0	2	8	13	9	4	14	9	8
3 3									
Appealed	4	9	18	5	5	15	6	5	4
4 35									
Total for disposition	4	11	26	18	14	19	20	14	12
7 38									
Decisions for Commission	1	0	1	4	5	1	6	5	4
3 2									
Decisions for others	1	3	11	5	4	4	3	1	2
1 1									
Petitions withdrawn	0	0	1	0	1	0	2	0	3
0 0									
Total disposition during year	2	3	13	9	10	5	11	6	9
4 3									
Pending end of year	2	8	13	9	4	14	9	8	3
3 35									

## CUMULATIVE SUMMARY TO JUNE 30, 1929

Appealed	110
Decisions for commission	82
Decisions against commission	36
Decisions withdrawn	<u>7</u>
Total disposition	<u>75</u>
Pending June 30, 1929	35

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

	1919	1920	1921	1922	1923	1924	1925	1926	1927
1928 1929									
Pending beginning of year 1 0	0	0	1	3	3	1	0	4	6
Appealed by Commission 0 0	0	2	2	4	5	0	5	2	1
Appealed by others 0 3	0	0	0	0	2	1	1	3	1
Total for disposition 1 3	0	2	3	7	10	2	6	9	8
Decisions for Commission 0 0	0	0	0	2	0	0	0	0	3
Decisions for others 0 0	0	1	0	0	5	1	0	0	2
Petitions withdrawn by Commission 0 0	0	0	0	0	1	0	0	0	0
Writ denied Commission 0 0	0	0	0	2	1	0	1	2	1
Writ denied others 1 2	0	0	0	0	2	1	1	1	1
Total disposition during year 1 2	0	1	0	4	9	2	2	3	7
Pending end of year 0 1	0	1	3	3	1	0	4	6	1

CUMULATIVE SUMMARY TO JUNE 30, 1929

Appealed by commission	21
Appealed by others	<u>11</u>
Total appealed	32
Decisions for commission	5
Decisions against commission	9
Petitions withdrawn by commission	1
Writ denied commission	7
Writ denied others	<u>2</u>
Total disposition	<u>31</u>
Pending June 30, 1929	1

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

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928
1929										
Pending beginning of year	0	0	0	0	0	1	0	2		3
Appealed	0	0	0	0	1	1	1	3	2	3
Total for disposition	0	0	0	0	1	1	2	3	4	6
Decisions for Commission	0	0	0	0	1	0	2	0	0	1
Decisions for others	0	0	0	0	0	0	1	0	1	0
Petitions by commission denied	0	0	0	0	0	1	1	0	0	1
Petitions withdrawn	0	0	0	0	0	0	0	1	2	1
Total disposition during year	0	0	0	0	1	0	2	1	1	4
Pending end of year	0	0	0	0	0	1	0	2	3	2

CUMULATIVE SUMMARY TO JUNE 30, 1929

Appealed	20
Decisions for commission	7
Decisions against commission	0
Petitions by commission denied	3
Petitions withdrawn	4
Total disposition	14



TABLE 8.--*Petitions for enforcement--Supreme Court or the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928
1929										
Pending beginning of year	0	0	0	0	0	0	1	0	0	
Appealed by Commission	0	0	0	0	0	0	0	0	1	
Appealed by others	0	0	0	0	0	1	0	1	0	
Total for disposition	0	0	0	0	0	1	1	1	1	
Decisions for Commission	0	0	0	0	0	0	0	0	0	
Decisions for others	0	0	0	0	0	0	1	0	0	
Certiorari denied others	0	0	0	0	0	0	0	1	0	
Total disposition during year	0	0	0	0	0	0	1	1	0	
Pending end of year	0	0	0	0	0	1	0	0	1	

## CUMULATIVE SUMMARY TO JUNE 30, 1929

Appealed	4
Decisions for commission	1
Decisions against commission	1
Petitions by others denied	1
Total disposition	3
Pending June 30, 1929	1

TABLE 9.--*Petitions for rehearing, modification, etc.--lower courts*

	1919	1920	1921	1922	1923	1924	1926	1926	1927
1928 1929									
Pending beginning of year	0	0	1	0	1	0	2	1	0
Appealed	0	1	0	2	0	2	8	3	0
Total for disposition	0	1	1	2	1	2	8	5	1
Decisions for commission	0	0	0	1	0	0	1	0	0
Decisions against commission	0	0	0	0	0	1	0	0	1
Petitions by commission denied	0	0	1	0	0	2	1	2	0
Petitions by others denied	0	0	0	0	1	0	3	2	0
Total disposition during year	0	0	1	1	1	2	6	4	0
Pending end of year	0	1	0	1	0	2	1	1	0

## CUMULATIVE SUMMARY TO JUNE 30, 1929

Appealed	18
Decisions for commission	3
Decisions against commission	2
Petition by commission denied	7
Petitions by others denied	6
Total disposition	18
Pending June 30, 1929	0

TABLE 10.--*Petition, for rehearing, modification, etc.--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927
1928									
1929									
Pending beginning of year	0	0	0	0	0	0	0	0	0
Appealed	0	0	0	1	0	0	0	1	4
Total for disposition	0	0	0	1	0	0	0	1	4
Petitions by commission denied	0	0	0	0	0	0	0	2	0
Petitions by others denied	0	0	0	1	0	0	0	1	2
Total disposition during year	0	0	0	1	0	0	0	1	4
Pending end of year	0	0	0	0	0	0	0	0	0

CUMULATIVE SUMMARY TO JUNE 30, 1929

Appealed	6
Petitions by commission denied	2
Petitions by others denied	4
Total disposition	6
Pending June 30, 1929	0

COURT PROCEEDINGS--MISCELLANEOUS

TABLE 11.--*Interlocutory, mandamus, etc.--Lower courts*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928
1929										
Pending beginning of year	0	1	4	5	6	4	4	4	5	3
Appealed	2	4	2	6	5	0	1	1	2	2
Total for disposition	2	5	6	11	11	4	5	5	6	5
Decisions for Commission	1	0	1	3	0	0	0	1	1	3
Decisions against commission	0	1	0	1	7	0	0	0	1	0
Petitions withdrawn by Commission	0	0	0	0	0	1	1	0	2	0
Petitions withdrawn by others	0	0	0	1	0	0	0	0	0	0
Total disposition during year	1	1	1	5	7	0	1	1	4	3
Pending end of year	1	4	5	6	4	4	4	5	3	2

CUMULATIVE SUMMARY TO JUNE 30, 1929

Appealed	27
Decisions for commission	10
Decisions against commission	10
Petitions withdrawn by commission	4
Petitions withdrawn by others	1
Total disposition	25
Pending June 30, 1929	2



TABLE 12.--*Interlocutory, mandamus, etc.--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928
1929										
Pending beginning of year	0	0	0	0	6	4	1	1	0	0
Appealed	0	0	0	0	6	0	0	1	0	0
Total for disposition	0	0	0	0	6	4	1	2	0	0
Decisions for Commission	0	0	0	0	0	0	0	1	0	0
Decisions against commission	0	0	0	0	0	2	3	0	0	0
Certiorari denied Commission	0	0	0	0	0	0	0	1	0	0
Certiorari denied others	0	0	0	0	0	0	0	0	0	0
Total disposition during	0	0	0	0	2	3	0	2	0	0
Pending end of year	0	0	0	0	6	4	1	1	0	0

## CUMULATIVE SUMMARY TO JUNE 30, 1929

Appealed	7
Decisions for commission	1
Decisions against commission	5
Petitions by commission denied	1
Total disposition	7
Pending June 30, 1929	0

TABLE 13.--*Interlocutory, mandamus, etc.--Rehearing, modification, etc.--Lower courts*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929
1928											
Pending beginning of year	0	0	0	0	0	0	0	0	0	0	0
Appealed	0	0	0	0	0	0	0	0	2	0	0
Total for disposition	0	0	0	0	0	0	0	0	2	0	0
Decisions for commission	0	0	0	0	0	0	0	1	0	0	0
Petitions by commission denied	0	0	0	0	0	0	0	0	1	0	0
Total disposition during year	0	0	0	0	0	0	0	2	0	0	0
Pending end of year	0	0	0	0	0	0	0	0	0	0	0

## CUMULATIVE SUMMARY TO JUNE 30, 1929

Appealed	2
Decisions for commission	1
Petitions by commission denied	1
Total disposition	2
Pending June 30, 1929	0

TABLE 14.--*Interlocutory, mandamus, etc.--Rehearing, modification, etc.--  
Supreme Court or the United States*

	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930
Pending beginning of year	0	0	0	0	0	0	0	0	0	0	0	0
Appealed	0	0	0	0	2	0	0	0	0	0	0	1
Total for disposition	0	0	0	0	2	0	0	0	0	0	0	1
Petitions by commission denied	0	0	0	0	2	0	0	0	0	0	0	0
Petitions by others denied	0	0	0	0	0	0	0	0	0	0	0	1
Total disposition during year	0	0	0	2	0	0	0	0	0	0	0	1
Pending end of year	0	0	0	0	0	0	0	0	0	0	0	0

CUMULATIVE SUMMARY TO JUNE 30, 1929

Appealed	2
Petitions by commission denied	2
Total disposition	2
Pending June 30, 1929	0

## **EXPORT TRADE SECTION**

Foreign-trade work of the commission under direction of the export trade section of the legal division, includes administration of the ex-port trade act (commonly known as the Webb-Pomerene law), and Inquiries made under section 6(h) of the Federal Trade Commission act which directs the commission 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.”

### **PRIVILEGES GRANTED BY WEBB-POMERENE LAW**

The Webb-Pomerene law, enacted by Congress in April 1918, grants exemption from the antitrust laws to an export combine or “association” entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade.

The purpose of the law is to promote exports from the United States to foreign countries and to enable American exporters to operate on equal terms with the organizations of their foreign competitors. In foreign countries combinations of producers, distributors, and buyers are not only permitted but have received governmental encouragement and support. Cartels, comptoirs, syndicates, and trade agreements were common abroad before the passage of the Webb law and grew by leaps and bounds during the reconstruction period following the World War. The same has been true of inter-national agreements for the fixing of prices, establishing quota systems for apportionment and control of production, division of markets, interchange of patent and process rights, and other means for international control of industry and trade. American producers and manufacturers must sell in competition with these foreign organizations, and must in a good many instances sell to foreign purchasing combines.

This situation was foreseen by the Federal Trade Commission in its report to Congress on “Cooperation in American export trade” in 1916, which recommended passage of the export trade act afterwards sponsored by Senator Pomerene and Congressman Webb.

Associations operating under the act have found it to their advantage to combine for export. Elimination of competition as between their member companies in export sales reduction of overhead through cooperative methods of selling, stabilization of export prices, standardization of grades, contract terms and conditions, improvement in packing and handling consignments, establishment of inspection service in order to improve the quality of the goods to be exported more adequate collection and dissemination of trade information especially as to credit and market conditions abroad, saving in freight rates through consolidation of shipments,

better distribution of orders by shipment from the most convenient ports, and sharing by the members of expense in development of new markets are some of the advantages that have been obtained by associations operating under the law. A cooperative association may fill its orders more promptly and efficiently by drawing upon the resources of all of its members, whereas one member might not be able to fill a large order or to furnish a full cargo at one loading. Foreign buyers, therefore, receive the benefits of the act as well as American shippers, and they prefer to deal with a cooperative organization rather than with an individual shipper whose reputation is not so well established. Complaints and claims have been reduced to a minimum and the reputation of American exporters for good quality and service has been appreciably extended.

Some of the smaller associations report that foreign business in any volume would be impossible without their cooperation under the act, and larger companies which had already developed foreign markets have also found it to their advantage to form Webb law associations. In the words of an association reporting to the commission from the west coast, "The Webb law has met a very real need in export trade, has afforded protection to both buyer and seller, and has raised general standards of business ethics in the industry."

#### **SAFEGUARDS TO AMERICAN TRADE**

The Webb-Pomerene law was not passed without adequate safe-guards for the protection of trade in this country under the antitrust laws.

Section 2 of the act provides that a Webb law association may not (1) restrain the export trade of any domestic competitor of the association, artificially or intentionally enhance or depress prices within the United States of commodities of the class exported by the association, or (3) substantially lessen competition within the United States or otherwise restrain trade therein.

Associations are required to file with the commission copies of their organization papers and amendments thereto and to furnish such information as the commission may require as to their organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals. Association offices are visited by a representative of the commission from time to time.

If the commission has reason to believe that an association is in violation of the law, it may conduct an investigation and make recommendations for the adjustment of the association's business. In case of failure to comply with recommendations, the commission's findings may be referred to the Attorney General of the United States for further action.

No formal complaints or orders have been issued by the commission under the act, and there has been no litigation in the courts involving construction or operation of the law.

Nor has the law been amended by Congress since its passage in 1918. In 1921 a bill was introduced for amendment to section 2 of the act, but so little interest was shown that it was not voted upon. In 1928 a bill was introduced which would have extended

the scope

of the act to include import combines, but this was rejected by the House of Representatives and was not voted upon by the Senate.

**INCREASED EXPORTS BY WEBB-POMERENE ASSOCIATIONS--MORE THAN \$476000,000 IN 1928**

Exports by Webb law associations have increased each year, totaling in 1926, \$200,000,000, in 1927, \$371,500,000, and in 1928 more than \$476,000,000.

During 1928 lumber and wood products, including pine, fir, red-wood, walnut, hard woods, doors, plywood, wooden tools, barrel shooks, clothespins, and naval stores exported by associations, totaled about \$28,200,000; metal and metal products, copper, zinc, iron and steel products, machinery, railway equipment, pipes, valves, and screws, about \$267,600,000; chemical products, including caustic soda, soda ash, liquid chlorine, soda pulp, paints and varnish, about \$3,000,000; raw and semi-manufactured materials such as phosphate rock, sulphur, and petroleum, \$17,500,000; manufactured products, such as paper, abrasives, rubber products, cotton goods and linters, buttons and miscellaneous, about \$79,500,000; and foodstuffs, such as milk, meat, sugar, flour, rice, canned salmon, dried and fresh fruit, and sardines, about \$80,400,000.

**EXPORT ASSOCIATIONS NOW OPERATING TOTAL 57**

New associations formed during the fiscal year ending June 30, 1929, included--

Standard Oil Export Corporation, comprising four oil companies in New York and Texas, with headquarters in New York City;

Export Petroleum Association, Inc., comprising 15 oil companies in New York, Pennsylvania, California, Oklahoma, and Chicago, with headquarters in New York City;

Metal Lath Export Association; comprising four steel companies, in Ohio, New York, and Massachusetts, with headquarters in New York City.

Fifty-seven export associations filed reports with the Federal Trade Commission during the first six months of 1929, representing producers, mills, mines, and factories scattered throughout all parts of the United States:

American Brake Beam Manufacturers' Export Association, West Nyack, N.Y.

American Export Door Corporation, Washington Building, Tacoma, Wash.

American Locomotive Sales Corporation, 30 Church Street, New York City.

American Milk Products Corporation, 71 Hudson Street, New York City.

American Paper Exports (Inc.), 75 West Street, New York City.

American Pitch Pine Export Co., 1305 Pere Marquette Building, New Orleans, La.

American Provisions Export Co., 140 West Van Buren Street, Chicago, Ill.

American Rice Export Corporation, Crowley, La.

American Soda Pulp Export Association, 200 Fifth Avenue, New York City.

American Soft Wheat Millers Export Corporation, 3261 K Street NW., Washington, D.C.

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

American Surface Abrasives Export Corporation, 82 Beaver Street, New York City.

American Tire Manufacturers Export Association; 30 Church Street, New York City.  
American Webbing Manufacturers Export Association, 395 Broadway, New York City.  
Associated Button Exporters of America (Inc.), 320 Broadway, New York City.  
Automatic Pearl Button Export Co. (Inc.), 301 Mulberry Avenue, Muscatine, Iowa.  
California Dried Fruit Export Association, 1 Drumm Street, San Francisco, Calif.  
California Sardine Export Association, 1003 Alexander Building, Sail Francisco, Calif.  
Cement Export Co., The Pennsylvania Building, Philadelphia, Pa.  
Chalmers (Harvey) & Son Export Corporation, Rear 31 East Main Street, Amsterdam, N. Y.  
Copper Export Association (Inc.), 25 Broadway, New York City. Copper Exporters (Inc.), 25 Broadway, New York City. Davenport Pearl Button Export Co., 1231 West Fifth Street, Davenport, Iowa.  
Douglas Fir Exploitation & Export Co., 1125 Henry Building, Seattle, Wash., Export Clothes Pin Association of America (Inc.), 55 West Forty-second Street, New York City.  
Export Petroleum Association (Inc.), 67 Wall Street, New York City. Export Screw Association of the United States, Room 504, 101 Park Avenue, New York City.  
Florida Hard Rock Phosphate Export Association, Savannah Bank & Trust Building, Savannah, Ga.  
Florida Pebble Phosphate Export Association, 420 Lexington Avenue, New York City.  
Goodyear Tire & Rubber Export Co., The, 1144 East Market Street, Akron, Ohio.  
Gulf Pitch Pine Export Association, 824 Whitney Bank Building, New Orleans, La.  
Hawkeye Pearl Button Export Co., 601 East Second Street, Muscatine, Iowa.  
Locomotive Export Association, 30 Church Street, New York City.  
Metal Lath Export Association, The, 90 West Street, New York City.  
Naval Stores Export Corporation, Savannah Bank & Trust Building, Savannah, Ga.  
Northwest Dried Fruit Export Association, 402 Security Building, Portland, Oreg.  
Pacific Flour Export Co., care of Centennial Mill Co., 506 Central Building, Seattle, Wash.  
Phosphate Export Association, 420 Lexington Avenue, New York City. Pioneer Pearl Button Export Corporation, 217 Mansion Street, Poughkeepsie, N. Y.  
Pipe Fittings & Valve Export Association, Branford, Conn.  
Producers Linter Export Co., 822 Perdido Street, New Orleans, La.  
Redwood Export Co., 310 Sansome Street, San Francisco, Calif.  
Rubber Export Association, The, 1201 Akron Savings & Loan Building, Akron, Ohio.  
Salmon Export Corporation, 3301 Smith Building, Seattle, Wash.  
South American Fruit Exporters (Inc.), 44 Water Street, New York City.  
Standard Oil Export Corporation, 20 Broadway, New York City.  
Steel Export Association of America, The, 40 Rector Street, New York City.  
Sugar Export Corporation, 113 Wall Street, New York City.  
Sulphur Export Corporation, 420 Lexington Avenue, New York City.  
United Paint & Varnish Export Co., 601 Canal Road, Cleveland, Ohio.  
U. S. Alkali Export Association (Inc.), 11 Broadway, New York City.  
United States Handle Export Co., The, Piqua, Ohio.  
Walnut Export Sales Co. (Inc.), 616 South Michigan Avenue, Chicago, Ill.  
Walworth International Co., 11 Broadway, New York City.  
Western Plywood Export Co., 1549 Dock Street, Tacoma, Wash.  
Wisconsin Cannery Export Association, Manitowoc, Wis.  
Zinc Export Association, 40 Rector Street, New York City.

### PLANS OF OPERATION ADOPTED BY WEBB LAW ASSOCIATIONS

Webb law associations may be incorporated or not, but usually find it more convenient to obtain a charter under the corporation laws of a State.

The first associations organized under the act took the form of central selling agencies, each of which handled export sales for all of its members. In some industries a number of associations were formed, and in others only one which might or might not represent a large proportion of the products exported by that particular industry.

Some of the associations formed during the past five years have seemed to prefer an organization wherein the members retain their own export departments and agents abroad, and sales are made through these rather than through the association office. That plan may be more convenient if export trade has already been developed by the industry before the formation of the Webb law association. But for members who are unfamiliar with the export business and wish to develop new markets, the central selling agency plan has been found more convenient and economical.

Associations are required by the law to be "actually engaged solely" in export trade. Some of the functions which have been adopted in the course of their operation may be noted as follows (although, of course, no one association may have all of these functions):

Serving as export sales agent for the member companies in all foreign markets or in certain markets to be agreed upon.

Recording and allocating export orders and sales of the members; keeping copies of invoices and other documents.

Maintaining a quota system agreed upon by the members, under which the export business of the association is divided among them in equal or other determined proportions.

Agreeing upon price for export, terms of sale, sales policies in foreign markets, and adopting uniform forms for contracts.

Establishing rules and regulations for packing and shipping the goods in export.

Standardizing products for export and improving the quality of the goods. Arranging for freight rates, cargo space, and shipping dates; consolidating the export shipments of the members.

Taking out insurance and shipping documents.

Providing for storage during transit and warehousing abroad.

Appointing agents in foreign markets.

Instructing and advising agents of the members abroad.

Exploitation of members' products abroad, especially introducing them in new markets.

Joint advertising and use of joint trade-marks.

Maintaining inspection service in this country under which all the goods exported are subjected to inspection at seaport before shipment.

Employing claims agents and arranging for settlement of disputes over export sales; arranging for arbitration proceedings.

Collecting and disseminating trade information as to market conditions abroad, foreign credits, stocks available for export by the members, the ex-change situation, tariff requirements, foreign laws that affect our export trade, etc.

In most cases, the principal office of the association is at seaport, in New York, Savannah, New Orleans, San Francisco, Portland, or Seattle, although some associations have found it more convenient to place the office inland near the members' plants. Branch offices and agencies are also maintained in this country and



abroad.

**TRUST LAWS AND UNFAIR COMPETITION IN FOREIGN COUNTRIES AND IN INTERNATIONAL TRADE**

The following may be noted from the commission's inquiries under section 6 (h) of the Federal Trade Commission act, concerning trade conditions in and with foreign countries which may affect the trade of this country:

*Inter-American regulation of commercial names and marks.*--The Pan American Trade-Mark Conference held at Washington in February, 1929, drafted an Inter-American Convention for trademark and commercial protection and a protocol on Inter-American regulation of trade-marks.

Chapter I of the convention covers equality of citizens and aliens as to trade-mark and commercial protection; Chapter II, trade-mark protection; Chapter III, protection of commercial names; Chapter IV, repression of unfair competition; Chapter V, repression of false indications of geographical origin or source; Chapter VI, remedies; Chapter VII, general provisions. Article 20, Chapter IV, provides that--

Every act or deed contrary to commercial good faith or to the normal and honorable development of industrial or business activities shall be considered as unfair competition and, therefore, unjust and prohibited.

Article 21 enumerates certain acts of unfair competition which Shall be suppressed:

(a) Acts calculated directly or indirectly to represent that the goods or business of a manufacturer, industrialist, merchant, or agriculturist are the goods or business of another manufacturer, industrialist, merchant or agriculturist of any of the other contracting States, whether such representation be made by the appropriation or simulation of trade-marks, symbols, distinctive names, the imitation of labels, wrappers, containers, commercial names, or other means of identification

(b) The use of false descriptions of goods by words, symbols, or other means tending to deceive the public in the country where the acts occur with respect to the nature, quality, or utility of the goods;

(c) The use of false indications of geographical origin or source of goods by words, symbols, or other means which tend in that respect to deceive the public in the country in which these acts occur;

(d) To sell, or offer for sale to the public an article, product, or merchandise of such form or appearance that even though it does not bear directly or indirectly an indication of origin or source gives or produces, either by pictures, ornaments, or language employed in the text, the impression of being a product, article, or commodity originating, manufactured or produced in one of the other contracting States;

(e) Any other act or deed contrary to good faith in industrial, commercial or agricultural matters which, because of its nature or purpose, may be considered analogous or similar to those above mentioned.

And article 22 provides that--

The contracting States which may not yet have enacted legislation repressing the acts of unfair competition mentioned in this chapter shall apply to such acts the penalties contained in their legislation on trade-marks or in any other statutes, and shall grant relief by way of injunction against the continuance of said acts at the request of any party injured; those causing such injury shall also be answerable in damages to the injured party.

The protocol seeks to renew and strengthen previous efforts to maintain an inter-American trade-mark bureau for the registration and publication of marks in use throughout the United States and Latin American countries.

The Governments of Peru, Bolivia, Paraguay, Ecuador, Uruguay, Dominican Republic, Chile, Panama, Venezuela, Costa Rica, Cuba, Guatemala, Haiti, Colombia, Brazil, Mexico, Nicaragua, Honduras, and the United States of America were represented at the conference.

#### **LEGISLATION IN THE AMERICAS IN RE COMMERCIAL ARBITRATION**

In response to request of the Sixth International Conference of American States, held in Havana in 1928, a study has been made by the Inter-American High Commission covering legislation in the United States and Latin American countries on the subject of commercial arbitration. The High Commission's report recommends legislation in each country covering recognition of the validity of the arbitration clause, adoption of measures for its prompt enforcement, provision for uniform methods of arbitration, and for the execution of arbitral awards rendered by foreign courts.

#### **RECOMMENDATIONS OF THE INTERNATIONAL LAW ASSOCIATION, IN WARSAW, IN 1928**

The Thirty-fifth conference of the International Law Association held in Warsaw, Poland, in August, 1928, formulated the Warsaw rules as to c. i. f. contracts, 22 of which were adopted subject to approval of the international and national chambers of commerce. Other subjects discussed by the association and referred to committees for action at the next conference included uniformity in bankruptcy laws of the various countries, uniformity in regard to the rules of commercial arbitration in various countries, unfair methods of competition in commerce and regulation of possible abuses by monopolistic trade cartels or trusts by national legislation, and regulation of private international contracts in war time. It was proposed that a committee examine and compare the legislation of the different countries to protect the public against monopolistic tendencies of cartels, ascertain the legal problems arising from this study, formulate international rules, and propose international agreements for the solution of these problems.

#### **RESOLUTIONS OF THE INTERNATIONAL CHAMBER OF COMMERCE AT AMSTERDAM IN JULY, 1929**

Resolutions adopted by the International Chamber of Commerce at its fifth general congress in Amsterdam in July, 1929, included a suggestion for further work toward elimination of international double taxation and the appointment of a special committee to investigate the question of unfair practices in international trade, and to make recommendations for Suppression of such practices, including special condemnation of the practice of bribery.

A number of resolutions were passed concerning rail, highway, air, and sea transportation, inland waterways, and the development of international telephone and telegraph service. Uniform regulations for commercial documentary credits and international action for the elimination of trade barriers were recommended. A special committee reported on international settlements and economic information, and it was recommended that work be continued on inquiries into the international movement of capital. A draft con-

vention on international economic statistics, prepared at a meeting in Geneva in December, 1928, was indorsed. A Special place on the program was given to discussion of conditions in China, national, commercial, industrial, and financial.

The chamber concluded with a reiteration of its constitutional purpose "to promote peace and cordial relations among nations," an indorsement of the Kellogg peace pact, and a pledge for the promotion of international security, arbitration, and disarmament in the interest of world peace.

### **ECONOMIC INQUIRIES BY THE LEAGUE OF NATIONS**

The economic consultative committee of the league held its second session at Geneva in May, 1929. The committee presented a report on production, trade, and general economic conditions in 1928. Forty-two commercial treaties were entered into during the year, all of which, with one exception, were based upon the most-favored-nation cause.

A comprehensive report of the economic committee on inter-national aspects of the coal industry was presented. A number of proposals which have been made for the solution of problems in the industry were stated Without recommendation; these included-

- (1) That international agreements between producers should be arranged concerning output, markets, and prices.
- (2) That a special international committee, representative of all interests, governments, employers, miners, merchants, and consumers, should be set up;
- (3) That measures should be taken for assimilating, if not equalizing, wages, hours, and the social conditions of labor ; and
- (4) That the existing artificial restrictions to trade in coal and artificial stimuli to production should be abolished.

The International Labor Office at Geneva has also issued a comprehensive report on Production and Employment in International Coal Mining, covering the coal industries of the United States, Great Britain, and European countries.

Other subjects under discussion by the economic consultative committee included agricultural questions, campaigns against diseases of animals and plants, information on the state of agriculture, and a proposal for an investigation of the agricultural depression which is a serious problem in many countries.

Tariff questions were discussed at length. As to certain commodities, it was considered that autonomous action on the part of governments is necessary, but as to others collective action by the various governments was urged, an example of which was cited in the Convention for the Reduction of Export Duties on Bones, Raw Hides, and Skins. It was suggested that international organizations such as cartels or combines intended to rationalize product ion or distribute products have not as a rule contributed toward tariff reduction.

The subject of international industrial agreement was again brought before the committee. Although it was felt that such agreements were not "in themselves necessarily detrimental to economic life in general," certain dangers to consumers were suggested, and it was recommended that a special annual report be issued containing the most important information on international cartels and the effect of such cartels on technical progress, development of output, labor conditions, and prices.

As to commercial arbitration, it was reported that three countries (Belgium, Denmark, and New Zealand) have ratified the 1927 Convention for the Execution of Foreign Arbitral Awards, which will soon come into force. The committee has been asked to consider the subject of bills of exchange, promissory notes, and checks and formulate a model law which may be adopted by the various States in the interest of uniformity.

The present world crisis in the sugar industry was the subject of a comprehensive study by the economic and financial section of the league, which has presented memoranda to the economic committee. Among other suggestions made was one for the appointment of an international committee to encourage the consumption of sugar and to discover new scientific uses for the product in order to meet the present situation of overproduction. The policy of restriction pursued by the Cuban producers of cane sugar in cooperation with European beet-sugar producers, during the past year was said to have failed because cane growers in Java and other important producing countries did not enter into the agreement. It was also suggested that the lowering of consumption taxes on sugar would be an effective method of overcoming the disproportion between production and consumption if the finance ministers of the various countries would be willing to forego the revenue which would be lost by this plan.

#### **ELIMINATION OF DOUBLE TAXATION IN INTERNATIONAL TRADE AND INVESTMENTS**

At a conference held at Geneva in October, 1928, 27 important commercial countries were represented, and a number of conventions were drafted which are intended to serve as a guide to countries desiring to conclude treaties on the subject of double taxation, multiple liability to death duties, and mutual administrative assistance in the assessment and collection of taxes. It was recommended that a permanent organization be established under the auspices of the League of Nations to continue this work.

#### **INTERNATIONAL COOPERATION IN COMPILING ECONOMIC STATISTICS**

The Diplomatic Conference on Economic Statistics, summoned by the League of Nations, met in Geneva in December, 1928, with representatives from more than 40 nations in attendance. A representative of the United States Government urged the importance of international cooperation in the compilation and distribution of economic statistics, including data on occupations, establishments, agriculture, minerals, manufactured goods, transport, and communications, which are of great practical utility to business and trade, both national and international. A draft convention was presented and discussed; methods of compilation therein were based upon resolutions of the International Institute of Statistics and tables adopted by the Imperial Mineral Resources Bureau. Before the conference closed the convention was signed by representatives from 25 States.

#### **CANADIAN COMBINES INVESTIGATION ACT HELD CONSTITUTIONAL**

In a decision rendered by the Supreme Court of Canada on April 30, 1929, the combines investigation act and section 498 of the Crim-

inal Code of Canada were declared to be constitutional and not ultra vires.

The first trust act of Canada, combines and fair prices act of 1919, was declared unconstitutional by the Supreme Court in 1923 in a case involving an investigation of the grain trades. The Second law, entitled the "Combines Investigation Act of 1923," has been under fire in connection with investigations of the fruit and vegetable industries and the drug trade. In the recent case before the Supreme Court the law was attacked by the Proprietary Articles Trade Association the Amalgamated Builders Council, and the Amalgamated Clothing Industries Council.

The act provides for the investigation of matters touching the existence of a combine or the pending formation of a combine, and further provides that where, as the result of investigation, it appears that such a combine exists, the governor in council may in appropriate cases cause the reduction or abolition of any customs duty imposed on any article affected by it, and where it appears that there has been abuse of his privileges by the holder of any patent under the patent act in the manner set out by the act, the minister of justice may exhibit an information in the exchequer court of Canada praying the revocation of the patent, and authority is given to the court to give judgment accordingly. The act also provides that anyone knowingly assisting in the formation of a combine shall be guilty of an indictable offense and punishable on conviction at the instance of the solicitor general of Canada. or an attorney general of the Province. The word "combine" includes--

Combines which have operated or are likely to operate to the detriment or against the interest of the public, whether consumers, producers, or others, and which (a) are mergers, trusts, or monopolies, so called; or (b) result from the purchase, lease, or other acquisition by any person of any control over or interest in the whole or part of the business of any other person; or (c) result from any actual or tacit contract, agreement, arrangement, or combination which has or is designed to have the effect of (1) limiting facilities for transporting, producing, manufacturing, supplying, storing, or dealing, or (2) preventing, limiting, or lessening manufacture or production, or (3) fixing a common price or a resale price, or a common rental, or a common cost of storage or transportation, or (4) enhancing the price, rental or cost of article, rental storage, or transportation, or (5) preventing or lessening competition in or substantially controlling within any particular area or district or generally production, manufacture, purchase, barter, sale, storage, transportation, insurance, or supply, or (6) otherwise restraining or injuring trade or commerce.

In upholding the constitutionality of the act, the Supreme Court said that--

It is hardly necessary to observe that trade combinations and their effect upon competition and the results of competition have a special importance and significance in view of the settled policy of this country in the matter of protective duties. To the general belief that such duties, when imposed upon the scale on which they are maintained in this country, tend in their effects to facilitate the operation of plans for reducing competition and maintaining prices, there can be little doubt that legislation such as section 498 in the Criminal Code and the statute we are now considering is very largely due. It appears to me that legislative authority over trade and commerce with foreign countries, and particularly over such aspects of those subjects as are related to the economic conditions and tendencies arising from the law in force on those subjects, must embrace the authority to legislate for such Investigations as those authorized by this act \* \* \*

The other point of view is that of the responsibility of the Dominion with regard to the criminal law. The authority in relation to the criminal law and criminal procedure given by section 91 (27) would appear

to confer-



upon the Dominion, not as an incidental power merely, but as an essential part of it, the power to provide for investigation into crime, actual and potential.

### **FINDINGS OF THE BALFOUR COMMITTEE ON INDUSTRY AND TRADE**

A final report was issued in March, 1929, by the British Committee on Industry and Trade appointed in 1924 to inquire into the conditions and prospects of British industry and commerce, with special reference to the export trade.

Numerous meetings had been held and hearings conducted at which individuals and commercial organizations were given an opportunity to testify. Six interim reports had been published during the past five years, covering industrial relations, 1926; a survey of overseas markets, 1927; factors in industrial and commercial efficiency, 1928; a survey of textile industries and a survey of metal industries in 1928. The final report divides the subject into several parts, including fundamental conditions, the means of access to external markets, access to means of production, conditions of employment in relation to competitive power, other factors in competitive efficiency, public charges in relation to competitive power, and British customs policy in relation to its competitive power.

These volumes cover a wealth of material on British industry and trade, most of which is presented without recommendation. The committee calls attention to the fact that Great Britain is, and apart from wholesale emigration must remain, a country necessarily dependent on overseas supplies for the means of feeding and employing its population; and that in the long run the only means of securing as are essential is by offering British products and services in payment. It points out that the only practical means of insuring sufficient and continuous employment for the industrial population under reasonable conditions is to secure and maintain sufficient flow of exports to overseas markets, and under the term exports it includes not only material commodities but the exportation of capital and the further development of British investments abroad.

British industry is said to be not yet adapted to the radical changes in world economy, the growing tendency toward economic nationalism, the industrialization of agricultural countries, the impoverishment and loss of purchasing power caused by the World War and the collapse of currencies, and the increase in tariffs and trade barriers. The need for industrial rationalization and drastic steps to ward financial reconstruction are emphasized, but in the opinion of the committee the first steps must come from the industries themselves-the functions of the State should be limited to "general economic policy." Collective purchase of raw materials is not encouraged and any departure from the gold standard is condemned. It is recommended that long-term credits be provided by private enterprise and that the Government's export credit scheme be concluded in 1931.

The committee states that rationalization of industry has not progressed as far in Britain as in other countries, partly because some of the larger groups continue to maintain surplus and inefficient plants, relying for their profit on exaction of higher

prices from the consumer by the exercise of monopoly power. A strong tendency

was noted toward an increase in the size of productive units and toward combination for the purpose of regulating output, prices and marketing. There have also been many recent instances of "vertical" combines in which the associated enterprises are not performing similar functions, but are concerned with different branches or stages of the productive process.

#### **GOVERNMENT EXPORT CREDIT INSURANCE IN GREAT BRITAIN, GERMANY, AND BELGIUM**

The British Government export credits scheme inaugurated in July, 1929, was intended to be terminated in September, 1929; but the increasing need for development of export trade has led to a plan for extension over a period of two more years. Guaranties given up to and including September, 1928, totaled £1,913,000.

A "Great Commission" was appointed by the German Federal Ministry of Economics in September, 1928, for the purpose of studying the export credit insurance plan adopted in that country in 1926 and recommending any necessary changes in the plan. Group insurance under the German scheme has met with especial favor, since it permits an exporter to insure all his shipments to a certain foreign country under one policy instead of taking out insurance for each individual shipment. It is said that the textile industry has made the most use of the plan, representing about 30 per cent of the applications presented. During the year ending June 30, 1928, applications were received for 3,495 policies covering 33,900,000 marks a bout 75 per cent of which were approved.

In Belgium Government export credit insurance is administered by the Ministry of Industry and Labor under laws enacted in 1921 and 1926. The chief commodity upon which insurance has been issued is railway material and rolling stock. Totals of guaranteed transactions from 1921 to 1928, inclusive, amounted to 583,341,615 francs.

#### **BLUE-SKY PROVISIONS OF THE NETHERLANDS CORPORATION LAW, 1928**

A new corporation act passed in the Netherlands in July, 1928, contains provisions for the protection of investors in stock including requirement for the publication of articles of association, agreements, and reports covering methods of organization and business practices. Before a company may commence operation a statement must be issued by the Minister of Justice to the effect that there are no objections to its formation. Refusal of the minister to issue such a statement may be made on the grounds that the articles of association are not in accordance with the law, that they contain provisions repugnant to good morals or contrary to public interest, or that the company has not met the requirements of the law as to issuance of stock. Annual reports must be published and penalties are imposed for publication of false or misleading statements to the detriment of investors.

#### **CHILEAN-GERMAN NITRATE AGREEMENT**

After 18 months of competitive selling in the nitrate industry, the Chilean

Government resumed control in August, 1928, with plans for the regulation of production, prices, and exports, in order to assist the industry to successfully meet the competition of synthetic nitro-

gen manufacturers. In 1929 an important agreement was entered into by the Chilean Minister of Finance, representing Chilean producers, with officials of the German chemical trust, chief producers of synthetic nitrogen. This entente will embrace 70 per cent of the world's nitrogen production and may fix the world price for this important commodity, large quantities of which are imported into the United States.

#### **COMPULSORY WORKING CLAUSES IN THE PATENT LAWS OF THE SOVIET REPUBLIC AND POLAND**

Compulsory working clauses in foreign patent laws are given as one of the important reasons for the establishment of American plants and branches abroad and for agreements between American and foreign manufacturers for cooperative development of patent rights.

A decree issued in the Union of Soviet Republics in July, 1928, requires compulsory working in the Union of all patents registered "whose exploitation may be of great importance to the economic life of the State," and prohibits registration in foreign countries of all inventions made within the territory of the Union until they have been registered and approved by the Superior Economic Council. A similar compulsory working clause is found in the new Polish patent and trade-mark law enacted in 1928. A number of agreements have been entered into within the last year by American industrialists with the Supreme Economic council of the Soviet Union and the Amtorg Trading Corporation for the manufacture and use of American machinery and equipment in the Union and for the negotiation of technical assistance agreements with Soviet industries.

#### **SWEDISH MATCH TRUST OBTAINS MONOPOLY IN THE KINGDOM OF SERBS, CROATS AND SLOVENES**

The Kingdom of Serbs, Croats and Slovenes has obtained a loan of \$22,000,000 from the Swedish Match Syndicate, in return for which the Government granted to the syndicate control of the match industry for a period of 30 years. This concession is similar to those obtained last year by the match trust in Latvia, Estonia, and Ecuador.

#### **FRENCH LAW PROPOSED TO CHECK GROWTH OF CHAIN STORES**

The rapid growth of chain stores in France, selling groceries and foodstuffs or general wares, including clothing and shoes, is viewed with apprehension by manufacturers and independent retailers. Several laws have been passed which provide for a sliding scale of taxes to be imposed on corporations operating a number of branches, as well as a surtax on retail corporations the sales of which exceed 1,000,000 francs. Another law has been proposed which would increase by 50 per cent the surtax imposed on chains operating more than 5 branches and by almost 100 per cent that on chains operating more than 50 branches.

#### **FOREIGN TRADE COMPLAINTS**

The commission cooperates with the United States Department of State, the

Commerce Department, and other agencies with foreign

offices in investigating complaints made by foreigners involving practices of American exporters and importers which may affect the foreign trade of this country.

Inquiries of this sort are made informally, without publicity, and in most cases do not result in unfair competition procedure. Nor do they involve operation of the Webb law associations.

Such a case is usually reported in the first instance to the American consul or trade commissioner abroad. It may involve allegations of misrepresentation of goods, quality below sample upon which the order was placed, short shipment, delay or failure to ship, spoilage or breakage en route, pilferage, overcharge, failure to reply to complaints or inquiries, or other factors resulting in mis-understanding or dissatisfaction on the part of foreign buyers or sellers. In some cases the matter may be straightened out by correspondence conducted by the American consul abroad; but if further inquiry or investigation is necessary in the States the matter may be referred to the Federal Trade Commission and facts obtained by personal interviews with the American respondents. These facts may serve as a basis for a better understanding or settlement by the parties to the dispute, or they may be referred to an arbitration board for further settlement if the parties so desire.

The chambers of commerce in this country and abroad and other trade organizations have given generous cooperation to the commission in this work; and a reciprocal service is extended by the consuls in case of a complaint against a foreign trader which requires inquiry in a foreign country.

During the fiscal year ending June 30, 1929, 62 foreign trade complaints were handled by the export trade section, more than half of which involved exports to Latin American countries and the east, including lumber, toothpick machinery, musical instruments, and eggs to Argentina; automobiles, flour, and novelties to Brazil; automobiles and toys to Peru; cork disks to Chile; inner tubes to Ecuador; electrical machinery to Colombia; bicycle accessories to San Salvador; wagons and glassware to Mexico; pipe, cotton hose, and hat linings to Cuba; phonographs to the Philippines; electrical equipment, motor accessories, furniture, and fountain pens to Australia and New Zealand; gas mantles to the Straits Settlements; engines, bicycle parts, and films to Japan; dried shrimps to China; and kerosene to India.

Cases involving shipments to Europe included typewriters, adding machines, cash registers, jute bags, and apples to Sweden; gas, oil, leather goods, and bags to Holland; canned lobsters to France; radio equipment and machines to Belgium; lumber and apples to Germany; lumber to Spain; cotton goods and automobile accessories to Greece; and gas appliances to a number of European countries. There were also cases involving exports of lumber and waste cloth to England; oil burners and grain to Canada; toilet articles to the Azores; and the advertising of American goods in South Africa.

A few cases were handled involving imports into the United States, including autographs, curios, and sporting goods from India; stamps from Syria; photographs from England; and groceries from Nova Scotia.

## **BOARDS OF REVIEW**

### **OUTLINE OF PROCEDURE**

With a view to further expediting its work, the commission, late in the fiscal year established a second board of review. Each board is made up of three lawyers. Prior to June 14 there was a single board of five members.

The chief duty of the boards of review is the review of records in a given case after completion of the field investigation by the chief examiner's division and before consideration by the commission.

Alternating cases are referred to the boards for review and opinion, with the exception of those cases clearly involving practices which the commission has previously held to be unlawful and which the respondent has expressed a willingness to abandon and those cases in which both the examining attorney and the chief examiner recommend dismissal. The former go direct to the chief trial examiner's division for negotiation of a stipulation and agreement to cease the objectionable practices; the latter go direct to the commissioners for consideration, but may thereafter be referred to one of the boards for an opinion.

The statements of all witnesses interviewed by the commission's investigators, attached to the chief examiner's staff, and all documentary evidence and exhibits secured, as well as the decisions cited in the reports of the investigators, are considered by a member of the board to whom the case has been assigned for study and report, and his report is presented to the entire board for its consideration. When deemed necessary, the board may recommend that further investigation be made under direction of the chief examiner.

Ordinarily, if the board believes that complaint should issue it affords the proposed respondent a hearing, upon three weeks' notice by the secretary, to show cause why complaint should not issue. Such hearing is informal in character and does not involve the taking of testimony. The proposed respondent is permitted to appear in person or by counsel and to make or submit such statements of fact or law as he may desire.

However, when the board is of the opinion that a hearing is not required because (a) the respondent has been fully interviewed and has given to the examiner every fact or argument that could be offered as a defense, or (b) the practice has been fully established and is of such character that in the nature of the case nothing could be adduced in mitigation, or (c) to delay the issuance of a complaint to afford a hearing might result in a loss of jurisdiction, or (d) otherwise unnecessary or incompatible with the public interest, the board may then transmit the case to the commission, with its conclusion and recommendations, without a hearing.





Upon full consideration of any application, either with or without a hearing, the board transmits its report written by one or more of its members, as outlined above, to the commission. This report consists of (1) a summary of the facts developed, (2) an Opinion based upon the facts and the law, and (3) the board's recommendation. The board may make one of three recommendations in any case; first, it may recommend the dismissal of the application for lack of evidence in support of the charge or on the ground that the charge indicated does not violate any law over which the commission has jurisdiction; second, the board may recommend the dismissal of the application upon the signing by the proposed respondent of a stipulation of the facts and an agreement to cease and desist the alleged unfair practice charged, to be prepared by the chief trial examiner, with the alternative recommendation of issuance of a complaint if the proposed respondent will not sign a suitable stipulation and agreement; and, third, the board may recommend the issuance of a complaint without further procedure.

Whenever it appears to the board that a trade practice unfair to the public or competitors is prevalent in any industry, it is its duty to report such fact to the commission for reference to the trade practice conference division.

The full record in the case, with the board's recommendation, is forwarded to individual commissioners in rotation. After study by each commissioner, the case, with a memorandum embodying his recommendation, is presented by him to the full commission for its consideration.

#### **SUMMARY OF WORK, 1928-29**

The work of the boards of review upon applications for complaint is presented in the statistical tables found on page 115. During the current year the boards were called upon to consider 292 applications for complaint, of which 235 were forwarded during the year and 34 pending at the end. Of this number 51 applications were recommended for dismissal, 43 for complaint, 111 for stipulation, and 30 sent to the chief examiner. In connection with these applications 43 hearings were held.

## **ADMINISTRATIVE DIVISION**

### **PERSONNEL**

On June 30, 1929, the commission consisted of Messrs. Edgar A. McCulloch, of Arkansas, chairman; G. S. Ferguson, jr., of North Carolina; C. W. Hunt, of Iowa; William E. Humphrey, of Washington; and Charles H. March, of Minnesota.

Commissioner Abram F. Myers, of Iowa, was elected chairman of the commission for the year of December 1, 1928, to November 30, 1929, succeeding Commissioner Humphrey, while Commissioner McCulloch was named vice chairman for the same period.

Commissioner Myers resigned, effective January 15, 1929. Commissioner McCulloch was elected to succeed Mr. Myers as chairman for the period ending December 31, 1929, and Mr. Ferguson was made vice chairman for the same period.

Under date of January 18, 1929, the President appointed Charles H. March of Minnesota, a Federal trade commissioner for the term expiring September 25, 1935. The nomination was confirmed January 26, 1929, and Mr. March took the oath of office and entered upon duty February 1, 1929.

The personnel of the commission at the close of the year ending June 30, 1929, consisted of 5 commissioners and 375 employees, with a total pay roll of \$1,141,580, which included \$50,000 for the salaries of the commissioners, leaving a pay roll of \$1,091,580 for the 375 employees. During the year 93 employees entered the service and 61 left the service of the commission. Of the total personnel of the 380 including the commissioners at the close of June 30, 1929, 188 are under civil service appointment and 187 employees and 5 commissioners held accepted positions.

At the close of the fiscal year the commission had 68 employees who have had United States naval or military service. The total number of women employees was 118. The total number of employees coming under the provisions and benefits of the retirement law at the close of the fiscal year was 212. The amount of money deducted during the fiscal year from the salaries of employees subject to the provisions of the United States civil service retirement law amounted to \$16,230.50. Of the grand total personnel of 380, including the 5 commissioners, 183 were administrative employees, 89 attorneys, 40 economists, and 63 accountants.

### **PUBLICATIONS**

The following publications were issued during the year:

Annual Report for the Fiscal Year Ended June 30, 1928; issued December 10, 1928; 202 pages.

Rules of Practice and Procedure, amended; issued October 1, 1928; 16 pages. Resale Price Maintenance, Part I (printed as H. Doc. 546); Issued January 30, 1929; 141 pages.

Open-Price Trade Associations (in response to S. Res. 28, 69th Cong., special sess.; printed as S. Doc. 226); issued February 13, 1929; 516 pages.

Utility Corporations No. 5--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); issued July 16, 1928; 532 pages.

Utility Corporations No. 6--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); issued September 15, 1928; 2 pages.

Utility Corporations No. 7--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); issued October 15, 1928; 376 pages.

Utility Corporations No. 8--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); issued November 30, 1928; 131 pages.

Utility Corporations No. 9--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); issued December 15, 1928; 2 pages.

Utility Corporations No. 10--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); issued January 15, 1929; 66 pages.

Utility Corporations No. 11--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); issued February 15, 1929; 122 pages.

Utility Corporations No. 12--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); issued March 15, 1929; 43 pages.

Utility Corporations No. 13--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); issued April 15, 1929; 73 pages.

Utility Corporations No. 14--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); issued May 15, 1929; 238 pages.

Utility Corporations No. 15--a monthly report on the Electric Power and Gas Utilities Inquiry (in response to S. Res. 83, 70th Cong., 1st sess.; printed as S. Doc. 92); Issued June 15, 1929; 259 pages.

(Copies of these publications may be purchased from the Superintendent of Documents, Washington, D. C., for nominal sums.)

### LIBRARY

The library has a collection of more than 25,000 books, pamphlets, and bound periodicals devoted largely to law, economics, and industries. In addition are extensive files of clippings and leaflets.

Distinctive features of the economic collection are the files relating to corporation and trade association data and files of trade periodicals for the more important industries. There is a function peculiar to the commission's library in the character of work it performs, and that is in the material it gathers in the form of pamphlets, corporation reports, association records, current financial and statistical services, and trade lists which are not ordinarily found in libraries of even a technical character.

The greater amount is furnished gratuitously. This material provides a valuable adjunct to the investigatory work and is adapted to furnish leads to examinations rather than to complete and substantive information on the subject matter.

The law collection consists chiefly of the various national and regional reporter systems and the more important encyclopedias and reference books that are commonly found in law libraries. The distinctive feature is a file of records and briefs of antitrust cases which were acquired without expenditure.

Care is exercised to limit the purchase of books and periodicals to supply only those needed constantly and immediately in the commission's work. The commission is far removed from other Government libraries and must have available sufficient volumes to answer the ordinary requirements of the legal and economic force, The Library of Congress and the department libraries are freely drawn upon to supplement the commission's limited collection.

#### FISCAL AFFAIRS

Appropriations available to the commission for the fiscal year 1929, under the executive and independent offices act approved May 16, 1928, \$963,000; under the deficiency act approved May 29, 1928, \$85,000; under the deficiency act approved March 15, 1929, \$70,240; and under the executive and independent offices act approved February 20, 1929, \$44,952.52; in all, \$1,163,192.52. This sum was made up of three separate items: (1) \$50,000 for salaries of the commissioners, (2) \$1,085,414.83 for the general work of the commission, and (3) \$27,777.69 for printing and binding.

Expenditures and liabilities for the year amounted to \$1,159,299.16, which leaves a balance of \$3,893.36. This represents a balance (1) of \$416.76 in salaries for commissioners and (2), \$3,476.60 in the lump-sum appropriation.

The appropriations, expenditures, liabilities, and balances are tabulated as follows:

#### *Appropriations, expenditures, liabilities, and balances*

	Amount available	Amount expended	Liabilities	Expendi- tures and liabilities	Balance
Federal Trade Commission, 1929:					
Salaries, commissioners	\$50,000.00	\$49,583.24		\$49,583.24	\$416.76
Printing and binding	27,777.69	18,150.13	\$9,627.56	27,777.69	
All other authorized expenses	1,085,414.83	1,055,701.24	26,236.99	1,081,938.23	3,476.60
Total, fiscal year 1929	1,163,192.52	1,123,434.61	35,964.55	1,159,299.16	3,893.36
Unexpended balances:					
1928	40,239.99	28,506.34			11,733.65
1927	36,324.61	79.73			36,244.88
1926	11,254.43	Cr. 3.40			11,257.83
Total	1,251,011.55	1,152,017.28			63,129.72

#### *Statement of costs for the fiscal year ended June 30, 1929*

	Office	Field	Total
Administrative	\$297,628.96		\$297,628.96
Economic	305,230.42	\$55,278.91	360,509.83
Legal:			
Chief counsel	147,172.07	21,689.57	168,861.64
Chief examiner	180,696.56	27,093.68	207,789.64
Board of review	33,059.51		33,659.51
Trial examiner	53,195.59	5,374.40	58,569.99
Trade practice conference	23,185.80	3,537.27	26,723.07
Grand total	1,039,568.91	112,973.23	1,152,542.14

*Detailed statement of costs for the fiscal year ended June 30, 1929*

Item	Office	Field
Annual leave	\$79,641.04	
Application for complaints	54,476.82	\$9,683.85
Blue-sky securities	2,183.83	2.37
Board of review	28,242.50	
Bread inquiry, S. Res. No.163	1,854.26	
Chain-stores inquiry, S. Res. No.224	38,617.59	3,422.88
Communications	3,887.50	
Complaints, formal	90,236.07	20,271.56
Cooperative associations, S. Res. No.34	426.26	
Docket section	18,430.39	
Drafting complaints	4,335.33	
Du Pont investments	861.74	147.24
Economic supervision	25,714.88	
Equipment	9,715.95	
Export trade	4,606.50	314.95
Fiscal affairs	11,449.55	
General administration, commissioners, etc	81,899.86	
Heat and light	143.90	
Labor	3,757.18	
Legal supervision	66,878.26	607.18
Library section	5,390.25	
Mail and file section	12,269.80	
Medical attendant	1,388.38	
Messengers	12,321.77	
Military leave	1,017.53	
Miscellaneous	322.63	
Miscellaneous, economic	2,263.49	
Miscellaneous, legal	2,470.08	77.31
Newsprint paper, S. Res. No.337	1,886.01	205.98
Open-price associations, S. Res. No.28	16,126.47	64.37
Personnel section	10,905.05	
Petroleum prices, S. Res. No.31	6.11	
Power and gas inquiry, S. Res. No.83	146,268.11	59,150.52
Preliminary inquiries	37,156.76	9,466.08
Price bases	28,936.03	4,294.32
Printing and binding	24,554.16	
Publication section	15,026.91	
Purchases and supplies section	6,470.22	
Rents	9,686.51	
Repairs	689.67	
Resale price maintenance	39,965.41	1,662.86
Sick leave	20,930.54	
Special board of investigation	471.78	
Stenographic section	73,910.00	
Stipulations	10,545.45	
Study of procedure	425.19	21.00
Special legal work for the commissioners	1,260.57	
Supplies	9,711.24	
Time excused by the Executive or commission's order	6,691.51	
Trade-practice conference	12,817.29	3,580.76
Transportation of things	185.98	
witness fees	1,138.60	
	1,039,568.91	112,973.23
Total office expenses		1,039,568.91
Total cost		1,152,542.14

*Adjustments.*--The following adjustments are made to account for the difference between costs and expenditures:

Total cost for the year ended June 30, 1929	\$1,152,542.14
Less transportation issued	<u>28,768.17</u>
New total	1,123, 773.97
Plus transportation paid	<u>28,243.31</u>
Expenditures for the year ended June 30, 1929	1,152,017.28

Appropriations available to the commission since its organization and expenditures for the same period, together with the unexpended balances, are shown in the table on the following page.

Year	Appropriations	Expenditures	Balance
1915	\$184,016.23	\$90,442.05	\$93,574.18
1916	430,964.08	379,927.41	51,036.67
1917	567,025.92	472,501.20	94,524.72
1918	1,608,865.92	1,452,187.32	156,678.60
1919	1,753,530.75	1,522,331.95	231,198.50
1920	1,305,708.82	1,120,301.32	185,407.80
1921	1,032,005.67	938,664.69	93,340.89
1922	1,026,150.54	956,116.50	70,034.04
1923	974,480.32	970,119.66	4,360.66
1924	1,010,000.00	977,018.28	32,981.67
1925	1,010,000.00	1,008,998.80	1,001.20
1926	1,008,000.00	996,742.17	11,257.83
1927	997,000.00	960,755.12	36,244.88
1928	984,350.00	972,616.35	11,733.65
1929	1,163,192.52	1,159,299.16	3,893.36



**PART III. DOCUMENTS AND SUMMARIES**

SHERMAN ANTITRUST ACT

FEDERAL TRADE COMMISSION ACT

SECTIONS OF CLAYTON ACT

EXPORT TRADE ACT

PROCEDURE AND POLICY

RULES OF PRACTICE

TRADE PRACTICE CONFERENCES

PROCEEDINGS DISPOSED OF

COMPLAINTS PENDING

STIPULATION S

RESOLUTIONS DIRECTING INQUIRIES

INQUIRIES, 1913-1929

## EXHIBIT 1

### SHERMAN ANTI-TRUST ACT

AN ACT To protect trade and commerce against unlawful restraints and monopolies

*Be it enacted by the Senate and House of representatives of the United States of America in Congress assembled:*

SECTION 1. Every contract, combination the form of trust or otherwise, conspiracy, in restraint of trade or commerce among the several States, or with foreign 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 with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, 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. 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.

SEC. 6. Any property owned under any contract Or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned section one of this act, and being in the course of transportation from one State to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

SEC. 7 Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be

unlawful by this act, may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

SEC. 8. That the word "person", or "persons", wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

Approved, July 2, 1890.

## EXHIBIT 2

### FEDERAL TRADE COMMISSION ACT

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

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

The Commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint secretary who shall receive a salary of \$5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the Commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the Commission and by the Civil Service Commission.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making *any* investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

Until otherwise provided by law, the commission may rent suitable offices for its use.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the Commission. 2

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

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



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

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

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

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

“Corporation” means any company, or association incorporated or unincorporated, which is organized to carry on business for its own profit and has shares of capital or capital stock, and any company, or association, incorporated or unincorporated, without shares of capital or capital stock or certificates of interest, except partnerships, which is organized to carry on business for its own profit or that of its members.

“Documentary evidence” means all documents, papers, and correspondence, in existence at and after the passage of this act.

“Acts to regulate commerce” means the Act entitled “An Act to regulate commerce,” approved February fourteenth, eighteen hundred and eighty-seven, and all Acts amendatory thereof and supplementary thereto and the Communications Act of 1934 and all Acts amendatory thereof and supplementary thereto.

“Antitrust Acts” means the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July second, eighteen hundred and ninety; also sections 73 to 77, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved August twenty-seven, eighteen hundred and ninety-four; also the Act entitled “An Act to amend sections 73 and 76 of the Act of August twenty-seven, eighteen hundred and ninety-four, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February twelfth, nineteen hundred and thirteen; and also the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October fifteenth, nineteen hundred and fourteen.

Sec. 5. That unfair methods of competition in commerce are hereby declared unlawful.

The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers, subject to the acts to regulate commerce, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission. Upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission may at any time, 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 have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which if supported by testimony, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission to cease and desist from using such method of competition 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 be set aside. A copy of such petition shall be forth-with served upon the commission, and thereupon the commission 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 as in the case of an application by the commission for the enforcement of its order, and the findings of the commission 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 shall be exclusive.

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

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

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

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

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

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General, it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the commission.

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

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

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

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

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

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a matter in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

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

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



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

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

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

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

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

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

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall will-fully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence, of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same,

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

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

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

Approved, September 26, 1914.

### EXHIBIT 3

#### SECTIONS OF THE CLAYTON ACT ADMINISTERED BY THE FEDERAL TRADE COMMISSION

“Commerce,” as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the Jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the Jurisdiction of the United States: *Provided*, That nothing In this Act contained shall apply to the Philippine Islands.

The word “person” or “persons” wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States the laws of any of the Territories, the laws of any State; or the laws of any foreign country.

SEC. 2. That it shall be unlawful for any person engaged In commerce, in the course of such commerce, either directly or indirectly to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers, of commodities, on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of Selling or transportation, or discrimination in price in the same or different communities made in good faith to meet competition: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

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

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

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the

voting or granting of proxies or otherwise, may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

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

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*. That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

SEC. 8. \* \* \* That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000 engaged in whole or in part in commerce other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, If such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to act for such bank or other corporation in such capacity his eligibility to act in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

\* \* \* \* \*

SEC. 11. That authority to enforce compliance with sections two, three, seven, and eight of this Act by the persons respectively subject thereto is hereby vested: in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the commission, authority, or board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the

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

If such person fails or neglects to obey such order of the commission, authority, or board while the same is in effect, the commission, authority, or board may apply to the circuit court of appeals of the United States, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission, authority, or board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission, authority, or board. The findings of the commission, authority, or board as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, authority, or board, the court may order such additional evidence to be taken before the commission, authority, or board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission, authority, or board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The Judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

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

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

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

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

Original act approved October 15, 1914.

\* \* \* \* \*

## EXHIBIT 4

### EXPORT TRADE ACT

An Act to promote export trade, and for other purposes

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

That the words “trade within the United States” wherever used in this Act mean trade or commerce among the several States or in any Territory of the United States, or in the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

That the word “Association” wherever used In this Act means any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations.

SEC. 2. That nothing contained in the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July second, eighteen hundred and ninety, shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, or an agreement made or act done in the course of export trade by such association, provided such association, agreement, or act Is not in restraint of trade within the United States, and is not in restraint of the export trade of any domestic competitor of such association: *And provided further,* That such association does not, either in the United States or elsewhere, enter info any agreement, understanding, or conspiracy, or do any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein.

SEC. 3. That nothing contained in section seven of the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October fifteenth, nineteen hundred and fourteen, shall be construed to forbid the acquisition or ownership by any corporation of the whole or any part of the stock or other capital of any corporation organized solely for the purpose of engaging in export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

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

SEC. 5. That every association now engaged solely” in export trade, within sixty days after the passage of this Act, and every association entered into hereafter which engages solely In export trade, within thirty days after its creation, shall file with the Federal Trade Commission a verified written state-

ment setting forth the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated, a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of Its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and changes In its articles or certificate of incorporation or in its articles or contract of association. It shall also furnish to the com-mission such information as the commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals. Any association which shall fail so to do shall not have the benefit of the provisions of section two and section three of this Act, and It shall also forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the association has its principal office, or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of the forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Whenever the Federal Trade Commission shall have reason to believe that an association or any agreement made or act done by such association is in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, or that an association either in the United States or elsewhere has entered into any agreement, understanding, or conspiracy, or done any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein, it shall summon such association, its officers, and agents to appear before it, and thereafter conduct an investigation into the alleged violations of law. Upon investigation, if It shall conclude that the law has been violated, it may make to such association recommendations for the readjustment of its business, in order that it may thereafter maintain its organization and management and conduct its business in accordance with law. If such association fails to comply with the recommendations of the Federal Trade Commission, said commission shall refer its findings and recommendations to the Attorney General of the United States for such action thereon as he may deem proper.

For the purpose of enforcing these provisions the Federal Trade Commission shall have all the powers, so far as applicable, given it in "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

Approved, April 10, 1918.



## **EXHIBIT 5**

### **PROCEDURE AND POLICY**

#### **POLICY IN PURELY PRIVATE CONTROVERSIES**

It shall be the policy of the commission not to entertain proceedings of alleged unfair practices where the alleged violation of law is a purely private controversy redressible in the Courts except where said practices substantially tend to affect the public. In cases where the alleged injury is one to a competitor only and is redressible in the courts by an action by the aggrieved competitor and the interest of the public is not substantially involved, the proceeding will not be entertained.

#### **SETTLEMENT OF CASES BY STIPULATION**

The end and object of all proceedings of the Federal Trade Commission is to end all unfair methods of competition or other violations of the law of which it is given jurisdiction. The law provides for the issuance of a complaint and a trial as procedure for the accomplishment of this end. But it is also provided that this procedure shall be had only when it shall be deemed to be in the public interest, plainly giving the commission a judicial discretion to be exercised in the particular case.

It has been contended that the language of the statute using the word "shall" is mandatory, but in view of the public-interest clause no member of the commission as now constituted holds or has ever held that the statute is mandatory. Hence, the proposed rule for settlement of applications for complaint by stipulation may be considered on its merits.

If it were not for the public-interest clause it might appear that the statute would be mandatory. It remains to determine what effect the public-interest clause has. In the interest of economy and of dispatch of business as well as the desirability of accomplishing the ends of the commission with as little harm to respondents as possible, therefore all cases should be so settled where they can be except where the public interest demands otherwise.

But when the very business itself of the proposed respondent is fraudulent, it may well be considered by the commission that the protection of the public demands that the regular procedure by complaint and order shall prevail. Indeed, there are some cases where that is the only course which would be of any value at all. As for instance the so-called "blue-sky cases" and all such where the business itself is inherently fraudulent or where a business of a legitimate nature is conducted in such a fraudulent manner that the commission is warranted in the belief that no agreement made with the proposed respondent will be kept by him.

The rule shall be that all cases shall be settled by stipulation except when the public interest demands otherwise for the reasons set forth above.

#### **ON AFFORDING PROSPECTIVE RESPONDENTS OPPORTUNITY TO SHOW CAUSE WHY COMPLAINT SHOULD NOT ISSUE**

Except as hereinafter provided, the board of review, before it shall recommend to the commission that a complaint issue in any case, shall afford the proposed respondent a hearing to show cause why a complaint should not issue. Such hearing shall be informal in character and shall not involve the taking of testimony. The proposed respondent shall be permitted to make or submit such statements of fact or law as he shall desire. The extent and control of such hearing shall rest with a majority of the board. The respondent shall have three weeks' notice of the time and place of hearing, to be served on the respondent by the secretary of the commission.

Provided, That if in any case the majority of the board shall be of opinion that a hearing is not required because (a) the respondent has been fully interviewed and has given to the examiner every fact or argument that could be

offered as a defense, or (b) the practice has been fully established and is of such character that in the nature of the case nothing could be adduced in mitigation, or (c) to delay the issuance of a complaint to afford a hearing might result in a loss of Jurisdiction, or (d) otherwise unnecessary or incompatible with the public interest, the board may transmit the case to the commission, via the docket section, with its conclusions and recommendations, without a hearing, as in this rule provided.

#### ON PUBLICITY IN THE SETTLEMENT OF CASES

In the settlement of any matter by stipulation before complaint is issued, no statement in reference thereto shall be made by the commission for publication. <sup>1</sup> After a complaint is issued, no statement in regard to the case shall be made by the commission for publication until after the final determination of the case.

After a complaint has been issued and served the papers In the case shall be open to the public for inspection, under such rules and regulations as the secretary may prescribe.

It has been the rule, which is now abolished, to issue a statement upon the filing of a complaint, stating the charges against a respondent.

Concerning the withholding of publicity where cases are settled by stipulation without complaint, the custom has always been not to issue any statement The so-called applicant or complaining party has never been regarded as a party in the strict sense. The commission is not supposed to act for any applicant, but wholly in the public interest. It has always been and now is the rule not to publish or divulge the name of an applicant or complaining party, and such party has no legal status before the commission except where allowed to intervene as provided by the statute.

#### ON DEALING WITH UNFAIR COMPETITION THROUGH TRADE-PRACTICE CONFERENCES

The trade-practice conference affords, broadly stated, a means through which representatives of an industry voluntarily assemble, either at their own instance or that of the commission, but under the auspices of the latter, for the purpose of considering any unfair practices in their industry, and collectively agreeing upon and providing for their abandonment in cooperation with and with the support of the commission.

This procedure deals with an industry as a unit. It is concerned solely with practices and methods, not with individual offenders. It regards the industry as occupying a position comparable to that of "friend of the court" and not as that of the accused. It wipes out on a given date all unfair methods condemned at the conference and thus places all competitors on an equally fair competitive basis. It performs the same function as a formal complaint with out bringing charges, prosecuting trials, or employing any compulsory process, but multiplies results by as many times as there are members in the industry who formerly practiced the methods condemned and voluntarily abandoned.

The beneficial results of this form of procedure are now well established, and the commission is always glad to receive and Consider requests for the holding of trade-practice conferences. <sup>2</sup>

<sup>1</sup> The commission does. however, after omitting the names of the proposed respondents, make public digests of cases in which it accepts stipulations of the facts an agreements to cease and desist.

<sup>2</sup> The commission has prepared and published for public distribution a pamphlet entitled " Trade Practice Conferences," in which the history, theory, and working of this procedure and the various trade-practice conferences theretofore held by the commission are described.

## **EXHIBIT 6**

### **RULES OF PRACTICE**

#### **I. SESSIONS**

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

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

Sessions of the commission for the purpose of making orders and for the transaction of other business, unless otherwise ordered, will be held at the office of the commission at Washington, D. C., on each business day at 10.30 a. m Three members of the commission shall constitute a quorum for the transaction of business.

All orders of the commission shall be signed by the secretary.

#### **II. COMPLAINTS**

Any person, partnership, corporation, or association may apply to the commission to institute a proceeding in respect to any violation of law over which the commission has jurisdiction.

Such application shall be in writing, signed by or in behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation of law and the name and address of the applicant and of the party complained of.

The commission shall investigate the matters complained of in such application, and if upon investigation 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 40 days after the service of said complaint.

#### **III. ANSWERS**

(1) In case of desire to contest the proceeding the respondent shall, within such time as the commission shall allow (not less than 30 days from the service of the complaint), file with the commission an answer to the complaint. Such answer shall contain a short and simple 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, such statement operating as a denial. Any allegation of the complaint not specifically denied in the answer, unless respondent shall state in the answer that respondent is without knowledge, shall be deemed to be admitted to be true and may be so found by the commission.

(2) In case 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 refrains from contesting the proceeding or that respondent consents that the commission may make, enter, and serve upon respondent an order to cease and desist from the violations of the law alleged in the complaint, or that respondent admits all the allegations of the complaint to be true. Any such answer shall be deemed to be an admission of all the allegations of the complaint, and to authorize the commission to find such allegations to be true.

(3) Failure of the respondent to appear or to file answer within the time as above provided for shall be deemed to be an admission of all allegations of the complaint and to authorize the commission to find them to be true and to waive hearing on the charges set forth in the complaint.

(4) Three copies of answers must be furnished. All answers must be signed in ink by the respondent or by his duly authorized attorney and must show the office and post-office address of the signer. All answers must be typewritten or printed. If typewritten, they must be on paper not more than 8 ½ inches wide and not more than 11 inches long. If printed, they must be on paper 8 inches wide by 10 ½ inches long.

#### IV. SERVICE

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

#### V. INTERVENTION

Any person, partnership, corporation, or association desiring to intervene in a contested proceeding shall make application in writing, setting out the grounds on which he or it claims to be interested. The commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem just.

Applications to intervene must be on one side of the paper only, on paper not more than 8 ½ inches wide and not more than 11 inches long, and weighing not less than 16 pounds to the ream, folio base, 17 by 22 inches, with left-hand margin not less than 1 ½ inches wide, or they may be printed in 10 or 12 point type on good unglazed paper, 8 inches wide by 10 ½ inches long, with inside margins not less than 1 inch wide.

#### VI. CONTINUANCES AND EXTENSIONS OF TIME

Continuances and extensions of time will be granted at the discretion of commission.

#### VII. WITNESSES AND SUBPOENAS

Witnesses shall be examined orally, except that for good and exceptional cause for departing from the general rule the commission may permit their testimony to be taken by deposition.

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

Subpoenas for the production of documentary evidence (unless directed to issue by a commissioner upon his own motion) will issue only upon application in writing, which must be verified and must specify, as near as may be, the documents desired and the facts to be proved by them.

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

#### VIII. TIME FOR TAKING TESTIMONY

Upon the joining of issue in a proceeding by the commission the examination of witnesses therein shall proceed with all reasonable diligence and with

the least practicable delay. Not less than five days' notice shall be given by the commission to counsel or parties of the time and place of examination of witnesses before the commission, a commissioner, or an examiner.

#### IX. OBJECTIONS TO EVIDENCE

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 110 transcript filed shall include argument or debate.

#### X. MOTIONS

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

#### XI. HEARINGS ON INVESTIGATION

When a matter for investigation is referred to a single commissioner for examination or report, such commissioner 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 general counsel or one of his assistants, or such other attorney as shall be designated by the commission, shall attend and conduct such hearings, and such hearings may, in the discretion of the commissioner holding same, be public.

#### XII. HEARINGS BEFORE EXAMINERS

When issue in the case is set for trial it shall be referred to an examiner for the taking of testimony. It shall be the duty of the examiner to complete the taking of testimony with all due dispatch, and he shall set the day and hour to which the taking of testimony may from time to time be adjourned. The taking of the testimony both for the commission and the respondent shall be completed within 30 days after the beginning of the same unless, for good cause shown, the commission shall extend the time. The examiner shall, within 10 days after the receipt of the stenographic report of the testimony, make his report on the facts, and shall forthwith, serve copy of the same on the parties or their attorneys, who, within 10 days after the receipt of same, shall file in writing their exceptions, if any, and said exceptions shall specify the particular part or parts of the report to which exception is made, and said exceptions shall include any additional facts which either party may think proper. Seven copies of exceptions shall be filed for the use of the commission. Citations to the record shall be made in support of such exceptions. Where briefs are filed the same shall contain a copy of such exceptions. Argument on the exceptions, if exceptions be filed, shall be had at the final argument on the merits.

When, in the opinion of the trial examiner engaged in taking testimony in any formal proceeding, the size of the transcript or complication or importance of the issues involved warrants it, he may of his own motion or at the request of counsel at the close of the taking of testimony announce to the attorneys for the respondent and for the commission that the examiner will receive at any time before he has completed the drawing of the "trial examiner's report upon the facts" a statement in writing (one for either side) in terse outline setting forth the contentions of each as to the facts proved in the proceeding.

These statements are not to be exchanged between counsel and are not to be argued before the trial examiner.

Any tentative draft of findings or findings submitted by either side shall be Submitted within 10 days after the closing of the taking of testimony and not later, which time shall not be extended.

#### XIII. DEPOSITIONS IN CONTESTED PROCEEDINGS

The commission may order testimony to be taken by deposition in a contested proceeding.

Depositions may be taken before any person designated by the commission and having power to administer oaths.

Any party desiring to take the deposition of a witness shall make application in writing, setting out the reasons why such deposition should be taken, and stating the time when, the place where; and the name and post-office address of the person before whom it is desired the deposition be taken, the name and post-office address of the witness, and the subject matter or matters concerning which the witness is expected to testify. If good cause be shown, the commission will make and serve upon the parties, or their attorneys, an order wherein the commission shall name the witness whose deposition is to be taken and specify the time when, the place where, and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is to be taken, so specified in the commission's order, may or may not be the same as those named in said application to the commission.

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

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

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

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

#### XIV. DOCUMENTARY EVIDENCE

Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be put in evidence, such document will not be filed, but a copy only of such relevant and material matter shall be filed.

#### XV. BRIEFS

All briefs must be filed with the secretary of the commission and briefs on behalf of the commission must be accompanied by proof of the service of the same as hereinafter provided, or the mailing of same by registered mail to the respondent or its attorney at the proper address. Twenty copies of each brief shall be furnished for the use of the commission unless otherwise ordered. The exceptions, if any, to the trial examiner's report must be incorporated in the brief. Every brief, except the reply brief on behalf of the commission, hereinafter mentioned, shall contain in the order here stated:

(1) A concise abstract or statement of the case.

(2) A brief of the argument, exhibiting a clear statement of the points of fact or law to be discussed, with the reference to the pages of the record and the authorities relied upon in support of each point.

Every brief of more than 10 pages shall contain on its top flyleaves a subject index with page references, the subject index to be supplemented by a list of all cases referred to, alphabetically arranged, together with references to pages where the cases are cited.

Briefs must be printed in 10 or 12 point type on good unglazed paper 8 inches by 10 ½ inches, with inside margins not less than 1 inch wide, and with double leaded text and single leaded citations.

The reply brief on the part of the commission shall be strictly in answer to respondent's brief.

The time within which briefs shall be filed is fixed as follows: For the opening brief on behalf of the commission, 30 days from the day of the service upon the chief counsel or trial attorney of the commission of the trial examiner's report; for brief on behalf of respondent 30 days after the date of service upon the respondent or his attorney of the brief on behalf of the commission for reply brief on behalf of the commission, 10 days after the filing of the respondent's brief. Reply brief on behalf of respondent will not be permitted to be filed. Applications for extension of time in which to file briefs shall be by petition in writing, stating the facts on which the application rests, which must be filed with the commission at least five days before the time fixed for filing such briefs. Briefs not filed with the commission on or before the dates fixed therefor will not be received except by special permission of the commission. Appearance of additional counsel in a case shall not, of itself, constitute sufficient grounds for extension of time for filing brief or for postponement of final hearing.

Briefs on behalf of the commission may be served by delivering a copy thereof to the respondent's attorney or to the respondent in case respondent be not represented by attorney; or by registering and mailing a copy thereof addressed to the respondent's attorney or to the respondent in case respondent be not represented by attorney, at the proper post-office address. Written acknowledgment of service, or the verified return of the party making the service, shall constitute proof of personal service as hereinbefore provided, and the return post-office receipt aforesaid for said brief, when registered and mailed, shall constitute proof of the service of the same.

Oral arguments may be had only as ordered by the commission on written application of the chief counsel or of respondent filed not later than five days after expiration of the time allowed for filing of reply brief of counsel for the commission.

#### XVI. REPORTS SHOWING COMPLIANCE WITH ORDERS

In every case where an order is issued by the commission for the purpose of preventing violations of 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 the said order of the commission has been complied with.

#### XVII. REOPENING PROCEEDINGS

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

#### XVIII. ADDRESS OF THE COMMISSION

All communications to the commission must be addressed to Federal Trade Commission, Washington, D. C., unless otherwise specifically directed.

## EXHIBIT 7

### TRADE-PRACTICE CONFERENCES

As the annual report goes to press the commission has issued official statements covering trade-practice conferences held during the fiscal year for the following industries:

Industry	Where held	Date of conference	Date of statement
Barn equipment	Chicago	May 1, 1929	July 11, 1929
Beauty and barber supplies	do	Dec.14, 1928	Oct. 30, 1929
Do	New York	Mar. 8, 1929	do
Cheese assemblers	Chicago	June 7, 1929	July 31,1929
Cottonseed crushers	Memphis	July 24, 1928	Oct. 8, 1928
Cut stone	Chicago	May 3, 1929	July 8, 1929
Face brick	Washington	Mar.14, 1929	Oct. 7, 1929
Fertilizer	do	Jan. 27, 1929	June 12, 1929
Grocery	Chicago	Oct. 24, 1928	Jan. 16, 1929
Gypsum	New York	Mar.28, 1929	June 10, 1929
Jewelry	Chicago	June 5, 1929	Oct. 28, 1929
Knit underwear	Washington	Nov. 1, 1928	Mar. 9, 1929
Kraft paper	do	June 28, 1929	Oct. 9, 1929
Lime	do	June 27, 1929	Oct. 25,1929
Metal lath	do		do
Naval stores	do	June 11, 1929	
Paint, varnish, and lacquer	Atlantic City	Aug. 1, 1928	Oct. 29, 1928
Paper board	Chicago	Nov. 3, 1928	
Do	New York	Nov. 23, 1928	Feb. 19, 1929
Petroleum	St. Louis	Feb. 11, 1929	July 25, 1929
Plumbing and heating	Pittsburgh	May 15,1929	Sept. 23, 1929
Plywood	Chicago	May 29,1929	Nov. 5, 1929
Publishers of periodicals	New York	Oct. 9, 1928	Nov. 12, 1928
Range boiler	Washington	June 4, 1929	July 29, 1929
Rebuilt typewriter (second conference)	Cleveland	Aug. 22, 1928	Nov. 10, 1928
Reinforcing steel fabricating	Asheville, N. C	Apr. 18, 1929	Sept 26, 1929
Scrap iron and steel	Pittsburgh	May 23,1929	July 27, 1929
Spice grinders	New York	May 9, 1929	July 5, 1929
Steel office furniture	Washington	Apr. 13, 1929	July 25, 1929
Upholstery textile	Philadelphia	May 6, 1929	July 22, 1929
Waxed paper (second conference)	Washington.	June 13, 1929	Nov. 2, 1929
Woodworking machinery	Chicago	Dec. 12, 1928	Feb. 11, 1929
Woolens and trimmings	New York	Apr. 2, 1929	July 10, 1929

Between the close of the fiscal year and November 15, 1929, conferences were held for the following industries:

Industry	Where held	Date of conference
Commercial cold storage	Minneapolis	July 2, 1929
Concrete mixer and paver	French Lick, Ind	Sept. 5, 1929
Greeting card	Washington	Sept. 10, 1929
Direct selling	Dayton, Ohio	Oct. 11, 1929
Carbon products (electrical industry)	Washington	Oct. 10, 1929
Molded products (electrical industry)	do	Do
Flexible cords (electrical industry)	do	Do.
Vulcanized fiber (electrical Industry)	do	Do.
Electrical mica (electrical Industry)	do	Do.
Outlet boxes (electrical Industry)	do	Do.
Walnut woods	Chicago	Do.
Hardware jobbers (Southern States)	Washington	Oct. 18, 1929
Floor and wall tile	St. Louis	Oct. 21, 1929
Warm-air furnaces	Cleveland	Oct. 23, 1929
Sled indus try	Buffalo	Oct. 31, 1929
Structural steel fabricators	Biloxi, Miss	Nov. 11, 1929



As the annual report goes to press trade-practice conferences have been authorized for the following Industries:

(1) Blanket, (2) bleached shellac, (3) cold finished steel bars, (4) crushed stone, (5) Ice cream (District of Columbia), (6) knitted outerwear, (7) leather-board, (8) medical gas, (9) printing roll and machine tickets, (10) sled, (11) sole and belting leather, (12) solid section steel windows, (13) bituminous coal, Utah, (14) farm seed, (15) fruit and vegetable container, (16) paper bag, and (17) manufacturers of solvents.

*Recapitulation*

Total number of conferences held prior to fiscal year	36
Number of conferences held during fiscal year	31
Number of conferences held since July 1, 1929	15
Grand total number of conferences held in history of the commission	82

A full official report of any conference, setting forth the resolutions adopted by the industry and the action taken by the Federal Trade Commission, may be obtained upon application to the commission.

## EXHIBIT 8

### PROCEEDINGS DISPOSED OF IN FISCAL YEAR

#### ORDERS TO CEASE AND DESIST

*Complaint No. 1110.*--In the matter of James S. Kirk & Co. Charge: Unfair. methods of competition are charged in that the respondent has manufactured and sold in addition to its several brands of soap which contain various percentages of olive oil, seven other separate kinds of soap which it labeled, advertised, and sold as "Castile" soaps, though said soaps contained no olive oil content whatsoever, thereby tending to mislead and deceive the public into the belief that the respondent's soaps are genuine Castile soap, the oil ingredient of which is olive oil, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered December 12, 1928. Case is now pending in United States Circuit Court of Appeals for the Seventh Circuit, on respondent's petition for review of the order to cease and desist.

*Complaint No. 1127.*--In the matter of Calumet Baking Powder Co. Charge: Unfair methods of competition are charged in that the respondent has published and circulated numerous false and misleading statements in disparagement of "K. C. baking powder," a product of the Jacques Manufacturing Co., thereby tending to mislead the trade into the belief that said K. C. baking powder is an inferior, adulterated, and undesirable product and to injure and damage the business and good will of said competitor, the Jacques Manufacturing Co., in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered June 12, 1929.

*Complaint No. 1269.*--In the matter of Shanghai Lace Corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the importation of lace from China and in the sale thereof to the manufacturers of garments, describes its lace as "Irish picot," "Irish edge," and "Real Irish edge," thereby misleading and deceiving the purchasing public as to the quality and value of respondent's product and tending to injure competitors who are, in fact, importers of Irish lace, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered November 12, 1928.

*Complaint No. 1273.*--In the matter of Abraham D. Sutton, David Sutton, Selim Sutton, partners doing business under the trade name and style A. D. Sutton & Sons. Charge: Unfair methods of competition are charged in that the respondents, engaged in the importation of lace from China and the sale thereof to garment manufacturers, designate their laces as "Irish picot," "Irish beading," and "Real Irish edge," thereby misleading and deceiving the purchasing public as to the quality and value of respondent's product, and tending to injure competitors who are in fact importers of Irish lace, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered November 12, 1928.

*Complaint No. 1274.*--In the matter of Alfred Kohlberg (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in the importation of lace from China and the sale thereof to garment manufacturers, designates its lace as "Irish Swatow" and "Irish Siccawel," thereby tending to mislead and deceive the purchasing public as to the quality and value of the respondent's product and to injure competitors who are in

fact importers of Irish lace, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist Was entered November 12, 1928. Case is now pending in United States Circuit Court of Appeals for the Second Circuit, on respondent's petition for review of the order to cease and desist.

*Complaint No. 1275.*--In the matter of Abraham Lian, George Marabak, R. Lian, William Lian, Michael Marabak, Joseph Marabak, John Marabak, Sahid Lian, partners doing business under the name and style of Lian & Marabak. Charge: Unfair methods of competition are charged in that the respondents, engaged in the importation of lace from China and the sale thereof to manufacturers of garments, designate their lace as "Irish lace," thereby misleading and deceiving the purchasing public as to quality and value of respondents' products and tending to injure competitors who are in fact im-porters of Irish lace, in alleged violation of section 5 of the Federal Trade Com mission act.

Disposition: After trial, an order to cease and desist Was entered November 14, 1928.

*Complaint No. 1283.*--In the matter of Non-Plate Engraving Co. (Inc.), a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the printing of stationery, indicates by the use of its corporate name and its advertising matter that It Is engaged in the business of engraving, when in fact the process used by the respondent is not one of engraving but involves printing to simulate the impression made from engraved plates, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered June 29, 1929.

*Complaint No. 1311.*--In the matter of Mash and Duraleather Co., W. & J. Sloane. The respondent, Masland Duraleather Co., is engaged in the manufacture of imitation leather and the sale thereof through the respondent, W. & J. Sloane. Charge: Unfair methods of competition are charged In that the respondents brand and label a coated fabric, made in Imitation of but containing no leather, as "Duraleather," thereby enabling vendees to misrepresent articles made of respondents' products and injuring the business of competitors who do not practice misrepresentation; and In that the respondents' trade name "Dura-leather" simulates the trade name "Duro," used for many years by their competitor, A. C. Lawrence Leather Co., in advertising and selling its product as "Duro leather," thereby tending to mislead and deceive the trade Into the belief that the respondents' product is a product of the aforesaid competitor, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered March 22, 1929. Case is now pending in United States Circuit Court of Appeals for the Third Circuit, on respondents' petition for review of the order to cease and desist.

*Complaint No. 1319.*--In the matter of West Coast Theatres (Inc.), West Coast Theatres (Inc.) of Northern California, Venice Investment Co., Holly-wood Theatres (Inc.), All Star Feature Distributors (Inc.), Educational Film Exchange, Principal Pictures Corporation, H. M. Turner, Fred Dahnken, C. L. Langley, and F. W. Livingston, partners, doing business under the name and style of Turner, Dahnken & Langley, and Messrs. A. L. Gore, Michael Gore, Sol. Lesser, Adolph Ramish, and Dave Bershon. Charge: Unfair methods of competition are charged in that the respondents combined for the purpose of preventing producers or distributors of motion-picture films in other States from leasing their films to competitors of the respondents and from shipping said films into the State of California, and preventing competition in negotiating for and leasing of said motion-picture films, employing threats, coercive measures, and other cooperative and individual means to make effective the aforesaid undertakings, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered May 8, 1929.

*Complaint No. 1320.*--In the matter of West Coast Theatres (Inc.), West Coast Theatres (Inc.) of Northern California, the T. & D. Jr. Enterprises (Inc.), and H. M. Turner, Fred Dahnken, C. L. Langley, and F. W. Livingston, partners, doing business under the trade name and style of Turner, Dahnken

& Langley. Charge: Unfair methods of competition are charged in that the respondents combined for the purpose of restraining and preventing producers or distributors of motion-picture films in other States from leasing their films to competitors of the respondents and from shipping said films into the State of California for delivery to respondents' competitors, and restraining and preventing competition in negotiation for and leasing of said motion-picture films, the respondents effecting joint management of their theaters, recognizing restrictive territorial arrangements, observing agreements to refrain from competition, and employing coercive and other cooperative and individual means to make effective their undertakings, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered May 8, 1929.

*Complaint No. 1330.*--In the matter of Plateless Engraving Co. (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in process printing and in the sale of process-printed stationery, uses the word "Engraving" in its corporate name, and thereby tends to mislead and deceive the purchasing public into the erroneous belief that the respondent's stationery is "engraved," and tends to injure competitors who do not misrepresent their products, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered on June 29, 1929.

*Complaint No. 1342.*--In the matter of George M. Rubinow, trading under the name and style of Rubinow Edge Tool Works. Charge: Unfair methods of competition are charged in that respondent, engaged in the business of manufacturing tools, makes use of the term "steel," "cast steel," etc., in advertising and branding tools composed of a metal other than steel.

Disposition: After trial, an order to cease and desist was entered May 1, 1929.

*Complaint No. 1378.*--In the matter of Ohio Leather Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of leather, advertises and labels one of its products as "Kaffor Kid," thus indicating that it is manufactured from the skins of goats, when in fact the respondent's said product is manufactured from the hides of calves, thereby tending to mislead and deceive the trade and consuming public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered February 11, 1929. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondent's petition for review of the order to cease and desist.

*Complaint No. 1396.*--In the matter of Berkey & Gay Furniture Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut and gumwood," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondent's petition for review of the order to cease and desist.

*Complaint No. 1397.*--In the matter of Stow & Davis Furniture Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or

walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Mahogany," "Walnut," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1398.*--In the matter of Gunn Furniture Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood, or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Mahogany," "Walnut," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1400.*--In the matter of John Widdicomb Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut," "French walnut," "American walnut," or "Mahogany," not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission Act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1401.*--In the matter of Luce Furniture Co., and the Furniture Shops (Inc.). Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Mahogany," "Walnut," or "Mahogany and gumwood," not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent

from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1402.*--In the matter of Century Furniture Co. Charge : Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Mahogany," not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1403.*--In the matter of David E. Uhl, trading under the name and style of Grand Rapids Fancy Furniture Co. Charge : Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Mahogany" or "Walnut," not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1404.*--In the matter of Valley City Desk Co. Charge : Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality causes practically all of the pieces of furniture made by it to be veneered with a thin covering of oak, mahogany, or walnut wood of the thickness of about two twenty-eighths of an inch, and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Oak," "Walnut," or "Mahogany," not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1405.*--In the matter of Foote-Reynolds Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of walnut wood of the thickness of about two twenty-eighths of an inch, and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1406.*--In the matter of Prichett-Powers Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of walnut wood of the thickness of about two twenty-eighths of an inch, and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1407.*--In the matter of Johnson Furniture Co and Johnson-Handley-Johnson Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of walnut wood of the thickness of about two twenty-eighths of an inch, and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who described their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1408.*--In the matter of Grand Rapids Chair Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch, and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut and gumwood," "Mahogany and gumwood," or by other com-

nations not disclosing that the furniture is veneered, thus placing In the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of the furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act. Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1409.*--In the matter of Hekman Furniture Co. Charge: Un fair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut and gumwood," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who described their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1411.*--Wagemaker Co. Charge: Unfair methods of competition are charged in that the respondent, engaged In the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by It to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut and gumwood," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1412.*--In the matter of Robert W. Irwin Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture In advertisements, catalogues, invoices, etc., as "Walnut and gumwood," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public.. such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made



entirely of mahogany or walnut, all In alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending In the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1413.*--Standardized Furniture Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut and gumwood," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture Is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all In alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case Is now pending In the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1414.*--In the matter of H. E Shaw Furniture Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut," "Walnut and gumwood," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture Is made, or whose furniture Is made entirely of mahogany or walnut, all In alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case Is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1445.*--In the matter of Widdicomb Furniture, Co. Charge: Unfair methods of competition are charged In that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture In advertisements, catalogues, invoices, etc., as "Walnut and gumwood," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture Is veneered, thus placing In the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture Is made, or whose furniture is made entirely of mahogany or walnut, all In alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case Is now pending In the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1416.*--In the matter of Imperial Furniture Co. Charge: Un-fair methods of competition are charged In that the respondent engaged In the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by It to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture, in advertisements, catalogues, invoices, etc., as "Walnut and gumwood," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered." giving the name of the wood composing the veneer as well us the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1417.*--In the matter of Williams-Kimp Furniture Co. Charge: Unfair methods of competition are charged in that the respondent engaged In the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture In advertisements, catalogues, invoices, etc., as "Walnut," "Mahogany," "Red mahogany," "Brown mahogany," "Walnut combinations," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending In the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1418.*--In the matter of Paalman Furniture Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality causes practically all of the pieces of furniture made by it to be veneered with a thin covering of oak, mahogany, or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Mahogany," "Walnut," "Oak," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors Who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1419.*--In the matter of The Cabinet Shops. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality causes practically all of the pieces of furniture made by it to be veneered with a thin covering of walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates

such furniture in advertisements, catalogues, invoices, etc, as "Walnut," not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondents' petition for review of the order to cease and desist.

*Complaint No. 1420.*--In the matter of Furniture Studios (Inc.). Charge. Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of maple or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Maple," "Walnut." "Walnut decorated." "Georgian Walnut decorated." not disclosing that the furniture is veneered thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public. such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered." giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondent's petition for review of the order to cease and desist.

*Complaint No. 1421.*--In the matter of Macey Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Mahogany." or "Genuine walnut." not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered." giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondent's petition for review of the order to cease and desist.

*Complaint No. 1422.*--In the matter of Grand Rapids Furniture Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut and gumwood." "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core

of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 25, 1928. The case is now pending in the United States Circuit Court of Appeals for the Sixth Circuit on respondent's petition for review of the order to cease and desist.

*Complaint No. 1450.*--In the matter of Showers Bros. Co. Charge: Unfair methods of competition are charged in that respondent engaged in the manufacture and sale of furniture describes in its advertisements certain articles of its furniture as composed of "Walnut," "Mahogany," "Combination walnut," "Combination mahogany," "Combination blended walnut," or "Combination blended mahogany," which statements when used by dealers in selling said furniture to customers have the capacity and tendency to mislead said customers into the belief that said furniture is composed in whole or in part of mahogany or walnut, when in truth and in fact said furniture is composed of other woods with a thin veneering of mahogany or walnut on the exposed surfaces, which acts are to the prejudice of the public and respondent's competitors who do not use such practices, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial; an order to cease and desist was entered September 25, 1928.

*Complaint No. 1457.*--In the matter of Samuel Breakstone. Charge: Unfair methods of competition are charged in that respondent, engaged in the business of selling automobile parts, supplies, and accessories, having bought in the open market from the United States Government certain spark-plug cores manufactured by the A C Spark Plug Co., one of respondent's competitors, bearing the symbol "A C," which cores were for use in airplane motors and would not function in automobile motors, has mounted said cores in spark-plug shells not made for or by said A C Spark Plug Co., makes written and oral representations to the public and dealers that said spark plugs are "A C" spark plugs manufactured by said competitor and designed and intended for use in automobile motors, and having procured a supply of certain cartons or containers formerly owned by said A C Spark Plug Co., packed its complete spark plugs therein, so placing in the hands of dealers a means of committing a fraud upon purchasers, said acts tending to divert and diverting business from respondent's said competitor and further, because respondent's spark plugs do not function properly, when applied to automobile motors, said acts tend to and do otherwise injure and prejudice said competitor, all of which acts are to the prejudice of the public and respondent's competitors, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered September 14, 1928. The case is now pending in the United States Circuit Court of Appeals for the Seventh Circuit, on respondent's petition for review of the order to cease and desist.

*Complaint No. 1468.*--In the matter of the Light, House Rug Co. (Inc.) Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale of rugs, has employed the personnel of the Chicago Lighthouse, an Institution employing blind people and engaged in the manufacture of rugs formerly bought and distributed by respondent, and after so doing has continued the manufacture of rugs by said blind people and by power looms operated by people who are not blind, and has labeled each rug "Light House Rugs" and similarly advertised said rugs, which acts have the capacity and tendency to and do deceive the purchasing public into the belief that said rugs manufactured on power looms operated by people who are not blind are produced by hand by the labor of blind people, all to the prejudice of the public and respondent's competitors who do not so act, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered July 24, 1928. The case is now pending in the United States Circuit Court of Appeals for the Seventh Circuit, on respondent's petition for review of the order to cease and desist.

*Complaint No. 1470.*--In the matter of Scott & Bowne. Charges: Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale of a certain medicine known as "Scotts Emulsion," has enforced and now enforces a system of uniform resale prices and in order to carry out said system it establishes uniform prices and issues price list, enters

into contracts and agreements with dealers for the maintenance of said prices, procure local groups of dealers to agree to maintain said prices, seeks and secures information as to nonmaintaining dealers, and exacts promises from wholesale dealers not to supply said price cutters and further refuses to sell to either wholesalers or retailers unless the price is maintained, which acts suppress competition In the distribution and sale of respondent's medicine and deprive the ultimate consumers of those advantages In price and otherwise which they would obtain under conditions of free competition, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered July 26, 1928.

*Complaint No. 1480.*--In the matter of Hoosier Manufacturing Co., Union Soap Co., Crescent Soap Co., C. A. Woche, Robert Wands, and Rose K. Wands. Charge: Unfair methods or competition are charged in that respondents, engaged in a common enterprise to produce and sell certain cheap products resembling soap and designated as soap, mislead and deceive the public as to the origin, quality, nature, and ingredients of such products by giving them brands, names, and labels, such as "Nature's Lemon Cocoa," "Marvola Vegetable Cream," "Pure Vegetable Oil Combined with Mineral Salts," "Foam White Family," and "Savetyme," all of which are false and deceptive and tend to mislead and deceive purchasers into believing that said soaps contain vegetable oils and mineral salts when in truth and in fact they do not contain said oils nor salts; and, furthermore, label one of their toilet soaps "For Toilet, Bath and Shampoo"; "Combination Price, 75c.;" "Crescent Soap Company," which statements are deceptive and misleading, as said soap Is not suitable for the toilet, containing from 50 to 60 per cent of ingredients other than soap ingredients, Is not made to sell at 75 cents, but at a much lower figure, and Is not manufactured by the Crescent Soap Co., all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered April 25, 1929.

*Complaint No. 1491.*--In the matter of N. Flugelman & Co. (Inc.). Charge: Unfair methods of competition are charged In that the respondent, engaged in the business of converting cotton fabrics and selling the same at wholesale, advertises and sells certain of its fabrics as "Statinmaid" or "Satinized," when in fact said fabric is not made in whole or in part from satin or silk, but is composed wholly of cotton; thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered April 2, 1929. The case Is now pending in the United States Circuit Court of Appeals for the Second Circuit, on respondents' petition for review of the order to cease and desist.

*Complaint No. 1492.*--In the matter of Automatic Burner Corporation and A. B. C. Oil Burner Sales Corporation. Charge: Unfair methods of competition are charged In that the respondents, engaged In the manufacture and sale of oil burners, advertise that their "A. B. C. Burner" has been given the highest heating-efficiency rating by the Department of Agriculture and the United States Government, when In fact there is no justification for such claims, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: With consent of the respondent, an order to cease and desist was entered September 10, 1928.

*Complaint No. 1493.*--In the matter of Joseph C. Margulias, doing business under the trade name and style of Chester Hair Works.- Charge: Unfair methods of competition are charged in that the respondent, engaged in the sale of hair to bedding manufacturers, offers and advertises as "curled hair" a product consisting of hair intermingled with a substantial proportion of Tampico and sisal or other substances containing no hair whatever, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, In alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered October 15, 1928.

*Complaint No. 1494.*--In the matter of Regent Tailors (Inc.), Dundee Woolen Mills Co., Dundee Tailoring Co., Max Greengard, and David Greengard.

Charge: Unfair methods of competition are charged in that the respondent Regent Tailors (Inc.), engaged in the manufacture and sale of men's clothing and operated by the respondent Individuals, makes use of the corporate name of Dundee Woolen Mills Co." and of the trade name "Dundee Woolen Mills" to deceive and mislead the purchasing public into the belief that the purchaser of said clothing at retail is dealing with a mill or mills in which raw materials are converted into the fabrics from which such clothing is manufactured, and that the purchaser thereby receives the benefit in price and quality associated with purchase from the producer, In alleged violation of section 5 of the Federal Trade Commission act.

Disposition: With consent of respondent, an order to cease and desist was entered November 21, 1928.

*Complaint No. 1496.*--In the matter of Raladam Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the preparation and sale of a thyroid "obesity cure" under the name "Marmola Prescription Tablets," advertises said product in a manner tending to mislead the purchasing public to believe that It is a scientifically accurate method of treatment resulting from protracted research and that It is safe, effective, and dependable in use, when in fact the present knowledge of thyroid as a remedial agent Is stated not to justify the respondents' representation of its product, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered April 13, 1929. Case is now pending in United States Circuit Court of Appeals for the Sixth Circuit, on respondents' petition for review of the order to cease and desist.

*Complaint No. 1502.*--In the matter of T. G. Cooke, doing business under the trade name and style of University of Applied Science. Charge: Unfair methods of competition are charged in that respondent, engaged in the business of furnishing a course of printed instruction in finger-print work and secret-service intelligence, tends to mislead the public by the use of the word "University" as a part of its trade name, quotes fictitious prices for his course of instruction, offers pupils a "free" finger-print outfit, when in fact the said outfit is paid for by reason of the Instruction fee, and represents that pupils will be given a life membership in an identification bureau, when in fact the so-called identification bureau has no real existence, all In alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered February 26, 1929.

*Complaint No. 1504.*--In the matter of Marsay School of Beauty Culture, O. C. Miller, A. J. Weber, and Igantius Barnard. Charge: Unfair methods of competition are charged in that the respondents, engaged in the sale of courses of instruction by correspondence in the profession of "beauty culture," make numerous false and misleading representations as to the employment, remuneration, and profits to be enjoyed by its graduates, and falsely state that the respondents' school is the only home training school which enables Its graduates to meet the requirements of the laws of the local jurisdiction, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered January 16, 1929.

*Complaint No. 1506.*--In the matter of Chicago Correspondence School of Music (Inc.) and J. Peter Beringer. Charge: Unfair methods of competition are charged in that the respondent corporation, engaged in the sale of courses of Instruction by correspondence in the art of music, advertises reduced or special tuition fees, for subscription within a pretended time limit, which are in fact the regular and full prices for the courses of instruction, and offers "free" musical Instruments and carrying cases, when in fact the cost thereof is Included In the tuition fee, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered January 17, 1929.

*Complaint No. 1513.*--In the matter of Marion Butler Kirtland and Roy M. Kirtland, trading under the name and style of Ray Laboratories.- Charge:

Unfair methods of competition are charged in that the respondents, engaged In the sale of hair color restorer called "Youthray," make numerous false and misleading statements tending to deceive the public into the erroneous belief that the said product is a natural color restorer, in no way injurious to the scalp and effective in curing dandruff, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After a stipulation in lieu of testimony, an order to cease and desist was entered June 29, 1929.

*Complaint No. 1533.*--In the matter of Bowey's (Inc.). Charge: Unfair methods of competition are charged in that respondent engaged in the manufacture and sale of flavoring extracts, concentrates and sirups for use in compounding soft drinks, advertises, brands, labels, describes and sells its said products as "Bowey's Fruitty Flips," "Grape Flip," "Cherry Flip," "Strawberry Flip," and "Raspberry Flip," and represents in advertisements in newspapers and periodicals that "Bowey's fruit stocks are concentrated sirups of the highest quality prepared at low temperature to preserve the delicious flavor of the fresh fruit," "Our low-temperature method of packing preserves the full rich flavor of the fresh fruit." "Highly concentrated flavors of the richest, truest aroma of the fresh fruit," "Dripping with the full, rich, luscious flavor of the ripe, fresh fruit," "Equal in flavor to the juice of the fresh squeezed fruit," whereas none of the said flavoring extracts, concentrates or sirups are made from or contain in whole or in part any fruit or the juices of any fruit, thereby intending to mislead and deceive the public and to injure and prejudice competitors who deal in and sell pure fruit juices or extracts; in alleged violation of section 5, Federal Trade Commission act.

Disposition: After trial, an order to cease and desist was entered June 29, 1929.

*Complaint No. 1541.*--In the matter of Sethness Co. Charge : Unfair methods of competition are charged in that respondent, engaged in the business of manufacturing artificially colored and artificially flavored flavoring extracts, places on the containers of respondent's product, which contains no fruit or fruit juice, the words "Concord Grape," "Grapette," "Cherryette," and other names of fruit followed by the syllable "ette" in large and conspicuous type with the words "imitation," "artificially flavored," and "artificially colored," in conspicuous type; and advertises on posters, in pamphlets, newspapers, etc., using such expressions as "The best grape we have ever used," "Best grape means a grape of the true fruit character," etc., all in alleged violation of section 5, Federal Trade Commission act.

Disposition: After trial, supplemented by stipulation in lieu of further testimony, an order to cease and desist was entered June 29, 1929.

*Complaint No. 1543.*--In the matter of Bernard-Hewitt & Co. Charge: Unfair methods of competition are charged in that respondent uses the words "Silk," "Pongee," "French Rayon Art," "Tussahi," "Sillolene," "Satin," "Neutrisilk," "Wool," "Bengaline," "Alligator," "Silvereen," and other misleading terms in describing in mail-order catalogues such articles as dresses, hats, hosiery, comforts, watches, shoes, etc., in alleged violation of section 5, Federal Trade Commission act.

Disposition : With consent of respondent, an order to cease and desist was entered December 17, 1928.

*Complaint No. 1544.*--In the matter of Farley Harvey Co. Charge : Unfair methods of competition are charged in the use of the words "silk," "chiffon," and "silk chiffon" in labeling a fabric made of 60 per cent cotton and 40 per cent silk in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After answer by respondent waiving trial, an order to cease and desist was entered February 11, 1929.

*Complaint No. 1545.*--In the matter of Samuel E Bernstein (Inc.). Charge: Unfair methods of competition are charged in that respondent sells silverware made in the United States by the electroplating process, which is made according to no fixed standards of quality, and stamps it with the words "English Plate," and in much smaller letters, the words "Made in U. S. A.," thus leading the purchaser to believe that the ware is made according to the standards used in the manufacture of "English Plate," which is known to be of superior quality, in alleged violation of section 5, Federal Trade Commission act.

Disposition: With consent of respondent, an order to cease and desist was entered January 28, 1929.

*Complaint No. 1546.*--In the matter of Johnson & Johnson. Charge : Unfair methods of competition are charged in that respondent maintains and enforces a system of fixing uniform prices at which respondent's products shall be resold; and secures the cooperation of others in enforcing the maintenance of said prices by threats, espionage, and by refusal to sell, in alleged violation of section 5, Federal Trade Commission act.

Disposition : After trial, an order to cease and desist was entered June 26, 1929.

*Complaint No. 1552.*--In the matter of Hyman Finkelstein. Charge : Unfair methods of competition are charged in that respondent labels shirts made of a cotton cloth manufactured in the United States, "Imported English Broadcloth," in alleged violation of section 5 Federal Trade Commission act.

Disposition : After a stipulation in lieu of testimony, an order to cease and desist was entered February 16, 1929.

*Complaint No. 1553.*--In the matter of Leon E Jacobs and Morris Jacobs, copartners, trading under the name and style of Leon E Jacobs & Bro. Charge : Unfair methods of competition are charged in that respondent labels shirts made of a cotton cloth manufactured in the United States, "Imported Knox English Broadcloth" or "English Broadcloth," in alleged violation of section 5, Federal Trade Commission act.

Disposition: After a stipulation in lieu of testimony, an order to cease and desist was entered February 11, 1929.

*Complaint No. 1565.*--In the matter of Hoboken White Lead & Color Works (Inc.). Charge: Unfair methods of competition are charged in that respondent labels and advertises as "white lead" or "zinc lead" products containing only a small proportion of the ingredients of which products so labeled are understood by the trade or the purchasing public to consist, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: In default of answer, an order to cease and desist was entered June 7, 1929.

*Complaint No. 1582.*--In the matter of Sam Rhneingold, trading as Maid-Rite Dress Co. Charge : Unfair methods of competition are charged by this complaint in that respondent advertises as silk, pongee, satin, etc., dresses made of material other than silk; advertises as jersey, wool, or flannel dresses made of cotton material and advertises \$10 dresses for \$1.69, \$7.50 dresses for \$1.69, and other equally drastic reductions, for a short time only, when in truth the alleged reduced price is in each case the usual selling price of the garment ; all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After a stipulation in lieu of testimony, an order to cease and desist was entered May 27, 1929.

*Complaint No. 1590.*--In the matter of Morris Massing, trading under the name and style of Columbia Pants Manufacturing Co. Charge : Unfair methods of competition are charged by this complaint in that respondent uses the trade name "Columbia Pants Manufacturing Company," advertises and brands articles sold with legends representing respondent as manufacturer "Makers of Southern Brand Pants," "Union Made," etc., when in truth respondent does not manufacture the products he sells nor does he buy them from a manufacturer using union labor, all in alleged violation, of section 5, Federal Trade Commission act.

Disposition : With consent of respondent, an order to cease and desist was entered June 29, 1929.

*Complaint No. 1595.*--In the matter of Globe Specialty Co. Charge : Unfair methods of competition are charged in that respondent, engaged in the sale and distribution of various articles of merchandise fashioned into lamp bases, gear-shift balls, radiator cap ornaments, and similar products, is alleged to have advertised and represented as onyx, and/or crystal-onyx, articles made of a material other than onyx, but resembling the same in appearance, in alleged violation of section 5, Federal Trade Commission act.

Disposition : In default of answer, an order to cease and desist was entered June 29, 1929.

*Complaint No. 1605.*--In the matter of Jefferson Furniture Manufacturing Corporation. Charge : Unfair methods of competition are alleged and charged in that respondent engaged in the business of selling furniture, uses the trade names " Jefferson Furniture Manufacturing Company " and the slogan "Factory to Home," and advertises that respondent manufactures the furniture that it sells, thus offering the lowest prices, whereas respondent is not a manufacturer of the goods he sells, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : In default of answer, an order to cease and desist was entered June 29, 1929.

*Complaint No. 1616.*--In the matter of I. J. Rosenbloom and Jake A. Ablin, partners doing business under the trade name and style the Restoral Co.



Charge : Unfair methods of competition are alleged in that respondents, engaged in the business of selling a hair color restorer called "Restoral" and a shampoo called "Restoral Shampoo," use in advertising and labeling, statements to the effect that respondents' product called "Restoral" gradually restores color to gray hair, serves as a tonic promoting the growth of new hair, and contains no harmful ingredients, and that the shampoo "is free from harmful ingredients found in average soap," when in truth the hair restorer is a dye, which must be used several times a week in order to keep gray hair colored; it contains no tonic properties, and does contain an ingredient likely to be harmful if frequently rubbed into the scalp, and the "average soap" does not contain harmful ingredients from which properties the shampoo is not free, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: In default of answer, an order to cease and desist was entered June 29, 1929.

*Complaint No. 1618.*--In the matter of Maryland Pharmaceutical Co. Charge: Unfair methods of competition are charged that respondent engaged in the manufacture and sale of a cough remedy "Rem," has adopted and maintains a system of resale price control under which it designates uniform minimum prices, seeks cooperation of dealers in maintaining the same, and refuses and threatens to refuse to sell to price cutters, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After a stipulation in lieu of testimony , an order to cease and desist was entered June 27, 1929.

### ORDERS OF DISMISSAL

*Complaint No. 1115.*--In the matter of General Electric Co., American Telephone & Telegraph Co., Western Electric Co. (Inc.) , Westinghouse Electric & Manufacturing Co., the International Radio Telegraph Co., United Fruit Co., Wireless Specialty Apparatus Co., and Radio Corporation of America. Charge: Unfair methods of competition are charged in that the respondents have combined and conspired for the purpose and with the effect of restraining competition and creating a monopoly in the manufacture, purchase, and sale of radio devices and apparatus by : (1) Acquiring patents and patent rights covering all radio devices and apparatus and combining and pooling or allotting the rights thereunder to manufacture, sell, or use such devices and apparatus; (2) granting to the respondent Radio Corporation of America the exclusive right to sell certain radio devices and restricting its purchases to the products of certain of the respondent manufacturers; (3) restricting the competition of certain respondents; (4) restricting the use in radio communication or broadcasting of articles manufactured and sold under respondents' patents and patent rights; (5) acquiring equipment heretofore existing for transoceanic radio communication and perpetuating the monopoly thereof by refusing to supply to others the apparatus and devices necessary for the equipment and operation of certain service; (6) entering into exclusive contracts and preferential agreements for the handling of transoceanic radio traffic and the transmission of radio messages in this country, thereby excluding others from the necessary facilities for the transmission of radio traffic; and (7) agreeing and contracting among themselves to cooperate in the development of new inventions relating to radio and to exchange patents covering the results of the research and experiment of their employees in the art of radio, seeking thereby to perpetuate their control and monopoly of the various means of radio communication and broadcasting beyond the time covered by existing patents owned by them or under which they are licensed, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed after trial.

*Complaint No. 1215.*--In the matter of Motor Wheel Corporation. Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale of wooden wheels and steel disc wheels for automobiles and sundry parts and materials therefor, having acquired the businesses and assets of its competitors, Prudden Wheel Co. and Auto Wheel Co., proceeded to and did acquire the corporate stock of Forsythe Bros. Co., the only competitor of the respondent during the year 1922 in the manufacture of steel disc wheels, thereby tending to lessen competition, restrain interstate commerce, and to create a monopoly, in alleged violation of section 7 of the Clayton Act.

Disposition : Dismissed after trial.

*Complaint No. 1328.*--In the matter of National Cash Register Co. Charge: Unfair methods of competition are charged in that the respondent has inaugurated and systematically conducted a plan and scheme to unduly hinder and restrain competition in the manufacture and sale of cash registers and similar machines, to monopolize or attempt to monopolize said manufacture and sale, to eliminate, stifle, and force out of said business the Remington Cash Register Co. and to harass and discourage the agents and employees of said competitor; carrying out its plan against the Remington Cash Register Co. by (a) ascertaining the names of its customers and prospective customers; (b) making false and misleading statements in disparagement of said company and its products; (c) tampering with the Remington Co.'s cash registers; (d) undertaking to persuade and induce customers of the Remington Co. to breach their contracts with said company; (e) representing the Remington Co.'s executory contracts of purchase as not binding on the customers; (f) offering to accept Remington cash registers in the possession of customers under executory contracts at a substantial valuation in money as part of the purchase price for cash registers of respondent's manufacture and offering the latter at prices greatly below the normal retail prices; (g) circulating false statements and representations concerning the business of the Remington Cash Register Co. and its financial stability, and by means thereof, as well as by means of threats, intimidation, and persuasion, attempting to induce employees to violate and terminate their contracts with said Remington Co.; and (h) practicing espionage against said Remington Co. and its employees, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed after trial, Chairman Myers not participating in the consideration or in the decision.

*Complaint No. 1334.*--In the matter of E R. Marshall, doing business under the trade name and style of Crescent Calendar Co. Charge: Unfair methods of competition are charged in that the respondent in soliciting orders for school commencement announcements and invitations represents that the name of the school will be "process embossed in gold" or "embossed in gold," when, in fact, the announcements and invitations are prepared for the respondent by the embossing of a design from steel (lies or plates, leaving a blank space in which the name of the school is process printed by the respondent without the use of dies or plates but in simulation of embossing, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed after trial.

*Complaint No. 1369.*--In the matter of W. U. Blessing and M. S. Gohn, copartners, doing business under the trade name and style of W. U. Blessing & Co., and A. E. Wallick. Charge: Unfair methods of competition are charged in that the respondents, engaged in the manufacture of cigars in the State of Pennsylvania and in the sale thereof, label their "Triangulares" cigars and containers with the word "Garcie" and the words "Tampa Style," thereby tending to mislead the purchasing public as to the quality of the respondent's product and the place of manufacture and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed. respondent having agreed to cease and desist from the practices charged in the complaint and not to resume same.

*Complaint No. 1399.*--In the matter of the Grand Rapids Show Case Co. Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Mahogany," "Walnut," or "American walnut," not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed after trial.

*Complaint No. 1410.*--In the matter of William F. Druke and Albert F. Dickinson, partners, trading under the name and style of William F. Druke & Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, principally of gum or chestnut wood or other woods of similar grades and quality, causes practically all of the pieces of furniture made by it to be veneered with a thin covering of mahogany or walnut wood of the thickness of about two twenty-eighths of an inch and describes and designates such furniture in advertisements, catalogues, invoices, etc., as "Walnut and gumwood," "Mahogany and gumwood," or by other combinations, not disclosing that the furniture is veneered, thus placing in the hands of retailers the means whereby such dealers may commit a deception or fraud on the public, such practice causing trade to be diverted to respondent from competitors who describe their veneered furniture as "veneered," giving the name of the wood composing the veneer as well as the name of the wood from which the core of such furniture is made, or whose furniture is made entirely of mahogany or walnut, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed after trial.

*Complaint No. 1435.*--In the matter of Independent Industries (Inc.). Charge: Unfair methods of competition are charged in that respondent engaged in the manufacture of knitted and other garments for women, advertises in monthly periodicals soliciting persons to become sales representatives for respondent, supplies said representatives with trade literature, price lists, etc., in which it designates the material of which its garments are made, and which is not silk, a product of the cocoon of the silkworm, to be "Monasilk," and thus places in the hands of its representatives the means of committing a fraud upon the purchasing public, to the prejudice of the public and respondent's competitors, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed.

*Complaint No. 1473.*--In the matter of Bell International Tailors (Inc.). Michael Heller, S. R. Robins, and Simon Healer. Charge: Unfair methods of competition are charged in that respondent, individuals incorporated under the name "Bell International Tailors (Inc.)," with the intent and purpose of representing the international Tailoring Co., a competitor, and engaged in the business of selling men's and boys' ready-made clothing, makes numerous false and misleading statements, orally and in its advertising, to the effect that it is a branch of or connected with the International Tailoring Co., one of respondent's competitors, that it makes to measure of the customer the clothing sold by it, that an extra suit is given, free of charge, with each purchase of a suit or overcoat, and that the clothes sold by it are union made, and further respondent gives to each customer a "Guarantee bond" guaranteeing the quality of its goods, which is in fact not a bond, all of which statements are in truth and in fact to the contrary and have the capacity and tendency to and do cause the public to purchase respondent's clothes in the belief that said statements are true, to the prejudice of the public and respondent's competitors who do not so act, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed, respondent having agreed to cease and desist from the practices charged in the complaint, and not to resume same.

*Complaint No. 1476.*--In the matter of H. Weazel Tent & Duck Co. Charge: Unfair methods of competition are charged in that respondent engaged in the business of manufacturing tents, tarpaulins, and other canvas or duck products has advertised and labeled its products with a fictitious weight, said weight not being the basis used by the trade to designate goods of a certain quality, and, further, respondent's wagon covers and wall tents advertised, represented and referred to as being of certain dimensions in linear feet contain less than the number of linear feet advertised, which acts have the capacity and tendency to and do mislead purchasers or prospective purchasers into the belief that said products are made as advertised, all of which is to the prejudice of the public and respondent's competitors in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed after trial.

*Complaint No. 1481.*--In the matter of Edmond Waterman and Charles Waterman, doing business under the trade name and style of E. Waterman & Co. Charge: Unfair methods of competition are charged in that respondents, engaged in the business of exporting apples, pears, and other fruits to the

Republic of Argentina, have knowingly and contrary to the provisions of the trade-mark law of said Republic caused to be registered a number of names or designations of American apples and pears, have notified many of their competitors that all of said names were the property of respondents and had been registered by them as trade-marks in Argentina, and that they had the right to prevent any barrel or box containing such apples or pears and bearing any of said names from entering Argentina, and threatened to hold such competitors responsible in damages for all shipments made by them of such apples or pears to Argentina under any of said names, which acts had and now have the capacity and tendency to and do hamper and hinder the lawful business of said competitors in the exportation of apples and pears to and the sale of said commodities in the said Republic of Argentina by deterring said competitors and causing them to refrain from such sale and exportation to Argentina of such products under aforesaid well-established and commonly used names and designations referred to herein, for the reason that said notices and threats have caused and still cause many of said competitors to believe that if they so export and sell said commodities they will be subjected by respondents to lawsuits and other litigation which respondents have threatened and still threaten to institute against said competitors, which alleged acts and practices have been and are now to the prejudice and injury of respondent's competitors in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed.

*Complaint No. 1500.*--In the matter of E. B. Knickerbocker, trading under the name and style of Wayne Machine Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the rebuilding of used machinery and tools, adopted a trade name in simulation of that of the long-established and favorably known Wayne Machinery Co. (Inc.), thereby tending to mislead and deceive the purchasing public and to injure the respondent's competitor, Wayne Machinery Co. (Inc.), an alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed after trial.

*Complaint No. 1511.*--In the matter of Pennsylvania Salt Manufacturing Co. Charge: Unlawful restraint and monopoly are charged in that the respondent, engaged in the manufacture and sale of industrial chemicals, acquired directly all the share capital of a competitor, the Michigan Electrochemical Co., thereby tending to substantially lessen competition and restrain commerce in said products, in alleged violation of section 7 of the Clayton Act.

Disposition: Dismissed after trial.

*Complaint No. 1512.*--In the matter of the Anderson Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of accessories for Ford motor cars under the trade name of "Anco," maintains, and enforces specified uniform prices at which its products shall be resold by its jobbers and dealers, employing cooperative means and methods for the enforcement of said system of resale prices, thereby tending to hinder and suppress competition, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed after trial.

*Complaint No. 1514.*--In the matter of American Car & Foundry Co. Charge: Unlawful restraint and monopoly are charged in that respondent engaged in the manufacture and sale of railway cars, acquired the stock of Pacific Car & Foundry Co., thereby tending to substantially lessen competition and to restrain commerce, in alleged violation of section 7 of the Clayton Act.

Disposition: Dismissed, after hearing before board of review.

*Complaint No. 1535.*--In the matter of Tulloss School Co. Charge: Unfair methods of competition are charged in that respondent, a correspondence school, giving instruction in business courses, falsely represents and advertises depictions, etc.: (a) That its school occupies a five-story building, whereas it occupies only a small part of such building; (b) that it maintains a corps of skilled instructors for personal instruction when 110 such corps of instructors is so employed and no personal instruction given; (c) that R. E. Tulloss, claimed to be the founder and an instructor and the directing or supervising head of the school, whereas he is in no wise connected with the school in any capacity; (4) that discounts and reductions in tuition fees are offered for limited periods whereas the fee so specially advertised is the regular fee and no reduction is given; (e) that respondent's courses are sold on trial with

refund of tuition fees in case of dissatisfaction, whereas courses are not sold on trial and respondent does not abide by or comply with the so-called guaranty of satisfaction; all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed, respondent having discontinued business.

*Complaint No. 1547.*--In the matter of Charles S. Lennon and W. R. Patterson, copartners, trading under the firm name and style of Sherwin Cody School of English. Charge: Unfair methods of competition are charged In that respondent advertises that the price of \$30 at which respondent has been selling his course of instruction for many years may have to be increased soon, to at least \$40, but anyone enrolling within the next 15 days will be given the \$30 rate, even though the increase has been made in the meantime, when in truth, respondent has at no time during the period such representations have been circulated contemplated such an increase in price, in alleged violation of section 5, Federal Trade Commission act.

Disposition: Dismissed after trial.

*Complaint No. 1550.*--In the matter of Factory Stores (Inc.). Charge: Unfair methods of competition are charged in that respondent uses the trade name "Factory Stores, Inc." and advertising matter representing that respondent manufactures the furniture he sells, thus saving the purchaser the middleman's profit, when in truth respondent neither owns nor operates a factory, the furniture he sells being purchased by him as a dealer or middleman, in alleged violation of section 5 Federal Trade Commission act.

Disposition: Dismissed, respondent having changed its corporate name to Furniture Mart (Inc.).

*Complaint No. 1559.*--In the matter of E. T. Stille & Co. Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture of wood-finishing materials labeled containers "strictly pure shellac," or with the "per pound cut," together with a guarantee that same is strictly pure or cut full weight as specified, when such shellac often contains rosin, varying from 4 per cent to 10 per cent thereof, and is cut of less weight than the weight specified, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed, without prejudice to right of commission to reopen case, respondent having prior to issuance of complaint, subscribed to the resolutions adopted at the trade practice conference of the paint, varnish, and lacquer industry.

*Complaint No. 1566.*--In the matter of Joseph B. Block and Bernard Levin, copartners, doing business under the trade name and style of La France Jewelry Manufacturing Co. Charge: Unfair methods of competition are charged In that respondents, engaged in the sale of articles of jewelry by false representations in advertising matter and by the use of the term "Mfg. Co." in their trade name, tend to mislead the public to believe that they are manufacturers of jewelry, whereas they merely purchase jewelry from manufacturers for resale; that respondents further advertise falsely that the designs of their jewelry are original with them, whereas they are the designs prepared by the manufacturer and not original with respondents; and that the stones placed in the jewelry are Imported, whereas such stones are not Imported except a negligible quantity, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed after stipulation in lieu of testimony, without prejudice to commission's right to reopen case.

## EXHIBIT 9

### COMPLAINTS PENDING JULY 1, 1929

*Complaint No. 238.*--In the matter of the Hoover Suction Sweeper Co. Charge: Unfair methods of competition in the manufacture and sale of vacuum sweepers to the extent that it has been giving and offering to give cash bonuses and prizes to employees of Its competitors and the employees of dealers handling the products of its competitors as an inducement to influence them to favor the sale of respondent's products over those of its competitors in alleged violation of section 5 of the Federal Trade Commission act. Status: An order to cease and desist, entered May 27, 1919, was vacated by commission order dated May 12, 1928, and the case is now before the commission for consideration looking toward the issuance of a modified order to cease and desist.

*Complaint. No. 540.*--In the matter Royal Baking Powder Co. Charge: Using unfair methods of competition by unfairly representing and charging that its competitors' products contain alum, to wit. sodium aluminum sulphate (SaS), and are harmful, unhealthful, deleterious, and dangerous to users and consumers of such baking powders, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting trial following denial of respondent's appeal to Supreme Court of the District of Columbia from commission's order rescinding its order of dismissal entered March 23, 1926, and reopening case for trial.

*Complaint No 962.*--In the matter of Bethlehem Steel Corporation, Bethlehem Steel Co., Bethlehem Steel Bridge Corporation, Lackawanna Steel Co., Lackawanna Bridge Works Corporation, Midvale Steel & Ordnance Co., Cambria Steel Co. Charge : The respondent, the Bethlehem Steel Corporation, on or about October 25, 1922, acquired the properties, assets, and businesses of the Lackawanna Steel Co. and its subsidiaries and is now acquiring and has acquired the properties, assets, and businesses of the respondents, Midvale Steel & Ordnance Co. and Cambria Steel Co. Unfair methods of competition in commerce are charged in that the respondents by uniting under a common ownership and management and thereby effecting control of the Iron and steel products originating in their respective territories tend to substantially lessen potential and actual competition, contrary to the public policy expressed in section 7 of the Clayton Act and in alleged violation of section 5 of the Federal Trade Commission act, to unduly hinder competition in the Iron and steel industries in said territory and unreasonably restrict competition so as to restrain trade contrary to the public policy expressed in sections 1 and 3 of the Sherman Act and In alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1245.*--In the matter of B. Z. B. Knitting Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of hosiery, advertised its product as "fashioned" or "full fashioned" hosiery, when in fact said hosiery is not "fashioned" as the term is understood by the public, thereby tending to mislead and deceive the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1251.*--In the matter of American Association of Advertising Agencies, its officers, executive board, and members ; American Press Association, a corporation ; Southern Newspaper Publishers' Association, its officers, directors, and members. Charge : Unfair methods of competition are charged in that the respondents are engaged In a combination and conspiracy affecting national advertising throughout the United States, entered into with the purpose of compelling national advertisers to employ respondent agencies or other advertising agencies in the placing of national advertising in newspapers throughout the United States and to prevent said advertisers from advertising directly in said newspapers at the minimum "net" rates and to compel

said advertisers to pay at the maximum "gross" rates, employing various cooperative means to effectuate said combination and conspiracy the effect of which is to hinder and obstruct national advertising throughout the United States to restrict the distribution of such advertising, and of the type parts essential thereto, to channels and upon terms and conditions dictated by the respondents ; to restrict the publication of national advertising to newspapers selected and approved by the respondents ; to compel newspaper publishers to charge for the publication of national advertising at maximum gross rates and to prevent them from according minimum net rates to direct advertisers ; to compel the employment of the respondents or other agencies as intermediaries in placing national advertising, or in the alternative to pay for direct advertising at the maximum gross rates and in addition thereto to prepare and distribute their advertisements at their own expense, and to hinder and obstruct the marketing of goods, wares, and merchandise, all in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

*Complaint No. 1263.*--In the matter of National Leather & Shoe Finders' Association, Its officers, executive committee, and members; Greater Boston and New England Leather and Finders' Credit Bureau; Central States Leather and Finders' Credit Bureau; Central West Leather and Finders' Credit Bureau; Northwestern Leather and Finders' Credit Bureau; Northern New Jersey Leather and Finders' Credit Bureau; Wisconsin Leather and Finders' Credit Bureau; New York State Leather and Finders' Credit Bureau; Shoe Finders' Board of Trade; Colorado Leather and Finders' Credit Bureau; Pittsburgh Leather and Finders' Credit Bureau; Philadelphia Leather and Finders' Credit Bureau; Baltimore Leather and Finders' Credit Bureau; Greater New York Leather and Finders' Credit Bureau; Capital Leather and Finders' Credit Bureau of Albany, N. Y.; Michigan Leather and Finders' Credit Bureau of Detroit; Illinois Leather and Finders' Credit Bureau (Inc.); Cleveland Leather and Finders' Credit Bureau; Toledo Leather and Finders' Credit Bureau; Cincinnati Leather and Finders' Credit Bureau; St. Louis Leather and Finders' Credit Bureau; Connecticut Leather and Finders' Credit Bureau; Virginia Leather and Finders' Credit Bureau; Iowa and Nebraska Leather and Finders' Credit Bureau; Missouri, Kansas, and Arkansas Leather and Finders' Credit Bureau; Illinois State Leather and Finders' Credit Bureau ; Louisville Leather and Finders' Credit Bureau; Twin Cities Leather and Finders' Credit Bureau; Rubber Heel Club of America and the officers and members thereof. Charge: Unfair methods of competition are charged In that the respondents have combined and conspired with the intent and effect of discouraging, stifling, and suppressing competition in price and otherwise In the sale and distribution of shoe findings and In shoe-repair service, and of confining such commerce to "regular." channels of trade and "legitimate" dealers, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1292.*--In the matter of Calumet Baking Powder Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of baking powders, has caused to be set forth statements and innuendoes untruthfully and unfairly representing that its competitor, Royal Baking Powder Co., packs its Royal Baking Powder in 6 and 12 ounce cans, instead of one-half pound and pound cans, for the purpose of cheating the public by passing off and causing the trade to pass off said 6 and 12 ounce cans as and for one-half pound and pound cans, respectively; and In that the respondent has adopted the practice of disseminating statements and comments calculated to further the interests of respondent and in disparagement and derogation of the products and businesses of its competitors, concealing its connection with the various methods through which said practice was carried into effect; and further in that the respondent falsely represented that the baking powder of its competitor, Royal Baking Powder Co., forms or tends to form a hard mass In the digestive tract in persons consuming food prepared therewith, its house-to-house canvassers and demonstrators making misleading comparisons and tests to deceive the purchasing public, all In alleged violation of section 5 of the Federal Trade Commission act. Status: Respondents motion to dismiss awaiting consideration until after final disposition of docket 1127 in the mater of Calumet Baking Powder Co.

*Complaint No. 1329.*--In the matter of The Armand Co., its officers and agents; Spurlock-Neal Co., Berry, DeMerville & Co., Robinson-Pettet Go., Lamar & Rankin Drug Go., Greiner-Kelly Drug Go., The J. W. Growdus Drug Go., San

Antonio Drug Go., Western Wholesale Drug Go., Fuller-Morrison Co., Ilumiston, Keeling & Go., Peter Van Schaack & Sons, The McPike Drug Co., Faxon-Gallagher Drug Go., J. S. Merrell Drug Go., A. M. Berry, A. D. Berry, F. S. Berry, W. D. Phillips, M. P. Williams, copartners doing business under the trade name of Berry, DeMerville & Go., The Fair (Inc.), E H. Cone (Inc.), T. C. Marshall, doing business under the name of Marshall's Pharmacy, Clarence E Jeffares and Malcolm J. Long, copartners, doing business under the trade name of Jeffares-Long Drug Go., Owl Drug Co. (Inc.). Charge: Unfair methods of competition are charged in that the respondent The Armand Co., engaged in the manufacture of toilet articles and cosmetics, and the respondent wholesalers and dealers, unlawfully and knowingly conspired and agreed to monopolize and restrain interstate trade in the products of The Armand Co. by selling the Said products at uniform, noncompetitive, wholesale and retail prices arbitrarily suggested and fixed by The Armand Co. and largely in excess of the prices which would have prevailed without such agreement, refusing to sell said products to dealers other than those engaged in the drug business, refusing to sell to price cutters and employing cooperative means for the enforcement of the said suggested or fixed prices, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1335.*--In the matter of Aluminum Co. of America, a corporation. Charge: Unfair methods of competition are charged in that the respondent, controlling the sources of supply of aluminum metal and, through its subsidiaries, a large manufacturer of aluminum products, discriminates in price between purchasers of virgin sheet aluminum on the basis of agreements that all aluminum scrap resulting from the operations of the purchasers shall be resold to the respondent, thereby tending to substantially lessen competition and create a monopoly, in alleged violation of section 2 of the Clayton Act; and in that the respondent fixes prices arbitrarily, makes price concessions, sells below cost, and discriminates against competitors in the quantity and quality of its deliveries to them, thereby unfairly harassing competitors and tending to suppress competition and maintain a monopoly, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiners report.

*Complaint No. 1371.*--In the matter of Perpetual Encyclopedia Corporation, North America Publishing Co. (Inc.), et al. Charge : Unfair methods of competition are charged in that the respondents republished without substantial change the "Home and School Reference Work" (originally copyrighted in 1912 or 1915) under different names and as a new and up-to-date (1924) edition, employing without right the names of attorneys, fictitious corporate organizations, and collection agencies to further the sale of said publication and to assist in coercing and blackmailing purchasers into the payment of money on orders or contracts, substituting late copyright registration dates for the actual date of such registration, falsely stating that well-known educators, scientists, and public officials are members of the editorial staff and contributors, misrepresenting and grossly exaggerating sales prices, obtaining signed orders by subterfuge, misrepresenting the quality of the paper and binding, offering additional books or extension service "free," when in fact the price thereof was included in the price of the book bought, and making numerous false and misleading representations, all tending to deceive the purchasing public, the said practices injuring competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial..

*Complaint No. 1379.*--In the matter of Great Northern Fur Dyeing & Dressing Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the business of dressing and dyeing Australian and New Zealand rabbit skins, causes one of its trade-marks--"Northern Seal" (black), "Northern Bevre" (brown), "Northern Nutrette" (plum color)--to be stamped on the back of each skin prepared by it, and furnishes to manufacturers of garments made from such skins silk labels containing the words "Genuine Northern Seal," thus placing in the hands of dealers who sell to the public garments made from such skins the means whereby such dealers can commit a fraud on the public by displaying such labels and trade-marks to support their false representations that such garments are made from genuine seal fur or the fur of animals other than rabbits; the tendency being to deceive the purchasing public and to divert trade from competitors who properly label their rabbit skins, and from dealers in the skins of seals, beavers, musk rats, etc., all in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.



*Complaint No. 1380.*--In the matter of Feldbaum & Spiegel (Inc.). Charge : Unfair methods of competition are charged in that the respondent, engaged in the business of manufacturing and selling to dealers garments made of dyed Australian and New Zealand rabbit skins, on the back of each of which skin is stamped the dyer's trade-mark "Northern Seal" and to which garments are attached silk labels bearing the words "Genuine Northern Seal," thus placing in the hands of dealers the means whereby a fraud on the public may be committed by displaying the labels and trade-marks to customers to support their false representations that the garments are made of genuine seal fur; the tendency being to deceive the purchasing public and to cause trade to be diverted from competitors who disclose that the garments made by them are made of rabbit fur, all in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial

*Complaint No. 1381.*--In the matter of Golden Fur Dyeing Co. (Inc.), and Samuel Jacobs and Isidor Sachs, partners, doing business under the trade name and style Jacobs & Sachs. Charge : Unfair methods of competition are charged in that the respondents, engaged in the business of (1) dressing and dyeing Australian and New Zealand rabbit skins for the owners, and (2) manufacturing and selling garments made therefrom, cause the trade-mark containing the words "Golden Seal" to be stamped on the back of each skin prepared by the dyer respondent, many of which skins are owned by the manufacturing respondent and made up by it into garments for sale to the trade, thus placing in the hands of the dealers who sell the garments to the public the means whereby such dealers can commit a fraud on the public by displaying such trade-mark to support their false representations that such garments are made from genuine seal fur; the tendency being to deceive the purchasing public and to divert trade from competing manufacturers of properly marked garments made of rabbit skins, or from those who manufacture and sell garments made of genuine seal fur, and in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial

*Complaint No. 1382.*--In the matter of Cassileth, Schwartz & Cassileth (Inc.), Joseph Brickner and Julius Bernfeld, partner's, trading as Brickner & Bernfeld, Samuel Oldman and Max Oldman, partners trading as Oldman Bros. Charges : Unfair methods of competition are charged in that respondents, engaged in the business of (1) dressing and dyeing Australian and New Zealand rabbit skins for the owners thereof, (2) dealing with the skins so dressed and dyed, and (3) manufacturing and selling garments made from the skins so dressed and dyed and dealt in case the trademark "Iceland Seal" or "Iceland Beaver" to be stamped on the back of each skin prepared by the dyer respondent, many of which are so prepared on contract for the dealer respondent who sells some of the same to the manufacturing respondent, thus placing in the hands of dealers who sell the garments made from the "Iceland Seal" skins to the public the means whereby a fraud on the public can be committed by permitting them to display such trade-mark to support their false representations that such garments are made from genuine seal fur; the tendency being to deceive the purchasing public and to divert trade from competing manufacturers of properly marked garments made of rabbit skins, or from those who manufacture and sell garments made of genuine seal fur, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiners report.

*Complaint No. 1383.*--In the matter of Adiel Vandeweghe and David Feshback. Charge: Unfair methods of competition are charged in that (1) the dyer respondent and (2) the manufacturing respondent (who purchases a substantial number of skins from the former) engaged in dressing and dyeing Australian and New Zealand rabbit skins and the manufacture and sale to the trade of garments made therefrom cause each of such skins to be marked on the back thereof the trade-mark "Superior Seal," thus placing in the hands of dealers who sell such garments to the public the means whereby such dealers can commit a fraud on the public by displaying such trade-mark to support their false representations that the garments are made from genuine seal fur; the tendency being to deceive the purchasing public and to divert trade from competing manufacturers of properly marked garments made of rabbit skins, or from those who manufacture and sell garments made of genuine seal fur, all in alleged violation of section 5 of the Federal Trade Commission act. Status :In course of trial

*Complaint No. 1384.*--In the matter of Philip A. Singer & Bro. (Inc.), and Herman Gelberg and Benjamin Schwartz, partner', doing business under the

name and style Gelberg & Schwartz. Charge : Unfair methods of competition are charged in that (1) the dyer respondent and (2) the manufacturing respondent (for whom the former dresses and dyes many skins) engaged in the dressing and dyeing of rabbit skins and the manufacture and sale to the trade of garments made therefrom cause the trade-mark "Baltic Seal" or "Baltic Beaver" to be stamped on the back of each skin prepared by the dyer respondent, thus placing in the hands of dealers who sell the garments made from such skins the means whereby such dealers can commit a fraud on the public by displaying such trade-marks to support their false representations that the garments are made from genuine seal fur or from genuine beaver fur; the tendency being to deceive the purchasing public and to divert trade from competing manufacturers or properly marked garment made from rabbit skins, or from those who manufacture and sell garments made of genuine seal or beaver fur, all in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial

*Complaint No. 1385.*--In the matter of A. Hollander & Son (Inc.), A. Hollander & Son-Arnold Corporation, and Harry H. Hertz Co. Charge : Unfair competition is charged in that the respondents engaged in the business of (1) dressing and dyeing muskrat skins on contract for the owners, (2) dressing and dyeing Australian and New Zealand rabbits largely imported by itself, and (3) manufacturing and selling fur garments, cause each skin prepared by the dyer respondents to be stamped- on the back thereof with the trade-marks "Hollander Seal" or "Bay Seal," and as many of such skins are sold to the manufacturing respondent there is placed in the hands of dealers the means of perpetrating a fraud on the purchasing public by displaying such trade-marks to support their false representations that the garments are made from genuine seal; the tendency being to deceive the public and to divert trade from competing manufacturers of properly marked garments made of muskrat or rabbit skins, or from those who manufacture and sell garments made of genuine seal fur, all in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial

*Complaint No. 1423.*--In the matter of Armour & Co. and Armour & Co. of Delaware. Charge : Unfair methods of competition are charged in tin ant respondent engaged in the manufacture and sale of soap and soap products, labeled, advertised, and sold certain kinds of its soap as "Donna Castile," "Stork Castile," "Carrara Sapone Castiglia," and "Broadway Bath Olive Castile," and certain brands of soap under the designation of "Castile Styles" as "Castile" soap, representing said soaps to be genuine Castile soap containing olive oil exclusively and that they are imported from Spain, when in fact they were not imported and the fats from which they are and have been made include and have included vegetable oils other than olive oils, and animal fats such as tallow, in a substantial and varying amount, In some Instances in a proportion preponderant to and in others practically excluding the use of olive oil as an ingredient in their composition, all of which has the capacity and tendency to confuse, mislead, and deceive the trade and the public and to injure respondents' competitors who sell genuine Castile soap, all In alleged violation of section 5 of the Federal Trade Commission act. Status : On suspense calendar to await decision of court of last resort in Docket 1110, in the matter of James S. Kirk & Co.

*Complaint No. 1424.*--In the matter of Globe Soap Co. Charge : Unfair methods of competition are charged in that respondent engaged in the manufacture and sale of toilet soaps and soap products, labeled, advertised, and sold several brands of soap as and for "Castile Soap," including the brand called "Lion Castile," representing said soaps to be genuine Castile soap containing olive oil exclusively, when in fact they are and have been made of fats which include and have included vegetable oils other than olive oil, and animal fats such as tallow, in a substantial and varying amount, in some instances In a proportion preponderant to and in others entirely excluding the use of olive oil as an ingredient, all of which has the capacity and tendency to confuse, mislead, deceive, and defraud the trade and public and to injure respondent's competitors who sell genuine Castile soap, all in alleged violation of section 5 of the Federal Trade Commission act. Status: On suspense calendar to await decision of court of last resort in Docket 1110, in the matter of James S. Kirk & Co.

*Complaint No. 1425.*--In the matter of Cincinnati Soap Co. Charge : Unfair methods of competition are charged in that respondent engaged in the manu-

facture and sale of toilet soaps and soap products, labeled, advertised, and sold certain kinds of its soap as "Purity Castile," "Crown Castile," "Olive Castile," and "Fontaine Castile" as "Castile" soap, representing said soaps to be genuine Castile soap containing olive oil exclusively when in fact they are and have been made of fats which include and have included vegetable oils other than olive oil, and animal fats such as tallow, in a substantial and varying amount, in some instances in a proportion preponderant to and in others entirely excluding the use of olive oil as an ingredient, all of which has the capacity and tendency to confuse, mislead, deceive, and defraud dealers in soap and the public and to injure respondent's competitors who sell genuine Castile soap, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1426.*--In the matter of Peet Bros. Co. Charge: Unfair methods of competition are charged in the that respondent, engaged in the manufacture and sale of toilet soaps and so products, labeled, advertised, and sold certain kinds of its soap as "Crystal Cocoa Hardwater Castile," "Cocoa Castile," "Defender Castile," and "Rainbo Castile" as "Castile soap," representing said soaps to be genuine Castile soap containing olive. oil exclusively, when in fact they are and have beer made of fats which include and have included vegetable oils other than olive oil, and animal fats such as tallow, In a substantial and varying amount, in some instances in a proportion preponderant to and in others entirely excluding the use of olive oil as an ingredient, all of which has the capacity and tendency to confuse, mislead, deceive, and defraud the public and to injure respondent's competitors who sell genuine Castile soap, all in alleged violation of section 5 of the Federal Trade Commission act. Status: On suspense calendar to await decision of court of last resort in Docket 1110, in the matter of James S. Kirk & Co.

*Complaint No. 1430.*--In the matter of Southern Alberta Lumber Co. (Ltd.), also known as Southern Alberta Lumber & Supply Co. (Ltd.), and H. N. Serueth, individually and as manager of said corporation. Charge: Unfair methods of competition' are charged in that respondent, engaged in the purchase, of lumber and its resale to dealers, alters the bills of lading and other like documents listing the shipments of lumber made to it, issued by the producers, which instruments are accepted by the owners and operators of seagoing vessels as truthfully setting forth the amount of lumber shipped by respondent and for which the carriers in turn issue their bills of lading, etc., covering like amounts, by reducing the listed amounts, such reduction saving respondent freight and other costs, which savings enable it to sell its lumber greatly below the prices at which its competitors can and do sell their lumber at a reasonable profit, all of which is to the prejudice of the public and respondent's competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1432.*--In the matter of Mendoza Fur Dyeing Works (Inc.). Charge : Unfair methods are charged in that respondent engaged in the business of processing, dressing, and dyeing rabbit pelts which It imports from Australia and New Zealand, causes the fur of said pelts to resemble in appearance the fur of beaver pelts and marks and stamps said pelts "Mendoza Beaver" and supplies its vendees with labels similarly marked which are attached to garments made by the vendees who then sell said garments to retailers. which practices place In the hands of retailers the means of committing a fraud upon the public, to the prejudice of the public and respondent's competitors in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1434.*--In the matter of Gibbons Knitting Mills (Inc.). Charge : Unfair methods of competition are charged in that respondent engaged in the business of selling knitted garments at wholesale sets forth in Its advertisements its corporate name, "Gibbons Knitting Mills (Inc.);" and prominently prints and sets forth said name upon its stationery, price lists, catalogues, etc., all of which misleads and deceives retail dealers into the belief that respondent is a manufacturer and that persons buying respondent's garments eliminate the profits of middlemen when in truth and in fact respondent does not own, Operate, or control any mill, and does not manufacture said garments sold by it, but buys them from other manufacturers and resells them at a profit, all of which is to the prejudice of the public and respondent's competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

*Complaint No. 1438.*--In the matter of Yokum Bros., a corporation. Charge : Unfair methods of competition are charged in that respondent engaged in the manufacture and sale of cigars in the State of Pennsylvania causes the words "Spana-Cuba" to be placed on the boxes and containers in which its cigars are sold and on the bands upon each cigar, said acts having the capacity and tendency to and do mislead and deceive the trade and consuming public into the belief that said cigars are composed of Cuban tobacco, when in truth and in fact said cigars are composed entirely of tobacco grown elsewhere than in Cuba, all of which acts are to the prejudice of the public and respondent's competitors in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1441.*--In the matter of W. H. Snyder, R. r. Snyder, and Roger N. Snyder, partners doing business under the trade name and style W. H. Snyder & Sons. Unfair methods of competition are charged In that respondents engaged in the manufacture and sale of cigars In the State of Pennsylvania cause the words "Havana Fruit" and "Havana Velvet" to be placed on the boxes and containers In which their cigars are sold and on the bands upon each cigar, said acts having the capacity and tendency to and do mislead and deceive the trade and consuming public Into the belief that said cigars are composed of Cuban tobacco. when in truth and in fact said cigars are composed entirely of tobacco grown elsewhere than in Cuba, all of which acts are to the prejudice of the public and respondents competitors in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1442.*--In the matter of T. E Brooks, doing business under the trade name and style T. E. Brooks & Co. Charge : Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale of cigars In the State of New York, causes the words "Havana Sweets" to be placed on the boxes and containers in which his cigars are sold and on the bands upon each cigar, said acts having the capacity and tendency to and do mislead and deceive the trade and consuming public into the belief that said cigars are composed of Cuban tobacco, when In truth and In fact said cigars are composed entirely of tobacco grown elsewhere then in Cuba, all of which acts are to the prejudice of the public and respondent's competitors in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1443.*--In the matter of John C. Herman and Edwin S. Herman, partners, doing business under the trade name and style John C. Herman & Co. Charge: Unfair methods of competition are charged In that respondents engaged In the manufacture and sale of cigars in the State of Pennsylvania cause the words "Havana Darts" to be placed on the boxes and containers in which their cigars are sold and on the bands upon each cigar, said acts having the capacity and tendency to and do mislead and deceive the trade and consuming public Into the belief that said cigars are composed of Cuban tobacco, when in truth and in fact said cigars are composed entirely of tobacco grown elsewhere than In Cuba, all of which acts are to the prejudice of the public and respondents' competitors in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1451.*--In the matter of Consolidated Cigar Co. Charge: It is charged that respondent acquired the stock or share capital of the "44" Cigar Co. and the G. H. P. Cigar Co., two of its competitors engaged in the manufacture and sale of cigars, the effect of said act being to substantially lessen competition and restrain commerce between and among respondent and said competitors and to create a monopoly, in violation of section 7 of the Clayton Act. Status: Awaiting briefs.

*Complaint No. 1452.*--In the matter of Inecto (Inc.). Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of a hair dye designated by it as "Inecto Rapid Notox," sets forth in its advertising matter and stationery many false and misleading statements concerning the nature, properties, and characteristics of said hair dye and further reproduce "unsolicited" testimonial letters, which letters are neither in fact unsolicited nor written to respondent, all of which acts have the capacity and tendency to mislead and deceive dealers and the public to the prejudice of the public and respondents' competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1453.*--In the matter of Fleck Cigar Co. Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale of cigars in the State of Pennsylvania, causes the words "Rose-

O-Cuba" and "Havana" to be placed on the boxes and containers in which its cigars are sold and on the brand or label upon each cigar, said acts having the capacity and tendency to mislead and deceive the trade and consuming public into the belief that said cigars are composed of Cuban tobacco, when in truth and in fact said cigars are composed of tobacco grown elsewhere than in Cuba, which acts are to the prejudice of the public and respondent's competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1458.*--In the matter of San Martin & Leon Co. (Inc.). Charge: Unfair methods of competition are charged in that respondent engaged in the business of selling and distributing cigars names and designates certain of its cigars "Hoyo de Cuba," "Flor de San Marba Y Leon," and "El Briche" and sets forth on the boxes in which said cigars are packed the above phrases and in addition the words "Havana," "Mild Havana," "Mild Havana Cigars," and further that respondent labels the container of one of its cigars with the words "Guaranteed genuine Havana cigars from tobacco from our own plantation in Cuba," all of which acts have the capacity and tendency to and do mislead the trade and public into the belief that said cigars are composed wholly of Cuban or Havana tobacco when in truth and in fact said cigars are composed in part of Cuban or Havana tobacco, most of which is purchased by respondent in the open market, and in part of tobacco grown elsewhere, and which acts are to the prejudice of the public and of those of respondent's competitors who sell cigars composed wholly of Cuban or "Havana" tobacco, or who sell cigars composed in part of tobacco grown elsewhere and make no representations to the contrary, in alleged violation of section 5 of the Federal Trade Commission act. Status: at issue.

*Complaint No. 1459.*--In the matter of John F. Reichard doing business under the trade name and style Manchester Cigar Co. Charge: Unfair methods of competition are charged in that respondent engaged in the manufacture and sale of cigars labels the boxes and containers in which its cigars are packed with the words "Havana Cadet," which act has the capacity and tendency to and does mislead the trade and public into the belief that said cigars are composed of Havana tobacco when in truth and in fact said "Havana Cadet" cigars are composed entirely of tobacco grown elsewhere than in Cuba, and which act is to the prejudice of the public and of those of respondent's competitors who sell cigars composed either entirely of Havana tobacco or entirely of tobacco grown elsewhere but without representing otherwise, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1461.*--In the matter of Wheeling Steel Corporation, John Wood Manufacturing Co., Detroit Range Boiler & Steel Barrel Co., W. A. Case & Son Manufacturing Co., Casy-Hodges Co. (Inc.), and the Scaife Manufacturing Co. Charge: Unfair methods of competition are charged in that respondents engaged in the manufacture and sale of range boilers have established and maintained a certain sales policy with the alleged intent and purpose to destroy two local producers and competitors in the Pacific coast market. These two competitors are the National Steel Construction Co. of Seattle and the National Boiler & Manufacturing Co. of Los Angeles, both of which, from their geographical position, are unable to buy the raw materials used in the manufacture of range boilers at a price which compares favorably to the price respondents pay, as said raw materials are produced in Eastern States. As the cost and transportation of the raw materials is reflected materially in the sales price of both respondents and their competitors the sales policy of respondents works to the disadvantage of respondents' competitors. The sales policy of respondents is as follows: For one fixed and uniform lump sum each respondent sells its range boilers and pays the actual cost of transportation thereof to all markets in all parts of the United States. This allows a larger profit on sales near respondents' factories, which larger profit makes up for the loss sustained on sales to the Pacific coast market which covers the States of California, Oregon, and Washington. In this market respondents lose money on all sales because of said sales policy, and because the respondents' uniform sales prices are lower than the sales prices of the two above-mentioned competitors the sales policy has the capacity and tendency to and does create a monopoly in and of said Pacific coast market, which acts are to the prejudice of the public and respondents' competitors in alleged violation of section 5 of the Federal Trade Commission act, and because of the uniform lump-sum sales policy local competition is eliminated and constitutes an unlaw-

ful discrimination against the purchasing public in large territories of the United States by depriving such purchasers of the advantage otherwise accruing to them from their proximity to one of the respondents' factories in alleged violation of section 2 of the Federal antitrust act. Status: At issue.

*Complaint No. 1462.*--In the matter of Pepsodent Co., a corporation. Charge: Unfair methods of competition are charged In that respondent, engaged in the business of manufacturing dentifrices which it sells and distributes under the trade brand or label "Pepsodent," has adopted and employed and still employs a system for the maintenance of uniform resale prices by securing the cooperation of its customers, to this end using such practices as trade letters and interviews, reports by dealers of other dealers who fail to observe and maintain the resale prices, refusal to sell to dealers who fail to observe said resale prices and entering in contracts, agreements, or understandings for the observance of said resale prices as a condition of entering into or continuing business relations with dealers, which acts have the capacity and tendency to constrain dealers uniformly to sell respondent's products at the resale prices designated by respondent and so to hinder and suppress the free competition which otherwise would exist among dealers in respondent's products, all of which is to the prejudice of the public and respondent's competitors in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1464.*--In the matter of V. Vivaudou (Inc.). Charge: Unfair methods of competition are charged In that respondent, engaged in the business of manufacturing and selling perfumes, cosmetics, and other toilet articles, has acquired the stock of the Alfred H. Smith Co., a distributor of cosmetics and toilet articles, and further has had Parfumerie Melba (Inc.), the stock of which is owned by respondent, acquire the control of the Melba Manufacturing Co., which acts have the effect of substantially lessening competition among the three corporations named and tend to create a monopoly, in alleged violation of section 7 of the Clayton Act. Status: Awaiting briefs.

*Complaint No. 1465.*--In the matter of Havatampa Cigar Co. Charge: Un-fair methods of competition are charged In that respondent, engaged in the manufacture and sale of cigars, names and designates one of its cigars "Hoyo de Cuba," and sets forth on the boxes In which said cigars are packed the above phrase and in addition the words "Havana," "Habana," "Mild Havana," "Mild Habana," and "Mild Havana Cigar," and further makes similar representations in its various advertisements, which acts have capacity and tendency to and do mislead the trade and consuming public into the belief that said cigars are composed wholly of tobacco grown on the island of Cuba, when In truth and in fact they are composed in whole or in part of tobacco grown elsewhere, all of which is to the prejudice of the public and respondent's competitors who do not misrepresent their cigars, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1467.*--In the matter of Herbert L. Smith. Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale of cigars, sets forth in advertising matter on containers and on bands used in connection therewith the words "Havana" and "Havana Brown," which representations have the capacity and tendency to and do mis-lead the trade and the consuming public into the belief that said cigars are composed wholly of tobacco grown on the island of Cuba, when in truth and in fact they are composed either in whole or in a substantial part of tobacco grown elsewhere than on the island of Cuba. Status: At issue.

*Complaint No. 1472.*--In the matter of Pan-American Manufacturing Co. ( Inc.). Charge: Unfair methods of competition are charged in that respondent engaged in the manufacture and sale of a concentrate or sirup known as "Grapico," advertises its product in such a way as to impart to the purchasing public that said product is the juice of the grape when in truth and in fact said product is not made from the juice or fruit of the grape, which act is to the prejudice of the public and respondent's competitors who do not so act, in alleged violation of section 5 of the Federal Trade Commission act. Status : Before the commission for final determination.

*Complaint No 1474.*--In the matter of Morgan-Field & Co. (Inc.), Lester Stern, Michael Heller, and Earl Weil. Charge : Unfair methods of competition are charged in that respondent Individuals incorporated under the name "Morgan-Field & Company, Inc.," with the intent and purpose of representing Marshall-Field & Co. and engaged In the business of selling men's and boy's ready-made clothing, makes numerous false and misleading statements,

orally and in Its advertising, to the effect that It Is identical with Marshall-Field & Co., one of Its competitors, that it makes to measure of the customer the clothing sold by it and that its clothes are union made and, further, respondent gives to each customer a " Guarantee bond" guaranteeing the quality of its goods, which is In fact not a bond, all of which statements are In truth and in fact to the contrary and have the capacity and tendency to and do cause the public to purchase respondent's clothes In the belief that said statements are true, to the prejudice of the public and respondent's competitors who do not so act, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1478.*--In the matter of N. Shure Co. Charge: Unfair methods of competition are charged In that respondent, engaged in the wholesale mail order business and selling, among other things, powders and liquid flavors designed and intended to be converted into beverages by the addition of water, labels the containers of said soft-drink powders and liquids with the names of various fruits, when in truth and in fact said powders and liquid flavors are not made from, nor do they contain the fruit or juice of the fruit so represented, which act has the capacity and tendency to and does mislead wholesale purchasers and the public into the belief that said powders and liquid flavors are composed in whole or in part of the fruit so represented, and further places in the hands of said wholesale dealers the means of deceiving the purchasing public to its prejudice and to the prejudice of respondent's competitors who do not so act, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting respondent's brief.

*Complaint No. 1486.*--In the matter of American School of Correspondence. Charge: Unfair methods of competition are charged in that respondent, engaged in the business of giving courses of instruction by correspondence, sets forth in its advertisements statements to the effect that it is organized and incorporated as an institution to operate without profit; that its entire income is expended In preparing and giving its courses; that for limited periods Its courses are sold at substantially less than the regular prices; that free textbooks, out fits of tools, etc., are given with its courses; that all pupils completing Its courses are supplied with positions at high and lucrative salaries; that pupils taking certain courses will thereby become experts; that pupils taking respondent's "high-school" course are qualified to enter all colleges, etc., and others, all of which alleged false and misleading acts have the capacity and tendency to cause the public to subscribe for respondent's courses in preference to courses of competitors who do not make such statements, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue on amended complaint.

*Complaint No. 1487.*--In the matter of the Ion a Co. Charge : Unfair methods of competition are charged In that respondent engaged In the manufacture and sale of an electromagnetic device purporting to have curative and therapeutic value and action when applied to the human body, sets forth in its advertisements statements to the effect that said device will benefit all diseases, that It is based on the discoveries and theories of well-known scientists, that It is used, indorsed, and recommended by well-known physicians, and others, and other statements of like effect, which acts have the capacity and tendency to and do mislead dealers and the purchasing public to purchase said device believing said statements to be true, all of which is to the prejudice of respondent's competitors who do not so act, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1498.*--In the matter of Arrow-Hart & Hegeman (Inc.). Charge: Unlawful restraint and monopoly are charged in that the respondent acquired the share capital of the Hart & Hegeman Manufacturing Co. and the Arrow Electric Co., thereby tending to substantially lessen competition and to restrain commerce In electrical wiring devices, in alleged violation of section 7 of the Clayton Act. Status: Awaiting answer to amended complaint.

*Complaint No. 1499.*--In the matter of Royal Baking Powder Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of baking powder, published and circulated a pamphlet and "foreword" which tended to mislead and deceive the public to believe that a trial examiner's report represented the decision of the Federal Trade Commission in Docket No.540 and that the commission had approved the methods of competition charged In said complaint; and, further, in that the respondent employed Thomas R. Shipp (Inc.) as its press agent for the distribution of news

items (with which the respondent's connection was wholly concealed), the effect of which was derogatory and disparaging to respondent's competitors and to the baking powders manufactured and sold by them, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer. Appeal, to the Court of Appeals, District Columbia for decision of Supreme Court of the District of Columbia denying petition of respondent which would require commission to announce decision on affidavit of prejudice filed by respondent has been noted by respondent.

*Complaint No. 1501.*--In the matter of VT. Bolin, trading under the name and style VT. Bolin Co., Fort Worth, Tex. Charge: Unfair methods of competition are charged in that the respondent, engaged in the sale of shares or interests in leased oil lands, misrepresents leases, properties, oil production, prospects, and profits, thereby misleading and deceiving the purchasing public and injuring competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting trial pending outcome of criminal proceedings being prosecuted by the United States of America.

*Complaint No. 1503.*--In the matter of Perfect Voice Institute and T. G. Cooke. Charge: Unfair methods of competition are charged in that the respondent, engaged in the sale of a printed course of instruction in voice culture, quotes fictitious prices and makes numerous false and misleading statements based on a so-called Feuchtinger discovery of the functions of the hyoglossus muscle, which in fact has no connection with voice quality or production, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1507.*--In the matter of the Dr. Rodney Madison Laboratories (Inc.), Rodney Madison, individually. and as president of the Dr. Rodney Madison Laboratories (Inc.). Charge: Unfair methods of competition are charged in that the respondents, engaged in the sale of electric magnetic devices, make numerous false, misleading, and deceptive statements and representations as to the curative powers of their device "Vitrona" and as to the qualifications of the respondent, Rodney Madison, as a physician and inventor, thereby tending to mislead the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1508.*--In the matter of American Poultry School and T. E. Quisenberry. Charge: Unfair methods of competition are charged in that the respondents, engaged in furnishing correspondence courses of instruction in poultry culture, employ sales methods involving fictitious prices, misrepresentation as to limited subscription periods, and the giving of "free" baby chicks the cost of which is in fact included in the regular tuition fee, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1509.*--In the matter of Forrest Dustin and C. G. Rose, co. partners doing business under the name of Tailor-Made Shoe System, and individually. Charge: Unfair methods of competition are charged in that the respondents, engaged in the sale of shoes, falsely advertise and represent that they are manufacturers of shoes saving the public the profits of middlemen, and that their shoes are custom made, thereby tending to mislead the purchasing public and to injure competitors who do not practice misrepresentation; and further, in that the respondents mislead their salesmen and prospective salesmen to believe that they can earn indefinitely large incomes, thereby deceiving said salesmen and injuring competitors who do not make false inducements to secure the services of high-priced salesmen, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue on amended complaint.

*Complaint No. 1510.*--In the matter of Hoyt Bros. (Inc.). Charge Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of a general line of pharmaceuticals, cosmetics, toilet preparations, soaps, etc., brands certain of its soap as "Castile," thus indicating that it is an olive-oil product when in fact said soap includes vegetable oils, other than olive oil, and animal fats in a substantial and preponderant amount, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, all in alleged violation of section 5 of the Federal Trade Commission act. Status: On suspense calendar awaiting decision in Docket 1110, James S. Kirk & Co.

*Complaint No. 1515.*--In the matter of Empire Manufacturing Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in



the manufacture and sale of furniture, describes its product as "Genuine Walnut," or "Combination Walnut," walnut being the wood composing the exposed ply of the broad or flat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1516.*--In the matter of Mechanics Furniture Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, describes its product by such designations as "Walnut," "Mahogany," "Mahogany and American Walnut," etc., walnut or mahogany being the wood composing the exposed ply of the broad or flat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1517.*--In the matter of Union Furniture Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, describes its product by such designations as "Walnut," "Mahogany," "Walnut and gumwood," walnut or mahogany being the wood composing the exposed ply of the broad or flat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status :Before the commission for final determination.

*Complaint No. 1518.*--In the matter of West End Furniture Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, describes its product by such designations as "Walnut," "Mahogany," "Walnut and gumwood combination," walnut or mahogany being the wood composing the exposed ply of the broad or flat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1519.*--In the matter of Winnebago Manufacturing Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, describes its products by such designations as "Mahogany," "Walnut," "Combination Mahogany," etc., the walnut or mahogany being the wood composing the exposed ply of the broad or flat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1520.*--In the matter of Rockford Cabinet Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, describes its product by such designations as "Walnut," "Mahogany," "Combination mahogany and gum," etc., the walnut or mahogany being the wood composing the exposed ply of the broad or flat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1521.*--In the matter of Rockford Chair & Furniture Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, describes its product as "Walnut" or "Mahogany," which are the woods composing the exposed ply of the broad or flat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of sec-

tion 5 of the Federal Trade Commission act Status: Before the commission for final determination.

*Complaint No. 1522.*--In the matter of Rockford National Furniture Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, describes its product by such designations as "Mahogany," "Walnut," "Combination mahogany," etc., the mahogany or walnut being the wood composing the exposed ply of the broad or fiat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act Status: Before the commission for final determination.

*Complaint No. 1523.*--In the matter of Rockford Palace Furniture Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, describes its product by such designations as "Walnut," "Mahogany," "Walnut and gumwood," etc., the walnut or mahogany being the wood composing the exposed ply of the broad or fiat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1524.*--In the matter of Rockford Republic Furniture Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, describes its products by such designations as " Five-ply walnut tops, fronts, and ends," "All exterior walnut construction," walnut being the wood composing the exposed ply of the broad or fiat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1525.*--In the matter of Rockford Standard Furniture Co. Charge : Unfair methods of competition are charged In that the respondent, engaged In the manufacture and sale of furniture, describes its products by such designations as "Genuine mahogany," "Genuine walnut," "Combination walnut," etc., mahogany or walnut being the wood composing the exposed ply of the broad or fiat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1526.*--In the matter of Rockford Superior Furniture Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of furniture, describes its products by such designations as "Mahogany," "Walnut," "Genuine mahogany," etc., walnut or mahogany being the wood composing the exposed ply of the broad or fiat parts of the furniture without disclosure of the veneered construction and the relatively small proportion of use of the designated wood, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice, misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1527.*--In the matter of Aetna Fire Brick Co. and 55 other fire-brick manufacturing companies, J. J. Brooks, Jr., Frederick W. Donahoe, H. H. Hopwood, J. M. McKinley. Charge: Unfair methods of competition are charged, in that the respondents engaged or interested in the business of manufacturing and selling refractories or fire-brick shapes made of fire clay and/or silica, entered into an agreement, combination, and conspiracy to restrict, restrain, and suppress competition in the sale of refractories for the purpose of unduly enhancing selling prices and to bring about a substantial uniformity in such prices, all in alleged violation of section 5 of the Federal Trade Com mission act. Status: At issue.

*Complaint No. 1528.*--In the matter of Lionel Strongfort Institute. Charge: Unfair methods of competition are charged in that the respondent, engaged in the sale of courses of instruction in physical culture by correspondence, employs methods involving, fictitious tuition fees, misrepresentation as to limited subscription periods, the sale of accessories at "actual cost," and misleading representation as to the results to be obtained from the courses of instruction, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 1529.*--In the matter of Radio Corporation of America. Charge: Unfair methods of competition are charged in that the respondent, engaged in the sale of radio receiving sets, devices, tubes, and accessories and the licensing of radio receiving patents, embodies a contract of sale in its license agreements which tends to prevent licensees from using or dealing in radio tubes other than those sold by the licensor and to lessen competition and create a monopoly therein, in alleged violation of section 5 of the Federal Trade Commission act and section 3 of the Clayton Act. Status: At issue.

*Complaint No. 1530.*--In the matter of Albany Billiard Co., F. Grote, and Hubbell Co. (Inc.), and Portland Billiard Ball Co. Charge : Unfair methods of competition are charged in that the respondents; cooperating together with the common purpose of suppressing, restraining, and restricting competition In the sale and distribution of composition pool balls, have agreed that the respondent Portland Billiard Ball Co. cease the making of regulation size balls and that the respondent Albany Billiard Ball Co. cease the making of balls of less than the regulation size, agreeing also to acquire at fixed prices and sell each others products, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiners report.

*Complaint No. 1531.*--In the matter of Mulhens & Kropff (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of chemical and toilet products, advertises, offers, and sells an Eau de Cologne which it labels, marks, dresses, and packs in simulation of the Eau de Cologne "4711," originally produced and sold by the long-established and favorably known house of Mulhens, thereby tending to mislead, deceive, and Induce the purchasing public to purchase respondent's Eau de Cologne as and for the original and genuine Eau de Cologne now manufactured and sold by Ferd. Mulhens (Inc.), in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting trial.

*Complaint No. 1532.*--In the matter of Portland Cement Association, its board of directors, officers, and members. Charge: Unfair methods of competition are charged in that the respondents, acting for and representing the association's members and having adopted and promoted the use of a formula for making concrete in proportions of 1-2-3, have sought to influence those who control the making, awarding, or approval of road construction contracts by statements falsely disparaging and discrediting the Vibrolithic method employed by the American Vibrolithic Corporation which recommends a mixture of 1-2-4 4/2. a formula, requiring less cement, proportionately, than that adopted by the respondents' members, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1534.*--In the matter of Noah Roark, Fred Vest, and T. Arnold, copartners, known and doing business as the Merchant's Cooperative Advertising Service, and W. M. Mason and F. E. Phillips, employees of said copartner-ship. Charge: Unfair methods of competition are charged in that respondent employed certain misrepresentations in connection with an advertising service whereby coupons, to be redeemed with silverware "absolutely free of cost," are sold to retail dealers to be given to their customers in connection with certain purchases made by them: (1) Respondent represents he is connected with a specified concern manufacturing silverware and that silverware is given free as an advertising medium, and that charge to the retailer is only sufficient to cover cost of printing coupons, when in truth the silverware is purchased from a jobber of Dallas, Tex., and the price received by respondent from the retailer exceeds the retail price of the silverware; (2) respondent represents silverware is of high quality and is "1847 Rogers" silverware, when in truth the silverware is of very low quality, often not as high quality as that shown to the retailer by the agent and is not "1847 Rogers," although made by a firm having the name "Rogers" as a part of its corporate name; (3) retailers to be given a set of 20 pieces upon purchase of 10,000 coupons, inspection to be all owed before the purchase; when in reality the set consists of only 6 pieces,

and purchase is sent c. o. d. with no opportunity of inspection; (4) respondent represents that redemption is to be free, and at the store of the retailer; in truth the customer must pay 7 cents for each 50 coupons to cover cost of packing and delivery, this being specified on a portion of the coupon which is not shown to the retailer, which price often covers the price of the silverware at retail and redemption is made only at the home office of the respondent. These misrepresentations, together with other misrepresentations, of lesser import, tend to injure credit of the retailers giving out coupons because of the poor quality of the premiums, method of redemption, etc., and at the same time tend to divert trade from those retailers not offering premiums, all in violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1536.*--In the matter of Rockwood Corporation of St. Louis. Charge: Unfair methods of competition are charged in that respondent uses the terms "Lumber," "Rockwood Gypsum Lumber," and similar terms together with the statement that the product is fireproof, in advertising the gypsum blocks manufactured by respondent when the commodity was not sawed or cut from trees or logs into boards, planks, timber, etc., generally understood and recognized by the purchasing public as, and to be, lumber; and the product is not fireproof or proof against disintegration caused by the application of extreme heat as advertised; all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final argument.

*Complaint No. 1537.*--In the matter of Temple Anthracite Coal Co. Charge: Unfair methods of competition are charged in that respondent acquired the stock of the Temple Coal Co. and the East Bear Ridge Colliery Co., thus tending to lessen competition, restrain trade, and create a monopoly, in alleged violation of section 7 of the Clayton Act. Status: Awaiting briefs.

*Complaint No. 1538.*--In the matter of Consolidated Book Publishers (Inc.). Charge: Unfair methods of competition are charged in that respondent engaged in the sale and distribution in interstate commerce of a certain set of books under the title "New World Wide Cyclopedia," together with an extension service, offers to purchasers the cyclopedia "free" of charge on the condition that said purchaser subscribe to the extension service for a period of 10 years at the price of \$33.20, which price is greatly in excess of the cost of furnishing the extension service and is sufficient to compensate respondent for the set of books entitled the "Cyclopedia" and the accompanying extension service, thereby falsely indicating to the purchaser that he obtains the set of books free and is paying only for the extension service, whereas in truth and in fact he purchases both the books and the extension service; that subscribers will be enrolled for 10 years as members of the research bureau maintained by said respondents when no such research bureau exists in fact; that respondent represents a limited number of its sets of books are to be given away free as part of an advertising campaign when such is not the fact, because no sets are given away free except upon subscription to the loose-leaf extension service as outlined above; that respondent, from the same place used in printing the "New World Wide Cyclopedia," reprints additions or copies thereof which it binds and sells at wholesale to the Times Sales Co. under the title "Times Encyclopedia and Gazetteer," which copies the Times Sales Co. resells to the public at retail, respondent concealing the identity of the two publications and attempting to induce the public to purchase the two publications in the belief that they are entirely different products, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1539.*--In the matter of Lincoln Auto and Tractor School, doing business under the trade name and style of Lincoln Engineering School. Charge: Unfair methods of competition are charged in that respondent, engaged in the business of operating a resident mechanical school which instructs pupils in the trade of repairing automotive vehicles, misrepresents the number and qualifications of the faculty, the letters of recommendation received, the positions secured for graduates and the salary attached thereto, and misrepresents that prices offered from time to time are special reduced prices for a limited time only and that certain valuable tools are given free, when in truth the price quoted is the price at which the course is regularly sold and the cost of the tools is included therein, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1540.*--In the matter of David B. Clarkson Co. Charge: Unfair methods of competition are charged in that respondent engaged in the sale of books at retail advertises certain books as being sold at a reduced price for a

limited time only, when in truth the alleged reduced price is a price in excess of that at which such books have been sold by respondent or by anyone else, and advertises for sale at \$11.75 for a limited time only "Appleton's New Practical Cyclopaedia," representing that it is a new work and being sold throughout the United States in six volumes at the price of \$42, when in truth the cyclopaedia advertised is an obsolete cyclopaedia, now out of print, \$11.75 being the price at which respondent regularly sells it, all in alleged violation of section 5, Federal Trade Commission act.- Status: At issue.

*Complaint No. 1542.*--In the matter of Cherry Blossoms Manufacturing Co. Charge: Unfair methods of competition are charged to the respondent in affixing, or furnishing to wholesalers to be affixed to the containers of the respondent's products, which contains no product of cherries or cherry blossoms, labels bearing depictions of "Cherry Blossoms" in large conspicuous letters followed by the words "imitation cherry concentrate," "artificial color and flavor" in inconspicuous type, and by advertising the concentrate through news-papers, postals, etc., by the depiction of cherry blossoms, together with the trade name "Cherry Blossoms" and such phrases as "a blooming good drink" and "the cherry that 1,200 bottles of carbonate beverages have passed upon as being the best cherry the market affords," in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final argument.

*Complaint No. 1548.*--In the matter of Dixie Pecan Growers Exchange (Inc.) Charge: Unfair methods of competition are charged in that respondent uses the words "Growers Exchange" in its corporate name, and uses in advertising matter such slogans as "Direct from the growers," "Fresh from the groves," and various other similar slogans, which corporate name and slogans indicate to the purchasing public that respondent is an organization of growers, able to give to the public a better, fresher product for less money, and able to make delivery within a shorter space of time, when such is not the case, all in alleged violation of section 5, Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1549.*--Unfair methods of competition are charged in that respondent advertises a fictitious price as the ordinary subscription price for a certain publication or publications and sets forth the ordinary, full price for such magazine or magazines as a special, reduced price for a limited time only to the person to whom the circular is addressed, all in alleged violation of section 5, Federal Trade Commission act. Status: In course of trial. Appeal from decision of Supreme Court of the District of Columbia denying respondent's petition for writ of mandamus which would require commission to issue subpoenas duces tecum at instance of respondent, noted by respondent.

*Complaint No. 1551.*--In the matter of L. A. Belline, trading as the Cooperative Book Co. Charge: Unfair methods of competition are charged in that respondent falsely represents that "The American Reference Library," which is the same set of books sold by the Perpetual Encyclopedia Corporation in "The Source Book," is of recent publication; that many well-known educators, etc., were instrumental in compiling and producing it; that copies were being given free to a select number of prospective school teachers as a means of introducing the publication into the schools; and that the extension service could be paid for at the rate of \$5.95 per annum, subscription to be canceled at will, the subscriber being afterward notified of additional charges before the service subscribed to and paid for can be put into effect, all in alleged violation of section 5, Federal Trade Commission act. Status: At issue.

*Complaint No. 1554.*--In the matter of B. D. Ritholz, M. I. Ritholz, S. J. Ritholz, F. Ritholz, Ante Ritholz, copartners, doing business under the trade name and style of Clear Sight Spectacle Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture of spectacles and their sale and distribution in interstate commerce, advertises that he will give for a limited time only in pair of spectacles free of charge, satisfaction guaranteed for five years, to anyone inducing at least two other persons to take eye tests with the scientific instrument sent to the agent upon request, collecting \$1 deposit from each, and in case only two orders are sent, forwarding deposit to the respondent, upon receipt of which spectacles will be sent to the agent and the orders (each a \$15 value) will be sent c. o. d. \$2.98 each; in case more than two orders are sent in, the agent may retain the \$1 deposit in each case, and thus the spectacles are not given free but the person must solicit orders from others and the cost of the "free" goods is covered by the price of the orders solicited; nor is the offer outlined limited in time

nor is it a special offer, but the regular offer; nor is it limited to one "free" pair to each community, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiner's report.

*Complaint No. 1555.*--In the matter of Radio Association of America (Inc.). Charge: Unfair methods of competition are charged in that respondent engaged in the business of conducting a course of instruction in the art of radio, electricity, and other mechanics incidental thereto, by correspondence, and dealing in radio sets and accessories incident to the aforesaid instruction courses, is alleged to have falsely advertised that respondent is an "association," whereas it is a corporation conducting business for profit and not an association as that term is generally understood; that "free" consultation service, "free" radio sets and equipment, and "free" life membership in respondent's radio association is given, whereas the cost of those items is included in the price charged as tuition for the courses; that training is given personally by the head of respondent corporation when such is not the case; that there is a great and unusual demand for radio operators and mechanics, when that is not true; that the courses are offered at reduced prices for a limited time, when the price asked is the usual price and there is in reality no time limit to the offer, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiner's report.

*Complaint No. 1556.*--In the matter of Theonett & Company (Inc.). Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale of artificially flavored and artificially colored flavors and concentrates, "has caused and still causes to be published in trade journals and trade magazines of wide circulation throughout the United States advertisements advertising the artificially colored and/or artificially flavored concentrates and flavors made by it, without disclosing in such advertisements that such concentrates and/or flavors are artificially flavored and/or artificially colored in imitation of the color and/or taste of genuine concentrates and flavors," in alleged violation of section 5, of the Federal Trade Commission act.--Status: In course of trial.

*Complaint No. 1557.*--In the matter of American School of Home Economics. Charge: Unfair methods of competition are charged in that the respondent engaged in giving correspondence courses in sundry arts, sciences, professions, and branches of learning, falsely advertises that it receives no profit in its business; that it maintains a large staff of teachers; that special reduced rates will be given for a limited time only when the regular price is charged; that certain articles are given "free" to those taking its courses; that pupils completing respondent's cooking course will be enabled to secure employment with high compensation and will realize great profits from the sale of candy and food, promising to refund tuition fees if such is not the case; that those receiving a course of instruction in candy making will be privileged to sell candy within certain territory, approved and recommended by one Alice Bradley; represented by respondent to be a nationally known authority in the art of cooking, when such rights of exclusive sale are not given; and representing that respondent occupies a large building, when it only occupies two rooms then, all in alleged violation of section 5, Federal Trade Commission act. Status: Awaiting briefs.

*Complaint No. 1558.*--In the matter of Blanton Co. Charge: Unfair methods of competition are charged in that respondent engaged in manufacture of butter substitutes or oleomargarine, uses in branding and for advertising, the brand name "Creamo," "Creamaid," and similar terms, together with pictures indicative of cream content and such statements as "Blanton Creamo, churned in cream," "Blanton Creamo Nut Butter," etc., when in truth respondent's product in some brands contains less than 5 per cent cream and in others contains skimmed milk in lieu of cream, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1560.*--In the matter of Philip Lipsitz, trading under the name and style of American Smelting & Refining Works. Charge: Unfair methods of competition are, charged in that respondent by use of its trade name, the American Smelting & Refining Works, simulates the trade name of the well-known American Smelting & Refining Co., with whom the respondent has never been or is not now affiliated, thereby causing the public to believe they are one and the same, and taking trade and business from the American Smelting & Refining Co. and other competitors, all in alleged violation of section 5, Federal Trade Commission act. Status: At issue.

*Complaint No. 1561.*--In the matter of Manchester Shoe Co. Forrest Dustin, and C. G. Rose. Charge: Unfair methods of competition are charged in that respondent falsely represented in advertising matter, in newspapers, and in catalogues, circulated by agents, that respondent owns and occupies an entire building used as a factory, and that the shoes, for which customers are measured by agents, are made to measure, when in truth respondent only occupies one floor of the building and purchases from shoe factories the shoes he sells, none of which are custom made, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1562.*--In the matter of Tailor-Made Shoe System, William Ginsburg, and Sam Ginsburg. Charge: Unfair methods of competition are charged to the respondent for use of the trade name, Tailor-Made Shoe System, by representing in advertising matter in newspapers and in catalogues circulated by agents that respondent has offices in Paris and New York, and has branches in the principal cities of the United States, owns and occupies an entire building, used as a factory, the shoes for which customers are measured being made to measure, when in truth respondent has no place of business outside of Chicago, and owns or operates no factory, purchasing from shoe factories the shoes he sells, none of which are custom made, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1563.*--In the matter of Harold C. Brooks, Ellen J. Brooks, and Lewis E. Brooks, copartners trading under the names and styles of Brooks Rupture Appliance Co. and Brooks Appliance Co. Charge: Unfair methods of competition are charged in that respondent by the use of advertising matter representing that the appliance sold by respondent through the mail is a new discovery, which will heal rupture without the services of a physician or surgeon, where trusses only retard healing, when in truth said appliance is a truss of the same type as may be purchased at any drug store and possesses no therapeutic value, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1564.*--In the matter of Fayro Laboratories (Inc.), Charge: Unfair methods of competition are charged in that respondent by using on labelings and in advertising matter statements to the effect that respondent's product, which is called "Fayro," is the concentrate of the natural mineral salts that make effective the waters in 22 hot springs of America, England, and continental Europe, effected after laboratory experiments and experiments upon patients, and will enable the user to reduce from 2 to 4 pounds in one night, when used in a hot bath, without any ill effects, being beneficial in the earliest stages of Bright's disease, and recommended by doctors, when in truth Fayro is not such a concentrate as is described, and will not effect reduction as advertised and may be highly injurious when used as advised in the early stages of Bright's disease, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1567.*--In the matter of Franklin Paint Co. Charge: Unfair methods of competition are charged to the respondent for advertising that its product consists principally of white lead, zinc oxide, etc., is manufactured by respondent, who owns and/or operates a large modern factory pictured bearing the name "Franklin Paint Company" on a conspicuous sign on the front of the building and that respondent's prices are factory prices and thus lower than prices handled through jobbers, when in truth said product does not contain the ingredients specified, being inferior to paint containing such ingredients, the buildings and equipment pictured are not controlled by respondent, nor do they bear any sign indicating such operation, and his prices are dealers' prices, containing the usual middleman's profits, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1568.*--In the matter of Henry Myer Thread Manufacturing Co. Charge: Unfair methods of competition are charged to the respondent, who brands and advertises as "Subsilk" thread containing no silk manufactured from the cocoon of the silkworm, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting respondents' brief.

*Complaint No. 1569.*--In the matter of Jacob Woodnick and Philip Wasserman, copartners, trading as Enterprise Furniture Factory and Enterprise Upholstered Furniture Co. Charge: Unfair methods of competition are charged to the respondent who uses the trade name "Enterprise Furniture Factory," places large signs bearing said name across the entire front of a large building of which respondents occupy only a relatively small space, and advertises that

respondents manufacture the furniture they sell, thus getting the newest designs and offering the lowest prices, when in truth respondents neither own nor operate a factory, but upholster and finish some of the furniture they sell, all of which they purchase from manufacturers, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting briefs.

*Complaint No. 1670.*--In the matter of Limoges China Co., Sebring Pottery Co., Salem China Co., Crescent China Co. Charge: Un fair methods of competition are charged in that respondents, manufacturers of earthenware, chinaware, porcelainware, and/or pottery, advise competitors by letter that respondents hold a patent covering transparent yellow glaze ware and that they intend to prosecute any manufacture of such ware as an infringement on said patent, and insert in trade magazines advertisements headed "Warning," stating in effect that respondent has a patent pending upon transparent yellow glazeware, and advising purchaser to insist upon manufacturers furnishing a bond sufficient to cover any liability purchaser might incur, when in truth respondents have no patent registered or pending upon such glazed ware nor could they obtain any such patent, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1571.*--In the matter of Mutual Publishing Co. and C. J. Shelton and H. A. Bufton, individually and as president and as secretary and treasurer, respectively, of said company; Publishers Acceptance Corporation, and P. I. Neargard, T. E. Thompson, and Carl Critzinger, individually and as president, secretary, and treasurer, respectively, of said company; and Educators Service Association, and A. C. Thomas and H. A. Bufton, individually and as president and as secretary and treasurer, respectively, of said company. Charge: Unfair methods of competition are charged in that respondent, engaged in the business of publishing a cyclopedia or reference work and a so-called loose-leaf extension service in connection therewith, have falsely and fraudulently represented that prominent educators, authors, and others have contributed or have been connected with said publications; that said publications are the latest reference works and are kept up-to-date by a loose leaf extension service; that the binding of the encyclopedias was of leather and the paper of the highest quality; that prices were special prices; that certain sets of cyclopedias were given away "free" of charge on condition that the loose-leaf extension service be subscribed for, and other alleged misrepresentations tending to mislead and deceive the prospective customers, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1572.*--In the matter of Margaret Hilgers, trading as M. Trilety. Charge: Unfair methods of competition are charged in that respondent advertises that its specified orthopedic device will permanently and comfortably, at the home of the purchaser, transform a long, crushed, or broken hump, hook, flat, or pug nose into a perfect looking nose; that another specified device and a specified substance called "Oro" will correct outstanding and cauliflower ears, respectively, the latter being caused by the absence of a certain fold which is a continuation of the large ear cartilage and which "Oro" without the slightest pain or inconvenience will cause to lie close to the head, when in truth such devices will effect no real, substantial, or permanent improvement in the appearance of either the nose or the ear, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1573.*--In the matter of Madison Paint Co. Charge: Unfair methods of competition are charged in that respondent advertises and represents that its product is composed wholly or in part of certain specified ingredients that go to make the best quality of paint; that it manufactures paint and paint materials, thus selling at factory prices and saving the purchaser the middleman's profit, when in truth said product consists in a small part only of those ingredients that constitute a high grade of paint, and respondent neither owns nor operates a factory, but sells his product at prices that include the middleman's charges, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1574.*--In the matter of Standard Education Society and H. M. Stanford, individually and as president of said company. Charge: Unfair methods of competition are charged in that respondents, engaged in the publication of encyclopedias or reference works and/or so-called extension service in connection therewith, make certain false and misleading representations to the effect that a certain number of their reference books will be given free



to prospective customers oil condition that they subscribe to the loose-leaf extension service, whereas, that is the regular method and the cost of the books is included in the subscription price to the extension service, that the subscription price quoted is a special offer whereas it is the regular offer, and other false and misleading representations to the prejudice of the public and respondent's competitors, In alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

Complaint No. 1575.--In the matter of Progress Paint Co. Charge: Unfair methods of competition are charged in that respondent advertises and represents that its products are made up either wholly or in part of certain specified ingredients that go to make up the best quality of such products; that he owns or operates a "million-dollar" factory, the equipment being pictured on Ills sales literature, has been In business 22 years and sells at factory prices thus eliminating the middleman's profits, and that his roof coating, called "Asbestos-Ruf," will keep roofs waterproof for 10 years, when In truth respondent's products are made up in a small part only of the ingredients specified; respondent has been In business for 6 years instead of 22 years; owns or operates no factory, and sells at such prices as include the middleman's profits, and his "Asbestos-Ruf" will keep a roof waterproof not to exceed 5 years, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1576.*--In the matter of Nu Grape Co. of America. Charge: Unfair methods of competition are charged In that respondent advertises and describes Its concentrate or sirup as " Nu Grape," thereby tending to cause the purchasing public to believe it is made of the pure juice of the grape, when in truth It is not made wholly or in substantial part of the juice of the grape, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue

*Complaint No. 1577.*--In the matter of Natural Health Association (Inc.), Morris Botwen, Edwin J. Ross. Charge: Unfair methods of competition are charged in that respondents, engaged In the publication and sale of certain books dealing with the preservation of health through diet and exercise, make certain false and misleading representations in advertising, which have " the tendency and capacity to mislead and deceive the purchasing public Into the belief that respondent's books are indorsed by \* \* \* and partly written by the United States Bureau Of Public Health and are indorsed by and partly written by many of the most eminent physicians of the United States, and that respondents are the founders and maintainers of the American Health Association, and that respondents maintain an advisory board composed of leading physicians and health authorities who may be consulted free of charge by purchasers of said books," all to the prejudice of the public and of the competitors of respondents, in alleged violation of section 5 of the Federal Trade Commission act. Status: At Issue.

*Complaint No. 1578.*--In the matter of Universal Lock-Tip Co., Katherine Gay, doing business under the trade name and style, Universal Lock-Tip Co., and Emile W. S. Gay, otherwise known as William S. Gay, each individually, and as an officer of Universal Lock-Tip Co. Charge: Unfair methods of competition are charged in that respondent engaged in the sale of shoe laces advertises that the 25 shares preferred stock and 250 shares of common stock, representing shares In a patent string faster for use on the ends of shoe laces of which respondent corporation claims ownership, which they claim is given free of cost with every pair of shoes sold for \$6.50 equipped with such laces, will give purchasers an opportunity to make \$20,000 within the next few months without investment; cites instances showing a high percentage of sales; represents that the shares will be listed on the Boston and New York Stock Exchanges and gives as reference any bank In Boston or any mercantile agency, when In truth the patent Is owned by respondent W. S. Gay individually, and not by the respondent corporation; there Is no possibility of any such profits being made on the stock, or of Its being placed on the Boston or New York exchanges; the charge for the shoes covers the value of the shoes and the stock, together with a profit to respondent corporation; no such sales as cited have been made; and no bank or mercantile agency could reasonably recommend respondent corporation, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting briefs.

*New Complaint No. 1579.*--In the matter of Max Klein, doing business under the trade name and style, Klimate-Pruf Manufacturing Co. Charge: Unfair methods of competition are charged in that respondent engaged in the sale of

waterproofing compounds, roof coatings, and paints uses the word "Manufacturing" in its trade name, together with the words "manufactured exclusively by," "factory," and/or "warehouse" in advertising matter, when in truth respondent neither owns nor operates mills, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final argument.

*Complaint No. 1580.*--In the matter of Panache & Ford (Ltd.), and Panache & Ford Sales Co. (Inc.). Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture of cane sirup, corn sirup, blended sirups and molasses, and other products, furnishes a sale agent to accompany agents of wholesale customers when calling on prospective customers, at times sending agents along to canvas the retail trade of competitors of wholesale customers and even at times purchasing goods of competitors of wholesale customers and selling same below cost, In an effort to further wholesale customers' business and establish what respondents designate as the 10 per cent policy, I. e., that whether wholesale customers purchase from respondents only, this sales cooperation being denied such customers who do not sell respondent's products exclusively, and sales being refused at the discretion of respondent, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1581.*--In the matter of C.- N.- Cox. trading as the Norton Institute. Charge: Unfair methods of competition are charged in that respondent, engaged In furnishing correspondence courses to qualify pupils for positions in various departments of the Government service, advertises one C. H. Norton as " President" of the respondent company, puts "Help Wanted" advertisements in the newspapers, represents courses offered as adequate to qualify subscriber for successful examinations for civil service, publishes fictitious endorsements and makes offers of special reduced prices, when in truth the business conducted by respondent has no president, the "Help Wanted." advertisements are inserted merely to indicate greater size and activity, the courses offered are not adequate for the purpose specified, and the prices advertised are far in excess of the prices ordinarily asked and received for said courses, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1583.*--In the matter of A. G. Spalding & Bros. Charge: Unfair methods of competition are charged in that respondent engaged in the manufacture and sale of sporting goods is alleged to have given golf balls to many of the leading players in the country on the condition that they be recommended and used by said players and sold in preference to other balls when possible in the case of those players who are hired by golf clubs to instruct and who conduct a store in connection with the club, and in the case of those players who finish high in tournaments, etc.; that respondent runs advertisements stating that such players used respondent's balls, without stating that they were obligated to do so; pays to many of the professional golf players of the country a yearly salary on the condition that they use and recommend respondent's balls, the same type of advertisement to be run for the players finishing high in any match or tournament, all In alleged violation of section 5 of the Federal Trade Commission act. Status: At Issue.

*Complaint No. 1584.*--In the matter of Flynn & Emrich Co. Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture of stokers, grates, and coal-feeding mechanisms, is alleged to have threatened in bad faith, or to have encouraged such threats to be made by agents, that it will Institute suits for Infringement of respondent's patents against the Perfection Grate & Stoker Co., also known as the Perfection Grate & Supply Co., competitors of respondent, and against customers of said competitors, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1585.*--In the matter of Textileather Co. Charge: Unfair methods of competition are charged by this complaint in that respondent uses the trade name "Textileather Company," and the word leather or the word hyde, in various combinations such as "Royaleather," "Modeleather," "Krafthyde," etc., to designate product manufactured by respondent, which is in truth a coated fabric consisting in nowise of leather, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1586.*--In the matter of Zapon Leather Cloth Co. Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture of imitation leathers, uses the words " Leather Cloth,"

Moleskin," "Pinto," "Mustang," and "Broncho" to designate a product manufactured by respondent, which is in truth a coated fabric consisting in nowise of leather, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1587.*--In the matter of Sanford Mills and O. F. Kendall, W. H. Mertz, J. E. Nelson, James Clemons, Henry C. Hopewell, W. P. Underhill, F. B. Hopewell, F. C. Hopewell, copartners doing business under the name and style of L. C. Chase & Co. Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture of imitation leather, is alleged to have used the words "Leatherwove" and "Buckskin" to designate a product manufactured by respondent Sanford Mills and sold by the other party respondents to manufacturers of automobiles, etc., when in truth said product consists of coated cotton cloth, 110 part of it being of leather, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1588.*--In the matter of Purity Bakeries Corporation. Charge: Unlawful restraint and monopoly are charged in that respondent, engaged in the manufacture and sale of bakery and other food products, acquired the capital stock of Purity Baking Co. and Grennan Bakeries (Inc.), and a majority of the capital stock of Nafziger Baking Co. and Winkelman Baking Co., thereby tending to substantially lessen competition and to restrain commerce, in alleged violation of section 7 of the Clayton Act. Status: Awaiting answer.

*Complaint No. 1591.*--In the matter of Bernard Bernard, Clara Louise Glover, doing business under the name of L. Glover & R. B. Newell. Charge: Unfair methods of competition are charged by this complaint in that respondents, engaged in the sale of correspondence courses in physical culture, advertise and represent by pictures, etc., that the course of instruction referred to as that of "Glover, a height increasing specialist," offered by respondents Bernard Bernard and Clara Louise Glover, trading as L. Glover, the advertising matter of which is written and prepared by respondent R. B. Newell, will appreciably increase the height, even of those persons who have passed beyond the age at which physical growth has ceased, the course having the disinterested indorsement of a certain Dr. Bernard Bernard, represented as having received specified highly professional degrees, when in truth the course offered by respondents will not increase the height, the name of "Glover, a height-increasing specialist" is a purely fictitious trade name, and the "Doctor Bernard" cited as a disinterested specialist is a party to the business, and the pictures used to represent the same person before and after taking the course reflect in reality no change in stature, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1592.*--In the matter of Knitfirm (Inc.). Charge: Unfair methods of competition are charged by this complaint in that respondent, engaged in the business of selling knitted outerwear for infants and children, represents that it manufactures and/or imports the product it sells, when in truth respondent neither owns nor operates a mill, and the knitwear it sells is of domestic origin, all in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1593.*--In the matter of United Remedies (Inc.). Charge: Unfair methods of competition are charged by this complaint in that respondent uses the trade name "Kolor-Bak," advertises and otherwise represents that its product restores the original color to gray hair, that it is not a dye but a tonic and a remedy for dandruff and falling hair, its ingredients being beneficial to the scalp, when in truth "Color-Bak" is a dye, containing acetate of lead, which in many cases is injurious, and it neither restores color to hair nor serves as a tonic, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1594.*--In the matter of Roaring Spring Blank Book Co. Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale of school supplies, including composition books, is alleged to have placed on the covers of such composition books such legends as "200 Page Composition Book," "A. S. D. Special, 249 Pages," and "A. S. D. Special 60," while on others the legends read "100 Special Composition Books," "144 Special Composition Book," etc., the class of legends in the first three cases indicating the number of pages in the books, while in legends such as the last two the number does not indicate the exact number of pages, but is so under-

stood by the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1596.*--In the matter of David V. Bush. Charge: Unfair methods of competition are charged in respondent, engaged in offering by correspondence, for a stated money consideration, instructions for the reduction of bodily weight, advertises a special price of \$2.98 for instructions covering a course of lectures for which he received \$25 each from thousands of men and women, which will cause all excess fat to disappear within a few days, regard less of present weight, without starving, exercising, or drugs, the mimeographed instruction directing that for one, two, or three days the person desiring to reduce go without food except juices of specified fruits and water, and guaranteeing that from 1 to 15 pounds of weight will be lost within 3 to 10 days when such representations are false, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1597.*--In the matter of John McGraw, E. A. Glennon, copartners, doing business under the name of Royal Milling Co., Empire Milling Co., and Richland Milling Co. Charge: Unfair methods of competition are charged in that respondents, engaged in purchasing what flour from mills, blending the same with leavening agents such as baking powder, and selling what is known as "self-rising flour," is alleged to have used the word "Milling" in their trade names and, on letterheads, etc., statements to the effect that respondents are manufacturers, when in truth respondents merely blend the flour they sell, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1598.*--In the matter of D. V. Johnson, doing business under the name of Tennessee Grain Co., and Tennessee Milling Co. Charge: Unfair methods of competition are charged in that respondent, engaged in the business of buying and selling grain, buying wheat flour from millers and mixing it with other ingredients to produce the commodity known as self-rising flour, and to a small extent representing a small percentage of his entire business, grinding grain for feed for stock and for whole wheat flour, is alleged to have used the words "milling" and/or "grain" in his trade names, and on letterheads, etc., to have used the statement "Manufacturers of soft wheat flour," when in truth respondent merely blends the flour he sells, which is purchased from a manufacturer and any grain he grinds is used for stock and for whole wheat flour, in alleged violation of section 5 of the Federal Trade Commission act. Status: At Issue.

*Complaint No. 1599.*--In the matter of Nashville Roller Mills, John Schultz, Louis Baujan, and Virgil S. Tupper. Charge: Unfair methods of competition are charged in that respondent, engaged in blending wheat flour with leavening agents such as baking powder to produce what is known as "self-rising flour," is alleged to have used in its trade names the words "Mill" and/or "Milling," and on letterheads, etc., statements to the effect that respondent is a manufacturer of flour, when in truth it merely blends the flour it sells, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1600.*--In the matter of Snell Milling Co., Thomas E. Snell, J. A. Stevens, and Percey Myatt. Charge: Unfair methods of competition are charged in that respondent, engaged in purchasing wheat flour from flour millers throughout the Middle West, which it causes to be transported to its plant in Nashville, where it is blended and mixed with certain chemical leavening agents, such as baking powder, used to produce the commodity known as "self-rising flour," is alleged to have used the words "Milling" and/or "Mills" in its trade name and in the fictitious name "Peabody Mill Company" sometimes used by respondent, together with statements that said company is a manufacturer, when in truth respondent only blends the product it sells, in alleged violation of section 5 of the Federal Trade Commission act. Status: At Issue.

*Complaint No. 1607.*--In the matter of Francis T. McCarthy, doing business under the names of Wautaga Milling Co., Modern Milling Co., F. J. McCarty Milling Co., Southern Flour Mills Co., and Star Mills. Charge: Unfair methods of competition are charged in that respondent, engaged in the business of mixing and blending flour and "Self-Rising Flour," uses the words "Mills" and/or "Milling" in his trade names and on letterheads, etc., thus misleading the purchasing public into the belief that he manufactures the flour he sells, all in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1602.*--In the matter of J. A. Wells, J. M. Wilkerson, H. P. Johnson, and Mrs. H. P. Johnson, copartners, doing business under the names of State Milling Co. and Myracle Milling Co., and individually. Charge: Unfair methods of competition are charged in that respondents, engaged in purchasing flour from mills located throughout the Middle West which they cause to be transported to their place in Nashville, Tenn., where it is blended and mixed with leavening agents such as baking powder, to produce a commodity known as self-rising flour," is alleged to have used the word "Milling" in their trade names, and to have used on letterheads, etc., statements to the effect that respondents are manufacturers, when in truth they merely blend the flour they sell, In alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1603.*--In the matter of L. L. Cooke School of Electricity. Charge: Unfair methods of competition are charged in that the respondent, engaged in the business of conducting and selling courses of Instruction in practical electricity by correspondence, falsely represents and advertises that graduates of such courses earn \$3,000 to \$10,000 a year, whereas few, if any, earn such salaries; that reduction in tuition fees are offered for a limited time, whereas such fees are the regular fees and no reduction is given; that textbooks, instruments, and outfits are given "free," whereas the price thereof is included in the tuition fee; that the head of the school, L. L. Cooke, gives the students personal and direct Instruction, whereas the instruction is given by employees of respondent; that refunds are guaranteed in case of dissatisfaction, whereas courses are not sold on trial and respondent does not comply with the so-called guaranty, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1604.*--In the matter of E C. Faircloth, Jr., E C. Faircloth, Sr., F. B. Evers, and estate of C. K. Evers, copartners, doing business under the name of Cherokee Mills, and individually. Charge: Unfair methods of competition are charged in that respondents, engaged in the business of purchasing flour from the Middle West and transporting It to Nashville, Tenn., where it is blended and mixed with certain leavening agents such as baking powder, to produce what is known as "self-rising flour," is alleged to have used the word "Mills" in their trade name, and to have used on letter-heads depictions of extensive buildings bearing a large sign. "Cherokee Mills, High Grade Flour," and the slogan " Daily capacity, 2,000 barrels," when in truth respondents are not manufacturers but merely blend the products they sell, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1606.*--In the matter of Graham Griswold, doing business as the Griswold Lumber Co. Charge: Unfair methods of competition are alleged and charged in that respondent, engaged in the business of selling furniture, uses the trade name " Jefferson Furniture Manufacturing Company" and the slogan " Factory to Home," and advertises that respondent manufactures the furniture that it sells, thus offering the lowest prices, whereas respondent is not a manufacturer of the goods he sells, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At Issue.

*Complaint No. 1607.*--In the matter of Old Hickory Mills, J. Frank Foster, James Willis, R. W. Condon, D. L. Anderson. Charge: Unfair methods of competition are charged in that respondent, engaged in selling flour to retail grocers, which flour It purchases from the Mero Mills, Is alleged to have used the words "Mills" and/or "Milling" In its trade name and to have used on letterheads, etc., statements to the effect that respondent is a manufacturer, when in truth respondent merely blends the flour It sells, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1608.*--In the matter of Val Blatz Brewing Co. Charge Unfair methods of competition are charged in that respondent engaged in the manufacture of malt syrup Is alleged to have advertised and labeled Its product with such slogans and statements as "Blatz Bohemian Malt Syrup," "guaranteed genuine by the Czechoslovakian Government, certificate attached to each bale imported by Blatz," etc., together with pictorial representations indicating importation of product, when in truth respondent's product is not imported from Bohemia or Czechoslovakia with the exception of a small proportion of the hops which are used for flavoring, all In alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1609.*--In the matter of the Breithart Institute of Physical Culture (Inc.). Charge: Unfair methods of competition are alleged and

charged in that respondent, engaged in selling by correspondence a book or course of instruction in physical culture, advertises and/or represents that an advisory council of prominent athletes take "an active and personal part" in preparing instructions; that certain persons whose recommendations and pictures appear have benefited through use of the courses; that special reduced prices are offered for a limited time; that Siegmund Breithart, deceased, was alive and personally connected with respondent's business, all of which is alleged to be untrue and to mislead and deceive the public In violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1610.*--In the matter of James Kelley. Charge: Unfair methods of competition are charged in that respondent engaged In a mail order jobbing business in fountain pens, pencils, and novelties falsely represents that he manufactures the articles he sells; stamps the words "14K Waterson," "Iridium," and/or "Warranted 14K," on parts of fountain pens sold by him, which are of poor quality and low cost, when in truth such parts are not iridium or 14 carat nor have the pens any connection with the well known "Waterman" fountain pen; supplies customers with fictitious price tags bearing the amounts \$2.50, \$7, \$8, \$10, etc., and with coupons advertising special reduced prices for a limited time only, when in truth such prices are purely fictitious and in excess of the value of the pens, all In alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1611.*--In the matter of Everitt & Graf (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of women's hats, causes to be stamped on the linings of the hats manufactured by it in Wisconsin the inscription "California Sport Hat," and advertises its hats by the use of such inscription. The adoption and use by respondent of the inscription "California Sport Hat" is alleged to have the tendency to mislead and deceive the purchasing public into the belief that respondent's hats so stamped are made by manufacturers of women's hats located in California, in alleged violation of section 5 of the Federal Trade Commission act. Status: At Issue;

*Complaint No. 1612.*--In the matter of J. A. Stransky and L. G. Stransky, copartners, trading under the firm name and style of J. A. Stransky Manufacturing Co. Charge: Unfair methods of competition are charged In that respondents engaged in the manufacture of a device designated by them as a " Vaporizer and Decarbonizer" for use In automobiles, make alleged false and misleading advertisements with respect to the increase In power, saving of gasoline, prevention of overheating, spark-plug trouble, and removal of carbon, resulting from the use thereof, thereby diverting from competitors prospective purchasers who might otherwise have purchased similar or competitive devices from such competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1613.*--In the matter of Wirz & Waidmann (Inc.), trading as United Provision Co. Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture of sausage, sausage meat, and other pork products, uses the trade name and dress formerly used by Phillips Bros. & Co., whose good will, firm name, etc., respondent purchased with the full knowledge that said company had been the subject of an order to cease and desist by the Federal Trade Commission, as simulating the trade name and dress of Joseph Phillips Co., In alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1614.*--In the matter of Roberts Tailoring Co. (Inc.). Charge: Unfair methods of competition are charged in that respondent engaged in the sale of suits of clothes uses the corporate name of an original and older corporation engaged in the same business and falsely advertises that the garments it sells are " tailored to measurement"; that the garments are manufactured in its own factories; and that the materials used are 100 per cent virgin wool, when in fact respondent's garments are ready made and carried in stock, are manufactured in outside factories under contract with respondent, and are made of cloth composed only in part of wool or virgin wool, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1615.*--In the matter of Albert L. Pleton, trading under the name and style of Ralston University Press. Charge: Unfair methods of competition are charged in that respondent engaged in the sale of books under the name of the Ralston University Press. falsely represents and advertises that the books offered for sale by respondent contain information, knowledge, secrets,

methods, practices, principles, or suggestions by which anyone irrespective of condition, situation, station, or physical or mental development or learning can be enabled to enjoy unlimited perfect health, freedom from incurable diseases, recovery from incurable diseases, and to command success in whatever occupation or profession he may be engaged, and to develop physical and mental powers by which others may be dominated or controlled, and to induce the purchase of such books in reliance on such erroneous belief, all in alleged violation of section 5 of the Federal Trade Commission act. Status: at issue.

*Complaint No. 1617.*--In the matter of Louis A. Miller, doing business under the trade name Southern Milling Co. Charge: Unfair methods of competition are charged in that respondent of flour uses the trade name "Southern Milling Company" and in its business correspondence makes representations implying that It operates a mill and grinds and manufactures the flour for which he solicits orders, when in fact respondent does not grind or manufacture flour and owns and controls no equipment for so doing, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 1619.*--In the matter of Blanke-Baer Extract & Preserving Co. Charge: Unfair methods of competition are charged in that respondent engaged in the manufacture and sale of flavoring extracts and concentrates for use in compounding soft drinks, in the course and conduct of its business labels and describes one of Its products as "Lemon Extract," and advertises it as "Real Lemon Flavor," and in addition includes a pictorial representation of a likeness of a lemon cut in two from which drops are pictured as falling into a bottle bearing respondent's label, when in truth the product in question is not made from and does not contain any of the fruit or the juice of the lemon, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1620.*--In the matter of Long-Bell Lumber Co. Charge: Unfair competition is charged in that respondent engaged in the manufacture and sale of lumber products, advertise some of their products produced from trees botanically designated "Pinus ponderosa" under the name and designation "white pine" with or without the addition before such name of one or another of the words "California," "Arizona," "Western," or "New Mexico," whereas genuine "white pine" belongs to the pine groups botanically known as "Pinus strobus"; such practices are alleged to have the tendency to mislead the public with regard to the identity and comparative qualities and values of such products in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 1621.*--In the matter of Clover Valley Lumber Co. Charge: (See charge, Docket 1620.) Status: At issue.

*Complaint No. 1622.*--In the matter of Hess Lumber Co. Charge: (See charge, Docket 1620.) Status: At issue.

*Complaint No. 1628.*--In the matter of Castle Crag Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1624.*--In the matter of Davies-Johnson Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1625.*--In the matter of Damond Match Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1626.*--In the matter of California Fruit Exchange. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1627.*--In the matter of Likely Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1628.*--In the matter of Penman Peak Lumber Co. Charge: (See charge, Docket 1620.) Status: At issue.

*Complaint No. 1629.*--In the matter of Feather River Lumber Co. Charge: (See Charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1630.*--In the matter of California Door Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1681.*--In the matter of Kesterson Lumber Co. Charge: (See charge, Docket 1020.) Status: Awaiting answer.

*Complaint No. 1632.*--In the matter of Hobart Estate Co. Charge: (See charge, Docket 1620.) Status: At issue.

*Complaint No. 1633.*--In the matter of Fruit Growers Supply Co. Charge: (See charge, Docket 1620.) Status: At issue.

*Complaint No. 1634.*--In the matter of Michigan-California Lumber Co (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1635.*--In the matter of McCloud River Lumber Co. Charge: (See charge, Docket 1620.) Status: At issue.

*Complaint No. 1636.*--In the matter of Sisklyou Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1637.*--In the matter of Swayne Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1638.*--In the matter of Paradise Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1639.*--In the matter of Sugar Pine Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1640.*--In the matter of Quincy Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1641.*--In the matter of Pickering Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1642.*--In the matter of Spanish Peak Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1643.*--In the matter of Lassen Lumber & Box Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1644.*--In the matter of Red River Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1645.*--In the matter of Owne-Oregon Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1646.*--In the matter of Tomlin Box Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1647.*--In the matter of Big Lakes Box Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1648.*--In the matter of Ewauna Box Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1649.*--In the matter of Forest Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1650.*--In the matter of Klamath Lumber & Box Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1651.*--In the matter of Lamm Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1652.*--In the matter of Pelican Bay Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1654.*--In the matter of Algoma Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1655.*--In the matter of Chiloquin Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1656.*--In the matter of Shaw Bertram Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1657.*--In the matter of Braymill White Pine Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1658.*--In the matter of California-Oregon Box & Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1659.*--In the matter of Klamath Pine Manufacturing Co Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1660.*--In the matter of Arizona Lumber & Timber Co. Charge: (See charge, Docket 1620.) Status: At issue.

*Complaint No. 1661.*--In the matter of Saginaw & Manistee Lumber Co. Charge: (See charge, Docket 1620.) Status: At Issue.

*Complaint No. 1662.*--In the matter Cady Lumber Corporation. Charge: (See charge, Docket 1620.)



Status: At Issue.

*Complaint No. 1663.*--In the matter of George E. Breece Lumber Co. Charge: (See charge, Docket 1620.) Status: At Issue.

*Complaint No. 1664.*--In the matter of White Pine Lumber Co. Charge: (See charge, Docket 1620.) Status: At Issue.

*Complaint No. 1665.*--In the matter of Blair Bros. Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1666.*--In the matter of Oak Valley Lumber Co. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1667.*--In the matter of Harry Horr. Charge: (See charge. Docket 1620.) Status: Awaiting answer.

*Complaint No. 1668.*--In the matter of Henry A. Kurns. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1669.*--In the matter of Berry & Sons et al. Charge: (See charge, Docket 1620.) Status: Awaiting answer.

*Complaint No. 1670.*--In the matter of Morgan Belleek China Co. Charge: Unfair methods of competition are charged In that respondent, engaged In the manufacture and sale of chinaware, adopted and used as a part of its corporate name the word "Belleek," which signifies chinaware manufactured at Belleek, Ireland, and that respondent also used the word in describing and designating the chinaware manufactured by it, thus tending to deceive the purchasing public into the belief that the chinaware so described was manufactured at Belleek, Ireland, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1671.*--In the matter of H. Josephine Peterson, doing business under the name of Peterson Institute of Diet. Charge: Unfair methods of competition have been charged in that respondent, engaged in a business purporting to afford cures for various human diseases by means of dietary treatments, advertises that caner and deafness are the results of imperfect nutrition and represents that her treatment has cured and will cure the diseases named, and others, whereas such statements and representations are false and misleading, all In alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 1672.*--In the matter of C. H. Selick, (Inc.). Charge: Unfair methods of competition are charged in that respondent, engaged in the business of compounding perfumes and other toilet preparations, labels, advertises, and designates its perfume In a manner that tends to mislead and deceive the consuming public into the belief that the perfumes are manufactured in Paris, France, and imported to the United States, by use of the words "Paris" and "France" and by the use of French words and names, when In truth respondent's perfumes are manufactured in the United States, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1673.*--In the matter of W. H. Bates, trading as Central Fixation Publishing Co. Charge: Unfair methods of competition are charged In that respondent sets forth in advertising matter statements to the effect that practically every known eye trouble, Including partial blindness, may be cured by discarding spectacles and practicing a simple new method of eye training set forth In Perfect Sight Without Glasses, a publication put out by respondent, which alleged false and misleading statements are in contradiction to the methods and conclusions of the medical profession, and are In violation of section 5 of the Federal Trade Commission act. Status Awaiting answer.

*Complaint No. 1674.*--In the matter of L. J. Houze Convex Glass Co. Charge: Unfair methods of competition are charged In that respondent, engaged In the manufacture and sale of lamps, gear-shift balls, and other products made of a material simulating onyx, labels same with the words "Onyx," "On-X-Glass," etc., thus misleading the purchasing public into the belief that same are made of onyx, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 1675.*--In the matter of Artloom Corporation, trading as Artloom Rug Mills. Charge: Unfair methods of competition are charged in that respondent, engaged In the manufacture and sale of rugs, tapestries, etc., advertises and labels certain of said rugs as "Wilton" rugs, thus misleading the purchasing public into the belief that such rugs are manufactured by the same process and have the same characteristics as the well-known Wilton rug, In alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 1676.*--In the matter of Crown Overall Manufacturing Co. Charge: Unlawful restraint and monopoly are charged In that respondent, engaged in the manufacture and sale of working garments, acquired the stock of Larned Carter & Co. (Inc.), thereby ten ding to substantially lessen competition and to restrain commerce, in alleged violation of section 7 of the Clayton Act. Status: Awaiting answer.

*Complaint No. 1677.*--In the matter of John G. Homan, trading as New Science Institute. Charge: Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale of "Magic Dot," an appliance to be used in the treatment of hernia, uses advertising text and pictures that mislead the purchasing public into the belief that the appliance is a recent scientific discovery that will cure hernia by means of a so-called "sealing" process, In alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1678.*--In the matter of George M. Sittenfeld, doing business un der the name and style of Goodyear Manufacturing Co. Charge: Unfair

methods of competition are charged in that the respondent, engaged in the business of selling dress coats and raincoats, represents self as a manufacturer by use of the term "manufacturing" in corporate name and by use of slogan, "For Less Money Direct to Wearer," whereas respondent does not manufacture the products he sells; that respondent represents address as "Goodyear Building" with street number, whereas there is no building by that name and respondent merely occupies a portion of a building of another name at the street address given; that respondent uses fictitious name to sign letters as "Director of Sales"; that respondent represents that vouchers given are accepted as part payment giving a reduced price, whereas the vouchers are valueless, the regular price being charged; that respondent falsely represents that other manufacturers have indorsed his products; that respondent has adopted trade slogans long used by the Goodyear Rubber & Tire Co., and that the use of the slogans together with the use of a similar Corporate name tends to mislead purchasers into the belief they are dealing with that well known and long-established firm, the Goodyear Rubber & Tire Co.; all of which tends to mislead purchasers into the belief that they are dealing with a manufacturer saving middleman's profits and "that the products are made and being sold by a well-known and large rubber company," all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer

*Complaint No. 1679.*--In the matter of Vit-O-Net Corporation. Charge: Un-fair methods of competition are charged in that respondent, engaged in the manufacture and sale of electric blankets, sets forth in advertising matter statements that mislead the purchasing public into the belief that said blanket will cure any disease from which the user may be suffering by revitalizing the cells of the body and charging the blood stream with electromagnetic energy, and that it is so indorsed by prominent physicians, scientists, hospitals, etc., all of which alleged false and misleading statements are in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 1680.*--In the matter of American Business Builders (Inc.). Charge: Unfair methods of competition are charged in that respondent, engaged in the business of giving courses of instruction by correspondence, sets forth in advertising matter statements to the effect that consultation service and subscription to a certain magazine are given free of charge, a course of lectures by leading real estate experts is furnished, a graduate student becomes a real estate specialist, who is qualified to receive a yearly income of not less than \$5,000, and various other alleged false and misleading statements that would cause the public to subscribe to respondent's course in preference to courses offered by competitors who do not make such statements, all in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

## EXHIBIT 10

### STIPULATIONS APPROVED AND ACCEPTED

During the fiscal year ending June 30, 1929, the commission approved and accepted stipulations Nos. 279.-to 404, both inclusive, wherein respondents agreed to cease and desist from certain alleged unfair methods of competition, thereby disposing of pending applications for complaint involving unfair practices as follows:

[Copies of statements covering these stipulations may be had upon request to the commission.]

279. **Stationery and Office Supplies.**--Advertising as free premiums with purchase, articles misrepresented as silk or amber, and other articles, when cost of prize is included in the price charged for the article sold.

280. **Beverage Concentrates and Extracts.**--Using names of fruits to designate synthetic products

281. **Metal Advertising Signs and Calendars.**--Using the term "Bras-Etch" to designate products which are not made of brass, and are not etched, being decorated by a process producing an effect similar to that produced by etching.

282. **Paints.**--Falsely claiming to be manufacturer and selling paint made fresh for each order.

283. **Toilet Preparations.**--Resale-price maintenance.

284. **Paints.**--Falsely claiming to be manufacturer.

285. **Dry Goods.**--Using the terms "Alpaca," "Silk," "Satin," "Wolf," "Beaver," and "Seal" to designate goods not made of the materials indicated.

286. **Toilet Preparations.**--Using the terms "Cuticle oil" and "Trimoyl" to designate an article containing no oil.

287. **Medicinal Preparations.**--Resale-price maintenance.

288. **Gloves.**--Advertising as "chamois suede" articles not made of either of the leathers indicated.

289. **Beverage Concentrates and Sirups.**--Using the terms "Grape" and "Fruit" to designate a synthetic product; using the name of a corporation that has gone out of business.

290. **Engraved Effects.**--Using the words "Engraved" or "Embossed" to designate effects simulating those produced by engraving or embossing processes.

291. **Toilet Preparations.**--Resale price maintenance.

292. **Beverage Concentrates and Sirups.**--Using the word "grape" to designate a synthetic product.

293. **Oleomargarine.**--Using the word "Churngold" to designate butter substitutes.

294. **Automobile-Fuel Vaporizer.**--Falsely advertising that a device called a "Vaporizer and Decarbonizer" is guaranteed to save up to 50 per cent in gasoline.

295. **Beverage Concentrates and Sirups.**--Using the words "Grape," "Orange," "Peach," and "Lemon" to designate synthetic products.

296. **Cigars.**--Using the word "Havana" to designate cigars not made wholly from tobacco grown on the island of Cuba.

297. **Ladders.**--Falsely advertising products are made of "Choice Clear Straight Grained Vancouver Spruce or Norway Pine."

298. **Infants' Knitwear.**--Falsely claiming to be manufacturer.

299. **Automobile Accessories.**--Using the word gasket shellac to designate a gasket cement not made from shellac gum cut in alcohol.

300. **Medicines; Cough Remedy.**--Resale price maintenance.

301. **Paints and Varnishes.**--Labeling as "100% pure shellac," "Cut Orange Shellac Free from Rosin," etc., products containing substitutes.

302. **Hosiery.**--Using the word "Mill" in trade name when neither owning nor operating mills.

303. **Drugs.**--Resale price maintenance by a drug trade association.

304. **Electrotherapeutical Instruments.**--Advertising fictitious prices; offering free premium with purchase when cost of prize is included in the price charged for the article with which it is given.

305. **Beverage Concentrates and Powders; Soaps.**--Using the words "Apples," "Raspberries," "Grapes," etc., to designate synthetic products; using words "Pure Olive Oil Castile Soap" to designate soap not compounded of olive oil.

306. **Overalls.**--Using the words "Union Made" on labels affixed to garments made by nonunion labor.

307. **Ready-to-Wear Clothing.**--Using "International Tailors" as part of trade name, in simulation of name of International Tailoring Co.; falsely advertising goods as sold direct to consumer, as union made, and as accompanied by an ironclad "Guarantee Bond."

308. **Paint Brushes.**--Stamping brushes with numerals misrepresenting width.

309. **Beverage Extracts.**--Using the word "Grape" to designate synthetic product

310. **Food-Handling Machinery.**--Using word "Nickel" to designate parts not made of nickel.

311. **Food-Handling Machinery.**--Using word "Nickel" to designate parts not made of nickel.

312. **Wearing Apparel.**--Using the terms "silk," "wool," "chamois," etc, to designate articles not made of the products indicated.

313. **Garter Products.**--Using the words "Pure Dye Silk" to designate elastic not colored with pure dye.

314. **Lumber Products.**--Using the terms "Lauan (Philippine Mahogany)" and "Tangulle (Philippine Mahogany)" to designate wood not derived from the trees of the mahogany family.

315. **Cigars.**--Using the word "Tampa" to designate cigars made principally of tobacco grown in Pennsylvania.

316. **Horseshoes.**--Resale-price maintenance.

317. **Enamel.**--Using the label "Auto Rubber Baked Enamel" to designate a product containing little if any rubber and not baked.

318. **Lumber Products.**--Using the words "Philippine Mahogany" to designate wood not derived from the trees of the mahogany family.

319. **Knitted Underwear.**--Falsely claiming to be a manufacturer.

320. **Furniture.**--Using the words "Mahogany" and "Walnut" to designate furniture made of wood not derived from the trees of the mahogany or walnut family.

321. **Lumber Products.**--Using the words "Philippine Mahogany" to designate wood not derived from the trees of the mahogany family.

322. **Cloth.**--Using a trade name containing the words "American," "Woolen," and "Company" in simulation of the trade name of the corporation "American Woolen Co."

323. **Beverage Concentrates and Extracts.**--Using the term "Redwine," represented as made from grape juice base, to designate a synthetic product.

324. **Lumber Products.**--Using the words "Philippine Mahogany" to designate wood not derived from the trees of the mahogany family.

325. **Malt Sirup.**--Designating a malt sirup made in this country as being of Canadian origin.

326. **Wearing Apparel.**--Using the words "Silk," "Wool," "Rayon," and "Linene" to designate materials containing little, if any, of the material indicated.

327. **Cotton and Rayon.**--Using the words "Silk Chiffon" and "Silk Mull" to designate materials the greater part of which is cotton.

328. **Knit Goods.**--Using the words "Knitting Mills" in trade name when neither owning nor operating a factory.

329. **Fountain Pens.**--Using the fictitious name "Edison" as part of trade name, and on labels, in simulation of the name of Thomas A. Edison.

330. **Oysters.**--Using the word "Bluepoints" to designate oysters other than the product known as blue points.

331. **Lumber Products.**--Using the word "Mahogany" in combination with the words "Philippine," "Bataan," "Lamao," or "Red Lauan" to designate wood not derived from the trees of the mahogany family.

332. **Cotton Goods.**--Using the word "Mills" in trade name and the word "Converters" in advertising matter, when neither owning nor operating mills.

333. **Flour.**--Using the words "Mills" and "Milling" in trade names, and the word "Manufacturers" in advertising matter, when neither owning nor operating mills.

334. **Confections.**--Using the term "Grape," together with pictorial representations of such, when advertising and labeling a synthetic product.
335. **Men's Wear.**--Falsely claiming to be a manufacturer.
336. **Tooth Paste.**--Advertising as "Iodine Tooth Paste" a product containing iodides but no free iodine.
337. **Bricks.**--Using the term "Handmades" in designating machine-made bricks.
338. **Confections.**--Lottery.
339. **Publications.**--Accepting and publishing fraudulent and indecent advertising.
340. **Men's Wear.**--Using the words "English Broadcloth" in labeling shirts made of material that is not manufactured in England.
341. **Cigars.**--Using the words "Havana" or "Habana" to label cigars made of tobacco not grown on the island of Cuba.
342. **Feather Pillows.**--Using the terms "Pure Goose Feathers" or "All new feathers" to label pillows the contents of which are neither goose feathers nor "all new."
343. **Cigars and Cigarettes.**--Using the word "De-Nicotinized" in advertising cigarettes containing the usual amount of nicotine.
344. **Truck Replacements.**--Falsely claiming to be manufacturer.
345. **Upholstery Fabrics, Draperies, and Cretonnes.**--Using the word "Linen" in designating fabrics possessing little or no linen content.
346. **Paint, Varnish, and Zinc.**--Using the term "Villa Zinc" to designate a product not composed of zinc oxide.
347. **Celluloid Watchcases.**--Advertising as "Unbreakable Crystals" watch crystals made of the same material as those of their competitors, and describing the latter as "Imitation Unbreakable Crystals."
348. **Oils.**--Using the term "Denatured Olive Oil" in designating a product that is not made from pure olive oil.
349. **Woolens and Dress Goods.**--Using the word "Mills" in trade name, when neither owning nor operating mills.
350. **Beverage, Concentrates and Sirups.**--Using the word "Cherry" to designate a synthetic product.
351. **Beverage Concentrates and Sirups.**--Using the words "Cherry" and "Cherri" to designate a synthetic product.
352. **Cotton Products.**--Using the word "Silk" to designate cotton products.-
353. **Cotton Products.**--Using the word "Silk" to designate cotton products.
354. **Cotton Products.**--Using the word "Silk" to designate products made of cotton.
355. **Beverage Concentrates and Sirups.**--Using the words "Grape," "Orange," "Lime," "Peach," "Banana," "Strawberry," and "Cherry" to designate synthetic products.
356. **Knitted Outerwear.**--Using the words "Knitting" and "Mills" as part of trade name and the words "Manufacturers" and "Factory" in advertising, when neither owning nor operating mills or factories.
357. **Stationery.**--Using numerals on covers of composition books to indicate pages in excess of the actual content.
358. **Stationery.**--Falsely claiming to be manufacturer.
359. **Furniture.**--Using the terms "Badger Brown Mahogany" and "Badger Brown Walnut" in advertising tables made of wood not derived from trees of the mahogany family.
360. **Ginger Ale.**--Advertising fresh ginger ale as "Aged Six Months."
361. **Underwear.**--Labeling as "Cotton and Wool" and "Warranted Part Wool" infants' underwear containing wool in insufficient quantities to be so designated.
362. **Scientific Instruments.**--Resale-price maintenance.
363. **Hair Tonics.**--Resale price maintenance.
364. **Engraved Effects.**--Using the words "Plateless Engraving" to designate raised effects simulating those produced by engraving.
365. **Gear-Shift Balls and Lamp Bases.**--Advertising as onyx products made of a substance resembling onyx.
366. **Hosiery.**--Using the word "Mills" in trade name when neither owning nor operating mills.
367. **Cotton and Silk Goods.**--Using on letterheads "Mills, Lawrence, Mass.; Foreign Offices, Japan; Kobe, Yokohama, Tokyo; China, Che Foo, Shanghai," when having no foreign offices and neither owning nor operating mills.

368. **Medicinal Appliances.**--Using the word "Jena" to designate glass that is not manufactured in Jena, Germany.

369. **Plumbing Specialties.**--Falsely representing United States Government is using products exclusively.

370. **Woolens and Dress Goods.**--Using word "Mills" in trade name when neither owning nor operating mills.

371. **Hollow Ware.**--Using the words "Nickel Silver" and "Quadruple" or "Quadruple Plate" to designate ware composed of neither silver nor nickel and not coated with a quadruple plating of silver.

372. **Indian Blankets.**--Using the words "Indian" and "Part Wool" to designate machine-made blankets not containing a sufficient quantity of wool to be designated as "Part Wool."

373. **Knitted Wear.**--Using terms "Wool" and "Wool Mix" in labeling sweaters and other knitted wear not made wholly of wool.

374. **Yarns and Threads.**--Using the words "Nusilk," "Sewinsil," or "Silk-ron" to designate thread not made of silk.

375. **Shears.**--Advertising as exclusive features, characteristics common to the shears of this type put out by competitors.

376. **Pins.**--Using the words "Silk Pins" to designate pins not made of brass wire.

377. **Pins.**--Using the words "Silk Pins" to designate pins not made of brass wire.

378. **Canvasses, Drills, Sheetings.**--Using the word "Mills" in trade name when neither owning nor operating mills.

379. **Blankets.**--Using words "Fine Wool" or "Wool" in labeling products not consisting entirely of wool.

380. **Hosiery and Underwear.**--Use of the word "Mills" in trade name when neither owning nor operating mills.

381. **Malt Extract.**--Lottery.

382. **Woolens and Dress Goods.**--Using word "Mills" in trade name when neither owning nor operating mills.

383. **Truck Replacements.**--Falsely claiming to be manufacturer.

384. **Cigars.**--Using the words "Tampa, Florida," to designate cigars made of tobacco not grown in the State of Florida.

385. **Toilet Preparations.**--Using the words "Liorret---Paris---New York," "Narcisse," or "Eau de toilette" to designate preparations made in the United States of ingredients of domestic origin.

386. **Hats.**--Using the terms "Genuine Toyo Panama" to designate products not made from the leaves of the Jipijapa, nor in accordance with the process used in the manufacture of Panama hats.

387. **Hats.**--Using the terms "Genuine Toyo Panama" to designate products not made from the leaves of the Jipijapa, nor in accordance with the process used in the manufacture of Panama hats.

388. **Monuments and Tombstones.**--Circularizing to be the only monument manufacturers in Oklahoma who did not pledge themselves at the 1921 convention to an association to hold up to war-time prices, when no such association or agreement was instigated at the convention of the monument manufacturers.

389. **Knitwear.**--Using the word "Mills" in trade name when neither owning nor operating mills.

390. **Cotton Pile Fabrics.**--Using the words "Silverpelt" and "fur fabric" to designate a cotton pile fabric.

391. **Cotton Pile Fabrics.**--Using the words "Silverpelt" and "fur fabric" to designate a cotton pile fabric.

392. **Concrete Tubs.**--Price cutting--discrimination.

393. **Books.**--Using fictitious price quotations and spurious offers of reduced price for limited time only.

394. **Cotton Goods.**--Using term "Rayon Satin" to designate material containing no silk.

395. **Dresses.**--Using the words "Mills" in trade name when neither owning nor operating mills.

396. **Rubber Products.**--Falsely claiming to be manufacturer, and to be the only store in the city handling Goodyear products.

397. **Infants' Wear.**--Falsely claiming approval of department of the Government of the United States.

398. **Correspondence Course of Instruction.**--Falsely advertising that prescribed system of exercises will perfect and strengthen all inner vital organs and give the body complete symmetry of form.

399. **Paper and Twine.**--Use of word "Mill" in trade name when neither owning nor operating mills.
400. **Imitation Leather Products.**--Use of word "Leatherfibre" in trade name, and of word "Russhyde" in advertising a product made of vegetable fibre.
401. **Flavoring Extracts and Sirups.**--Use of word "Maple" to designate a synthetic product.
402. **Office Supplies.**--Offering free premiums with purchase when cost of prize is included in the price charged for the article with which it is given.
403. **Soap Products.**--Using the word "Naphtha" in branding and advertising a product that contains approximately one-tenth of 1 per cent of naphtha upon sale to the public.
404. **Manila Rope.**--Falsely claiming to be manufacturer.



## **EXHIBIT 11**

### **RESOLUTIONS DIRECTING INVESTIGATIONS**

#### **UTILITY CORPORATIONS**

(S. Res. 83, 70th Cong., 1st sess., February 15, 1928)

*Resolved*, That the Federal Trade Commission is hereby directed to Inquire Into and report to the Senate, by filing with the Secretary thereof, within each thirty days after the passage of this resolution and finally on the completion of the investigation (any such inquiry before the commission to be open to the public and due notice of the time and place of all hearings to be given by the commission and the stenographic report of the evidence taken by the commission to accompany the partial and final reports) upon : (1) The growth of the capital assets and capital liabilities of public utility corporations doing an Interstate or International business supplying either electrical energy in the form of power or light, or both, however produced, or gas, natural or artificial, of corporations holding the stocks of two or more public utility corporations operating in different States, and of nonpublic utility corporations owned or controlled by such holding companies; (2) the method of issuing the price realized or value received, the commissions or bonuses paid or received, and other pertinent facts with respect to the various security issues of all classes of corporations herein named, including the bonds and other evidences of indebtedness thereof, as well as the stocks of the same; (3) the extent to which such holding companies or their stockholders control or are financially interested In financial, engineering, construction, and/or management corporations, and the relation, one to the other, of the classes of corporations last named the holding companies, and the public utility corporations; (4) the services furnished to such public utility corporations by such holding companies and/or their associated, affiliated, and/or subsidiary companies, the fees, commissions, bonuses, or other charges made therefor, and the earnings and expenses of such holding companies and their associated, affiliated, and/or subsidiary companies; and (5) the value or detriment to the public of such holding companies owning the stock or otherwise controlling such public utility corporations immediately or remotely, with the extent of such ownership or control, and particularly what legislation, if any, should be enacted by Congress to correct any abuses that may exist in the organization or operation of such holding companies.

The commission is further empowered to inquire and report whether, and to what extent, such corporations or any of the officers thereof or any one in their behalf or in behalf of any organization of which any such corporation may be a member, through the expenditure of money or through the control of the avenues of publicity, have made any and what effort to influence or control public opinion on account of municipal or public ownership of the means by which power is developed and electrical energy is generated and distributed, or since 1923 to influence or control elections : Provided, That the elections herein referred to shall be limited to the elections of President, Vice President, and Members of the United States Senate.

The commission is hereby further directed to report particularly whether any of the practices heretofore in this resolution stated tend to create a monopoly or constitute violation of the Federal antitrust laws.

#### **CHAIN STORES**

(S. Res. 224, 70th Cong., 1st sess., May 12, 1928)

Whereas it is estimated that from 1921 to 1927 the retail sales of all chain stores have increased from approximately 4 per centum to 16 per centum of all retail sales; and

Whereas there are estimated to be less than four thousand chain-store systems with over one hundred thousand stores; and

Whereas many of these chains operate from one hundred to several thousand stores; and

Whereas there have been numerous consolidations of chain stores throughout the history of the movement, and particularly in the last few years; and

Whereas these chain stores now control a substantial proportion of the distribution of certain commodities in certain cities, are rapidly increasing this proportion of control in these and other cities, and are beginning to extend this system of merchandising into country districts as well; and

Whereas the continuance of the growth of chain-store distribution and the consolidation of such chain stores may result in the development of monopolistic organizations in certain lines of retail distribution; and

Whereas many of these concerns, though engaged in interstate commerce in buying, may not be engaged in interstate commerce in selling; and

Whereas, in consequence, the extent to which such consolidations are now, or should be made, amenable to the jurisdiction of the Federal antitrust laws is a matter of serious concern to the public: Now, therefore, be it

*Resolved*, That the Federal Trade Commission is hereby directed to undertake an inquiry into the chain-store system of marketing and distribution as conducted by manufacturing, wholesaling, retailing, or other types of chain stores and to ascertain and report to the Senate (1) the extent to which such consolidations have been effected in violation of the antitrust laws, if at all; (2) the extent to which consolidations or combinations of such organizations are susceptible to regulation under the Federal Trade Commission act or the antitrust laws, if at all; and (3) what legislation, if any, should be enacted for the purpose of regulating and controlling chain-store distribution.

And for the information of the Senate in connection with the aforesaid sub-divisions (1), (2), and (3) of this resolution the commission is directed to inquire into and report in full to the Senate (a) the extent to which the chain-store movement has tended to create a monopoly or concentration of control in the distribution of any commodity either locally or nationally; (b) evidences indicating the existence of unfair methods of competition in commerce or of agreements, conspiracies, or combinations in restraint of trade involving chain store distribution; (c) the advantages or disadvantages of chain-store distribution in comparison with those of other types of distribution as shown by prices, costs, profits, and margins, quality of goods, and services rendered by chain stores and other distributors or resulting from integration, managerial efficiency, low overhead, or other similar causes; (d) how far the rapid increase in the chain-store system of distribution is based upon actual savings in costs of management and operation and how far upon quantity prices available only to chain-store distributors or any class of them; (e) whether or not such quantity prices constitute a violation of either the Federal Trade Commission act, the Clayton Act, or any other statute; and (f) what legislation, if any, should be enacted with reference to such quantity prices.

### **RESALE-PRICE MAINTENANCE**

[Resolution of the Federal Trade Commission, July 25, 1927]

Whereas several bills providing for resale-price maintenance have been introduced in Congress since 1920, including the Merritt bill, Kelly bill, the Wyant bill, and the Williams bill; and

Whereas in 1916, on a referendum of the Chamber of Commerce of the United States, about 74 per cent of the votes cast were in favor of legislation permitting resale-price maintenance; and

Whereas in 1926, on a similar referendum, about 54 per cent of the votes were in favor; and

Whereas this commission many years ago recommended that Congress enact legislation permitting resale-price maintenance under certain conditions of governmental control; and

Whereas it seems probable that agitation for some legislation of this character will continue; and

Whereas there has been a thorough and comprehensive investigation of the economic advantages and disadvantages of such legislation: Therefore be it

*Resolved*, That the chief economist of the commission be directed to inquire into the question of the maintenance of manufacturers' resale prices, both at wholesale and retail, and to report to the commission-

1. The advantages and disadvantages of resale-price maintenance (a) to competing manufacturers employing it and to other competing manufacturers, (b) to competing wholesalers and retailers employing it, and to other competing wholesalers and retailers, (c) to the ultimate purchaser.

2. The costs, profits, and margins of manufacturers and distributors and the prices to consumers on competing price maintained and nonprice maintained goods and particularly the relation of advertising expenses to such costs, profits, margins, and prices.

3. The causes and motives for price cutting by distributors (a) in general; (b) below the total cost of the distributor; (c) below the purchase price paid by the distributor of goods; the justification for such price cutting, if any; the effect of price cutting on manufacturers, distributors, and consumers particularly with reference to : (a) How far, if at all, price cutting increases volume of business for a distributor and offsets the decreased profit per unit; (b) how far, if at all, price cutting has eliminated manufacturers and distributors from business; (c) the effect of price cutting by distributors on the prices, profits, and margins of manufacturers.

4. The relation of resale-price maintenance, if any, to the multiplication of distributors, and, if such effect is found, the relation of this multiplication to the cost of marketing.

5. Any other facts pertinent for the consideration of Congress with reference to legislation on this subject.

6. The character of the legislation, if any, which should be recommended by the commission.

#### **NEWSPRINT PAPER**

(S. Res. 337, 70th Cong., 2d sess., February 27, 1929)

*Resolved*, That the Federal Trade Commission is requested to make an investigation upon the question of whether any of the practices of the manufacturers and distributors of newsprint paper tend to create a monopoly in the supplying of newsprint paper to publishers of small daily and weekly newspapers or constitute a violation of the antitrust laws, and to report to the Senate as soon as practicable the results of such investigation together with its recommendations, if any, for necessary legislation.

#### **OPEN-PRICE ASSOCIATIONS <sup>1</sup>**

(S. Res. 28, 69th Cong., spec. sess., March 17, 1925)

Whereas the Federal Trade Commission in its annual report for 1922 states that at the request of the Joint Commission of Agricultural Inquiry the commission undertook a special investigation concerning the activities of trade associations and found by response to its questionnaires that there were one hundred and fifty "open-price associations, or those distributing or exchanging price information"; and

Whereas the commission reported "Most of the open-price associations also distributed or exchanged information on other features of business, such as orders received, purchases, productions, stocks, cost of production and merchandising, and matters of general interest to members"; and

Whereas such associations may exert a large influence in maintaining prices at an exorbitant level, particularly in the case of manufacturing concerns the products of which are protected by a high tariff duty: Therefore be it

*Resolved*, That the Federal Trade Commission is hereby directed to investigate and to report to the Senate at the next session of Congress :

First. The present number and nature of open-price associations, the names of such associations, the number of their members thereof, and the importance of such association in the industry.

<sup>1</sup> Inquiry completed during fiscal year. Report transmitted to Senate February 13, 1929.

Second. To what extent, if any, the effect of such open-price associations has been to maintain among members thereof uniform prices to wholesalers or retailers, or to secure uniform or approximately uniform increases in such prices.

Third. Whether such open-price associations engage in other activities, and if so, the nature and effects thereof, with respect to alleged violations of the antitrust laws.

#### **PRICE BASES**

(Resolution of the Federal Trade Commission, July 27, 1927)

Whereas the economical distribution of commodities is one of the chief problems of the day; and

Whereas the method of determining the prices (or the total cost to the purchaser) of commodities sold in the same or in different localities is an important factor in a sound system of distribution; and

Whereas there are various systems and theories on which such prices are made and marked differences of opinion as to their expediency and fairness; and

Whereas some distributors are employing the policy of national distribution with prices, particularly in different consuming territories, that make no allowance for difference in transportation costs, while others allege that there should be a delimitation of markets having respect to transportation expense:

Now, therefore, be it

*Resolved*, That the chief economist of the Federal Trade Commission is hereby directed to inquire into and report upon (1) the factory-base method, the basing-point method, and the delivered-price method of quoting and charging prices (including their respective variations), together with any other method of differentiating prices with respect to location; (2) the causes for the adoption of the several methods employed and the purposes intended to be served by them; (3) their actual and potential effects upon prices and competitive conditions; and (4) any constructive measures which might be employed to promote greater efficiency, economy, or fairness in the methods of quoting or charging prices.

#### **“BLUE SKY” SECURITIES**

(Resolution of the Federal Trade Commission, July 27, 1927)

Whereas this commission has had frequent occasion to proceed against unfair methods of competition with respect to the sale of so-called “blue-sky” securities and has found in that respect that present legislative remedies are inadequate; and

Whereas this commission formerly initiated a general inquiry into this subject with a view to constructive remedial proposals, but no report was published; and

Whereas the practice of fraudulently selling worthless securities is a great economic evil which should be remedied promptly if practicable: Now, therefore, be it

*Resolved*, That the chief economist of this commission is hereby directed to inquire further into (1) the practice of selling blue-sky securities, (2) the legislative, administrative, and other methods employed to abate the evil and the results thereof, and (3) other matters covered by the previous inquiry, in order to bring the same up to date, and to report thereon to the commission without formulating conclusions of legislative policy but, instead, stating succinctly the arguments both for State and for Federal regulation and the forms which such regulation should take.

#### **DU PONT INVESTMENTS <sup>2</sup>**

(Resolution of the Federal Trade Commission, July 29, 1927)

Whereas it appears from published financial reports of the E. I. du Pont de Nemours Co. that it has a large investment in the stock of the General Motors Corporation; and

<sup>2</sup> Inquiry completed during fiscal year. Report dated February 1, 1929.

Whereas it is currently reported In the press that the said du Pont Co. has recently acquired a large holding in the capital stock of the United States Steel Corporation, that it expects to have a number of directors representing its interests elected to the board of the latter company and in other ways to develop a close corporate connection among them; and

Whereas the establishment of a community of interest among these three corporations, which are reputed to be among the largest industrial corporations in this country, is a matter of public concern ; and

Whereas the act creating this commission authorizes it to inquire into the organization, business, conduct, practices, and management of the said corporations : Now, therefore, be it

*Resolved*, That the chief economist of this commission be directed to cause an inquiry to be made into the relationships, direct or indirect, among the United States Steel Corporation, the General Motors Corporation, and the E. I. du --Pont de Nemours Co., tending to bring them or any other important industrial corporations under a common ownership, control, or management, with information as to the probable economic consequences of such community of interest, and to report the facts to this commission.

### **BREAD AND FLOUR** <sup>3</sup>

(S. Res. 163, 68th Cong., 1st sess., February 16, 1924)

*Resolved*, That the Federal Trade Commission be, and it is hereby, directed to investigate the production, distribution, transportation, and sale of flour and bread, including by-products, and report its findings in full to the Senate, showing the costs, prices, and profits at each stage of the process of production and distribution, from the time the wheat leaves the farm until the bread is delivered to the consumer ; the extent and methods of price fixing, price maintenance, and price discrimination ; the developments in the direction of monopoly and concentration of control in the milling and baking industries, and all evidence indicating the existence of agreements, conspiracies, or combinations in restraint of trade.

### **COTTONSEED PRICES**

(S. Res. 136, 70th Cong., spec. sess., Oct.21, 1929)

Whereas it Is alleged that certain cottonseed crushers and oil mills have entered into a combination for the purpose of fixing prices on cottonseed in violation of the antitrust laws; and

Whereas it is alleged that cottonseed prices have been arbitrarily forced down by the cottonseed crushers and oil mills to a lower level than has ever existed at this season of the year; and

Whereas it is alleged that as a result of such combination cottonseed buyers are not permitted to pay more than a certain price for cottonseed and sell cotton-seed meal at less than a certain price under threat of boycott : Therefore be it

*Resolved*, That the Federal Trade Commission is hereby requested to make an Immediate and thorough Investigation of all facts relating to the alleged combination in violation of the antitrust laws with respect to prices for cotton-seed and cottonseed meal by corporations operating cottonseed-oil mills. 'The commission shall report to the Senate as soon as practicable the results of its investigation.

### **COTTONSEED PRICES**

(S. Res. 147, 71st Con., 1st sess., Nov. 1, 1929)

Whereas it is alleged that certain cottonseed-oil mills have acquired control of cotton gins and have arranged with ginners not to store cottonseed for farmers In order to force the farmers to put their seed upon the market Immediately instead of holding them for the purpose of obtaining a profitable price; and

<sup>3</sup> Inquiry completed during fiscal year 1927-28. Report transmitted to senate in 1926, 1927, and 1928. Subject to further report pending court decision in Millers' National Federation case.

Whereas it is essential that full publicity be given to such matters : Therefore be it

Resolved, That the Federal Trade Commission is hereby directed (1) to Investigate the charge that certain corporations operating cottonseed-oil mills are acquiring by purchase or otherwise the ownership or control of cotton gins for the purpose of destroying the competitive market for cottonseed and depressing and holding down the price paid to farmers for cottonseed, and (2) to hold public hearings in connection with the investigations with respect to such matters and in connection with the investigations pursuant to S. Res. 136, agreed to October 21, 1929. The commission shall report to the Senate as soon as practicable the results of its investigations under this resolution.

**PEANUT PRICES**

(S. Res. 139, 70th Cong., spec. sess., Oct.22, 1929)

Whereas it is alleged that certain peanut crushers and mills have entered into a combination for the purpose of fixing prices on peanuts In violation of the antitrust laws; and

Whereas it is alleged that as a result of such combination prices for peanuts have been arbitrarily forced down ; and

Whereas the lack of a competitive market for peanuts has been demoralizing and destructive to the producers of peanuts and considerable losses have been caused to the peanut growers : Therefore be it

Resolved, That the Federal Trade Commission is hereby requested to make an immediate and thorough investigation of all facts relating to the alleged combination in violation of the antitrust laws with respect to prices for peanuts by corporations operating peanut crushers and mills. The Commission shall report to the Senate as soon as practicable the result of its investigation.

## EXHIBIT 12

### INQUIRIES MADE AT REQUEST OF THE SENATE, THE HOUSE, THE PRESIDENT, THE ATTORNEY GENERAL, AND ON MOTION OF THE COMMISSION (1913-1929)

#### SENATE

**Fertilizer--S. Res. 487, 62d Cong., 3d sess., March 1, 1913.**--The inquiry made in response to this resolution which was begun by the Bureau of Corporations, disclosed the extensive use of bogus independent fertilizer companies used for purposes of competition, but through conferences with the principal manufacturers agreements were reached for the abolition of such unfair competition. Report transmitted August 19, 1916.

**Pipe lines--S. Res. 109, 63d Cong., 1st sess., June 18, 1913.**--The report on this inquiry, which was begun by the Bureau of Corporations, showed the dominating importance of the pipe lines in the great mid-continent oil fields, and that the pipe-line companies, which were controlled by a few large oil companies, not only charged excessively high rates for transporting petroleum but also evaded their duties as common carriers by insisting on unreasonably large shipments, to the detriment of the numerous small producers. Transmitted February 28, 1916.

**Gasoline--S. Res. 457, 63d Cong., 2d sess., September 28, 1914.**--Acting under this resolution, the commission published a report on gasoline prices in 1915, which discussed the high prices of petroleum products and showed how the various Standard Oil companies had continued to maintain a division of marketing territory among themselves. The commission suggested several plans for restoring effective competition in the oil industry. Transmitted April 11, 1917.

**Sisal hemp--S. Res. 170, 64th Cong., 1st sess., April 17, 1916.**--In response to a resolution calling on the commission to assist the Senate Committee on Agriculture and Forestry by advising how certain quantities of hemp, promised by the Mexican sisal trust, might be fairly distributed among American manufacturers of binder twine, the commission made an inquiry and submitted a plan of distribution, which was followed. Report transmitted May 9, 1916.

**Newsprint paper (First investigation)--S. Res. 177, 64th Cong., 1st sess., April 24, 1916.**--The newsprint-paper inquiry resulted from an unexpected advance in prices. The reports of the commission showed that these prices were very profitable, and that they had been partly the result of certain news-print association activities which were in restraint of trade. Through the good offices 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. Reports transmitted March 3, 1917, and June 13, 1917.

**Anthracite coal--S. Res. 217, 64th Cong., 1st sess., June 22, 1916, and S. Res. 51, 65th Cong., 1st sess., April 30, 1917.**--The rapid advance in the prices of anthracite at the mines, compared with costs, and the extortionate overcharging of anthracite jobbers and dealers were disclosed in the inquiry in response to these resolutions and a system of current reports called for regarding selling prices which substantially checked further exploitation of the consumer. Reports transmitted May 4, 1917, and June 20, 1917.

**Book paper--S. Res. 269, 64th Cong., 1st sess., September 7, 1916.**--The inquiry into book paper, which was made shortly after the newsprint Inquiry, had a similar origin and disclosed similar restraints of trade, resulting in proceedings by the commission against the manufacturers involved therein to prevent the enhancement of prices. The commission also recommended legislative action to repress restraints of trade by such associations. Reports transmitted June 13, 1917, and August 21, 1917.

**Flags--S. Res. 35, 65th Cong., 1st sess., April 16, 1917.**--A sudden increase in the prices of American flags led to this inquiry, which disclosed that while a trade association had been active to fix prices shortly before the price advance had been so great on account of the war demand that further price fixing had been superfluous. Report transmitted July 26, 1917.

**Independent Harvester Co.--S. Res. 212, 65th Cong., 2d sess., March 11, 1918.**--This resolution called for a thorough 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. Report transmitted May 15, 1918.

**Farm implements--S. Res. 223, 65th Cong., 2d sess., May 13, 1918.--**The high prices of farm implements led to this inquiry, which disclosed that there were numerous trade combinations to advance prices and that the consent decree for the dissolution of the International Harvester Co. was absurdly inadequate. The commission recommended a revision of the decree and the Department of Justice proceeded against the company to that end. Report transmitted May 4, 1920.

**Milk--S. Res 431, 65th Cong., 3d sess., January 31, 1919.--**This inquiry into the fairness of milk prices to producers and of canned milk to consumers, and whether they were affected by fraudulent or discriminatory 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 have since been recognized as unfair by the trade itself. Report transmitted June 6, 1921.

**Southern livestock prices--S. Res. 133, 66th Cong., 1st sess., 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. Report transmitted February 2, 1920.

**Pacific coast petroleum--S. Res. 138, 66th Cong., 1st sess., July 31, 1919.--**On the Pacific coast the great increase in the prices of gasoline, fuel oil, and other petroleum products led to this inquiry, which disclosed that several of the companies were fixing prices. Reports transmitted April 7, 1921, and November 28, 1921.

**Commercial feeds--S. Res. 140, 66th Cong., 1st sess., July 31, 1919.--**The inquiry into commercial feeds, which aimed to discover whether there were any combinations or restraints of trade in that business, was diligently pursued; and though it disclosed some association activities in restraint of trade, it found no important violation of the antitrust laws. Certain minor abuses in the trade were eliminated. Report transmitted March 29, 1921.

**Meat-packing profit limitations--S. Res 177, 66th Cong, 1st sess., September 3, 1919.--**The inquiry into meat-packing profit limitations had as its object the study of the system of war-time control established by the Food Administration; certain changes were recommended by the commission, including more complete control of the business and lower maximum profits. Report transmitted August 24, 1919.

**Tobacco prices--S. Res. 129, 67th Cong., 1st sess., August 9, 1921.--**This inquiry was also directed to the low prices of leaf tobacco and the high prices of tobacco products. It disclosed 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 against these unlawful acts were instituted by the commission. Report transmitted January 17, 1922.

**House furnishings--S. Res. 127, 67th Cong., 2d sess., January 4, 1922.--**The alleged failure of house-furnishing goods to decline in price since 1920 as much as most other commodities, alleged to be due to restraints of trade, was inquired into by the commission. Three reports were issued on the subject, dealing with wooden household furniture, household stores kitchen furnishings, and domestic appliances. These reports showed that extensive conspiracies existed, under the form of cost accounting devices and meetings, to inflate the prices of such goods. Reports transmitted January 17, 1923, October 1, 1923, and October 6, 1924.

**Export grain--S. Res. 133, 67th Cong., 2d sess., December 22, 1921.--**The low prices of export wheat gave rise to this inquiry, which developed extensive and harmful speculative manipulation of prices on the grain exchanges and conspiracies among country grain buyers to agree on maximum prices for grain purchased. Legislation for a stricter supervision of grain exchanges was recommended, together with certain changes in their rules. The commission also recommended governmental action looking to additional storage facilities for grain uncontrolled by grain dealers. Reports transmitted May 16, 1922, and June 18, 1923.

**Flour milling--S. Res. 212, 67th Cong., 2d sess., January 18, 1922.--**A report on the inquiry into the flour-milling industry was sent to the Senate in May, 1924. It showed the costs of production of wheat flour and the profits of the flour-milling companies in recent years. It also discussed the disadvantages to the miller and consumer arising from an excessive and confusing variety in the sizes of flour packages. Transmitted May 16, 1924.

**Cotton trade--S. Res. 262, 67th Cong., 2d sess., March 16, 1922.--**The inquiry into cotton trade originated by this resolution was covered in part by a pre-



liminary report Issued in February, 1923, which discussed especially the causes of the decline In cotton prices in 1922 and left the consideration of the other topics indicated to be treated In connection with an additional and related Inquiry called for by the Senate at that time. Reports transmitted February 26, 1923, and April 28, 1924.

**Fertilizer--S. Res. 307, 67th Cong., 2d sess., June 17, 1922.--**The fertilizer inquiry developed that active competition generally prevailed In the industry In this country, though in foreign countries combinations control some of the most Important raw materials. The commission recommended constructive legislation to improve agricultural credits and more extended cooperative action in the purchase of fertilizer by farmers. Report transmitted March 3, 1923.

**Foreign ownership in petroleum industry--S. Res. 311, 67th Cong., 2d sess., June 29, 1922.--**The acquisition of extensive oil interests in this country by the Dutch-Shell concern, an international trust, and discrimination practiced against Americans In foreign countries provoked this inquiry which developed the situation In a manner to promote greater reciprocity on the part of foreign governments. Report transmitted February 12, 1923.

**Calcium arsenate--S. Res. 417, 67th Cong., 4th sess., January 23, 1923.--**The high prices of calcium arsenate, a poison used to destroy the cotton boll weevil, led to this inquiry from which it appeared that the cause was due to the sudden Increase in demand rather than to any restraints of trade. Report transmitted March 3, 1923.

**Cotton trade--S. Res., 429, 67th Cong., 4th sess., 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. Report transmitted April 28, 1924.

**National Wealth--S. Res. 451, 67th Cong., 4th sess., February 28, 1923.--**This resolution called for a comprehensive inquiry into national wealth and income and specially indicated for investigation the problem of tax exemption and the increase In Federal and State taxes in recent years. Two reports were issued as a result of this inquiry. The first was a discussion of taxation and tax exemption which among other things comprised an elaborate estimate of the amount and ownership of tax-exempt securities by different classes of corporations and persons, and examined the significance of these facts with respect to the great increase in the burdens of taxation. The second report was devoted to national wealth and income, estimating the former to be \$353,000,000,000 in 1922 and the national Income In 1923 at \$70,000,000,000. The nature of the wealth and income and its distribution among various classes are also given. Reports transmitted June 6, 1924, and May 25, 1926.

**Bread--S. Res. 163, 68th Cong., 1st sess., 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 covered the whole problem and showed among other things that wholesale baking in recent years had been generally profitable. It disclosed also price-cutting wars by the big bakery combines and subsequent price-fixing agreements. Reports transmitted May 3, 1926, February 11, 1927, and January 11, 1928.

**Cotton merchandising practices--S. Res. 252, 68th Cong., 1st sess., June 7, 1924.--**Abuses in handling consigned cotton are discussed in the report on this Inquiry and a number of recommendations designed to correct or alleviate existing conditions are made. Transmitted January 20, 1925.

**Packer consent decree--S. Res. 278, 68th Cong., 2d sess., December 8, 1924.--**In response to this resolution a report was made reviewing the legal history of the consent decree and the efforts made to modify or vacate it. A summary is

given of the divergent economic interests involved In the question of packer participation In unrelated lines. The report recommended the enforcement of the decree against the Big Five packing companies. Transmitted February 20, 1925.

**Empire Cotton Growing Corporation--S. Res. 817, 68th Cong., 2d sess., January 27, 1925.**--This inquiry concerned the development, methods, and activities of the Empire Cotton Growing Corporation, a British company. The report discusses world cotton production and consumption and concludes that there is little danger of serious competition to the American cotton grower and that it will be many years before there is a possibility of the United States losing its position as the largest producer of raw cotton. Transmitted February 28, 1925.

**Tobacco--S. Res. 329, 68th Cong., 2d sess., February 9, 1925.**--The report on this investigation related to the activities of the American Tobacco Co. and the Imperial Tobacco Co. of Great Britain. The alleged illegal agreements, combinations, or conspiracies between these companies did not appear to exist. The report disclosed on the other hand evidences of mismanagement In a leading tobacco growers cooperative association. Transmitted December 23, 1925.

**Electric power--S. Res. 329, 68th Cong., 2d sess., February 9, 1925.**--Two reports on 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 the extreme degree to which pyramiding has been carried in superposing a series of holding companies over the underlying operating companies. The second report related to the supply of electrical equipment and competitive conditions existing in the industry. The dominating position of the General Electric Co. is clearly brought out. Reports transmitted February 21, 1927, and January 12, 1928.

**Petroleum prices--S. Res. 31, 69th Cong., 1st sess., June 3, 1926.**--A comprehensive study covering all branches of the industry from the ownership of oil lands and the production of crude petroleum to the conversion of petroleum into finished products and their distribution to the consumer. The report described not only the influences affecting the movements of gasoline and other products but also discussed the organization and control of the various important concerns in the industry. No recent evidence was found of any understanding, agreement or manipulation among the large oil companies to raise or depress prices of refined products. Report transmitted December 12, 1927.

**Open-price associations--S. Res. 28, 69th Cong., Special sess., March 17, 1925.**--This resolution called 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 are maintained among members to wholesalers or retailers. Report transmitted February 13, 1929.

**Cooperative marketing--S. Res. 34, 69th Cong., special sess., March 17, 1925.**--An inquiry on the development and importance of the cooperative movement in the United States and illegal interferences with the formation and operation of cooperatives. The report includes also a study of comparative costs prices, and marketing practices as between cooperative marketing organizations and other types of marketers and distributors handling farm products. Transmitted April 30, 1928.

**Stock dividends--S. Res. 304, 69th Cong., 2d sess., December 22, 1926.**--This resolution called for a list of the names and capitalization 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 the equal period prior to that decision was also called for. The report contains a list of 10,245 such corporations and a brief discussion on the practice of declaring stock dividends, concluding it to be of questionable advantage as a business policy. Transmitted December 5, 1927.

**Utility corporations--S. Res. 83, 70th Cong., 1st sess., February 15, 1928.**--This resolution directed the commission to make an investigation of electric and gas public utility companies and their holding companies with respect to their financial development and practices, the conditions respecting the control of the industry, propaganda in opposition to public ownership, and attempts to influence elections to certain offices. The resolution directed the holding of public hearings in the conduct of the investigation and called for monthly progress reports to be made to the Senate. The first of these reports was dated March 15, 1928.

**Chain stores--S. Res. 224, 70th Cong., 1st sess., May 12, 1928.**--Pursuant to this resolution the commission initiated a general inquiry into merchandising through chain stores. The study will bring out the advantages or disadvantages

tages of this form of marketing as compared with those of other types and an examination of the activities of chain-store systems to ascertain whether they involve any violation of the antitrust laws.

**Newsprint paper--S. Res. 387, 70th Cong., 2d sess., February 27, 1929.--**An inquiry to determine the presence of a monopoly among manufacturers and distributors of newsprint paper in the supplying of paper to publishers of small daily and weekly newspapers.

### HOUSE OF REPRESENTATIVES

**Bituminous coal--H. Res. 352, 64th Cong., 1st sess., August 18, 1916.--**While this resolution aimed originally at the investigation of the alleged depressed condition of the bituminous coal industry, the inquiry had not long been under way before there was a great advance in prices, and the commission in its report suggested various measures for insuring a more adequate supply at reasonable prices. War-time price control was soon after established. Reports transmitted May 4, 1917, May 19, 1917, and June 20, 1917.

**Sugar--H. Res. 150, 66th Cong., 1st sess., October 1, 1919.--**The extraordinary advance in the price of sugar in 1919 led to this inquiry, and the price advance was found to be due chiefly to speculation and hoarding in sugar. Certain recommendations were made for legislative action to cure these abuses. Report transmitted November 15, 1920.

**Shoe costs and prices--H. Res. 217, 66th Cong., 1st sess., August 19, 1919.--**The high price of shoes after the war led to this inquiry, and the investigation of the commission attributed them chiefly to supply and demand conditions. The economic waste due to the excessive variety of styles and rapid changes therein.. was emphasized. Report transmitted June 10, 1921.

**Cotton yarn--H. Res. 451, 66th Cong., 2d sess., April 5, 1920.--**The commission was called upon in 1920, by this resolution, to investigate the very high prices of combed cotton yarn, and the inquiry disclosed that there had been .an unusual advance in prices and that the profits in the industry had been extraordinarily large for several years. Report transmitted April 14, 1921.

**Petroleum prices--H. Res. 501, 66th Cong., 2d sess., April 5, 1920.--**Another inquiry into high prices of petroleum products. The report of the commission pointed out that the Standard companies practically made the prices in their several marketing territories and avoided competition among themselves. Various constructive proposals to conserve the oil supply were made by the commission. Transmitted June 1, 1920.

**Tobacco prices--H. Res. 533, 66th Cong., 2d sess., June 3, 1920.--**An inquiry into the prices of leaf tobacco and the selling prices of tobacco products. The unfavorable relationship between them 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 alleged violations of the existing decree prosecuted. Better systems of grading tobacco were also recommended by the commission. Report transmitted December 11, 1920

**Radio--H. Res. 548, 67th Cong., 4th sess., March 4, 1923.--**As a result of the investigation made by the commission in response to this resolution it was found that a vast number of patents were owned by and cross licensed among a number of large companies. At the conclusion of the investigation the commission instituted proceedings against these companies charging a monopoly of the radio field. Report transmitted December 1, 1923.

**Cottonseed--H. Res. 439, 69th Cong., 2d sess., March 2, 1927.--**Alleged fixing of prices paid for cottonseed led to this investigation. The commission found considerable. evidence of cooperation among the State associations, but the evidence as a whole did not indicate that prices had been fixed by those engaged in crushing or refining cottonseed in violation of the antitrust laws. One of the main causes of dissatisfaction to both the producer of cottonseed and those engaged in its purchase and manufacture was found to be the lack of a uniform system of grading. Report transmitted March 5, 1928.

### PRESIDENT

**Trade and tariffs in South America--July 22, 1915.--**This report was an outgrowth of the First Pan American Financial Conference which met at Washington May 24-29, 1915. Its immediate purpose was to furnish the American branch of the International High Commission, appointed as a result of this financial conference, with concrete information to assist it in the deliberations of the International High Commission. The tariff characteristics of Brazil, Uruguay, Argentina, Chile, Bolivia, and Peru are discussed in the report. The investigation established the prevalence of a decided protective tariff

tendency in some of the South American countries as against the erroneous impression that had been created in this country that all the Latin American tariffs were devised purely for revenue. Report dated June 30, 1916.

**Food inquiry--February 7, 1917.**--The general food investigation, undertaken with a special appropriation of Congress, resulted in a very important series of reports on the meat-packing industry, which had as their immediate result the enactment of the packers and stockyards act for the control of this industry and the prosecution of the big packers for a conspiracy in restraint of trade by the Department of Justice. Another branch of the food inquiry developed important facts regarding the grain trade which were of assistance to Congress in regulating the grain exchanges and to the courts in interpreting the law. Reports were also issued on the flour-milling and food-canning industries.

**War-time cost finding--July 25, 1917.**--The numerous cost investigations made by the Federal Trade Commission during the war into the coal, steel, lumber, petroleum, cotton-textile, locomotive, leather, canned foods, and copper industries, not to mention scores of other important industries, on the basis of which prices were fixed by the Food Administration, the War Industries Board and the purchasing departments like the Army, Navy, Shipping Board, and Railroad Administration, were all done under the President's special direction, and it is estimated that they helped to save the country many billions of dollars by checking unjustifiable price advances. Subsequent to the war a number of reports dealing with costs and profits were published based on these war-time inquiries. Among these may be mentioned reports on steel, coal, copper, lumber, and canned foods.

**Wheat prices--October 12, 1920.**--The extraordinary decline of wheat prices in the summer and autumn of 1920 led to a direction of the President to inquire into the reasons for the decline. The chief reasons were found in abnormal market conditions, including certain arbitrary methods pursued by the grain-purchasing departments of foreign governments. Report dated December 13, 1920.

**Gasoline--February 7, 1924.**--At the direction of the President, the commission undertook an inquiry into a sharp advance in gasoline prices. The report on this inquiry was referred by the President to the Attorney General and has not yet been published. Report dated June 4, 1924.

#### ATTORNEY GENERAL

**Raisin combination--September 30, 1919.**--A combination of raisin growers in California was referred to the commission for examination by the Attorney General pursuant to the Federal Trade Commission act, and the commission found that it was not only organized in restraint of trade but was being conducted in a manner that was threatening financial disaster to the growers. The commission recommended a change of organization to conform to the law, which was adopted by the raisin growers. Report dated June 8, 1920.

**Lumber trade associations--September 4, 1919.**--An extensive survey of lumber manufacturers' associations throughout the United States. The information secured was presented in a series of reports revealing the activities and attitude of lumber manufacturers toward national legislation, amendments to the revenue laws, elimination of competition of competitive woods, control of prices and production, restriction of reforestation and other matters. In consequence of the commission's findings and recommendations the Department of Justice initiated proceedings against certain of these associations for violations of the antitrust laws. Reports dated January 10, 1921, February 18, 1921, June 9, 1921, and February 15, 1922.

#### MOTION OF THE COMMISSION

**Cooperation in American export trade.**--An extensive investigation of competitive conditions affecting Americans in international trade. The report disclosed the marked advantages of other nations in foreign trade by reason of their superior facilities and more effective organizations. The Webb-Pomerene Act authorizing the association of manufacturers for export work was enacted as a direct result of the recommendations embodied in this report. Reports dated May 2, 1916, and June 30, 1916.

**Commercial bribery.**--The prevalence of commercial bribery of employees was brought out in a special report to Congress. The report carried with it recommendations for legislation striking at this vicious practice. Report dated May 15, 1918.

**Resale price maintenance.**--The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which the purchasers could resell them led to this in

quiry The commission recommended to Congress the enactment of legislation permitting resale-price maintenance Under certain conditions. Reports dated December 2, 1918, and June 30, 1919.

**Leather and shoe industries.**--The general complaint about the high prices of shoes in the latter part of 1917 as compared with the low prices of country hides led the commission to undertake this investigation. No justification for the high prices for shoes could be found and recommendations were made for the relief of this condition. Report dated August 21, 1919.

**Woolen rag trade.**--This report contains certain Information that was gathered during the war at the request of the War Industries Board for its use in regulating the prices of woolen rags. The compilation of the data and the preparation of the report was authorized by the commission on June 30, 1919.

**Petroleum.**--Complaints of several important producing companies in the Salt Creek oil field led to this investigation. The report covers the production, pipe-line transportation, refining, and wholesale marketing of crude petroleum and petroleum products in the State of Wyoming. Report dated January 3, 1921.

**Bituminous coal.**--The reports on investment and profit in soft-coal mining were prepared and transmitted to Congress with the belief that the information would be of timely value in consideration of pending legislation regarding the coal trade. The data covers the years 1916 to 1921, inclusive. Reports dated May 31, 1922, and July 6, 1922.

**Petroleum.**--A special report directing the attention of Congress to conditions existing in the petroleum trade in Wyoming and Montana. Remedial legislation is recommended by the commission. Report dated July 13, 1922.

**Cooperation.**--The report on cooperation in foreign countries is the result of studies of the cooperative movement in 15 European countries and concludes with recommendations for further developments of cooperation in the United States. Report dated December 2, 1924.

**Anthracite coal.**--A report dealing with premium prices of anthracite coal charged by certain mine operators and the premium prices and gross profits of wholesalers in the latter part of 1923 and early in 1924. The report discusses also the development of the anthracite combination and the results of the Government's efforts to dissolve it. Report dated July 6, 1926.

**Panhandle petroleum--October 6, 1926.**--An inquiry into conditions in the Panhandle (Texas) oil field made in response to requests of crude-petroleum producers. The report revealed that a reduction of prices late in 1926 was largely a result of difficulties of handling and expenses of marketing this oil because of peculiar physical properties. Report dated February 3, 1928.

**Lumber trade associations.**--An investigation of the activities of five large lumber trade associations bringing down to date the study made at the request of the Attorney General in 1919-20. This inquiry has been conducted in conjunction with the inquiry into open-price associations. Transmitted February 13, 1929.

**Resale price maintenance.**--A further investigation into this subject was ordered by the commission on July 25, 1927. The study is being conducted from the point of view of its economic advantages or disadvantages to the manufacturer, distributor, and consumer, the effects on costs, profits, and prices, and the purpose and results of price cutting. Part I of the report was transmitted to Congress January 30, 1929.

**Blue-sky securities.**--This inquiry, bringing down to date a previous inquiry of the commission on which no report had been published, is directed to the nature of the abuses in the sale of worthless securities, the present methods of controlling this evil and the comparative advantages of State and Federal regulation.

**Price base.**--An inquiry ordered by the commission into the various practice regarding price bases, namely factory base, basing point base, and delivered base with a view to determining the causes for the adoption of the several method employed and the purposes intended to be served by them, and their actual or potential effects on prices and competitive conditions. This matter is still in course of investigation.

**Du Pont Investments--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 the previously reported holdings in the General Motors Corporation, caused an inquiry into these relations with a view to ascertaining the real facts and their probable economic consequences. Report dated February 1, 1929.